Aguirre v. Commissioner, 117 T. C. 324, 2001 U. S. Tax Ct. LEXIS 59, 117 T. C. No. 26 (U. S. Tax Court 2001)

In Aguirre v. Comm'r, the U. S. Tax Court ruled that taxpayers who signed a Form 4549, consenting to immediate tax assessment and collection, waived their right to contest their tax liabilities in subsequent collection due process hearings. This decision underscores the binding effect of such waivers and limits taxpayers' ability to challenge tax assessments after consenting to them, highlighting the importance of understanding the implications of signing IRS forms.

Parties

Francisco and Angela Aguirre (Petitioners) filed their petition pro se. The Commissioner of Internal Revenue (Respondent) was represented by David C. Holtz.

Facts

Francisco and Angela Aguirre, married and residing in Hacienda Heights, California, filed joint tax returns for the years 1992, 1993, and 1994. In 1995, the IRS examined these returns and, on July 13, 1995, the Aguirres signed a Form 4549, Income Tax Examination Changes, consenting to the immediate assessment and collection of tax for those years. The Form 4549 stated that the Aguirres did not wish to exercise their appeal rights with the IRS or contest the findings in the Tax Court, thereby giving consent to the immediate assessment and collection of any increase in tax and penalties. In 1999, the IRS issued a Notice of Intent to Levy and Notice of Your Right to a Hearing for the tax years 1992-1994. The Aguirres requested a Collection Due Process (CDP) hearing under section 6330(b) of the Internal Revenue Code, solely to dispute the amount of their tax liabilities for those years. On August 22, 2000, the IRS sent a Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330, stating that collection of the Aguirres' tax liability for 1992-1994 would proceed. The Aguirres then filed a petition for lien or levy action under sections 6320(c) or 6330(d) on September 5, 2000. The Commissioner subsequently filed a motion for summary judgment on April 13, 2001, to which the Aguirres did not respond and did not attend the calendar call.

Procedural History

The Aguirres filed their petition in the U. S. Tax Court to review the IRS's determination under sections 6320(c) or 6330(d) after receiving the Notice of Determination Concerning Collection Action(s). The Commissioner filed a motion for summary judgment on April 13, 2001, which the Aguirres did not respond to, nor did they appear at the calendar call. The Tax Court, applying the standard of review under Rule 121(b) of the Tax Court Rules of Practice and Procedure, granted the Commissioner's motion for summary judgment.

Issue(s)

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Whether the Aguirres, having signed a Form 4549 consenting to the immediate assessment and collection of tax for the years 1992-1994, are precluded from contesting their underlying tax liabilities in a subsequent Collection Due Process hearing under section 6330 of the Internal Revenue Code?

Rule(s) of Law

Section 6330 of the Internal Revenue Code provides taxpayers with the right to a hearing before the IRS can proceed with a levy action. However, this right does not extend to taxpayers who have waived their right to contest their tax liability by signing a Form 4549, as such a waiver precludes them from challenging the tax liability in a subsequent CDP hearing. As stated in Hudock v. Commissioner, 65 T. C. 351, 363 (1975), "Form 4549 is evidence of the taxpayer's consent to the immediate assessment and collection of the proposed deficiency. "

Holding

The U. S. Tax Court held that the Aguirres could not contest their underlying tax liability for the tax years 1992-1994 because, by signing Form 4549, they had consented to the immediate assessment and collection of tax for those years, thereby waiving their right to contest their tax liability in a subsequent CDP hearing.

Reasoning

The Tax Court's reasoning was grounded in the legal principle that a taxpayer's signature on a Form 4549 constitutes a waiver of the right to contest the tax liability in subsequent proceedings. The court referenced Hudock v. Commissioner, which established that Form 4549 serves as evidence of the taxpayer's consent to immediate assessment and collection. The Aguirres had signed the Form 4549 in 1995, before the enactment of sections 6320 and 6330 in 1998, which introduced the CDP hearing process. The court emphasized that the Aguirres' waiver was made prior to these statutory changes, and thus they were bound by their earlier decision to waive their right to contest their tax liabilities. Additionally, the court noted that the Aguirres' failure to respond to the Commissioner's motion for summary judgment and to attend the calendar call constituted a further waiver of their right to contest the motion under Rule 121(d) of the Tax Court Rules of Practice and Procedure. The court also addressed the policy considerations underlying the binding effect of Form 4549, highlighting the importance of finality in tax assessments and the potential for abuse if taxpayers could freely withdraw their consent after agreeing to immediate assessment and collection.

Disposition

The U. S. Tax Court granted the Commissioner's motion for summary judgment, thereby affirming the IRS's determination that collection of the Aguirres' tax liability for the years 1992-1994 would proceed.

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Significance/Impact

The Aguirre v. Comm’r decision has significant implications for tax practice, emphasizing the importance of understanding the implications of signing IRS forms such as the Form 4549. It clarifies that taxpayers who consent to immediate assessment and collection of tax liabilities via Form 4549 waive their right to contest those liabilities in subsequent CDP hearings under section 6330. This ruling has been cited in subsequent cases, reinforcing the binding nature of such waivers and the limited scope of review in CDP hearings when taxpayers have previously agreed to the tax assessments. The decision underscores the need for taxpayers to carefully consider the consequences of signing IRS forms and the finality of such actions in the context of tax assessments and collection actions.

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