Barry R. Downing and Mary A. Downing v. Commissioner of Internal Revenue, 118 T. C. 22 (2002)

In Downing v. Comm'r, the U. S. Tax Court upheld the IRS's decision to proceed with tax collection against the Downings, who had failed to pay their 1995 income tax. The court ruled it had jurisdiction over the case under IRC section 6330(d)(1)(A) and found no reasonable cause for the Downings' nonpayment, rejecting their claim that the IRS's delay in processing their offer in compromise warranted interest abatement. This decision underscores the court's authority to review tax collection actions and the stringent criteria for excusing tax payment failures.

Parties

Barry R. Downing and Mary A. Downing, the petitioners, were the taxpayers who filed a petition against the Commissioner of Internal Revenue, the respondent, in the United States Tax Court.

Facts

In 1995, Barry and Mary Downing sold rental property in Virginia for $201,500, using the proceeds to pay credit card debts. They reported a tax liability of $32,561 on their 1995 income tax return, which they filed timely but did not pay. Instead, they enclosed a $5,000 payment with an offer in compromise to settle their tax debt. The IRS misplaced this offer for about a year and, upon discovering the error, returned the $5,000 to the Downings. The Downings made several subsequent offers in compromise, all of which were rejected by the IRS as insufficient compared to the Downings' assets. In 1999, after the Downings sold additional assets without using the proceeds to pay their tax liability, the IRS issued a notice of intent to levy and, after a hearing, determined that collection would proceed and interest would not be abated.

Procedural History

The Downings filed a petition in the United States Tax Court under IRC section 6330(d) to review the IRS's determination to proceed with collection. The Tax Court reviewed the case de novo regarding the addition to tax under IRC section 6651(a)(2) and applied an abuse of discretion standard for the interest abatement issue. The court sustained the IRS's determinations on both the addition to tax and the interest abatement.

Issue(s)

1. Whether the Tax Court has jurisdiction under IRC section 6330(d)(1)(A) to review the IRS's determination to proceed with collection of the addition to tax under IRC section 6651(a)(2)?

2. Whether the Downings had reasonable cause for not paying their 1995 income

© 2025 SCOTUSreports.com. All rights reserved.

tax?

3. Whether the IRS's failure to abate interest for the Downings' 1995 tax year was an abuse of discretion?

Rule(s) of Law

1. Under IRC section 6330(d)(1)(A), the Tax Court has jurisdiction to review lien and levy determinations if it has general jurisdiction over the underlying tax liability.

2. A taxpayer has reasonable cause for failing to pay tax if they exercised ordinary business care and prudence in providing for payment but were unable to pay or would suffer undue hardship (26 C. F. R. 301. 6651-1(c)(1)).

3. The IRS may abate interest under IRC section 6404(e)(1) if an error or delay in payment is attributable to the IRS's erroneous or dilatory performance of a ministerial act, provided the taxpayer did not contribute significantly to the error or delay.

Holding

1. The Tax Court held that it has jurisdiction under IRC section 6330(d)(1)(A) to review the IRS's determination to proceed with collection of the addition to tax under IRC section 6651(a)(2).

2. The court held that the Downings did not have reasonable cause for failing to pay their 1995 income tax, as they did not exercise ordinary business care and prudence in providing for payment.

3. The court held that the IRS's failure to abate interest was not an abuse of discretion, as IRC section 6404(e) does not apply to interest accruing on unpaid tax before the IRS contacts the taxpayer in writing regarding the tax.

Reasoning

The court reasoned that its jurisdiction to review lien and levy determinations under IRC section 6330(d)(1)(A) extends to additions to tax under IRC section 6651(a)(2), as it generally has jurisdiction over income tax liabilities. The court found no reasonable cause for the Downings' failure to pay, as they had assets sufficient to pay the tax without undue hardship and did not follow the IRS's instructions for making an acceptable offer in compromise. Regarding interest abatement, the court concluded that IRC section 6404(e) did not apply because the interest in question accrued before the IRS contacted the Downings in writing about their tax liability. The court also noted that the IRS's delay in responding to the Downings' request for information was not unreasonable.

Disposition

© 2025 SCOTUSreports.com. All rights reserved.

The court entered a decision for the Commissioner, sustaining the IRS's determination to proceed with collection of the addition to tax under IRC section 6651(a)(2) and upholding the IRS's decision not to abate interest.

Significance/Impact

The Downing case clarifies the Tax Court's jurisdiction to review IRS collection actions, including additions to tax under IRC section 6651(a)(2), even in the absence of a deficiency notice. It also underscores the strict standards for establishing reasonable cause for nonpayment of taxes and the limited circumstances under which the IRS may abate interest. This decision may impact future cases involving offers in compromise and interest abatement, emphasizing the importance of following IRS guidelines and the limited relief available for taxpayers who fail to pay their taxes timely.

© 2025 SCOTUSreports.com. All rights reserved.