Enos v. Commissioner, 123 T. C. 284, 2004 U. S. Tax Ct. LEXIS 45, 123 T. C. No. 17 (U. S. Tax Court 2004)

In Enos v. Commissioner, the U. S. Tax Court ruled that the IRS's issuance of a notice of levy on an account receivable did not satisfy the taxpayers' tax liability because the IRS did not exercise dominion and control over the account. The case highlights the IRS's authority in tax collection and the legal effect of a levy on intangible assets. The court's decision emphasizes that a levy only provides legal custody of the property, not ownership, until the property is sold or collected.

Parties

Joseph F. and Caroline Enos (Petitioners) v. Commissioner of Internal Revenue (Respondent)

Facts

Joseph F. and Caroline Enos operated a scrap metal business in Massachusetts during the 1970s. They sold scrap metal to Metropolitan Metals, Inc. (MMI), accumulating a significant account receivable. In 1977, the IRS assessed a tax liability of $164,886. 76 against the Enoses for their 1971 tax year, including income tax, fraud penalty, and interest. To collect this liability, the IRS issued a notice of levy to MMI on August 15, 1978, for the account receivable. MMI, facing financial difficulties, agreed to pay the IRS $1,500 weekly for 200 weeks, totaling $300,000, under a payment agreement dated December 15, 1978. The Enoses were aware of and participated in negotiating this agreement. Despite the levy, MMI continued to make substantial payments to the Enoses, and MMI eventually entered bankruptcy. The IRS filed claims in MMI's bankruptcy, and the bankruptcy court ruled that the IRS did not need to marshal the Enoses' assets before seeking MMI's assets. The Enoses received a notice of determination from the IRS to proceed with collection, which they contested in the U. S. Tax Court.

Procedural History

The IRS assessed the Enoses' 1971 tax liability in 1977. In 1978, the IRS issued a notice of levy to MMI, followed by a payment agreement. MMI filed for bankruptcy in 1979, and the IRS filed several proofs of claim. The Enoses filed a lawsuit against the IRS in the U. S. District Court for the District of Massachusetts in 1990, which was dismissed in 1994. In 2000, the IRS issued a notice of intent to levy and a notice of determination, which the Enoses challenged in the U. S. Tax Court. The Tax Court's decision was based on a fully stipulated record.

Issue(s)

Whether the IRS's issuance of a notice of levy on the Enoses' account receivable from MMI satisfied their tax liability because the IRS exercised dominion and control over the account receivable?

Rule(s) of Law

A levy on property or rights to property extends only to property possessed and obligations existing at the time of the levy. See 26 U. S. C. § 6331(b). A levy does not transfer ownership rights but brings the property into the legal custody of the IRS. See United States v. National Bank of Commerce, 472 U. S. 713, 721 (1985). The IRS's liability is discharged when the third party honors the levy. See 26 U. S. C. § 6332(d).

Holding

The Tax Court held that the IRS's issuance of the notice of levy did not satisfy the Enoses' tax liability because the IRS did not exercise dominion and control over the account receivable. The court found that the Enoses continued to receive substantial payments from MMI after the levy, and the IRS did not have legal ownership of the account receivable until it was sold or collected.

Reasoning

The court reasoned that a levy on an account receivable does not transfer ownership but only legal custody to the IRS. The Enoses' continued receipt of payments from MMI after the levy indicated that the IRS did not have dominion and control over the account receivable. The court distinguished this case from United States v. Barlow's, Inc. , where the IRS's failure to sell the levied property and the taxpayer's non-involvement in the payment agreement were key factors. Here, the Enoses participated in the payment agreement negotiations, and the IRS pursued collection through MMI's bankruptcy and other assets of the Enoses. The court also considered the legal principles established in United States v. Whiting Pools, Inc. , and United States v. National Bank of Commerce, which clarified that a levy is a provisional remedy that does not determine ownership until after the property is sold or collected.

Disposition

The Tax Court sustained the Commissioner's determination that collection should proceed against the Enoses for their 1971 tax liability.

Significance/Impact

The Enos case clarifies the scope and effect of a levy on intangible assets like accounts receivable. It establishes that a levy does not automatically satisfy a taxpayer's liability unless the IRS exercises dominion and control over the property. The decision impacts tax collection practices, emphasizing the need for the IRS to take further action, such as selling the property, to satisfy the liability. The case also highlights the importance of the taxpayer's involvement and the third party's compliance with the levy in determining the IRS's control over the property.

