Dunaway v. Commissioner of Internal Revenue, 124 T. C. 80 (2005)

In Dunaway v. Comm'r, the U. S. Tax Court clarified the scope of recoverable litigation costs under Section 7430 of the Internal Revenue Code. The court ruled that pro se litigants cannot recover the value of their research time, but can recover substantiated out-of-pocket expenses such as postage, mileage, and parking fees. This decision underscores the inclusivity of 'reasonable litigation costs' and sets a precedent for future cases involving pro se litigants seeking cost recovery in tax disputes.

Parties

John M. and Rebecca A. Dunaway, the petitioners, represented themselves (pro se) throughout the litigation in the U. S. Tax Court. The respondent was the Commissioner of Internal Revenue, represented by Thomas J. Travers and Aimee R. Lobo-Berg.

Facts

The Dunaways, residents of Meridian, Idaho, filed a joint federal income tax return for 2001. The Commissioner of Internal Revenue issued a notice of deficiency on June 16, 2003, determining a $728 deficiency in the Dunaways' 2001 tax. The Dunaways mailed a petition to the U. S. Tax Court on June 21, 2003, but did not include the required $60 filing fee, which they later submitted with an amended petition on August 26, 2003. The Commissioner conceded the deficiency on March 19, 2004, and the Dunaways subsequently sought litigation costs under Section 7430. They claimed costs for the filing fee, postage, delivery, office supplies, lost wages, and the value of their research time. The Commissioner agreed to reimburse the filing fee and some postage and delivery costs but contested other claims.

Procedural History

The Dunaways filed their initial petition without the required filing fee on June 21, 2003, which was later corrected with an amended petition and the filing fee on August 26, 2003. The Commissioner conceded the tax deficiency on March 19, 2004, and the Dunaways filed a motion for litigation costs on April 19, 2004. A hearing was held on May 4, 2004, in Boise, Idaho, and the Dunaways submitted a revised expense report on June 8, 2004. The Tax Court ultimately awarded costs for the filing fee, postage and delivery, mileage, and parking fees, but denied recovery for research time and lost wages.

Issue(s)

Whether pro se litigants are entitled to recover as litigation costs under Section 7430 of the Internal Revenue Code the value of their research time and out-of-pocket expenses such as postage, mileage, and parking fees?

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Rule(s) of Law

Section 7430(a) of the Internal Revenue Code allows a prevailing party to be awarded reasonable litigation costs incurred in connection with a case filed in the U. S. Tax Court. The term ‘reasonable litigation costs’ under Section 7430(c)(1) includes reasonable court costs and other expenses based on prevailing market rates. The court has interpreted the word ‘includes’ in Section 7430(c)(1) as a term of enlargement, not limitation, allowing recovery of costs not explicitly listed in the statute.

Holding

The U. S. Tax Court held that pro se litigants are not entitled to recover the value of their research time under Section 7430. However, they are entitled to recover substantiated out-of-pocket expenses such as postage, mileage, and parking fees incurred in connection with the litigation.

Reasoning

The court’s reasoning was based on the interpretation of Section 7430 and the precedents from other federal statutes regarding attorney fee awards. The court noted that the term ‘reasonable litigation costs’ in Section 7430(c)(1) uses the word ‘includes,’ which has been interpreted as a term of enlargement rather than limitation. This interpretation allows for the recovery of costs beyond those explicitly listed in the statute, such as out-of-pocket expenses. The court cited cases under the Freedom of Information Act, the Equal Access to Justice Act, and the Civil Rights Attorney’s Fees Awards Act, which have allowed pro se litigants to recover such costs. The court also highlighted the inconsistency in the Commissioner’s position, who conceded postage and delivery costs but contested mileage and parking fees, despite both types of costs not being specifically enumerated in Section 7430(c)(1). The court rejected the Commissioner’s argument that only costs specifically listed in the statute are recoverable, as it would be inconsistent with the statute’s language and the court’s broad interpretation of ‘includes. ‘ The court also considered the Treasury regulations under Section 7430(c)(2), which allow recovery of additional out-of-pocket costs billed separately by an attorney, further supporting the court’s interpretation of ‘reasonable litigation costs. ‘

Disposition

The U. S. Tax Court awarded the Dunaways litigation costs in the amount of $126. 76, covering the court filing fee, postage and delivery, mileage, and parking fees. The court denied recovery for the value of their research time and lost wages due to lack of substantiation and legal precedent.

Significance/Impact

Dunaway v. Comm’r is significant for its clarification of the scope of recoverable

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litigation costs under Section 7430 for pro se litigants. The court's interpretation of 'reasonable litigation costs' as including substantiated out-of-pocket expenses sets a precedent for future cases, ensuring that pro se litigants can recover costs such as postage, mileage, and parking fees. This decision expands the understanding of what constitutes 'reasonable litigation costs' and may influence the treatment of similar claims in other federal courts. The ruling underscores the importance of clear statutory interpretation and the need to balance the rights of pro se litigants with the limitations set by the law.

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