Boyd v. Commissioner, 124 T. C. 296 (U. S. Tax Ct. 2005)

In Boyd v. Commissioner, the U. S. Tax Court dismissed a case for lack of jurisdiction, ruling that the IRS's offset of an overpayment against other tax liabilities did not require a hearing under IRC section 6330. The court clarified that offsets are distinct from levies and do not trigger the same procedural protections, impacting how taxpayers can challenge such IRS actions.

Parties

Kenneth B. and Marie L. Boyd, Petitioners, filed their petition against the Commissioner of Internal Revenue, Respondent, in the United States Tax Court.

Facts

The Boyds had an overpayment of $6,549 in their 2002 income tax, which the IRS applied to offset their tax liability for the period ended September 30, 1998. The IRS notified the Boyds of this offset via a notice dated May 5, 2003. The Boyds protested this action through an IRS Form 9423, Collection Appeal Request, on August 20, 2003, which was rejected by the IRS on September 10, 2003. They filed their petition on October 14, 2003, arguing that they were entitled to a prelevy hearing under IRC section 6330 before the IRS could offset their overpayment.

Procedural History

The Boyds filed a petition in the U. S. Tax Court on October 14, 2003, challenging the IRS's application of their 2002 overpayment to other tax liabilities without providing them a hearing under IRC section 6330. The Commissioner moved to dismiss the case for lack of jurisdiction, arguing that no statutory notice of deficiency or other determination had been issued that would confer jurisdiction to the Tax Court. The Boyds conceded that no such notice or determination had been issued. The court considered the arguments and granted the Commissioner's motion to dismiss for lack of jurisdiction.

Issue(s)

Whether the IRS's application of an overpayment to other tax liabilities constitutes a levy under IRC section 6331, thus requiring a prelevy hearing under IRC section 6330?

Whether the Tax Court has jurisdiction to review the IRS's offset action under IRC section 6330 without a notice of determination and a timely petition?

Rule(s) of Law

IRC section 6330 provides for a prelevy hearing when the IRS intends to levy on a taxpayer's property, but does not apply to offsets. IRC section 6331 authorizes the

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IRS to levy on property to collect taxes, but IRC section 6402 authorizes the IRS to offset overpayments against other tax liabilities without the need for a levy. The Tax Court's jurisdiction under IRC section 6330(d) requires a valid notice of determination and a timely petition within 30 days of such notice.

Holding

The Tax Court held that the IRS's offset of the Boyds' overpayment to other tax liabilities did not constitute a levy under IRC section 6331, and thus did not require a prelevy hearing under IRC section 6330. The court further held that it lacked jurisdiction to review the IRS's offset action because no notice of determination had been issued, and the petition was not timely filed within 30 days of any purported determination.

Reasoning

The court reasoned that a levy and an offset are distinct actions under the Internal Revenue Code. A levy under IRC section 6331 involves the administrative assertion of the government's rights in a taxpayer's property held by a third party, whereas an offset under IRC section 6402 involves the application of a taxpayer's overpayment to other tax liabilities. The court cited previous cases such as Bullock v. Commissioner and Trent v. Commissioner, which established that offsets are not subject to the procedural protections of IRC section 6330, which apply only to levy actions.

The court also addressed the Boyds' argument that IRC section 6331(i)(3)(B) implies that an offset requires a levy. The court found this interpretation unnecessary to resolve, as the lack of jurisdiction due to the absence of a notice of determination and a timely petition was dispositive. The court emphasized that federal courts are courts of limited jurisdiction and must adhere to the statutory requirements for jurisdiction, which were not met in this case.

The court rejected the Boyds' contention that the absence of a prelevy hearing notice should not preclude court review, noting that even if the IRS notice were considered a concurrent determination, the Boyds' petition was filed well beyond the 30-day statutory period required for jurisdiction under IRC section 6330(d)(1).

Disposition

The court granted the Commissioner's motion to dismiss for lack of jurisdiction, as the Boyds did not receive a statutory notice of deficiency or any other determination that would confer jurisdiction, and their petition was not timely filed.

Significance/Impact

Boyd v. Commissioner reinforces the distinction between levy and offset actions under the Internal Revenue Code, clarifying that offsets do not trigger the

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procedural protections of IRC section 6330. This decision impacts taxpayers' ability to challenge IRS offset actions, as they cannot seek Tax Court review under IRC section 6330 without a notice of determination and a timely petition. The case underscores the importance of adhering to statutory jurisdictional requirements and highlights the limited scope of Tax Court jurisdiction over IRS collection actions. Subsequent courts have followed this precedent in distinguishing between levies and offsets, affecting the procedural rights of taxpayers in similar situations.

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