Zapara v. Commissioner, 126 T. C. 215 (2006)

In Zapara v. Commissioner, the U. S. Tax Court upheld its prior decision granting taxpayers a credit for the value of seized stock, ruling that the IRS violated Section 6335(f) by not selling the stock within 60 days of a written request. The court rejected the IRS's motion for reconsideration, affirming its authority to provide equitable relief and emphasizing strict compliance with statutory mandates. This case underscores the importance of IRS adherence to taxpayer requests for asset liquidation and the court's role in ensuring equitable treatment in tax collection procedures.

Parties

Michael A. Zapara and Gina A. Zapara, Petitioners, v. Commissioner of Internal Revenue, Respondent. The Zaparas were the petitioners throughout the litigation, while the Commissioner of Internal Revenue was the respondent.

Facts

On June 1, 2000, the IRS executed a jeopardy levy on certain nominee stock accounts held on behalf of Michael A. Zapara and Gina A. Zapara, valued at approximately $1 million. The Zaparas' outstanding tax liabilities for 1993-1998 totaled about $500,000. On June 21, 2000, the Zaparas requested a Section 6330 Appeals hearing concerning the levy. During the pendency of this hearing, concerned about the declining value of their stock, the Zaparas, through their representative Steven R. Mather, requested the IRS to liquidate the stock accounts and apply the proceeds to their tax liabilities. This request was reiterated in a fax sent on August 23, 2001, to the Appeals officer, asking for approval to sell the stock. The Appeals officer acknowledged the request and discussed it with the revenue officer, but the stock was not sold within 60 days as required by Section 6335(f). The stock's value continued to decline, particularly after the September 11, 2001, terrorist attacks. The Appeals officer's records indicated ongoing consideration of the sale, but ultimately, no sale occurred. The IRS issued a Notice of Determination on May 8, 2002, sustaining the levy without addressing the stock sale request.

Procedural History

The case began with the IRS's jeopardy levy on June 1, 2000, followed by the Zaparas' request for a Section 6330 Appeals hearing on June 21, 2000. After the Appeals hearing, the IRS issued a Notice of Determination on May 8, 2002, upholding the levy. The Zaparas then filed a petition with the U. S. Tax Court, challenging the IRS's actions. In a prior decision (Zapara I, 124 T. C. 223 (2005)), the court held that the IRS violated Section 6335(f) by not selling the stock within 60 days of the Zaparas' written request. The IRS moved for reconsideration of this decision, leading to the supplemental opinion in Zapara v. Commissioner, 126 T. C. 215 (2006), where the court denied the motion and upheld its prior ruling.

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Issue(s)

Whether the IRS's failure to comply with the Zaparas' written request to sell the seized stock within 60 days, as required by Section 6335(f), entitled the Zaparas to a credit for the value of the stock as of the date by which it should have been sold?

Whether the Tax Court has the authority to grant such equitable relief in a Section 6330(d) proceeding?

Rule(s) of Law

Section 6335(f) of the Internal Revenue Code mandates that upon a written request by the owner of levied-upon property, the IRS must sell the property within 60 days unless it determines and notifies the owner that such sale would not be in the best interests of the United States. The Tax Court has jurisdiction under Section 6330(d) to review IRS determinations in collection due process hearings, including the IRS's compliance with statutory mandates such as Section 6335(f). The court possesses inherent equitable powers within its statutory sphere to provide specific relief to remedy IRS violations of statutory duties.

Holding

The Tax Court held that the Zaparas were entitled to a credit for the value of their seized stock as of 60 days after their written request on August 23, 2001, due to the IRS's failure to comply with Section 6335(f). The court also held that it has the authority to grant such equitable relief in a Section 6330(d) proceeding.

Reasoning

The court reasoned that the Zaparas' citation of Section 6335(f) in their reply brief did not raise a new issue but was an application of the correct law to the facts already presented. The court found that the Zaparas' August 23, 2001, fax met the requirements of Section 6335(f), as evidenced by the Appeals officer's subsequent actions and records. The court rejected the IRS's arguments that the Zaparas' request was insufficient, noting that the IRS's insistence on additional information not required by the statute was an abuse of discretion. The court emphasized that the IRS's failure to comply with Section 6335(f) frustrated the Zaparas' ability to use the stock to defray their tax liabilities and increased their risk, warranting equitable relief. The court distinguished this case from Stead v. United States, 419 F. 3d 944 (9th Cir. 2005), where the IRS had not taken any action beyond the initial levy. The court also rejected the IRS's contention that Section 7433, which provides for civil damages, was the exclusive remedy for violations of Section 6335(f), noting that Section 7433 applies to damages resulting from culpable conduct, whereas Section 6335(f) is a strict liability provision.

Disposition

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The Tax Court denied the IRS's motion for reconsideration and upheld its prior decision in Zapara I, ordering the IRS to credit the Zaparas' account for the value of the seized stock as of 60 days after their written request.

Significance/Impact

This case reinforces the principle that the IRS must strictly comply with statutory mandates such as Section 6335(f) and that taxpayers have remedies when such mandates are violated. It also highlights the Tax Court's authority to provide equitable relief in collection due process cases, ensuring that taxpayers are not unfairly burdened by IRS inaction or noncompliance. The decision has implications for IRS procedures in handling taxpayer requests for asset liquidation and may encourage stricter adherence to statutory timelines. The case has been cited in subsequent litigation to support the Tax Court's jurisdiction and authority to remedy IRS violations of taxpayer rights.

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