***Bell v. Commissioner, 126 T. C. 356 (2006)***

In Bell v. Commissioner, the U. S. Tax Court ruled that Greg A. Bell was precluded from challenging his underlying 1997 tax liability at a 2005 Collection Due Process (CDP) hearing because he had a prior opportunity to contest it after a 2003 notice of determination but failed to do so. The court emphasized that the statutory right to challenge a tax liability in a CDP hearing is lost if a taxpayer had a prior chance to dispute it, even if not exercised. This decision underscores the importance of timely legal action in tax disputes and the strict application of procedural rules in collection proceedings.

**Parties**

Greg A. Bell, the Petitioner, represented himself pro se throughout the proceedings. The Respondent was the Commissioner of Internal Revenue, represented by Stephen J. Neubeck.

**Facts**

Greg A. Bell failed to file his 1997 Federal income tax return. The IRS determined a deficiency and mailed a notice of deficiency to Bell, which he did not receive. On April 27, 2002, the IRS sent Bell a Notice of Intent to Levy and Notice of Your Right to a Hearing. Bell requested a hearing (2002 request) to challenge his liability but was informed he could not do so because he had a prior opportunity to dispute it. Bell did not attend the scheduled hearing or challenge the subsequent Notice of Determination Concerning Collection Action(s) issued on June 9, 2003. In September 2004, the IRS mailed Bell a Notice of Federal Tax Lien Filing and Your Right to a Hearing, leading to another CDP hearing request in 2004. Despite multiple reschedulings, Bell was again precluded from challenging his liability at the 2005 hearing, leading to a second Notice of Determination on May 3, 2005. Bell filed a petition with the Tax Court on June 7, 2005, seeking review of the 2005 determination.

**Procedural History**

The IRS mailed Bell a notice of deficiency in September 2000, which he did not receive. After a Notice of Intent to Levy in April 2002, Bell requested a CDP hearing but was informed he could not challenge his liability. A Notice of Determination was issued in June 2003, which Bell did not challenge. Following a Notice of Federal Tax Lien in September 2004, Bell requested another CDP hearing but was again precluded from challenging his liability. The Tax Court received Bell’s petition in June 2005, denied the IRS’s motion for summary judgment on February 27, 2006, and ruled in favor of the IRS in the final decision.

**Issue(s)**

Whether the Commissioner abused his discretion by precluding Bell from

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challenging his underlying tax liability at the 2005 Collection Due Process hearing, given that Bell had a prior opportunity to dispute the liability following the 2003 Notice of Determination?

**Rule(s) of Law**

Under Section 6330(c)(2)(B) of the Internal Revenue Code, a taxpayer may challenge the existence or amount of the underlying tax liability in a CDP hearing if the taxpayer did not receive a statutory notice of deficiency or otherwise have an opportunity to dispute such tax liability. The opportunity to contest the liability, even if not pursued, triggers the statutory preclusion from raising the issue in subsequent CDP hearings.

**Holding**

The Tax Court held that the Commissioner did not abuse his discretion by precluding Bell from challenging his underlying 1997 tax liability at the 2005 CDP hearing. Bell had the opportunity to file a petition with the Tax Court to contest his liability following the 2003 Notice of Determination but failed to do so, thereby precluding him from challenging the liability in the 2005 hearing.

**Reasoning**

The court's reasoning was grounded in the statutory interpretation of Section 6330(c)(2)(B), emphasizing that the right to challenge a tax liability in a CDP hearing is lost if a prior opportunity existed, even if not utilized. The court referenced *Goza v. Commissioner*, which established that the opportunity to contest the liability triggers the statutory preclusion. Despite Bell's contention that he was erroneously precluded from challenging his liability at the 2002 hearing, the court applied the principle from *Heckler v. Community Health Services*, stating that taxpayers are expected to know the law and cannot rely on government errors. The court also noted the cautious application of estoppel against the government, as per *Estate of Emerson v. Commissioner*, and found no basis for estoppel in this case. The court concluded that Bell's failure to challenge the 2003 Notice of Determination precluded him from contesting the liability in the 2005 hearing, thus affirming the Commissioner's decision.

**Disposition**

The Tax Court entered a decision in favor of the Commissioner, affirming the Notice of Determination issued on May 3, 2005, and allowing the IRS to proceed with the proposed collection action.

**Significance/Impact**

The *Bell v. Commissioner* decision reinforces the strict application of procedural rules in tax collection disputes, particularly regarding the right to challenge

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underlying tax liabilities in CDP hearings. It emphasizes that taxpayers must timely pursue available legal avenues to contest tax liabilities, as the failure to do so can result in the loss of such rights in subsequent proceedings. This case has been cited in subsequent Tax Court decisions to uphold the principle that a prior opportunity to contest a liability, even if not utilized, precludes further challenges in CDP hearings. It serves as a reminder to taxpayers of the importance of understanding and adhering to procedural deadlines in tax disputes.

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