David Bruce Billings v. Commissioner of Internal Revenue, 127 T. C. 7 (2006)

In *Billings v. Comm'r*, the U. S. Tax Court ruled that it lacked jurisdiction over nondeficiency stand-alone petitions for innocent spouse relief under Section 6015(f) of the Internal Revenue Code, reversing its prior holding in *Ewing v. Comm'r*. This decision stemmed from an amendment to the law that required an asserted deficiency for Tax Court jurisdiction, significantly impacting the relief available to taxpayers in similar situations where no deficiency is asserted.

Parties

David Bruce Billings, the petitioner, sought relief from joint and several tax liability from the Commissioner of Internal Revenue, the respondent, after his wife embezzled money and did not report it on their joint tax return.

Facts

David and Rosalee Billings filed a joint tax return for 1999, which did not report embezzlement income earned by Rosalee from her employer. After her embezzlement was discovered in December 2000, Rosalee confessed to David, and they filed an amended return in March 2001, reporting the embezzled income and the resulting additional tax liability. David requested innocent spouse relief under Section 6015(f), as he was unaware of the embezzlement at the time of the original filing. The Commissioner denied his request, stating that David knew about the embezzled income when he signed the amended return and was aware that the tax would not be paid.

Procedural History

After the Commissioner denied David's request for relief, David filed a petition with the Tax Court to review the Commissioner's determination. The Tax Court initially held jurisdiction over such nondeficiency stand-alone petitions in *Ewing v. Comm'r*. However, the Ninth Circuit reversed *Ewing*, and the Eighth Circuit followed suit in *Bartman v. Comm'r*. In light of these appellate decisions, the Tax Court revisited its jurisdiction and overruled its prior holding in *Ewing*.

Issue(s)

Whether the Tax Court has jurisdiction over a nondeficiency stand-alone petition for innocent spouse relief under Section 6015(f) of the Internal Revenue Code, following the amendment to Section 6015(e)(1) which added the requirement of an asserted deficiency?

Rule(s) of Law

Section 6015(e)(1) of the Internal Revenue Code, as amended by the Consolidated

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Appropriations Act of 2001, provides that the Tax Court has jurisdiction over petitions for innocent spouse relief only "In the case of an individual against whom a deficiency has been asserted and who elects to have subsection (b) or (c) apply. "

Holding

The Tax Court held that it lacked jurisdiction over nondeficiency stand-alone petitions for innocent spouse relief under Section 6015(f), as the amended Section 6015(e)(1) requires that a deficiency be asserted against the taxpayer to invoke the Tax Court's jurisdiction.

Reasoning

The Tax Court reasoned that the amendment to Section 6015(e)(1) created a condition precedent for jurisdiction, requiring that a deficiency be asserted against the taxpayer. The Court interpreted the phrase "against whom a deficiency has been asserted" as establishing a clear jurisdictional requirement, reversing its prior interpretation in *Ewing* that had found ambiguity in the amended statute. The Court noted the legislative history of the amendment focused on timing and deficiencies, but acknowledged the anomaly that innocent spouse relief under all subsections of Section 6015 would remain available as an affirmative defense in deficiency redetermination cases. The Court concluded that without legislative action, district courts might be the proper forum for nondeficiency stand-alone cases.

Disposition

The Tax Court dismissed the case for lack of jurisdiction, following its revised interpretation of Section 6015(e)(1) that required an asserted deficiency for jurisdiction.

Significance/Impact

This case significantly altered the landscape for taxpayers seeking innocent spouse relief without an asserted deficiency. It highlighted a gap in the statutory framework, potentially shifting such cases to district courts. The decision underscored the need for legislative clarification on the Tax Court's jurisdiction over innocent spouse relief claims and prompted Senators Feinstein and Kyl to introduce a bill aimed at restoring the Tax Court's jurisdiction over all Section 6015(f) claims.

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