Anthony and Lena C. Andre v. Commissioner of Internal Revenue, 127 T. C. 68, 2006 U. S. Tax Ct. LEXIS 22, 127 T. C. No. 4 (U. S. Tax Court 2006)

In Andre v. Comm'r, the U. S. Tax Court ruled that premature requests for a Collection Due Process (CDP) hearing are invalid, affecting the court's jurisdiction over the case. The Andres sought a CDP hearing for tax years 1990-1994 before receiving the required notice of intent to levy, leading to the court's decision to dismiss their petition for those years due to lack of a valid notice of determination. This ruling emphasizes the strict procedural requirements for CDP hearings and their impact on IRS collection actions and taxpayers' rights to judicial review.

Parties

Anthony and Lena C. Andre, Petitioners, v. Commissioner of Internal Revenue, Respondent.

Facts

On September 28, 2001, the Commissioner of Internal Revenue sent Anthony and Lena Andre a notice of federal tax lien (NFTL) for unpaid taxes from 1996 through 2000. The Andres responded by requesting a Collection Due Process (CDP) hearing, but included tax years 1990-2000 on the form, despite the notice only addressing 1996-2000. After clarification from the IRS, the Andres resubmitted the form, again listing the tax years as 1990-2000. On December 13, 2001, the Commissioner sent a notice of intent to levy (NIL) for the tax years 1990-1994. A notice of determination was issued on January 16, 2004, sustaining the lien for 1996-2000 but also mentioning the years 1990-1994, leading to confusion over the validity of the CDP request for those earlier years.

Procedural History

The Andres filed a timely petition in the U. S. Tax Court challenging the notice of determination. The Commissioner moved to dismiss the petition for lack of jurisdiction concerning tax years 1990-1994, asserting that the Andres' CDP hearing request was premature for those years. The Andres did not contest the dismissal for the year 1995, as no tax was owed for that year. The Tax Court considered whether a premature request for a CDP hearing could be deemed valid and whether the notice of determination mentioning the years 1990-1994 could establish jurisdiction for those years.

Issue(s)

Whether a premature request for a Collection Due Process (CDP) hearing under 26 U. S. C. § 6330(a)(3)(B) is valid and can confer jurisdiction to the U. S. Tax Court under 26 U. S. C. § 6330(d)?

Rule(s) of Law

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Under 26 U. S. C. § 6330(a)(3)(B), a taxpayer has the right "to request a hearing during the 30-day period" before the day of the first levy for a particular tax period. The regulations further clarify that the taxpayer must request the CDP hearing within the 30-day period commencing on the day after the date of the CDP Notice. See 26 C. F. R. § 301. 6330-1(b)(1), (c)(1).

Holding

The U. S. Tax Court held that a premature request for a CDP hearing is not valid under 26 U. S. C. § 6330(a)(3)(B), and thus does not confer jurisdiction to the court under 26 U. S. C. § 6330(d). The court dismissed the Andres' petition as to tax years 1990-1994 due to the lack of a valid notice of determination for those years.

Reasoning

The court's reasoning focused on the statutory language of 26 U. S. C. § 6330(a)(3)(B), which uses the word "during" to indicate the time frame within which a CDP hearing request must be made. This interpretation was reinforced by the regulations, which consistently state that the request must be made within the specified 30-day period. The court rejected analogies to other areas of law where premature filings are deemed effective, citing the potential prejudice to the IRS in processing and managing collection actions. The court noted that allowing premature requests would disrupt the IRS's collection sequence, cause confusion in calculating limitations periods, and impose an undue burden on the IRS to review all correspondence for potential CDP requests. The notice of determination, although mentioning the years 1990-1994, did not discuss or make a determination regarding those years, further supporting the dismissal of the petition for those years.

Disposition

The U. S. Tax Court granted the Commissioner's motion to dismiss the petition as to taxable years 1990-1994.

Significance/Impact

The Andre case underscores the strict adherence required to the procedural timelines set forth in 26 U. S. C. § 6330 for requesting a CDP hearing. It clarifies that premature requests do not confer jurisdiction to the Tax Court, impacting taxpayers' ability to challenge IRS collection actions. This ruling emphasizes the importance of precise compliance with IRS notices and procedural rules, potentially limiting taxpayers' rights to judicial review if they fail to request a CDP hearing within the prescribed period. Subsequent cases have followed this precedent, reinforcing the necessity of timely and proper CDP hearing requests to ensure judicial review of IRS collection actions.

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