Severo v. Commissioner, 129 T. C. 160 (2007)

In Severo v. Commissioner, the U. S. Tax Court ruled that the taxpayers' 1990 federal income taxes were not discharged in their 1998 bankruptcy and that the IRS's collection period had not expired. The case clarified that under bankruptcy law, certain tax debts are not discharged and that the statute of limitations for collection is suspended during bankruptcy proceedings, impacting the IRS's ability to collect taxes post-bankruptcy.

Parties

Michael V. Severo and Georgina C. Severo (Petitioners) filed a petition against the Commissioner of Internal Revenue (Respondent) in the United States Tax Court. The case was designated as No. 6346-06L.

Facts

Michael and Georgina Severo filed their 1990 joint federal income tax return late on October 18, 1991, reporting a tax liability of $63,499. They paid only a portion of this amount. On September 28, 1994, the Severos filed for bankruptcy under Chapter 11, which was later converted to Chapter 7. A discharge order was issued on March 17, 1998. The IRS levied against the Severos' $196 California income tax refund in 2004 and, in 2005, notified them of a federal tax lien filing (NFTL) and an intent to make a second levy. The Severos requested an Appeals Office collection hearing, challenging the validity of the NFTL and the second levy based on the 1998 bankruptcy discharge and the expiration of the collection period of limitations.

Procedural History

The Severos' 1990 tax liability was assessed by the IRS on November 18, 1991. They filed for bankruptcy on September 28, 1994, and received a discharge order on March 17, 1998. In 2004, the IRS levied against their California income tax refund, and in 2005, the IRS filed an NFTL and notified the Severos of a second levy. The Severos requested an Appeals Office hearing in 2005, which resulted in adverse decisions on both the NFTL and the second levy. The Tax Court reviewed the case on cross-motions for summary judgment filed by both parties.

Issue(s)

Whether the Severos' outstanding 1990 federal income taxes were discharged by the March 17, 1998, bankruptcy discharge order?

Whether the collection period of limitations for the Severos' 1990 federal income taxes had expired by the time they requested an Appeals Office collection hearing in 2005?

Rule(s) of Law

Under 11 U. S. C. § 523(a)(1)(A), certain tax liabilities are not discharged in bankruptcy if they are priority claims under 11 U. S. C. § 507(a)(7). Specifically, taxes for which a return was due within three years before the filing of the bankruptcy petition are not discharged.

Under 26 U. S. C. § 6503(h)(2), the collection period of limitations is suspended during a bankruptcy proceeding and for six months thereafter.

Holding

The Tax Court held that the Severos’ 1990 federal income taxes were not discharged by the bankruptcy discharge order issued on March 17, 1998, as they were priority claims under 11 U. S. C. § 507(a)(7)(A)(i). The court further held that the collection period of limitations for the Severos’ 1990 taxes had not expired at the time they requested an Appeals Office hearing in 2005, as it was suspended under 26 U. S. C. § 6503(h)(2) during their bankruptcy.

Reasoning

The court reasoned that since the Severos’ 1990 tax return was due within the three-year lookback period before their bankruptcy filing, their 1990 taxes qualified as a priority claim under 11 U. S. C. § 507(a)(7)(A)(i) and were thus excepted from discharge under 11 U. S. C. § 523(a)(1)(A). The court rejected the Severos’ argument that their late filing should preclude this exception, citing that the statutory provisions are disjunctive and apply to increasingly broader exceptions based on taxpayer behavior.

Regarding the statute of limitations, the court determined that 26 U. S. C. § 6503(h)(2) specifically addresses the suspension of the collection period during bankruptcy proceedings, superseding the more general provision of § 6503(b). The court followed the precedent set by Richmond v. United States, 172 F. 3d 1099 (9th Cir. 1999), which held that the collection period is suspended until six months after the discharge order is issued. This ruling ensured that the IRS had sufficient time left to collect the Severos’ 1990 taxes when they filed their request for an Appeals Office hearing in 2005.

The court dismissed issues related to the second levy notice, citing lack of jurisdiction under Kennedy v. Commissioner, 116 T. C. 255 (2001).

Disposition

The Tax Court granted the Commissioner’s motion for summary judgment on the NFTL issue, denied the Severos’ motion for summary judgment, and dismissed sua sponte all issues related to the second levy notice for lack of jurisdiction.

Significance/Impact

Severo v. Commissioner clarifies the application of bankruptcy discharge exceptions to federal tax liabilities, emphasizing that certain tax debts remain enforceable post-bankruptcy. The decision also provides guidance on the suspension of the statute of limitations during bankruptcy, affirming the IRS's right to collect taxes even after a significant period following a bankruptcy discharge. This ruling has implications for taxpayers and practitioners in understanding the interplay between bankruptcy and tax law, particularly regarding the dischargeability of tax debts and the timing of IRS collection efforts.

