Nemitz v. Commissioner, 130 T. C. 102 (2008)

In Nemitz v. Commissioner, the U. S. Tax Court ruled that the extended statute of limitations under I. R. C. § 6501(h) applies to deficiencies resulting from net operating loss (NOL) carrybacks for alternative minimum tax (AMT) purposes. This decision clarified that the same statute of limitations applies to NOL carrybacks for both regular tax and AMT, impacting how taxpayers can challenge assessments related to AMT NOL carrybacks.

Parties

Bryce E. and Michelle S. Nemitz were the petitioners at all stages of litigation, while the Commissioner of Internal Revenue was the respondent.

Facts

Bryce E. Nemitz was employed by McLeodUSA, Inc. from 1997 to 2001, receiving incentive stock options (ISOs) that he exercised in 1997, 1998, and 2000. The exercise of these ISOs resulted in alternative minimum taxable income for those years. In 2001, Nemitz sold shares acquired through the ISOs at a loss, leading to an adjusted loss on their 2001 tax return. The Nemitzes filed amended returns for 1999, 2000, and 2001, claiming an AMT net operating loss (NOL) from 2001 that they carried back to 1999 and 2000, seeking refunds for those years. The IRS issued a notice of deficiency, disallowing the NOL carryback and determining deficiencies equal to the refunds received for 1999, 2000, and 2001.

Procedural History

The Nemitzes filed a petition in the U. S. Tax Court challenging the notice of deficiency. The case was submitted fully stipulated under Tax Court Rule 122. The Tax Court was tasked with deciding whether the statute of limitations under I. R. C. § 6501(h) applied to the deficiencies for 1999 and 2000 that were attributable to the AMT NOL carryback from 2001.

Issue(s)

Whether the statute of limitations under I. R. C. § 6501(h) applies to deficiencies attributable to the carryback of a net operating loss for alternative minimum tax purposes?

Rule(s) of Law

I. R. C. § 6501(h) provides that in the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss may be assessed. I. R. C. § 172(b) governs the carryback and carryover of net operating losses, and I. R. C. § 56(a)(4) and (d) address the deduction of NOLs for AMT purposes.

Holding

The Tax Court held that I. R. C. § 6501(h) applies to the deficiencies for the Nemitzes' taxable years 1999 and 2000 that were attributable to the carryback of the net operating loss for AMT purposes from their 2001 taxable year.

Reasoning

The court rejected the Nemitzes' argument that § 6501(h) only applies to regular tax NOL carrybacks and not to AMT NOL carrybacks. The court noted that § 172(b) does not distinguish between regular tax and AMT NOL carrybacks, and § 6501(h) similarly does not differentiate between the two types of NOLs. The court emphasized that if Congress intended § 6501(h) not to apply to AMT NOL carrybacks, it would have explicitly stated so. The court also found that the Nemitzes' amended returns clearly claimed an AMT NOL carryback, not a capital loss carryback, contrary to their arguments. The court applied the principle that statutes of limitations barring government assessments should be strictly construed in favor of the government, as articulated in *Badaracco v. Commissioner*, 464 U. S. 386 (1984), and other cases.

Disposition

The court decided in favor of the Commissioner, ruling that the statute of limitations under § 6501(h) was applicable and had not expired for the deficiencies assessed for the Nemitzes' 1999 and 2000 taxable years.

Significance/Impact

This case significantly impacts taxpayers by clarifying that the extended statute of limitations under § 6501(h) applies to deficiencies resulting from AMT NOL carrybacks. It underscores the importance of understanding the interplay between different tax provisions and their application to both regular and alternative minimum taxes. Subsequent courts have followed this precedent, and it has practical implications for tax planning and litigation strategies involving AMT NOL carrybacks.

