Bussell v. Commissioner, 128 T. C. 129 (2007)

In Bussell v. Commissioner, the U. S. Tax Court upheld the IRS's use of jeopardy levies to collect unpaid taxes for the years 1983, 1984, 1986, and 1987. The court ruled that Letantia Bussell's tax liabilities were not discharged in bankruptcy due to her conviction for tax evasion, applying the doctrine of collateral estoppel. This decision underscores the IRS's ability to collect taxes post-bankruptcy when evasion is proven and clarifies the interplay between tax collection and bankruptcy law.

Parties

Letantia Bussell and the Estate of John Bussell (Petitioners) v. Commissioner of Internal Revenue (Respondent). Letantia Bussell was the plaintiff at the trial level and appellant on appeal, while the Commissioner was the defendant at the trial level and appellee on appeal.

Facts

Letantia Bussell and her late husband John Bussell filed joint tax returns for the years 1983, 1984, 1986, and 1987. After failing to pay the assessed taxes, the IRS sent multiple notices of balance due and intent to levy between 1992 and 1993, and filed federal tax liens in 1994. In 1995, the Bussells filed for bankruptcy under Chapter 7, which discharged most of their debts but not their tax liabilities due to Letantia's subsequent conviction for tax evasion and other related crimes. In 2002, the IRS served jeopardy levies on various assets, including a pension plan and life insurance policies, to collect the outstanding tax liabilities. Letantia Bussell challenged these levies and the dischargeability of her tax liabilities in the Tax Court.

Procedural History

The IRS issued jeopardy levies in 2002, which the Bussells challenged through administrative and judicial proceedings. The U. S. District Court for the Central District of California granted summary judgment to the Commissioner, affirming the reasonableness of the jeopardy determination. The Bussells then appealed to the Tax Court, which reviewed the Commissioner's determination under section 6330(d). The Tax Court sustained the Commissioner's action, finding that the tax liabilities were not discharged in bankruptcy and that the jeopardy levies were appropriate.

Issue(s)

Whether the tax liabilities of Letantia Bussell for the years 1983, 1984, 1986, and 1987 were discharged in bankruptcy under 11 U. S. C. section 523(a)(1)(C)?

Whether the IRS properly followed statutory requirements before issuing jeopardy levies against the Bussells' assets?

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Rule(s) of Law

Under 11 U. S. C. section 523(a)(1)(C), a tax debt is not discharged in bankruptcy if the debtor "willfully attempted in any manner to evade or defeat such tax. "

According to section 6331(a) of the Internal Revenue Code, if a person liable to pay a tax neglects or refuses to pay within 10 days after notice and demand, the IRS may collect such tax by levy upon all property and rights to property belonging to such person.

The doctrine of collateral estoppel applies when an issue of fact or law is "actually and necessarily determined by a court of competent jurisdiction," and that determination is conclusive in subsequent suits involving a party to the prior litigation. *Montana v. United States*, 440 U. S. 147, 153 (1979).

Holding

The Tax Court held that Letantia Bussell's tax liabilities for the years 1983, 1984, 1986, and 1987 were not discharged in bankruptcy due to her conviction for tax evasion under section 7201, which collaterally estopped her from contesting the dischargeability of those liabilities. The court also held that the IRS properly followed statutory requirements before issuing the jeopardy levies.

Reasoning

The court applied the doctrine of collateral estoppel, finding that Letantia Bussell's criminal conviction for tax evasion under section 7201 was a final judgment that met the conditions for collateral estoppel. The elements of section 7201 overlapped with those required to establish non-dischargeability under 11 U. S. C. section 523(a)(1)(C), and her conviction precluded her from relitigating the issue of whether she willfully attempted to evade or defeat the tax liabilities in question.

The court also addressed the IRS's compliance with statutory requirements for issuing jeopardy levies. It noted that the IRS had sent multiple notices of balance due and intent to levy, and filed federal tax liens well in advance of the jeopardy levies. The court rejected the Bussells' argument that the IRS needed to provide additional notice and demand for immediate payment before serving the jeopardy levies, as the IRS had already met the statutory notice requirements.

The court considered policy considerations, emphasizing the need to prevent debtors from using bankruptcy to evade tax obligations and the importance of efficient tax collection by the IRS. It also addressed statutory interpretation, noting that the language of section 523(a)(1)(C) did not limit its application to prepetition activities but extended to attempts to evade taxes during the bankruptcy proceeding.

The court treated the dissenting opinions and counter-arguments by considering

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them irrelevant, moot, or without merit. It did not find any need to address the value of the assets levied upon, as the IRS was entitled to levy on all assets to satisfy the tax liabilities.

Disposition

The Tax Court entered a decision for the respondent, sustaining the IRS's determination to proceed with collection by jeopardy levy.

Significance/Impact

The Bussell decision clarifies the application of collateral estoppel in tax dischargeability cases, reinforcing that a criminal conviction for tax evasion can preclude relitigation of the issue in bankruptcy. It also affirms the IRS's authority to use jeopardy levies to collect taxes that are not discharged in bankruptcy, ensuring that the IRS can efficiently collect taxes while protecting the rights of taxpayers. This case has been cited in subsequent tax and bankruptcy cases, influencing the interpretation of the interplay between tax collection and bankruptcy discharge.

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