***Freedman v. Commissioner, 131 T. C. 1 (2008)***

In Freedman v. Commissioner, the U. S. Tax Court ruled that allegations of fraud in prior tax deficiency cases cannot be raised in subsequent collection proceedings under I. R. C. § 6320. This decision clarifies the procedural boundaries in tax litigation, emphasizing that such issues must be addressed in the original deficiency cases or related proceedings. The ruling upholds the finality of prior tax deficiency decisions and limits the scope of collection hearings, significantly impacting how taxpayers and the IRS handle disputes over tax liabilities.

**Parties**

The petitioners, identified as two of the four individuals who joined in the petition in Freedman v. Commissioner, docket No. 2471-89, sought relief in the U. S. Tax Court. The respondent was the Commissioner of Internal Revenue.

**Facts**

The petitioners had invested in a tax shelter partnership named Dillon Oil Technology Partners (Dillon Oil), which was part of the broader Elektra Hemisphere tax shelter project. The IRS disallowed the petitioners' claimed loss deductions from Dillon Oil, resulting in cumulative federal income tax deficiencies of $421,170 for tax years 1977, 1978, 1980, 1981, 1984, and 1985. The petitioners challenged these deficiencies in earlier proceedings, which were ultimately decided against them based on the test case Krause v. Commissioner. After the IRS filed a federal tax lien and issued a notice of their right to a collection hearing under I. R. C. § 6320, the petitioners requested a collection due process hearing, alleging fraud in the Krause trial as a basis for abating their tax liabilities and seeking refunds.

**Procedural History**

The petitioners initially contested their tax deficiencies in Freedman v. Commissioner, docket No. 2471-89, and Vulcan Oil Tech. Partners v. Commissioner, 110 T. C. 153 (1998). Both cases were decided against them, following the precedent set in Krause v. Commissioner, 99 T. C. 132 (1992). After the IRS filed a tax lien and issued a notice under I. R. C. § 6320, the petitioners sought a collection due process hearing, where they raised the issue of alleged fraud in the Krause trial. The IRS Appeals Office rejected this argument and sustained the tax lien. The petitioners then filed a petition in the Tax Court under I. R. C. § 6320, leading to cross-motions for summary judgment, with the IRS seeking to uphold the tax lien and the petitioners seeking to address the alleged fraud in the collection case.

**Issue(s)**

Whether an allegation of fraud in a prior tax deficiency case can be raised in a subsequent collection case under I. R. C. § 6320.

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## Rule(s) of Law

The relevant legal principles include I. R. C. §§ 6320(c) and 6330(c)(2)(B), which govern the scope of collection due process hearings and limit challenges to underlying tax liabilities in such hearings. Additionally, Tax Court Rule 162 provides the procedure for filing motions to vacate decisions based on alleged fraud.

## Holding

The Tax Court held that an allegation of fraud in a prior tax deficiency case cannot be raised in a subsequent collection case under I. R. C. § 6320. The court emphasized that such issues must be addressed in the original deficiency cases or related proceedings, and not in collection cases where the underlying tax liability is not at issue.

## Reasoning

The court's reasoning focused on the procedural framework established by the Internal Revenue Code and Tax Court Rules. It highlighted that I. R. C. § 6320(c) and § 6330(c)(2)(B) expressly preclude challenges to the existence or amount of underlying tax liabilities in collection hearings if the taxpayer had an opportunity to dispute such liabilities in prior proceedings. The court referenced Tax Court Rule 162, which outlines the procedure for filing motions to vacate decisions based on alleged fraud, stating that such motions must be filed within 30 days after a decision has been entered, unless otherwise permitted by the court. The court also distinguished the case from Dixon v. Commissioner, which did not involve a collection case under I. R. C. § 6320 or § 6330. The court concluded that the petitioners' failure to raise the fraud allegation in the original deficiency cases or related proceedings precluded them from raising it in the collection case.

## Disposition

The Tax Court granted the respondent's motion for summary judgment and denied the petitioners' cross-motion for partial summary judgment, sustaining the IRS's tax lien.

## Significance/Impact

Freedman v. Commissioner establishes a clear procedural boundary in tax litigation, reinforcing the finality of tax deficiency decisions and limiting the scope of collection hearings. This ruling ensures that allegations of fraud in tax deficiency cases must be addressed in the original proceedings or related cases, preventing such issues from being re-litigated in subsequent collection cases. The decision has significant implications for taxpayers and the IRS, clarifying the appropriate forums for challenging tax liabilities and reinforcing the importance of timely raising fraud allegations in deficiency proceedings.

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