Mason v. Commissioner, 135 T. C. 231 (2010)

In Mason v. Commissioner, the U. S. Tax Court upheld the assessment of trust fund recovery penalties against Mattie Marie Mason, a majority shareholder and officer of New Life Perinatal Health Care Services, Inc. The court determined Mason was a 'responsible person' under Section 6672, liable for willfully failing to pay over employment taxes. Despite her efforts to navigate complex IRS procedures, the court found her delegation of financial duties did not absolve her of responsibility, affirming the IRS's actions in filing liens for the penalties.

Parties

Mattie Marie Mason, Petitioner, v. Commissioner of Internal Revenue, Respondent.

Facts

Mattie Marie Mason was the president, treasurer, and majority shareholder (75%) of New Life Perinatal Health Care Services, Inc. (New Life), a Texas corporation providing services to pregnant and parenting women. New Life elected to be treated as an S corporation for federal tax purposes. Mason delegated financial duties to an internal accountant, Mabel Hatton, and signed blank checks for her use. New Life faced financial difficulties starting in 2001, leading to unpaid employment taxes for the quarters ending September 30, 2001, March 31, June 30, and September 30, 2002, and September 30, 2003. Despite being aware of the unpaid taxes by March 2002, Mason continued to authorize payments to other creditors. The IRS assessed trust fund recovery penalties against Mason under Section 6672, and subsequently filed notices of federal tax lien.

Procedural History

The IRS mailed a Letter 1153 to Mason, which was returned unclaimed. Trust fund penalties were assessed on December 19, 2005. Mason filed a Form 843, seeking abatement of the penalties, which was denied. She also filed a Form 12153, requesting a Collection Due Process (CDP) hearing, contesting the lien filing. The Appeals Officer held a CDP hearing and a simultaneous conference concerning the abatement request. The Appeals Officer sustained the lien filing and denied the abatement request. Mason timely petitioned the U. S. Tax Court for review of the Appeals Officer's determinations.

Issue(s)

Whether Mason had an opportunity to dispute her underlying liability for trust fund recovery penalties under Section 6672 before the CDP hearing, and whether she was a responsible person who willfully failed to pay over employment taxes?

Rule(s) of Law

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Section 6672 of the Internal Revenue Code imposes a penalty on any person required to collect, truthfully account for, and pay over withheld employment taxes who willfully fails to do so. A responsible person is defined broadly and may include officers, directors, or shareholders with significant control over the business's financial affairs. Willfulness is established if the responsible person voluntarily, consciously, and intentionally fails to pay over the taxes, even if other creditors are paid.
"A responsible person will be held liable for the penalty only where that failure to pay over withholding tax was willful. "

Holding

The Tax Court held that Mason did not have a prior opportunity to dispute her liability for the trust fund recovery penalties before the CDP hearing, as she did not receive the Letter 1153. However, the court found that Mason was a responsible person under Section 6672 and willfully failed to pay over the employment taxes, thus upholding the assessment of the penalties and the filing of the notices of federal tax lien.

Reasoning

The court analyzed whether Mason had an opportunity to dispute her underlying liability for the trust fund penalties. It determined that the non-receipt of the Letter 1153 did not constitute an opportunity under Section 6330(c)(2)(B). However, the court found that the mailing of the Letter 1153 to Mason's last known address was sufficient to comply with Section 6672(b)(1), validating the assessment of the penalties. The court then examined Mason's status as a responsible person under the indicia established by the Fifth Circuit, concluding that her position as president, treasurer, and majority shareholder, along with her authority over financial decisions, made her responsible. The court also found Mason's failure to pay over the employment taxes willful, as she continued to authorize payments to other creditors after becoming aware of the unpaid taxes. The court rejected Mason's arguments regarding the IRS's handling of New Life's installment agreement and offers-in-compromise, stating these did not affect her personal liability under Section 6672. The court affirmed the Appeals Officer's determination that the filing of the notices of lien was proper and balanced the need for efficient tax collection with Mason's concerns about intrusiveness.

Disposition

The Tax Court sustained the Appeals Officer's determination upholding the filing of the notices of federal tax lien and denied Mason's request for abatement of the trust fund recovery penalties.

Significance/Impact

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Mason v. Commissioner reinforces the broad interpretation of ‘responsible person’ under Section 6672 and the stringent standard for willfulness. The case highlights the challenges taxpayers face in navigating complex IRS procedures and the limited impact of delegation on liability for trust fund recovery penalties. It also clarifies that the IRS may pursue trust fund penalties against responsible persons even while negotiating payment arrangements with the employer, emphasizing the separate nature of corporate and individual liabilities. The decision underscores the importance of timely and effective communication between taxpayers and the IRS, particularly in cases involving multiple representatives and procedures.

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