***Dawson v. Commissioner, 133 T. C. 47 (U. S. Tax Ct. 2009)***

In Dawson v. Commissioner, the U. S. Tax Court ruled that the IRS abused its discretion by proceeding with a levy against a taxpayer facing economic hardship due to terminal illness and financial constraints. The court emphasized that a levy creating economic hardship must be released under IRC Section 6343(a)(1)(D), and the IRS's refusal to consider collection alternatives due to unfiled returns was unreasonable under such circumstances. This decision underscores the balance between tax collection and taxpayer rights, particularly in cases of genuine hardship.

**Parties**

Plaintiff (Petitioner): Dawson, residing in Tennessee, filed a petition in the U. S. Tax Court challenging the IRS's decision to proceed with a levy. Defendant (Respondent): Commissioner of Internal Revenue, represented the IRS in the appeal of the decision to proceed with collection by levy.

**Facts**

Dawson, a Tennessee resident, faced a levy on her wages and assets by the IRS for unpaid taxes from 2002. She suffered from pulmonary fibrosis, which limited her to part-time work. Dawson's monthly income was $800, with expenses matching her income. She owned a 1996 Toyota Corolla valued at $300 and had $14 in cash. Dawson had not filed her 2005 and 2007 tax returns due to issues with obtaining necessary tax documents. During a collection hearing, she provided financial data on Form 433-A, indicating that a levy would result in economic hardship as she could not afford basic living expenses. The settlement officer acknowledged this hardship but rejected collection alternatives due to Dawson's non-compliance with filing requirements.

**Procedural History**

The IRS sent Dawson a Final Notice of Intent to Levy on September 13, 2007. Dawson requested a hearing on September 24, 2007, which was conducted through correspondence and telephone. After reviewing Dawson's financial situation, the settlement officer determined that a levy would create an economic hardship but proceeded with the levy due to unfiled tax returns. The Appeals Office upheld this decision in a Notice of Determination dated June 2, 2008. Dawson appealed to the U. S. Tax Court, which reviewed the case under an abuse of discretion standard. The IRS filed a motion for summary judgment, which the court ultimately denied.

**Issue(s)**

Whether the IRS abused its discretion by proceeding with a levy against Dawson despite acknowledging that the levy would create an economic hardship, as defined by IRC Section 6343(a)(1)(D) and related regulations?

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## Rule(s) of Law

IRC Section 6343(a)(1)(D) requires the IRS to release a levy if it creates an economic hardship due to the financial condition of the taxpayer. Treasury Regulation Section 301. 6343-1(b)(4) specifies that a levy must be released if it would render the taxpayer unable to pay reasonable basic living expenses. In reviewing IRS determinations under IRC Section 6330, the Tax Court applies an abuse of discretion standard, which is found if the IRS's action is arbitrary, capricious, or without sound basis in fact or law.

## Holding

The U. S. Tax Court held that the IRS abused its discretion by proceeding with a levy against Dawson. The court determined that the settlement officer's decision to reject collection alternatives due to unfiled returns was unreasonable given the acknowledged economic hardship, as the levy would be subject to immediate release under IRC Section 6343(a)(1)(D).

## Reasoning

The court's reasoning centered on the statutory and regulatory requirements for releasing levies that cause economic hardship. The court noted that neither IRC Section 6343 nor its regulations condition the release of a levy on the taxpayer's compliance with filing requirements when an economic hardship is established. The settlement officer's log explicitly recognized Dawson's economic hardship, yet the decision to proceed with the levy was upheld by the Appeals Office solely due to non-filing of certain returns. The court found this decision arbitrary and unreasonable, as it would lead to an immediate release of the levy under the law, undermining the purpose of IRC Section 6330 to afford taxpayers a meaningful hearing before property deprivation. The court distinguished this case from others where taxpayers had sufficient assets or income to mitigate hardship, emphasizing Dawson's dire financial and health situation. The court also considered policy implications, stressing the need for fair administration of tax laws, particularly in hardship cases.

## Disposition

The U. S. Tax Court denied the IRS's motion for summary judgment, finding that the IRS abused its discretion in deciding to proceed with the levy against Dawson.

## Significance/Impact

Dawson v. Commissioner reinforces the principle that IRS collection actions must balance the need for tax collection with the taxpayer's right to avoid undue hardship. The decision clarifies that in cases where a levy would create an economic hardship, the IRS must consider alternatives regardless of non-compliance with filing requirements. This ruling has implications for IRS policies and procedures,

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particularly in how economic hardship is evaluated and addressed. It underscores the Tax Court’s role in protecting taxpayer rights and ensuring the fair application of tax laws, potentially influencing future cases involving similar issues of hardship and collection alternatives.

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