Jordan v. Commissioner, 134 T. C. 1 (2010)

In *Jordan v. Commissioner*, the U. S. Tax Court ruled on the validity of a waiver extending the 10-year period of limitations on tax collection. The case clarified that one spouse's signature on a joint tax return's waiver is sufficient to bind that spouse, but not the other, to the extended period. Additionally, the court determined that the burden of proof lies with the taxpayer to show the waiver's invalidity. The ruling impacts how tax collection waivers are viewed, especially regarding joint filers, and underscores the importance of clear evidence in disputing such waivers.

Parties

Shelby L. Jordan and Donazella H. Jordan, the petitioners, filed a case against the Commissioner of Internal Revenue, the respondent. The Jordans were the taxpayers, and the Commissioner represented the IRS in this matter.

Facts

Shelby L. Jordan and Donazella H. Jordan, husband and wife, filed joint federal income tax returns for several years, including 1986, 1987, 1988, 1989, 1994, and 1995. They did not fully pay the tax liabilities for these years. On March 2, 1995, Donazella H. Jordan signed IRS Form 900, Tax Collection Waiver, which extended the 10-year period of limitations on collection for their tax years 1985 through 1989. The form also bore a signature purporting to be Shelby L. Jordan's, which he contested as not his own. Following the signing of Form 900, the Jordans entered into an installment agreement with the IRS on March 20, 1995, for the same tax years. The IRS filed a Notice of Federal Tax Lien (NFTL) on February 13, 2007, for the unpaid tax liabilities of the years in question. The Jordans challenged the validity of the Form 900 and the filing of the NFTL, asserting that Shelby L. Jordan did not sign the waiver and that no notice of deficiency was issued for certain tax years.

Procedural History

The IRS sent the Jordans a Notice of Determination Concerning Collection Action(s) under Sections 6320 and/or 6330. The Jordans timely filed a petition for review with the U. S. Tax Court under Section 6330(d). The court had to determine whether the Form 900 was valid as to both spouses, the authenticity of Shelby L. Jordan's signature, and whether a notice of deficiency was sent for the tax years 1986, 1988, and 1989.

Issue(s)

- Whether the burden of proof regarding the validity of the 10-year period of limitations on collection rests with the taxpayer?
- Whether the signature of one spouse on a joint return is sufficient to bind both spouses to a waiver of the 10-year period of limitations on collection?
- If one spouse's signature is insufficient to bind both spouses, whether Shelby

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L. Jordan signed the Form 900 and whether the court should review this issue de novo or for abuse of discretion?
- Whether Shelby L. Jordan may repudiate the Form 900 after the IRS relied on it to enter into an installment agreement with the taxpayers?
- Whether the IRS sent the Jordans a notice of deficiency for the tax years 1986, 1988, and 1989?

Rule(s) of Law

The period of limitations on collection is an affirmative defense, and the party raising it must specifically plead it and carry the burden of proof. *Adler v. Commissioner*, 85 T. C. 535 (1985). Spouses filing a joint return are separate taxpayers, and each has the right to waive restrictions on assessment and collection individually. *Dolan v. Commissioner*, 44 T. C. 420 (1965). A waiver of the period of limitations on collection is valid as to the signing spouse but not the non-signing spouse. *Magaziner v. Commissioner*, T. C. Memo 1957-26; *Tallal v. Commissioner*, 77 T. C. 1291 (1981). A taxpayer may not repudiate a waiver if the IRS relied on it to enter into an installment agreement. *Roberts v. Commissioner*, T. C. Memo 2004-100.

Holding

The Tax Court held that the burden of proof regarding the validity of the 10-year period of limitations on collection rests with the taxpayer. The court further held that Donazella H. Jordan's signature on Form 900 was sufficient to bind her to the waiver but not Shelby L. Jordan unless he signed the form or could not repudiate it. The court determined that the issue of the authenticity of Shelby L. Jordan's signature should be reviewed de novo. The court found that the Jordans did not meet their burden of proving that Shelby L. Jordan did not sign the Form 900. Alternatively, the court held that Shelby L. Jordan could not repudiate the waiver because the IRS had relied on it to enter into an installment agreement. Finally, the court remanded the case to the IRS Appeals Office to clarify whether a notice of deficiency was sent for the tax years 1986, 1988, and 1989.

Reasoning

The court applied the legal principle from *Adler v. Commissioner* that the burden of proof for the period of limitations on collection lies with the taxpayer. The court reasoned that because spouses filing a joint return are considered separate taxpayers, each has the right to waive the period of limitations on collection individually, as established in *Dolan v. Commissioner*. The court relied on *Magaziner* and *Tallal* to determine that Donazella H. Jordan's signature on Form 900 was valid as to her but not as to Shelby L. Jordan unless he signed it or could not repudiate it. The court reviewed the issue of the authenticity of Shelby L. Jordan's signature de novo, as it was a challenge to the underlying liability, and found that the Jordans did not meet their burden of proof. The court also considered the IRS's reliance on the

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waiver to enter into an installment agreement, citing *Roberts v. Commissioner*, and concluded that Shelby L. Jordan could not repudiate the waiver. Finally, the court found the record unclear regarding whether a notice of deficiency was sent for certain tax years and remanded the case for further clarification.

Disposition

The court affirmed the validity of the waiver as to Donazella H. Jordan, upheld the IRS's reliance on the waiver to enter into an installment agreement, and remanded the case to the IRS Appeals Office to clarify whether a notice of deficiency was sent for the tax years 1986, 1988, and 1989.

Significance/Impact

The *Jordan v. Commissioner* case clarified the application of the period of limitations on collection in the context of joint tax returns and waivers. It established that one spouse's signature on a waiver is sufficient to bind that spouse but not the other, unless the non-signing spouse signed or cannot repudiate the waiver. This ruling impacts how tax practitioners advise clients on waivers and installment agreements, emphasizing the importance of clear evidence in disputes over the validity of signatures on such documents. The case also reaffirmed the principle that a taxpayer cannot repudiate a waiver after the IRS has relied on it, which has practical implications for tax collection strategies and taxpayer rights.

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