136 T.C. 51 (2011)

The IRS cannot disregard an entire request for a Collection Due Process (CDP) hearing as frivolous under Section 6330(g) without specifically identifying which portions of the request are deemed frivolous or intended to delay tax administration, especially when the taxpayer raises legitimate issues.

Summary

The Thornberrys sought judicial review after the IRS Appeals Office disregarded their CDP hearing requests, deeming them frivolous. The Tax Court held that it had jurisdiction to determine whether the IRS properly disregarded the requests. The court found that the IRS failed to adequately specify which parts of the Thornberrys' requests were considered frivolous or dilatory, particularly since the requests also raised legitimate issues. This case clarifies the IRS's obligation to provide specific reasons for disregarding CDP hearing requests under Section 6330(g) and reinforces taxpayers' rights to raise legitimate issues in such hearings.

Facts

The IRS sent the Thornberrys notices of intent to levy and notices of federal tax lien filings for unpaid income tax liabilities from 2000-2002 and a Section 6702 penalty assessed against Mr. Thornberry for 2007. The Thornberrys timely requested a CDP hearing, submitting Forms 12153 with attached pages containing a list of 23 boilerplate items, largely pre-checked, obtained from a website known for promoting frivolous tax arguments. The Thornberrys indicated they were seeking an installment agreement, offer-in-compromise, and lien withdrawal, while also claiming they never received deficiency notices.

Procedural History

The IRS Appeals Office sent the Thornberrys a letter stating their hearing requests contained frivolous issues and gave them 30 days to amend their requests or withdraw them entirely. When the Thornberrys asserted they had raised legitimate issues, the Appeals Office sent determination letters stating it was disregarding their hearing requests under Section 6330(g). The Thornberrys then petitioned the Tax Court, arguing they were denied a proper hearing. The IRS moved to dismiss for lack of jurisdiction, arguing the Appeals Office made no reviewable determination.

Issue(s)

Whether the Tax Court has jurisdiction to review the IRS Appeals Office's determination to disregard the Thornberrys' CDP hearing requests as frivolous under Section 6330(g) when the IRS did not specifically identify the frivolous portions of the requests and the requests also raised legitimate issues.

Holding

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Yes, because Section 6330(g) does not prohibit judicial review of the IRS's determination that a request is frivolous; it only prohibits review of the frivolous portion of the request if the determination is sustained. The IRS failed to adequately specify which parts of the Thornberrys' requests were considered frivolous, especially since the requests raised legitimate issues that warranted a hearing.

Court's Reasoning

The Tax Court reasoned that while Section 6330(g) allows the IRS to disregard frivolous portions of a CDP hearing request, it does not preclude the court from reviewing the IRS's determination that the request is frivolous in the first place. The court emphasized that Sections 6702(b) and 6330(g) were enacted together and should be interpreted in pari materia. Citing Section 6703(a), the court noted that the Secretary has the burden of proof regarding the imposition of penalties under Section 6702, which contemplates judicial review of the determination that a submission is frivolous. The court found that the determination letters sent to the Thornberrys were too general and did not provide sufficient detail as to which specific statements were considered frivolous or dilatory. The court noted the IRS determination letters were contradictory because they listed legitimate issues that could be raised, while simultaneously disregarding the entire request. The court stated, "We think that it was improper for the Appeals Office to treat those portions of petitioners' requests that set forth issues identified as legitimate in the determination letters as if they were never submitted without explaining how the requests reflect a desire to delay or impede Federal tax administration."

Practical Implications

This case provides important guidance on the limits of the IRS's authority to disregard CDP hearing requests as frivolous. It emphasizes the need for the IRS to provide specific reasons for deeming a request frivolous, especially when the taxpayer also raises legitimate issues. Attorneys should advise clients to avoid submitting boilerplate arguments or frivolous claims in CDP hearing requests, as this could jeopardize their ability to obtain a hearing. However, attorneys can also use this case to challenge IRS determinations that broadly disregard CDP hearing requests without providing sufficient justification. The case highlights the importance of clear communication and specific identification of issues in administrative proceedings and reinforces the court's role in ensuring fair process.

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