***Scott Grunsted v. Commissioner of Internal Revenue, 136 T. C. 455 (U. S. Tax Court 2011)***

In Grunsted v. Commissioner, the U. S. Tax Court upheld the imposition of frivolous return penalties on Scott Grunsted for filing late tax returns claiming zero income and seeking refunds. The court rejected Grunsted's argument that the penalties were invalidly assessed due to the absence of a district director, affirming that the IRS's reassignment of duties post-reorganization was legally effective. This decision underscores the enforceability of tax penalties despite IRS restructuring and serves as a deterrent against frivolous tax filings.

**Parties**

Scott Grunsted, the petitioner, appeared pro se. The respondent, Commissioner of Internal Revenue, was represented by Lisa M. Oshiro and Melanie Senick.

**Facts**

Scott Grunsted filed late purported income tax returns for the tax years 2002, 2003, and 2004, claiming zero income and seeking refunds for taxes withheld by his employer, Agency Software, Inc. Grunsted attached letters to his returns asserting that private sector payments for labor were not taxable. The IRS rejected Grunsted's initial returns for 2002 and 2003 for lacking sufficient information and being based on frivolous positions. Grunsted resubmitted substantially identical returns for those years, prompting the IRS to assess five frivolous return penalties under section 6702 of the Internal Revenue Code. Grunsted failed to pay these penalties, leading to IRS collection actions. Grunsted contested the penalties, arguing their invalidity due to the absence of a district director, a position eliminated following the IRS Restructuring and Reform Act of 1998.

**Procedural History**

After the IRS issued a Final Notice of Intent to Levy and Notice of Your Right to a Hearing, Grunsted responded by challenging the validity of the assessments. The IRS's Appeals Office upheld the collection action following a Collection Due Process (CDP) hearing where Grunsted failed to provide requested tax returns and financial information. Grunsted then filed a petition with the U. S. Tax Court, which was the first instance where the court addressed the district director argument in a published opinion. The Commissioner moved for summary judgment, which the court granted.

**Issue(s)**

1. Whether Scott Grunsted is liable for the frivolous return penalties assessed under section 6702 of the Internal Revenue Code for the tax years 2002, 2003, and 2004?
2. Whether the Commissioner's determination to proceed with collection action constitutes an abuse of discretion?

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## Rule(s) of Law

A civil penalty for filing a frivolous return may be assessed under section 6702 of the Internal Revenue Code if the document purports to be an income tax return, lacks information needed to determine the substantial correctness of the self-assessment or contains information indicating the self-assessment is substantially incorrect, and reflects a position that is frivolous or demonstrates a desire to delay or impede the administration of federal income tax laws. The Internal Revenue Service Restructuring and Reform Act of 1998 and subsequent IRS Delegation Orders reassigned the duties previously held by district directors.

## Holding

The U. S. Tax Court held that Scott Grunsted is liable for the frivolous return penalties under section 6702 of the Internal Revenue Code, as all elements for the imposition of such penalties were satisfied. The court further held that the Commissioner's determination to proceed with collection was not an abuse of discretion.

## Reasoning

The court reasoned that Grunsted's filings met the criteria for frivolous return penalties: they were purported tax returns, lacked sufficient information to determine the correctness of the self-assessment, and reflected frivolous positions regarding the taxability of wages. The court rejected Grunsted's argument that the penalties were invalidly assessed due to the absence of a district director, citing the savings provision of the Internal Revenue Service Restructuring and Reform Act of 1998 and IRS Delegation Order 1-23, which reassigned the district director's responsibilities. The court emphasized that these legislative and administrative actions ensured the continuity of IRS operations and the legality of assessments post-reorganization. The court also noted that Grunsted's failure to propose collection alternatives or provide required financial information during the CDP hearing process supported the finding that the Commissioner's collection action was not an abuse of discretion.

## Disposition

The court granted the Commissioner's motion for summary judgment and upheld the frivolous return penalties assessed against Scott Grunsted.

## Significance/Impact

This case is significant for clarifying that the reorganization of the IRS and the elimination of the district director position do not invalidate assessments made under the reassigned authority. It reinforces the enforceability of frivolous return penalties and serves as a precedent for deterring taxpayers from filing meritless claims. The decision also underscores the importance of complying with IRS

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requests for information during CDP hearings to challenge collection actions effectively.

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