Weber v. Commissioner, 138 T. C. 348 (U. S. Tax Court 2012)

The U. S. Tax Court upheld the IRS's discretion to apply a taxpayer's overpayment from one year to an outstanding penalty from a previous year, rather than to the taxpayer's estimated tax for the following year as elected. Hershal Weber's 2006 overpayment was applied to a 2005 trust fund recovery penalty, not his 2007 estimated tax. This ruling clarifies the IRS's authority under I. R. C. § 6402 and impacts how taxpayers can expect overpayments to be managed.

Parties

Hershal Weber, as the petitioner, challenged the Commissioner of Internal Revenue, as the respondent, in the U. S. Tax Court.

Facts

Hershal Weber filed his 2006 federal income tax return in 2007, reporting an overpayment of $46,717 and electing to apply it to his 2007 estimated income tax. However, the IRS assessed a $1,002,339 penalty against Weber under I. R. C. § 6672 for unpaid trust fund taxes from S&G Services, Inc. for 2005. The IRS applied Weber's 2006 overpayment to this penalty instead of his 2007 estimated tax. In 2008, S&G's liability was satisfied by third-party payments, but Weber's 2007 return still claimed the 2006 overpayment, resulting in a reported overpayment for 2007 that he elected to apply to 2008. The IRS adjusted Weber's 2007 and 2008 returns to eliminate the claimed overpayments, leading to a balance due for 2008. Weber contested this in a collection due process hearing, arguing his penalty was overpaid and should satisfy his 2008 liability.

Procedural History

The IRS assessed the § 6672 penalty against Weber in 2007 and applied his 2006 overpayment to this penalty. Weber filed his 2007 return claiming the 2006 overpayment, and the IRS adjusted this and his 2008 return, leading to a balance due for 2008. After receiving a notice of proposed levy, Weber requested a collection due process hearing under I. R. C. § 6330. The IRS Office of Appeals upheld the proposed levy, and Weber appealed to the U. S. Tax Court, which granted summary judgment to the Commissioner.

Issue(s)

Whether the IRS abused its discretion under I. R. C. § 6402 in applying Weber's 2006 income tax overpayment to his § 6672 penalty liability rather than to his 2007 estimated income tax as elected?

Whether the Tax Court has jurisdiction in a collection due process hearing to adjudicate Weber's claim of an overpayment of the § 6672 penalty?

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Rule(s) of Law

I. R. C. § 6402(a) states that the IRS "may" credit an overpayment against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and "shall" refund any balance to such person. I. R. C. § 6402(b) authorizes the Secretary to prescribe regulations for crediting overpayments against estimated income tax for the succeeding year. 26 C. F. R. § 301. 6402-3(a)(5) allows a taxpayer to elect to apply an overpayment to estimated tax for the succeeding year, but § 301. 6402-3(a)(6) clarifies that the IRS retains discretion to apply overpayments to other outstanding liabilities.

Holding

The Tax Court held that the IRS did not abuse its discretion under I. R. C. § 6402 in applying Weber's 2006 overpayment to his § 6672 penalty rather than to his 2007 estimated income tax. The Court further held that it lacked jurisdiction in the collection due process hearing to adjudicate Weber's claim of an overpayment of the § 6672 penalty.

Reasoning

The Tax Court reasoned that I. R. C. § 6402 and the corresponding regulations grant the IRS broad discretion in applying overpayments. The IRS's decision to apply Weber's 2006 overpayment to the already assessed § 6672 penalty, rather than to the future 2007 estimated tax liability, was within this discretion. The Court emphasized that Weber's election under 26 C. F. R. § 301. 6402-3(a)(5) to apply the overpayment to 2007 was not binding on the IRS. Regarding jurisdiction, the Court distinguished between credit elect overpayments, which could be considered in a collection due process hearing, and overpayments from unrelated liabilities, such as the § 6672 penalty, which require a separate refund suit. The Court noted that allowing such claims in a collection due process hearing would contradict the established refund litigation scheme and could lead to practical and conceptual issues, including the potential for delaying collection actions pending resolution of complex refund claims.

Disposition

The Tax Court granted summary judgment to the Commissioner, upholding the IRS's determination to proceed with the levy to collect Weber's 2008 income tax liability.

Significance/Impact

This case reinforces the IRS's discretion under I. R. C. § 6402 to apply overpayments to any outstanding tax liability, rather than being bound by a taxpayer's election. It clarifies that the Tax Court's jurisdiction in collection due process hearings does not extend to adjudicating overpayment claims for unrelated liabilities, such as the § 6672 penalty, which must be pursued through separate refund litigation. This

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decision has practical implications for taxpayers, emphasizing the importance of understanding the IRS's application of overpayments and the limitations of challenging such actions in collection due process proceedings.

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