Cohen v. Commissioner, 139 T. C. 299 (2012)

The U. S. Tax Court dismissed Raymond Cohen's petition seeking to compel the IRS to reopen his whistleblower claim under I. R. C. § 7623(b). The court held that it lacked jurisdiction to order the IRS to pursue an action or collect proceeds based on Cohen's information. This ruling clarifies that a whistleblower award is contingent upon the IRS taking action and collecting proceeds, emphasizing the limited judicial oversight of IRS whistleblower claim decisions.

Parties

Raymond Cohen, the petitioner, filed his claim pro se. The respondent, the Commissioner of Internal Revenue, was represented by Jonathan D. Tepper. The case was heard by Judge Kroupa of the United States Tax Court.

Facts

Raymond Cohen, a certified public accountant, submitted a whistleblower claim to the IRS based on information he obtained while his wife served as executrix for an estate. The estate held uncashed stock dividend checks from a public corporation. Cohen suspected the corporation retained unclaimed assets, including uncashed dividends and unredeemed bonds. He gathered information through a state Freedom of Information Law request and reviewed allegations from a civil lawsuit against the corporation, asserting that the corporation possessed unclaimed assets worth over $700 million. Cohen claimed these assets should have been turned over to the state and constituted unreported income for federal tax purposes. The IRS Whistleblower Office denied Cohen's claim, stating that no proceeds were collected and the information was publicly available. Cohen requested reconsideration, which was also denied.

Procedural History

Cohen filed a petition and an amended petition in the United States Tax Court, requesting the court to order the IRS to reopen his claim. The Commissioner moved to dismiss the petition for failure to state a claim under Rule 40 of the Tax Court Rules of Practice and Procedure. Cohen opposed the motion and filed a motion for summary judgment under Rule 121. The Tax Court granted the Commissioner's motion to dismiss and denied Cohen's motion for summary judgment as moot.

Issue(s)

Whether the Tax Court has jurisdiction under I. R. C. § 7623(b) to order the IRS to reopen a whistleblower claim where no administrative or judicial action has been initiated and no proceeds have been collected.

Rule(s) of Law

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Under I. R. C. § 7623(b), a whistleblower is entitled to an award only if the provided information leads the Commissioner to proceed with an administrative or judicial action and collect proceeds. The Tax Court's jurisdiction is limited to reviewing the Commissioner's award determination after these prerequisites are met.

Holding

The Tax Court held that it lacks jurisdiction to grant relief under I. R. C. § 7623(b) when the IRS has not initiated an administrative or judicial action or collected proceeds based on the whistleblower's information. The court dismissed Cohen's petition for failure to state a claim upon which relief can be granted.

Reasoning

The court's reasoning focused on the statutory requirements of I. R. C. § 7623(b), which explicitly link a whistleblower award to the IRS's action and collection of proceeds. The court emphasized that its jurisdiction is limited to reviewing the Commissioner's award determination after these events occur. The court rejected Cohen's arguments that the IRS should be compelled to act on his information or provide detailed explanations for its decision, citing the absence of such authority in the statute. The court also dismissed Cohen's reliance on the Administrative Procedure Act and equitable grounds, noting that these do not expand the court's jurisdiction or create new rights of action under I. R. C. § 7623(b). The court acknowledged Cohen's frustration but stressed that Congress has assigned the responsibility of evaluating whistleblower claims to the IRS, without providing judicial remedies until the statutory prerequisites are satisfied.

Disposition

The Tax Court granted the Commissioner's motion to dismiss the petition for failure to state a claim and denied Cohen's motion for summary judgment as moot.

Significance/Impact

Cohen v. Commissioner clarifies the scope of judicial review under I. R. C. § 7623(b), emphasizing that courts cannot compel the IRS to act on whistleblower information or reopen claims without an administrative or judicial action and collection of proceeds. This decision reinforces the IRS's discretion in handling whistleblower claims and limits judicial intervention to post-action review of award determinations. It may influence future whistleblower cases by setting a clear threshold for judicial involvement, potentially affecting the strategies of whistleblowers and their expectations regarding IRS responses to their claims.

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