Gray v. Commissioner, 140 T. C. 163 (2013)

In Gray v. Commissioner, the U. S. Tax Court denied an interlocutory appeal of its dismissal order for lack of jurisdiction due to an untimely petition under I. R. C. sec. 6330(d)(1). The court clarified that a 30-day period, not the 90-day period for deficiency determinations, applies to petitions challenging underlying tax liabilities in collection action determinations. This ruling reinforces the procedural framework for tax disputes and highlights the stringent requirements for interlocutory appeals in tax litigation.

Parties

Carol Diane Gray was the petitioner, challenging the Commissioner of Internal Revenue's determination to proceed with collection actions. The respondent was the Commissioner of Internal Revenue. The case was heard before the U. S. Tax Court and involved appeals to the U. S. Court of Appeals for the Seventh Circuit.

Facts

Carol Diane Gray filed untimely joint returns for tax years 1992 through 1995, which resulted in assessed income tax liabilities. The Internal Revenue Service (IRS) issued a notice of determination allowing the IRS to proceed with a lien and levy to collect the unpaid taxes. Gray challenged the underlying tax liabilities during her hearing under I. R. C. sec. 6330, resulting in partial abatement of the liabilities for 1992 and 1993, and full abatement of the additions to tax under I. R. C. sec. 6651(a). However, Gray's petition to the Tax Court for review of the collection action determination was filed beyond the 30-day statutory period, leading to a dismissal for lack of jurisdiction.

Procedural History

The Tax Court initially dismissed the portion of Gray's case seeking review of the collection action determination under I. R. C. sec. 6330(d)(1) for being untimely filed. Gray then moved for certification of an interlocutory appeal under I. R. C. sec. 7482(a)(2)(A), arguing for a 90-day filing period. The Tax Court denied this motion, and the case remained open for other issues related to interest abatement and spousal relief.

Issue(s)

Whether the period for filing a petition for review of a collection action determination under I. R. C. sec. 6330(d)(1) that affects the underlying tax liability is 30 days, as provided by I. R. C. sec. 6330(d)(1), or 90 days, as provided by I. R. C. sec. 6213(a) for deficiency determinations?

Rule(s) of Law

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I. R. C. sec. 6330(d)(1) stipulates that a petition for review of a collection action determination must be filed within 30 days of the determination. I. R. C. sec. 6213(a) allows for a 90-day period for filing a petition for a deficiency determination. The court noted that a "deficiency" is defined in I. R. C. sec. 6211(a) as the excess of the tax imposed over the tax shown on the return, which was not applicable in this case as no deficiency was determined by the IRS.

Holding

The Tax Court held that the applicable filing period for a petition challenging the underlying tax liability under I. R. C. sec. 6330(d)(1) is 30 days, not 90 days. The court found no substantial ground for a difference of opinion on this issue and determined that an immediate appeal would not materially advance the ultimate termination of the litigation.

Reasoning

The court's reasoning included the following points:

- The statutory language of I. R. C. sec. 6330(d)(1) clearly specifies a 30-day filing period for petitions challenging collection action determinations, including those involving underlying tax liabilities.
- The court rejected Gray's argument that adjustments to underlying tax liabilities in a sec. 6330 proceeding constituted "deficiency determinations," as no deficiency was determined by the IRS for the years in question.
- The court noted that the 30-day period reflects congressional intent to provide a more expedited review process for collection actions, which involve assessed taxes rather than deficiencies.
- The court also considered the policy of avoiding piecemeal litigation and the exceptional nature of interlocutory appeals, finding that Gray's case did not meet the criteria for such an appeal under I. R. C. sec. 7482(a)(2)(A).
- The court addressed Gray's contention that different filing periods should apply based on the issues raised in the sec. 6330 hearing, clarifying that the statute provides no such distinction.

Disposition

The Tax Court denied Gray's motion for certification of an interlocutory appeal, maintaining its dismissal of the petition for review of the collection action determination as untimely.

Significance/Impact

The Gray decision reaffirms the strict 30-day filing requirement for petitions under I. R. C. sec. 6330(d)(1) and clarifies that this period applies uniformly to all collection action determinations, regardless of whether the underlying tax liability is challenged. It underscores the procedural rigor of tax litigation and the limited

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circumstances under which interlocutory appeals are granted. The ruling has implications for taxpayers seeking to challenge collection actions, emphasizing the need for timely filing and adherence to statutory deadlines. Subsequent courts have consistently upheld this interpretation, impacting the strategy and timing of tax disputes.

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