Gray v. Commissioner, 140 T. C. No. 9 (2013)

In Gray v. Commissioner, the U. S. Tax Court ruled that a 30-day filing period applies for petitions challenging collection action determinations under I. R. C. sec. 6330, rejecting the taxpayer's argument for a 90-day period akin to deficiency determinations. The court denied the taxpayer's motion for an interlocutory appeal, emphasizing the clarity of the law and the lack of substantial grounds for a different opinion. This decision reinforces the strict 30-day filing requirement for such appeals, impacting how taxpayers challenge IRS collection actions.

Parties

Carol Diane Gray, the Petitioner, sought review in the U. S. Tax Court against the Commissioner of Internal Revenue, the Respondent, regarding the timeliness of her petition and the applicable filing period for review of a collection action determination under I. R. C. sec. 6330.

Facts

Carol Diane Gray filed untimely joint returns for the tax years 1992, 1993, 1994, and 1995, reporting unpaid income tax. The IRS assessed the tax reported as due on these returns and also assessed additions to tax under I. R. C. sec. 6651(a). Gray challenged the underlying tax liabilities at a hearing provided under I. R. C. sec. 6330. The notice of determination issued by the IRS abated portions of the assessed income tax for 1992 and 1993 and all additions to tax for the years at issue. Gray subsequently filed a petition with the Tax Court, which was deemed untimely as it was not filed within the 30-day period prescribed by I. R. C. sec. 6330(d)(1).

Procedural History

The Tax Court initially held in Gray v. Commissioner, 138 T. C. 295 (2012), that it lacked jurisdiction to review the IRS's determination to proceed with collection actions because Gray's petition was untimely under I. R. C. sec. 6330(d)(1). Gray then moved for certification of an interlocutory appeal under I. R. C. sec. 7482(a)(2)(A), arguing that the applicable filing period for her petition should be 90 days as provided under I. R. C. sec. 6213. The Tax Court denied this motion in the current decision.

Issue(s)

Whether the period for filing a petition with the Tax Court for review of a collection action determination under I. R. C. sec. 6330, which affects the underlying tax liability, is the 30-day period provided in I. R. C. sec. 6330(d)(1) or the 90-day period provided in I. R. C. sec. 6213?

Rule(s) of Law

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The controlling legal principle is I. R. C. sec. 6330(d)(1), which states that a taxpayer may appeal a determination under section 6330 to the Tax Court within 30 days of the determination. I. R. C. sec. 7482(a)(2)(A) allows for interlocutory appeals when there is a substantial ground for difference of opinion on a controlling question of law and when such an appeal may materially advance the ultimate termination of the litigation.

Holding

The Tax Court held that the applicable filing period for a petition challenging a collection action determination under I. R. C. sec. 6330, even when it affects the underlying tax liability, is the 30-day period provided in I. R. C. sec. 6330(d)(1), not the 90-day period provided in I. R. C. sec. 6213. The court further held that Gray's motion for interlocutory appeal was denied because there were no substantial grounds for a difference of opinion and an immediate appeal would not materially advance the ultimate termination of the litigation.

Reasoning

The court's reasoning focused on the statutory language of I. R. C. sec. 6330, which clearly mandates a 30-day filing period for petitions appealing determinations under that section, regardless of whether the underlying tax liability is at issue. The court rejected Gray's argument that adjustments to the underlying tax liability should trigger the 90-day period applicable to deficiency determinations under I. R. C. sec. 6213. The court emphasized that the term "deficiency" is defined in I. R. C. sec. 6211(a) and does not apply to the assessed taxes at issue in this case, which were reported on Gray's returns and assessed without deficiency procedures. The court also noted that I. R. C. sec. 6330 provides specific procedural safeguards for challenging assessed taxes, distinguishing them from deficiency proceedings. The court's denial of the interlocutory appeal was grounded in the lack of substantial grounds for a different opinion on the applicable filing period and the potential for piecemeal litigation that an immediate appeal would entail.

Disposition

The Tax Court denied Gray's motion for certification of an interlocutory appeal, upholding the dismissal of the case for lack of jurisdiction due to the untimely petition under I. R. C. sec. 6330(d)(1).

Significance/Impact

The decision in Gray v. Commissioner reinforces the strict 30-day filing requirement for petitions challenging IRS collection action determinations under I. R. C. sec. 6330, even when the underlying tax liability is at issue. This ruling clarifies that the 90-day filing period applicable to deficiency determinations under I. R. C. sec. 6213 does not extend to collection action determinations. The decision also underscores

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the limited circumstances under which interlocutory appeals are granted, reflecting a strong policy against piecemeal litigation. Subsequent courts have continued to adhere to this interpretation, impacting taxpayer strategies for challenging IRS collection actions and emphasizing the importance of timely filing in such cases.

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