

Reed v. Commissioner, 141 T. C. 248 (U. S. Tax Court 2013)

In *Reed v. Commissioner*, the U. S. Tax Court upheld the IRS's decision to sustain a levy notice against Tom Reed, who failed to file timely tax returns for years 1987-2001. Reed argued that the IRS abused its discretion by not reopening a 2008 offer-in-compromise (OIC) based on doubt as to collectibility. The court clarified its jurisdiction in collection due process hearings and ruled that the IRS cannot be compelled to reopen a previously returned OIC, emphasizing the importance of current financial data in such assessments. This decision reinforces the procedural boundaries of IRS authority in handling tax collection disputes.

Parties

Tom Reed, the Petitioner, was the individual taxpayer who failed to file timely Federal income tax returns for the years 1987 through 2001 and subsequently sought to settle his tax liabilities through offers-in-compromise. The Respondent, the Commissioner of Internal Revenue, was represented by the Internal Revenue Service (IRS) and was responsible for the administration and collection of Reed's tax liabilities.

Facts

Tom Reed failed to file his Federal income tax returns timely for the years 1987 through 2001. He later submitted delinquent returns but did not fully satisfy his outstanding tax liabilities. In 2004, Reed submitted his first offer-in-compromise (OIC) to settle these liabilities, proposing to pay \$22,000 based on doubt as to collectibility. The IRS rejected this offer, determining that Reed's reasonable collection potential was higher due to his dissipation of \$258,000 from a 2001 real estate sale through high-risk day trading. In 2008, Reed submitted another OIC for \$35,196, which the IRS returned as unprocessable because Reed was not in compliance with his current tax obligations. After the IRS issued a final notice of intent to levy, Reed requested a collection due process hearing, during which he contested the handling of his OICs.

Procedural History

Reed's first OIC in 2004 was rejected by the IRS's Houston Offer in Compromise Unit and upheld on appeal by the Internal Revenue Service Appeals Office in Houston, Texas. His 2008 OIC was returned as unprocessable due to non-compliance with current tax obligations. Following the issuance of a final notice of intent to levy, Reed requested a collection due process hearing, which was conducted by Settlement Officer Liana A. White. After the hearing, White issued a determination notice sustaining the levy notice. Reed then filed a timely petition with the U. S. Tax Court, challenging the determination on the grounds that the IRS abused its discretion by not reopening the 2008 OIC and by rejecting the 2004 OIC. The court reviewed the case *de novo*, applying an abuse of discretion standard.

Issue(s)

Whether the U. S. Tax Court has jurisdiction to review the IRS's determination to sustain a notice of intent to levy when the taxpayer challenges the handling of prior offers-in-compromise?

Whether the IRS can be required to reopen an offer-in-compromise based on doubt as to collectibility that was returned to the taxpayer years before the collection due process hearing commenced?

Whether the IRS abused its discretion in sustaining the notice of intent to levy based on its handling of the taxpayer's 2004 and 2008 offers-in-compromise?

Rule(s) of Law

The U. S. Tax Court has jurisdiction over collection due process hearings under 26 U. S. C. § 6330(d) when the Commissioner issues a determination notice and the taxpayer timely files a petition. The IRS has the authority to compromise unpaid tax liabilities under 26 U. S. C. § 7122(a), but an offer-in-compromise must be based on current financial data. An offer-in-compromise may be considered during a collection due process hearing if proposed by the taxpayer, as per 26 U. S. C. § 6330(c)(2)(A)(iii). The IRS may return an offer-in-compromise if the taxpayer fails to meet current tax obligations, as outlined in 26 C. F. R. § 301. 7122-1(f)(5)(ii).

Holding

The U. S. Tax Court held that it had jurisdiction to review the IRS's determination to sustain the notice of intent to levy. The court further held that the IRS cannot be required to reopen an offer-in-compromise based on doubt as to collectibility that was returned to the taxpayer years before the collection due process hearing commenced. Finally, the court held that the IRS did not abuse its discretion in sustaining the notice of intent to levy based on its handling of Reed's 2004 and 2008 offers-in-compromise.

Reasoning

The court reasoned that its jurisdiction to review the IRS's determination in collection due process hearings is expressly authorized by Congress under 26 U. S. C. § 6330(d). The court rejected the IRS's argument that it lacked jurisdiction because Reed did not propose a new offer-in-compromise during the hearing, clarifying that the court's jurisdiction is triggered by the issuance of a determination notice and a timely filed petition.

Regarding the reopening of the 2008 offer-in-compromise, the court emphasized that such offers must be based on current financial data, as required by 26 U. S. C. § 7122(d)(1) and IRS procedures. The court found that compelling the IRS to reopen an offer based on outdated financial information would impermissibly expand its

authority and interfere with the statutory scheme created by Congress.

The court upheld the IRS's rejection of the 2004 offer-in-compromise, finding that the inclusion of dissipated assets in calculating Reed's reasonable collection potential was proper under IRS guidelines. The court also upheld the IRS's return of the 2008 offer-in-compromise, noting that Reed's failure to comply with current tax obligations justified the IRS's action.

The court concluded that the IRS did not abuse its discretion in sustaining the levy notice, as it verified compliance with legal and administrative requirements, considered all relevant issues raised by Reed, and balanced the intrusiveness of the proposed collection actions against the need for effective tax collection.

Disposition

The U. S. Tax Court entered a decision for the respondent, the Commissioner of Internal Revenue, sustaining the final notice of intent to levy.

Significance/Impact

Reed v. Commissioner is significant for clarifying the jurisdictional scope of the U. S. Tax Court in collection due process hearings and the IRS's authority to handle offers-in-compromise. The decision underscores the importance of current financial data in assessing offers based on doubt as to collectibility and reinforces the IRS's discretion in rejecting or returning such offers. This case impacts taxpayers seeking to settle tax liabilities through offers-in-compromise by emphasizing the need for compliance with current tax obligations and the limited judicial review available for returned offers. Subsequent cases have cited Reed for its analysis of the interaction between 26 U. S. C. §§ 7122 and 6330, further solidifying its doctrinal importance in tax law.