Reed v. Commissioner, 141 T. C. No. 7 (U. S. Tax Ct. 2013)

In Reed v. Commissioner, the U. S. Tax Court ruled that it has jurisdiction to review the IRS's decision to sustain a levy notice, but it cannot compel the IRS to reopen an offer-in-compromise (OIC) that was returned as unprocessable years before a collection hearing. The court affirmed the IRS's discretion in handling OICs and upheld the levy notice, emphasizing the importance of current financial data in evaluating OICs based on doubt as to collectibility.

Parties

Tom Reed, the petitioner, was represented by George W. Connelly, Jr. , Heather M. Pesikoff, and Renesha N. Fountain. The respondent was the Commissioner of Internal Revenue, represented by David Baudilio Mora and Gordon P. Sanz.

Facts

Tom Reed failed to timely file Federal income tax returns for the years 1987 through 2001. He later submitted delinquent returns but did not fully satisfy his tax liabilities. Reed made two separate offers-in-compromise (OICs) to settle his outstanding tax liabilities. The first OIC in 2004 was rejected by the IRS, which found that Reed had dissipated real estate proceeds and included them in calculating an acceptable offer amount. The second OIC in 2008 was returned as unprocessable because Reed was not in compliance with current tax obligations. After the IRS issued a final notice of intent to levy, Reed requested a collection due process hearing, arguing that the IRS should reopen the returned 2008 OIC and reconsider the rejected 2004 OIC.

Procedural History

Reed's 2004 OIC was rejected by the IRS, and he appealed to the IRS Appeals Office, which upheld the rejection. His 2008 OIC was returned as unprocessable, and despite Reed's subsequent attempts to have it reconsidered, the IRS maintained its position. After the IRS issued a final notice of intent to levy, Reed requested a collection due process hearing. The Appeals officer sustained the levy notice, and Reed petitioned the U. S. Tax Court, arguing that the IRS abused its discretion in handling the OICs and sustaining the levy notice.

Issue(s)

Whether the U. S. Tax Court has jurisdiction to review the IRS's decision to sustain a levy notice?

Whether the IRS can be required to reopen an OIC based on doubt as to collectibility that was returned as unprocessable years before a collection hearing commenced?

Whether the IRS abused its discretion in sustaining the final notice of intent to levy?

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Rule(s) of Law

The IRS has the authority to compromise unpaid tax liabilities under 26 U. S. C. § 7122(a). Doubt as to collectibility is one ground for compromise, where a taxpayer's assets and income are less than the unpaid tax liability (26 C. F. R. § 301. 7122-1(b)(2)). The IRS may consider an OIC proposed during a collection hearing under 26 U. S. C. § 6330(c)(2)(A)(iii). However, taxpayers must submit current financial data when proposing an OIC based on doubt as to collectibility.

Holding

The U. S. Tax Court held that it has jurisdiction to determine whether the IRS abused its discretion in sustaining the final notice of intent to levy. The court further held that the IRS cannot be required to reopen an OIC based on doubt as to collectibility that was returned to the taxpayer years before the collection hearing commenced. Finally, the court held that the IRS did not abuse its discretion in sustaining the final notice of intent to levy.

Reasoning

The court's reasoning focused on the interaction between 26 U. S. C. § 7122 and § 6330. The court noted that the IRS must evaluate an OIC proposed during a collection hearing based on its authority to compromise unpaid tax liabilities. The court rejected Reed's theory that the IRS could be compelled to reopen an OIC returned years before a collection hearing, as it would impermissibly expand the IRS's authority by allowing the evaluation of an OIC based on outdated financial data. The court also found that such a theory would interfere with the statutory scheme by creating additional layers of review for returned OICs. The court upheld the IRS's decisions on both the 2004 and 2008 OICs, finding that they were based on a reasoned analysis of the facts and applicable law. The court concluded that the IRS did not act arbitrarily, capriciously, or without a sound basis in fact or law in sustaining the levy notice.

Disposition

The court entered a decision for the respondent, affirming the IRS's decision to sustain the final notice of intent to levy.

Significance/Impact

Reed v. Commissioner clarifies the scope of the U. S. Tax Court's jurisdiction in collection due process hearings and the IRS's discretion in handling OICs. The decision emphasizes the importance of current financial data in evaluating OICs based on doubt as to collectibility and limits the ability of taxpayers to challenge the IRS's decisions on returned OICs. The case also underscores the IRS's broad discretion in collection matters and the limited judicial review available to taxpayers in such cases.

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