Eichler v. Commissioner, 143 T. C. No. 2 (U. S. Tax Court 2014)

In Eichler v. Commissioner, the U. S. Tax Court ruled that the IRS was not prohibited from issuing notices of intent to levy while a taxpayer's request for an installment agreement was pending. The court held that the IRS did not abuse its discretion in refusing to rescind these notices. However, the court remanded the case for further review of the IRS's determination to require a significant downpayment as a condition of an installment agreement, citing insufficient evidence to assess potential economic hardship on the taxpayer.

Parties

Renald Eichler was the petitioner, represented by Mark Harrington Westlake. The respondent was the Commissioner of Internal Revenue, represented by John R. Bampfield.

Facts

Renald Eichler requested a partial payment installment agreement from the IRS to address assessed trust fund recovery penalties totaling $189,374 for the last quarter of 2008 and the first two quarters of 2009. Before the IRS processed Eichler's request, it sent him three Letters CP 90, which were Final Notices of Intent to Levy and Notices of Your Right to a Hearing. Eichler timely requested a Collection Due Process (CDP) hearing, where he renewed his installment agreement request and argued that the Letters CP 90 should be withdrawn as invalid. During the CDP hearing, the IRS settlement officer proposed an installment agreement contingent on Eichler making an $8,520 downpayment, which Eichler rejected due to potential economic hardship.

Procedural History

The IRS assessed trust fund recovery penalties against Eichler in December 2010. In April 2011, Eichler requested an installment agreement, which the IRS received but did not process promptly. The IRS sent Letters CP 90 in May 2011. Eichler filed a timely request for a CDP hearing, which occurred in October 2011. The IRS settlement officer's final determination sustained the proposed levy and rejected Eichler's request to withdraw the Letters CP 90. Eichler sought review in the U. S. Tax Court, where both parties moved for summary judgment.

Issue(s)

Whether I. R. C. sec. 6331(k)(2) precludes the IRS from issuing a notice of intent to levy while a taxpayer's offer for an installment agreement is pending?

Whether the IRS abused its discretion by not rescinding the Letters CP 90 under relevant provisions of the Internal Revenue Manual?

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Whether the IRS's determination requiring an $8,520 downpayment as a condition of an installment agreement was an abuse of discretion?

Rule(s) of Law

I. R. C. sec. 6331(k)(2) states that "No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax" during the pendency of an offer for an installment agreement under section 6159. Section 6330(d) allows for judicial review of the IRS's determination in a CDP hearing. The Internal Revenue Manual (IRM) provides guidance on IRS procedures but does not confer rights on taxpayers.

Holding

The Tax Court held that I. R. C. sec. 6331(k)(2) does not prohibit the IRS from issuing notices of intent to levy while an installment agreement offer is pending. The court further held that the IRS's determination not to rescind the Letters CP 90 was not an abuse of discretion. However, the court found that the record did not allow for meaningful review of the IRS's determination regarding the appropriateness of the $8,520 downpayment, and thus remanded the case for further proceedings on this issue.

Reasoning

The court reasoned that the plain language of I. R. C. sec. 6331(k)(2) prohibits the IRS from making a levy, but not from issuing notices of intent to levy. The court cited regulations under section 301. 6331-4(b)(1) that allow the IRS to take actions other than levy to protect government interests, such as issuing notices of intent to levy. The court also addressed the IRM provisions, noting that while the Collection Division is directed to rescind notices under certain circumstances, Appeals is not required to do so when an installment agreement is pending. The court found no abuse of discretion in the IRS's application of these provisions. Regarding the downpayment, the court noted the lack of evidence in the record about the IRS's consideration of Eichler's economic hardship claims, necessitating remand for further review.

Disposition

The Tax Court denied the parties' cross-motions for summary judgment and remanded the case for further proceedings on the issue of the appropriateness of the $8,520 downpayment.

Significance/Impact

Eichler v. Commissioner clarifies that the IRS can issue notices of intent to levy while an installment agreement request is pending, which has implications for taxpayer rights and IRS collection practices. The case also underscores the

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importance of the IRS providing clear reasoning for its determinations, particularly when imposing conditions that could cause economic hardship. This ruling may influence future IRS practices in handling installment agreements and levies, emphasizing the need for thorough documentation and consideration of taxpayer circumstances.

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