Steven Yari v. Commissioner of Internal Revenue, 143 T. C. No. 7 (2014)

In Steven Yari v. Commissioner, the U. S. Tax Court ruled on the calculation of penalties under I. R. C. § 6707A for failure to disclose participation in a listed transaction. The court held that the penalty should be based on the tax reported on the original return, not subsequent amended returns. This decision clarifies the method of penalty calculation under the amended statute, impacting how taxpayers and the IRS assess penalties for undisclosed transactions.

Parties

Steven Yari (Petitioner) v. Commissioner of Internal Revenue (Respondent). Petitioner was the appellant at the Tax Court level following a collection due process (CDP) hearing.

Facts

Steven Yari formed Topaz Global Holdings, LLC, and Faryar, Inc. , an S corporation, which engaged in a management fee transaction. Yari's Roth IRA acquired Faryar's stock, resulting in unreported income. The IRS identified this as an abusive Roth IRA transaction and a listed transaction under Notice 2004-8. Yari and his wife filed a joint 2004 tax return without disclosing the transaction, leading to an audit and subsequent notices of deficiency. They settled the deficiency cases and filed amended returns reflecting changes. The IRS assessed a $100,000 penalty under I. R. C. § 6707A for Yari's failure to disclose the listed transaction. After Congress amended § 6707A, Yari argued the penalty should be recalculated using the amended returns, reducing it to the statutory minimum of $5,000.

Procedural History

The IRS assessed the § 6707A penalty on September 11, 2008, and issued a notice of intent to levy on February 9, 2009. Yari requested a CDP hearing, which was suspended in October 2010 due to legislative changes. After the IRS Appeals Office upheld the penalty calculation, Yari petitioned the Tax Court for review. The court had jurisdiction under I. R. C. § 6330(d)(1) to review the penalty, and the standard of review was de novo as the underlying tax liability was at issue.

Issue(s)

Whether the penalty under I. R. C. § 6707A for failing to disclose a listed transaction should be calculated based on the tax shown on the original return or on subsequent amended returns?

Rule(s) of Law

I. R. C. § 6707A imposes a penalty on any person who fails to include on any return or statement information required under § 6011 regarding a reportable transaction.

The penalty for failing to disclose a listed transaction is “75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes). ” I. R. C. § 6707A(b)(1). The statute prescribes minimum and maximum penalties of $5,000 and $100,000 for individuals, respectively.

Holding

The Tax Court held that the penalty under I. R. C. § 6707A must be calculated based on the tax shown on the original return, not subsequent amended returns. The court interpreted the statute to mean that the penalty is linked to the tax shown on the return giving rise to the disclosure obligation.

Reasoning

The court’s reasoning was based on the plain and unambiguous language of I. R. C. § 6707A, which refers to “the decrease in tax shown on the return. ” The court rejected Yari’s argument that the penalty should be based on the tax savings produced by the transaction as reflected in amended returns. The court found no legislative intent to the contrary and noted that Congress knew how to link penalties to the tax required to be shown but chose not to do so in § 6707A. The court also considered § 6707A a strict liability penalty, and while the result might be harsh in cases of overstated tax, it adhered to the statutory language. The legislative history and related statutes, such as § 6651(a)(2) and (c)(2), further supported the court’s interpretation. The court concluded that the settlement officer did not err in calculating the penalty based on the original return.

Disposition

The Tax Court entered a decision for the respondent, upholding the penalty calculation based on the tax shown on the original return.

Significance/Impact

The decision in Steven Yari v. Commissioner clarifies the method of calculating penalties under I. R. C. § 6707A for failing to disclose listed transactions. It establishes that the penalty must be based on the tax reported on the original return, which has significant implications for taxpayers and the IRS in assessing and challenging such penalties. This ruling may influence future cases involving similar penalties and underscores the importance of accurate and timely disclosure of reportable transactions. The decision also highlights the strict liability nature of § 6707A penalties, emphasizing the need for taxpayers to comply with disclosure requirements to avoid potential harsh penalties.