Yari v. Commissioner, 143 T. C. 157 (2014)

In Yari v. Commissioner, the U. S. Tax Court ruled on how to calculate the IRC Sec. 6707A penalty for failing to disclose participation in listed transactions. The court held that the penalty must be calculated based on the tax shown on the original return, not on subsequent amended returns, even if they reflect the true tax liability. This decision underscores the strict liability nature of the penalty and its focus on the disclosure obligation rather than actual tax savings.

Parties

Steven Yari, the petitioner, challenged the Commissioner of Internal Revenue, the respondent, regarding the calculation of a penalty assessed under IRC Sec. 6707A for the 2004 tax year. The case progressed from the IRS Appeals Office to the U. S. Tax Court.

Facts

Steven Yari engaged in a Roth IRA transaction identified by the IRS as a listed transaction. He and his wife filed a joint federal income tax return for 2004, which did not disclose their participation in the transaction. The IRS assessed a $100,000 penalty under IRC Sec. 6707A for the non-disclosure. During the audit, Yari discovered an error on the original return and filed amended returns that included income from the transaction, resulting in a negative taxable income. Despite these amendments, the IRS maintained the original penalty calculation. The Small Business Jobs Act of 2010 retroactively changed the penalty calculation method, but the IRS declined to recalculate Yari's penalty based on the amended returns.

Procedural History

The IRS issued a notice of intent to levy to collect the penalty, prompting Yari to request a collection due process (CDP) hearing. The hearing was suspended when Congress amended IRC Sec. 6707A, and the IRS reconsidered the penalty calculation. The IRS upheld the original penalty, and the Appeals Office affirmed this decision. Yari then petitioned the U. S. Tax Court for review of the notice of determination sustaining the collection action. The Tax Court reviewed the case de novo regarding the penalty amount.

Issue(s)

Whether the IRC Sec. 6707A penalty for failing to disclose a listed transaction should be calculated based on the tax shown on the original return or the tax shown on subsequent amended returns?

Rule(s) of Law

IRC Sec. 6707A imposes a penalty on any person who fails to include on any return or statement information required under IRC Sec. 6011 about a reportable transaction. The penalty amount for listed transactions is 75% of the decrease in tax shown on the return as a result of such transaction (or which would have resulted if the transaction were respected for federal tax purposes). For individuals, the penalty has a minimum of $5,000 and a maximum of $100,000.

Holding

The U. S. Tax Court held that the IRC Sec. 6707A penalty must be calculated using the tax shown on the original return, not on subsequent amended returns. The court rejected Yari's argument that the penalty should reflect the actual tax savings as shown on the amended returns.

Reasoning

The court's reasoning focused on the plain language of IRC Sec. 6707A, which links the penalty to the tax shown on the return giving rise to the disclosure obligation. The court found the statute clear and unambiguous, emphasizing that the penalty aims to penalize the failure to disclose, not the actual tax savings achieved by the transaction. The court also considered legislative history and the context of the statutory scheme, noting that Congress had the opportunity to link the penalty to the tax required to be shown but chose instead to base it on the tax reported. The court rejected arguments based on the potential harshness of the penalty, affirming that IRC Sec. 6707A imposes a strict liability penalty. The court's interpretation was further supported by comparing IRC Sec. 6707A with other sections, like IRC Sec. 6651, which explicitly allow for adjustments based on the tax required to be shown.

Disposition

The U. S. Tax Court entered a decision for the Commissioner, upholding the $100,000 penalty as calculated based on the tax shown on Yari's original 2004 tax return.

Significance/Impact

This decision clarifies the calculation of the IRC Sec. 6707A penalty, emphasizing that it is based on the tax shown on the original return, not on subsequent amendments. It underscores the strict liability nature of the penalty and its focus on the disclosure obligation. The ruling impacts taxpayers who fail to disclose participation in listed transactions, as it removes the possibility of reducing the penalty through amended returns that reflect true tax liabilities. This case may influence future interpretations and applications of similar penalty provisions in the tax code, emphasizing the importance of timely and accurate disclosure of reportable transactions.

