Law Office of John H. Eggertsen P. C. v. Commissioner, 143 T. C. 265 (U. S. Tax Ct. 2014)

The U. S. Tax Court reversed its prior decision, clarifying that the general statute of limitations under I. R. C. § 6501, not the specific provision under § 4979A(e)(2)(D), governs the assessment of excise taxes related to employee stock ownership plans (ESOPs). The court found that the absence of a filed Form 5330 meant the IRS could assess taxes at any time, impacting how tax professionals and taxpayers handle ESOP-related excise tax filings.

Parties

Law Office of John H. Eggertsen P. C. (Petitioner) v. Commissioner of Internal Revenue (Respondent)

Facts

John H. Eggertsen P. C. , an S corporation, maintained an employee stock ownership plan (ESOP) where 100% of its stock was allocated to John H. Eggertsen. In 2005, the company filed Form 1120S but did not file Form 5330 for the excise tax under I. R. C. § 4979A, which is applicable to certain transactions involving ESOPs. The ESOP itself filed Form 5500 and an amended Form 5500 for 2005, reporting its financials and the allocation of employer securities. The Commissioner later filed a substitute Form 5330 on behalf of the petitioner, asserting that an excise tax was due under § 4979A(a) due to the allocation of shares to a disqualified person.

Procedural History

In the initial case, *Law Office of John H. Eggertsen P. C. v. Commissioner*, 142 T. C. 110 (2014) (*Eggertsen I*), the Tax Court held that the excise tax under § 4979A(a) was applicable to the petitioner for 2005 and that the statute of limitations under § 4979A(e)(2)(D) had expired. The Commissioner moved for reconsideration, arguing that § 6501, not § 4979A(e)(2)(D), should apply to the statute of limitations. The court granted the motion for reconsideration and vacated its prior decision, holding that § 6501 was the appropriate statute of limitations for assessing the excise tax since no return was filed under § 4979A.

Issue(s)

Whether the statute of limitations for assessing the excise tax under I. R. C. § 4979A(a) for the petitioner’s taxable year 2005 is governed by I. R. C. § 4979A(e)(2)(D) or by the general statute of limitations under I. R. C. § 6501?

Rule(s) of Law

I. R. C. § 6501(a) establishes the general statute of limitations for assessing taxes, which is three years from the date the return was filed or due to be filed, whichever

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is later. I. R. C. § 6501(c)(3) provides that if no return is filed, the tax may be assessed at any time. I. R. C. § 4979A(e)(2)(D) extends the period of limitations for assessing the excise tax under § 4979A(a) under specific circumstances related to ESOPs. The Beard test from *Beard v. Commissioner*, 82 T. C. 766 (1984), outlines the requirements for a document to be considered a return for purposes of § 6501(a).

Holding

The court held that I. R. C. § 6501, not § 4979A(e)(2)(D), governs the statute of limitations for assessing the excise tax under § 4979A(a) because the petitioner did not file a Form 5330 or any other document that qualifies as a return under § 4979A(a). Therefore, the excise tax for the petitioner's taxable year 2005 could be assessed at any time under § 6501(c)(3).

Reasoning

The court reconsidered its initial decision in *Eggertsen I*, concluding that it had committed a substantial error by implying that § 4979A(e)(2)(D) replaced § 6501. The court clarified that § 4979A(e)(2)(D) serves only to extend the period of limitations prescribed by § 6501 under specific circumstances. The court applied the Beard test to determine if any document filed by the petitioner could be considered a return for § 4979A(a) purposes, finding that neither the Form 1120S filed by the petitioner nor the Forms 5500 filed by the ESOP contained the necessary information to calculate the excise tax liability under § 4979A(a). The absence of a filed Form 5330 meant that the statute of limitations under § 6501(c)(3) allowed for assessment at any time. The court considered the policy implications of ensuring compliance with tax obligations related to ESOPs and the need for clear guidance on filing requirements to avoid similar disputes.

Disposition

The court granted the Commissioner's motions for reconsideration and to vacate the decision in *Eggertsen I*, entering a decision for the respondent.

Significance/Impact

This case significantly impacts the application of the statute of limitations for excise taxes under I. R. C. § 4979A, emphasizing the importance of filing Form 5330 to start the limitations period under § 6501. The decision clarifies that § 4979A(e)(2)(D) does not supersede § 6501 but rather extends it under specific conditions. This ruling affects how tax practitioners and taxpayers handle ESOP-related excise tax filings, potentially leading to more stringent compliance practices to avoid indefinite assessment periods. Subsequent cases and IRS guidance may further refine the interplay between these statutes, affecting the administration of ESOPs and related tax obligations.

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