Thomas M. Comparini and Vicki Comparini v. Commissioner of Internal Revenue, 143 T. C. No. 14 (U. S. Tax Court 2014)

The U. S. Tax Court ruled it had jurisdiction over a whistleblower award case based on a 2013 letter from the IRS Whistleblower Office, despite earlier denials in 2012. The court clarified that multiple determinations can be made on a claim, allowing petitioners to seek judicial review within 30 days of the most recent determination. This decision resolves confusion over when a whistleblower may appeal to the Tax Court and underscores the court's broad jurisdiction under Section 7623(b)(4).

Parties

Thomas M. Comparini and Vicki Comparini, petitioners, filed a claim for a whistleblower award with the IRS Whistleblower Office. The Commissioner of Internal Revenue was the respondent in the case before the U. S. Tax Court.

Facts

In 2012, Thomas and Vicki Comparini submitted a whistleblower claim to the IRS Whistleblower Office using Form 211, which the office processed as four separate claims. The Whistleblower Office denied the claims in four letters sent in October and November 2012, stating that the information provided did not result in the collection of any proceeds, making the Comparinis ineligible for an award. In January 2013, the Comparinis sent additional information and made additional claims to the Whistleblower Office. In response, the Whistleblower Office sent a letter on February 12, 2013, stating that the claim still did not meet the criteria for an award, and it was closing the claim. The Comparinis filed a petition with the U. S. Tax Court on March 19, 2013, within 30 days after receiving the 2013 letter.

Procedural History

The Comparinis filed a whistleblower award claim under Section 7623(b) in 2012, which was denied by the Whistleblower Office. After submitting additional information in January 2013, they received a further denial in February 2013. They then filed a timely petition with the U. S. Tax Court within 30 days of the 2013 letter. The Commissioner moved to dismiss the case for lack of jurisdiction, arguing that the petition was untimely because it was not filed within 30 days of the 2012 letters. The Tax Court denied the motion to dismiss, finding jurisdiction based on the 2013 letter.

Issue(s)

Whether the February 12, 2013, letter from the IRS Whistleblower Office constitutes a "determination" for purposes of Section 7623(b)(4), thereby conferring jurisdiction on the U. S. Tax Court to review the denial of the Comparinis' whistleblower award claim?

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Rule(s) of Law

Section 7623(b)(4) of the Internal Revenue Code provides that "[a]ny determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter). " The court has jurisdiction when the IRS makes a determination regarding an award under Section 7623(b), and a petition is filed timely within 30 days of that determination.

Holding

The U. S. Tax Court held that the February 12, 2013, letter from the IRS Whistleblower Office constitutes a "determination" for purposes of Section 7623(b)(4). Consequently, the court had jurisdiction over the petition filed by the Comparinis within 30 days of receiving that letter, despite the earlier denials in 2012.

Reasoning

The court reasoned that the 2013 letter contained a statement on the merits of the whistleblower claim, referred to a "determination," and did not indicate that further administrative procedures were available. The court emphasized the statutory language of Section 7623(b)(4), which allows jurisdiction over "any" determination. The court also distinguished this case from the Friedland cases, which involved subsequent letters that merely reaffirmed prior determinations without considering new information. The court noted that the Comparinis had submitted additional documentation in 2013, which the Whistleblower Office considered before issuing its determination. The court concluded that the 2013 letter represented a new determination, thus allowing the Comparinis to file a timely petition based on this letter. The court's decision also highlighted the potential for confusion caused by the IRS's communication practices and sought to avoid creating traps for whistleblowers trying to invoke the court's jurisdiction.

Disposition

The U. S. Tax Court denied the Commissioner's motion to dismiss for lack of jurisdiction and retained the case for further proceedings.

Significance/Impact

This decision clarifies the scope of the U. S. Tax Court's jurisdiction in whistleblower award cases under Section 7623(b)(4), emphasizing that the court can review multiple determinations on the same claim if they are distinct. The ruling provides guidance on the timing of petitions and the significance of subsequent communications from the IRS Whistleblower Office. It also underscores the importance of clear communication from the IRS to whistleblowers and the potential for the court to exercise jurisdiction over later determinations that follow additional

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submissions or claims. The decision may influence how the IRS processes and communicates decisions on whistleblower claims and how claimants approach the filing of petitions to the Tax Court.

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