C. Lynn Moses v. Commissioner of Internal Revenue, T. C. Memo 2014-220 (U. S. Tax Court 2014)

In a ruling on a collection due process (CDP) hearing, the U. S. Tax Court upheld the IRS's determination to proceed with a levy against C. Lynn Moses for unpaid taxes from 1999-2002. The court found that Moses failed to provide evidence to challenge the tax liabilities determined by the IRS through bank deposit analysis, and upheld the tax deficiencies and associated penalties. Additionally, the court ruled that the IRS did not abuse its discretion in conducting the CDP hearing via telephone rather than in person, given Moses's lack of cooperation and failure to provide requested financial documentation.

Parties

C. Lynn Moses was the petitioner, appearing pro se. The respondent was the Commissioner of Internal Revenue, represented by Kimberly L. Clark. The case originated in the U. S. Tax Court, docket number 1710-12L.

Facts

C. Lynn Moses did not file federal income tax returns for the years 1999 through 2002. The IRS, after conducting a bank deposit analysis of Moses's Key Bank account, determined that Moses was engaged in a real estate trade or business and had unreported income for those years. Additionally, Moses was found to have failed to report his share of his wife's community income. The IRS sent notices of deficiency to Moses's last known addresses, which were returned unclaimed. The IRS subsequently assessed Moses's tax liabilities and penalties for these years. Moses did not pay the assessed amounts, leading the IRS to issue a final notice of intent to levy and a notice of his right to a CDP hearing.

Procedural History

Moses requested a CDP hearing, expressing a desire for a face-to-face meeting and the intent to challenge the tax liabilities, verify IRS procedures, and discuss collection alternatives. The IRS's Office of Appeals assigned Settlement Officer Eric D. Edwards to Moses's case, who scheduled a telephone hearing. Moses failed to submit requested financial documentation and did not participate in the scheduled telephone hearings. Settlement Officer Edwards issued a notice of determination sustaining the proposed levy, which Moses challenged in the U. S. Tax Court. The court reviewed the IRS's determination under an abuse of discretion standard.

Issue(s)

Whether C. Lynn Moses failed to report gross income for the years 1999-2002, making him liable for the assessed tax deficiencies and additions to tax under sections 6651(a)(1) and (2) and 6654(a)?

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Whether the IRS abused its discretion in sustaining the proposed levy action against Moses?

Rule(s) of Law

Section 6331(a) authorizes the IRS to levy upon a taxpayer's property if the tax remains unpaid after notice and demand. Section 6330(a) mandates that no levy may occur without the taxpayer being notified of their right to a hearing. Section 6330(c)(2)(B) precludes a taxpayer from contesting the underlying tax liability in a CDP hearing if they had a prior opportunity to dispute such liability. The IRS's determination of a deficiency is presumed correct, and the taxpayer bears the burden of proving it incorrect (Rule 142(a); Welch v. Helvering, 290 U. S. 111 (1933)).

Holding

The court held that Moses failed to rebut the presumption of correctness regarding the IRS's deficiency determinations for the years 1999-2002, thus sustaining the tax liabilities as determined by the IRS, except for the conceded amounts. Moses was also found liable for additions to tax under sections 6651(a)(1) and (2) for all years at issue, and under section 6654(a) for the years 2000-2002. The court further held that the IRS did not abuse its discretion in sustaining the proposed levy action against Moses.

Reasoning

The court's reasoning was based on the IRS's use of the bank deposit method to reconstruct Moses's income, a method long sanctioned by courts (Estate of Mason v. Commissioner, 64 T. C. 651 (1975)). The IRS established a minimal evidentiary foundation linking Moses to an income-producing activity, shifting the burden to Moses to prove the deficiency determinations were erroneous, which he failed to do. The court also considered the IRS's compliance with section 7491(c), which places the burden of production on the IRS for additions to tax, but found the IRS met this burden by introducing evidence of Moses's failure to file and pay taxes, and the preparation of substitute for returns (SFRs). The court rejected Moses's argument for a face-to-face hearing, citing precedent that such a hearing is not required under section 6330 and that Moses's failure to cooperate and provide financial documentation justified the IRS's decision to proceed via telephone.

Disposition

The U. S. Tax Court upheld the IRS's determination to proceed with the levy action against Moses for the unpaid taxes from 1999-2002, including the assessed deficiencies and additions to tax, except for the amounts conceded by the IRS.

Significance/Impact

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This case reinforces the IRS's authority to use the bank deposit method for reconstructing income and the legal presumption of correctness for IRS deficiency determinations. It also underscores the importance of taxpayer cooperation in CDP hearings and the IRS's discretion in determining the format of such hearings. The decision highlights the procedural and evidentiary requirements for challenging tax liabilities and the consequences of non-compliance with IRS requests for documentation.

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