El v. Commissioner of Internal Revenue, 144 T. C. 140 (2015)

The U. S. Tax Court clarified the burden of production for tax penalties and additions to tax, ruling that the Commissioner of Internal Revenue does not bear the burden of production regarding the additional tax under IRC section 72(t) for early distributions from retirement accounts. The court held that this additional tax is a tax, not a penalty, and thus the taxpayer remains responsible for proving exceptions. This decision impacts how taxpayers and the IRS handle disputes over early retirement account distributions.

Parties

Ralim S. El, as the petitioner, represented himself pro se throughout the litigation. The respondent, the Commissioner of Internal Revenue, was represented by counsel Rose E. Gole and Rebekah A. Myers.

Facts

Ralim S. El worked as an assistant at the Manhattan Psychiatric Center in New York in 2009, earning $48,001 in wages, which were subject to withholding. El participated in the Employees' Retirement System (ERS) through his employer, and on April 29, 2009, he received a loan of $5,993 from his ERS account, resulting in an outstanding loan balance of $12,802. Due to the loan exceeding the statutory limit, $2,802 was deemed a taxable distribution. El did not file a Federal income tax return for 2009. The IRS determined a deficiency in El's Federal income tax and additions to tax under sections 6651(a)(1) and 6651(a)(2), as well as an additional tax under section 72(t) due to the deemed distribution.

Procedural History

The IRS issued a notice of deficiency to El, prompting him to file a petition with the U. S. Tax Court. The case was submitted fully stipulated under Tax Court Rule 122. The court ordered supplemental briefs to address whether the Commissioner bears the burden of production under section 7491(c) regarding the additional tax under section 72(t).

Issue(s)

Whether the Commissioner bears the burden of production under IRC section 7491(c) with respect to the additional tax imposed by IRC section 72(t) on early distributions from qualified retirement plans?

Rule(s) of Law

IRC section 7491(c) places the burden of production on the Commissioner in court proceedings regarding any penalty, addition to tax, or additional amount imposed by the Internal Revenue Code. IRC section 72(t) imposes a 10% additional tax on early distributions from qualified retirement plans, with exceptions listed in section 72(t)(2).

Holding

The Tax Court held that the Commissioner does not bear the burden of production with respect to the additional tax under section 72(t) because this additional tax is considered a tax, not a penalty, addition to tax, or additional amount under section 7491(c).

Reasoning

The court reasoned that the additional tax under section 72(t) is explicitly labeled as a “tax” within the statute itself, distinguishing it from penalties or additions to tax. The court also noted that other provisions of the Code refer to section 72(t) as a “tax” without modification. Furthermore, the placement of section 72(t) within subtitle A, chapter 1 of the Code, which pertains to “Income Taxes” and “Normal Taxes and Surtaxes,” supported the conclusion that it is a tax. The court cited previous cases, such as *Ross v. Commissioner*, to reinforce its interpretation that section 72(t) is a tax for the purposes of burden allocation. The court concluded that because the additional tax under section 72(t) is a tax, the burden of production remains with the taxpayer, El, to prove any exceptions under section 72(t)(2).

Disposition

The court’s decision was entered for the respondent regarding the deficiency and the addition to tax under section 6651(a)(1) and for the petitioner regarding the addition to tax under section 6651(a)(2).

Significance/Impact

The decision in *El v. Commissioner* clarifies the application of the burden of production under section 7491(c) and affects how taxpayers and the IRS approach disputes over the additional tax on early distributions from retirement plans. The ruling establishes that the additional tax under section 72(t) is treated as a tax, not a penalty, thereby placing the burden of proving exceptions on the taxpayer. This case also underscores the importance of filing tax returns and reporting income accurately to avoid penalties and additions to tax, as well as the need for taxpayers to understand the implications of loans from retirement accounts.

