Whistleblower One 10683-13W v. Commissioner of Internal Revenue, 145 T. C. 204, 2015 U. S. Tax Ct. LEXIS 38, 145 T. C. No. 8 (U. S. Tax Court, 2015)

In a landmark ruling, the U. S. Tax Court expanded whistleblower rights by allowing discovery beyond the administrative record in claims under I. R. C. § 7623(b). The court ruled that the IRS cannot unilaterally define what constitutes the administrative record, thus whistleblowers can compel production of relevant documents and interrogatory responses. This decision significantly broadens the scope of evidence whistleblowers may access, potentially increasing their ability to substantiate claims for tax evasion awards.

Parties

Whistleblower One 10683-13W, Whistleblower Two 10683-13W, and Whistleblower Three 10683-13W, as petitioners, filed their claim in the U. S. Tax Court against the Commissioner of Internal Revenue, as respondent.

Facts

In 2006, the petitioners filed a whistleblower claim with the Internal Revenue Service (IRS), alleging a tax evasion scheme (TES) by a specific target corporation. They claimed that their information led to an IRS investigation, which initially disallowed the TES and issued a legal memorandum disallowing similar transactions. However, the IRS later reversed its decision on the target's use of the TES as part of a larger compromise that involved over $50 million in tax adjustments. The petitioners also informed the IRS of a related sham debt obligation, which resulted in a disallowed loss deduction of over $20 million. The petitioners sought discovery to ascertain who reviewed their information, details of the IRS's investigation, the issuance of the legal memorandum, and the collection of proceeds from the target.

Procedural History

The petitioners moved to compel the production of documents and responses to interrogatories under I. R. C. § 7623(b)(4). The respondent objected, arguing that the requested information was outside the administrative record and not discoverable. The U. S. Tax Court reviewed the motions and objections, applying a standard of relevancy as governed by Fed. Tax Ct. R. 70(b). The court issued an order granting the motions, finding the requested information relevant to the whistleblower's claim.

Issue(s)

Whether the scope of discovery in a whistleblower award case under I. R. C. § 7623(b)(4) is limited to the administrative record as defined by the respondent, or whether the court can compel production of documents and responses to interrogatories that are relevant to the petitioners' claim but outside the

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respondent’s purported administrative record?

Rule(s) of Law

Fed. Tax Ct. R. 70(b) provides that the scope of discovery includes “any matter not privileged and which is relevant to the subject matter involved in the pending case,” and it is not a ground for objection that the information sought will be inadmissible at trial if it appears reasonably calculated to lead to discovery of admissible evidence. I. R. C. § 7623(b) mandates awards to whistleblowers who provide information leading to the collection of tax proceeds, and the entitlement to an award hinges on whether there was a collection of proceeds attributable to the whistleblower’s information.

Holding

The U. S. Tax Court held that even if the court’s scope of review were limited to the administrative record, the respondent cannot unilaterally decide what constitutes the administrative record. The court further held that the requested information was relevant to the petitioners’ claim and granted the motions to compel production of documents and responses to interrogatories.

Reasoning

The court’s reasoning was grounded in the liberal standard of relevancy in discovery, as established in Melea Ltd. v. Commissioner, 118 T. C. 218 (2002). The court rejected the respondent’s argument that discovery should be limited to the administrative record, citing Thompson v. DOL, 885 F. 2d 551 (9th Cir. 1989), and Tenneco Oil Co. v. DOE, 475 F. Supp. 299 (D. Del. 1979), which state that an agency cannot unilaterally define the administrative record. The court emphasized that the requested information was essential to determining whether collections of proceeds were attributable to the whistleblowers’ information, a key inquiry under I. R. C. § 7623(b). The court also noted that the respondent’s lack of response to the motions suggested an incomplete administrative record, further justifying the need for discovery. The court addressed confidentiality concerns by including specific protective order provisions in its order granting the motions, as per the requirements of I. R. C. § 6103.

Disposition

The U. S. Tax Court granted the petitioners’ motions to compel production of documents and responses to interrogatories, with instructions for the respondent to comply under the specified protective order.

Significance/Impact

The Whistleblower One decision significantly impacts the field of tax whistleblower law by broadening the scope of discovery available to whistleblowers. It underscores

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the court’s authority to review and compel evidence beyond what the IRS may consider part of the administrative record, thereby enhancing whistleblowers’ ability to substantiate their claims. This ruling may encourage more whistleblowers to come forward with information on tax evasion schemes, knowing they have a greater chance of accessing necessary evidence to support their claims for awards. The decision also sets a precedent for other administrative law cases, where the completeness and accuracy of an administrative record may be challenged through discovery. Subsequent courts have cited this case when addressing the scope of review and discovery in administrative proceedings, indicating its doctrinal importance and practical implications for legal practice.

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