***LG Kendrick, LLC v. Commissioner, 146 T. C. 17 (2016)***

In LG Kendrick, LLC v. Commissioner, the U. S. Tax Court ruled it lacked jurisdiction to review a notice of federal tax lien (NFTL) filing related to the December 31, 2010, Form 941 liability because the original notices of determination did not address this issue. The court also held that a supplemental notice of determination could not confer jurisdiction over the NFTL filing for that period. This case underscores the importance of clear and comprehensive notices of determination in tax collection actions and clarifies the court's jurisdiction under IRC sections 6320 and 6330.

**Parties**

LG Kendrick, LLC, a single-member limited liability company (LLC) operating a franchise business, was the petitioner. The Commissioner of Internal Revenue was the respondent. The case was heard by the United States Tax Court.

**Facts**

LG Kendrick, LLC, formed in 2009, operated a franchise of The UPS Store. The IRS assessed employment taxes against LG Kendrick for unpaid federal employment taxes related to Forms 941 and 940 for the last three quarters of 2009 and all four quarters of 2010. After processing substitutes for returns and assessing the taxes, the IRS notified LG Kendrick of a notice of federal tax lien (NFTL) filing and a proposed levy. LG Kendrick requested a hearing under IRC sections 6320 and 6330, which was conducted through correspondence. The IRS Appeals Office issued two original notices of determination sustaining the collection actions but did not address the NFTL filing for the December 31, 2010, Form 941 liability. After the case was remanded, a supplemental notice of determination was issued, which included the NFTL filing for the December 31, 2010, period.

**Procedural History**

The IRS assessed employment taxes against LG Kendrick, LLC, and issued a notice of NFTL filing and a proposed levy. LG Kendrick timely requested a hearing under IRC sections 6320 and 6330. The IRS Appeals Office issued two original notices of determination, which did not address the NFTL filing for the December 31, 2010, Form 941 liability. LG Kendrick filed a petition disputing the notices of determination. The case was remanded upon the Commissioner's motion, and a supplemental notice of determination was issued, which included the NFTL filing for the December 31, 2010, period. The standard of review applied by the court was de novo for issues of jurisdiction and abuse of discretion for the Appeals Office's determinations.

**Issue(s)**

Whether the court has jurisdiction to review the NFTL filing for LG Kendrick's

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December 31, 2010, Form 941 liability?

Whether LG Kendrick may challenge its underlying employment tax liabilities for the periods at issue?

Whether the IRS Appeals Office abused its discretion in sustaining the NFTL filing and the proposed levy action for the periods over which the court has jurisdiction?

**Rule(s) of Law**

IRC section 6320 requires the IRS to notify a taxpayer of an NFTL filing and the taxpayer's right to a hearing. IRC section 6330 governs the conduct and scope of such hearings. The Tax Court has jurisdiction to review determinations made under these sections only if a written notice embodying a determination to proceed with collection is issued. A supplemental notice of determination cannot confer jurisdiction if the original notice was invalid with respect to a specific collection action.

**Holding**

The court held that it lacked jurisdiction to review the NFTL filing for LG Kendrick's December 31, 2010, Form 941 liability because the original notices of determination did not address this issue. The supplemental notice of determination could not confer jurisdiction over the NFTL filing for that period. LG Kendrick was not entitled to challenge the underlying liabilities for the periods at issue, and the Appeals Office's determinations were sustained for the periods over which the court had jurisdiction.

**Reasoning**

The court reasoned that a valid notice of determination must specify the taxable period, liability, and collection action it relates to, or at least provide sufficient information to prevent the taxpayer from being misled. The original notices of determination did not include the NFTL filing for the December 31, 2010, Form 941 liability, and thus, the court lacked jurisdiction over this issue. The supplemental notice of determination was merely a supplement to the original notices and did not provide additional appeal rights, hence it could not cure the jurisdictional defect. LG Kendrick failed to properly raise the issue of the underlying liabilities during the remand hearing, despite being provided with ample opportunity and documentary evidence by the IRS. The Appeals Office did not abuse its discretion in sustaining the collection actions for the periods at issue, as it properly balanced the need for efficient tax collection with LG Kendrick's concerns.

**Disposition**

The court dismissed LG Kendrick's petition regarding the NFTL filing for the December 31, 2010, Form 941 liability for lack of jurisdiction. The court sustained

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the IRS Appeals Office's determinations for the remaining periods at issue and entered an appropriate order and decision.

**Significance/Impact**

This case is significant for clarifying the jurisdictional requirements under IRC sections 6320 and 6330, emphasizing that a supplemental notice of determination cannot confer jurisdiction if the original notice was invalid. It also underscores the importance of taxpayers properly raising issues during administrative hearings. The ruling impacts the IRS's ability to pursue collection actions and the rights of taxpayers to challenge such actions, particularly in cases involving multiple taxable periods and collection activities.

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