Bongam v. Commissioner, 146 T. C. 52 (U. S. Tax Ct. 2016)

In Bongam v. Commissioner, the U. S. Tax Court ruled that a Notice of Determination sent by the IRS is valid if actually received by the taxpayer without prejudicial delay, even if not mailed to the last known address. This decision expands the court's jurisdiction in collection due process (CDP) cases by emphasizing actual receipt over strict adherence to mailing procedures, impacting how taxpayers can challenge IRS collection actions.

Parties

Isaiah Bongam, the petitioner, filed a petition pro se against the Commissioner of Internal Revenue, the respondent, in the United States Tax Court. The case involved a motion by the respondent to dismiss for lack of jurisdiction, which the court ultimately denied.

Facts

The IRS assessed Isaiah Bongam a civil penalty of $772,282 under section 6672 for various quarters from 2005 through 2009. To collect this liability, the IRS issued Bongam a Notice of Federal Tax Lien Filing and Your Right to a Hearing (NFTL Notice) on October 1, 2013, which was sent by certified mail to his last known address in Bowie, Maryland. Bongam timely requested a Collection Due Process (CDP) hearing, using an address in Washington, D. C. After the hearing, the IRS sent a Notice of Determination denying relief to Bongam at the Washington, D. C. address by certified mail on April 30, 2014. This notice was returned as undeliverable. Subsequently, on August 4, 2014, the IRS remailed the same Notice of Determination to Bongam's Maryland address by regular mail, which he received and within 30 days of receiving it, he filed a petition in the Tax Court.

Procedural History

The IRS moved to dismiss Bongam's case for lack of jurisdiction on September 16, 2015. The Tax Court held an evidentiary hearing on November 2, 2015, in Washington, D. C. The court analyzed whether the Notice of Determination was valid and whether it had jurisdiction over the case. The court ultimately denied the IRS's motion to dismiss, finding that the remailed notice was valid because it was actually received by Bongam in time to file a timely petition.

Issue(s)

Whether a Notice of Determination sent by the IRS to a taxpayer's last known address is a prerequisite for the Tax Court's jurisdiction in a CDP case, and whether a notice sent to an incorrect address but remailed to the correct address and received by the taxpayer without prejudicial delay is valid?

Rule(s) of Law

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The Tax Court's jurisdiction under sections 6320 and 6330 depends on the issuance of a valid notice of determination and the filing of a timely petition for review. A notice of determination is valid if it is sent by certified or registered mail to the taxpayer's last known address, as established in Weber v. Commissioner, 122 T. C. 258 (2004). However, actual receipt of the notice by the taxpayer without prejudicial delay can also validate the notice, as per McKay v. Commissioner, 89 T. C. 1063 (1987), and other precedents regarding notices of deficiency.

Holding

The Tax Court held that the Notice of Determination originally mailed to Bongam at his Washington, D. C. address was invalid because it was not sent to his last known address and was returned undeliverable. However, the court further held that the notice remailed to Bongam's Maryland address was valid because he actually received it without prejudicial delay, allowing him to file a timely petition. The court clarified that the critical date for the running of the 30-day period is the date on which the notice was mailed to or actually received by the taxpayer, not the date listed on the notice.

Reasoning

The Tax Court reasoned by analogy to its deficiency jurisdiction cases, where actual receipt of a notice of deficiency without prejudicial delay validates the notice even if not sent to the last known address. The court interpreted section 6330(d)(1) to not explicitly require mailing to the last known address for a valid notice of determination in CDP cases. The court emphasized the practical construction of its jurisdictional provisions, as noted in Lewy v. Commissioner, 68 T. C. 779 (1977), and Traxler v. Commissioner, 61 T. C. 97 (1973). The court also considered the IRS's remailing of the notice to Bongam's correct address as sufficient to validate the notice, supported by cases like Terrell v. Commissioner, 625 F. 3d 254 (5th Cir. 2010), and Kasper v. Commissioner, 137 T. C. 37 (2011). The court noted that the date on the notice does not control the start of the 30-day period, as per August v. Commissioner, 54 T. C. 1535 (1970). The court's reasoning prioritized actual receipt over strict mailing procedures to allow taxpayers the greatest opportunity to seek judicial review.

Disposition

The Tax Court denied the respondent's motion to dismiss for lack of jurisdiction, finding that the remailed Notice of Determination was valid and that Bongam's petition was timely filed within 30 days of receiving the notice.

Significance/Impact

Bongam v. Commissioner expands the Tax Court's jurisdiction in CDP cases by clarifying that actual receipt of a Notice of Determination by the taxpayer without

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prejudicial delay can validate the notice, even if it was not originally sent to the last known address. This ruling provides taxpayers with more flexibility in challenging IRS collection actions, emphasizing the importance of actual notice over procedural formalities. The decision aligns the court's approach in CDP cases with its long-standing precedents on deficiency notices, potentially affecting how the IRS communicates with taxpayers and how courts interpret statutory notice requirements. This case also highlights the court's willingness to adopt a practical construction of its jurisdictional provisions, favoring substantive justice over strict adherence to technicalities.

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