Weiss v. Commissioner of Internal Revenue, 147 T. C. 179 (U. S. Tax Court 2016)

In *Weiss v. Commissioner*, the U. S. Tax Court clarified that the 30-day period for requesting a Collection Due Process (CDP) hearing starts from the mailing date of the IRS levy notice, not the date printed on the notice. This ruling ensures that taxpayers have the full 30 days to request a hearing, impacting how the IRS and taxpayers manage collection actions and the suspension of the collection statute of limitations.

Parties

Charles J. Weiss, the petitioner, filed a petition against the Commissioner of Internal Revenue, the respondent, in the U. S. Tax Court. Weiss sought review of the IRS's determination to uphold a notice of intent to levy against him for unpaid federal income tax liabilities for the tax years 1986 through 1991.

Facts

Charles J. Weiss owed over $550,000 in federal income tax liabilities for the years 1986 to 1991. In an effort to collect these liabilities, the IRS prepared a Final Notice of Intent to Levy and Notice of Your Right to a Hearing (levy notice) dated February 11, 2009. An IRS Revenue Officer (RO) attempted to hand-deliver the notice on February 11 but was prevented by Weiss's dog. The RO then mailed the notice on February 13, 2009, using the original February 11-dated notice. Weiss's wife received the notice on February 17, 2009. Weiss filed a request for a CDP hearing on either March 13 or 14, 2009, which was received by the IRS on March 16, 2009. Weiss argued that he intentionally filed the request late to receive an equivalent hearing, which would not suspend the collection statute of limitations.

Procedural History

The IRS issued a notice of determination on May 6, 2011, sustaining the proposed levy. Weiss timely petitioned the U. S. Tax Court for review. The Tax Court reviewed the IRS's determination for abuse of discretion, focusing on whether the CDP hearing request was timely filed based on the mailing date of the levy notice.

Issue(s)

Whether the 30-day period for requesting a CDP hearing under I. R. C. § 6330(a)(3)(B) begins on the date the levy notice is mailed or the date printed on the notice when these dates differ?

Rule(s) of Law

The Internal Revenue Code section 6330(a)(3)(B) provides that a taxpayer may request a CDP hearing within 30 days of receiving a notice of intent to levy. The

© 2025 SCOTUSreports.com. All rights reserved.

regulations under 26 C. F. R. § 301. 6330-1(b)(1) and (c)(1) state that the 30-day period commences the day after the date of the CDP Notice. The Tax Court has established that the mailing date of the notice controls when it is later than the date on the notice itself.

Holding

The U. S. Tax Court held that the 30-day period for requesting a CDP hearing under I. R. C. § 6330(a)(3)(B) is calculated from the date the levy notice is mailed, not the date printed on the notice. Therefore, Weiss's request for a CDP hearing, filed within 30 days of the mailing date, was timely.

Reasoning

The court reasoned that when the date on a levy notice is earlier than the mailing date, the mailing date governs the start of the 30-day period. This principle ensures that taxpayers have the full 30 days to request a hearing, consistent with the court's prior rulings on notices of deficiency and notices of determination in CDP cases. The court cited *Bongam v. Commissioner* to support its reasoning, emphasizing a broad, practical construction of jurisdictional provisions to favor taxpayer rights. The court rejected Weiss's argument that the mismatch between the notice's date and mailing date should invalidate the notice, as such mismatches have not historically led to invalidation. Additionally, the court found no merit in Weiss's claim of prejudice or estoppel, noting his implausible testimony and the fact that he sought to avoid collection action.

Disposition

The U. S. Tax Court upheld the IRS's determination to sustain the proposed levy action against Weiss.

Significance/Impact

Weiss v. Commissioner clarifies the starting point for the 30-day period to request a CDP hearing, ensuring that taxpayers have the full period to respond based on the mailing date of the levy notice. This ruling impacts IRS collection procedures and taxpayer rights, reinforcing the importance of the mailing date in determining the timeliness of CDP hearing requests. Subsequent courts have followed this precedent, affecting how the IRS administers collection actions and how taxpayers engage with the CDP process.

© 2025 SCOTUSreports.com. All rights reserved.