Greenberg v. Commissioner of Internal Revenue, 147 T. C. No. 13, 112 T. C. M. (CCH) 4746, 2016 U. S. Tax Ct. LEXIS 30 (U. S. Tax Court 2016)

In Greenberg v. Commissioner, the U. S. Tax Court ruled it lacked jurisdiction over an attorney's petition for administrative costs under I. R. C. § 7430 because only a prevailing party, defined as a party to the underlying tax dispute, can seek such costs. David Greenberg, an attorney representing a taxpayer in an IRS proceeding, attempted to claim administrative fees for himself, but the court held that since he was not a party to the underlying dispute, he could not be a prevailing party and thus was not entitled to file a petition for costs.

Parties

David B. Greenberg, the petitioner, represented himself pro se. The respondent was the Commissioner of Internal Revenue, represented by Ladd Christman Brown, Jr.

Facts

David B. Greenberg, an attorney and resident of Florida, represented a client in an administrative proceeding before the Internal Revenue Service (IRS) pursuant to a power of attorney. After the resolution of the client's matter, Greenberg sought an award of administrative costs (his attorney's fees) under I. R. C. § 7430. Greenberg initially applied for these costs on behalf of his client on September 17, 2014, and later on December 27, 2014, sought them on his own behalf. The IRS did not award the costs, and Greenberg filed a petition with the U. S. Tax Court on April 15, 2015, seeking review of the IRS's decision.

Procedural History

The U. S. Tax Court considered the case on a motion to dismiss for lack of jurisdiction filed by the Commissioner of Internal Revenue. Greenberg argued that he was the real party in interest and thus had standing to claim the administrative costs on his own behalf. The court reviewed the arguments and case law related to the jurisdiction of the Tax Court and the interpretation of I. R. C. § 7430, ultimately concluding that Greenberg was not a proper party to file a petition for administrative costs.

Issue(s)

Whether an attorney, who is not a party to the underlying tax dispute but represents a taxpayer in an administrative proceeding, can be considered a "prevailing party" under I. R. C. § 7430 and thus entitled to seek an award of administrative costs?

Rule(s) of Law

I. R. C. § 7430(a) allows a "prevailing party" to be awarded reasonable administrative costs incurred in connection with an administrative proceeding

© 2025 SCOTUSreports.com. All rights reserved.

within the IRS. I. R. C. § 7430(c)(4) defines a "prevailing party" as any party in a proceeding to which § 7430(a) applies, other than the United States or any creditor of the taxpayer involved. I. R. C. § 7430(f)(2) grants the Tax Court jurisdiction over petitions filed to contest a decision denying administrative costs.

Holding

The U. S. Tax Court held that Greenberg, as an attorney who was not a party to the underlying administrative proceeding, could not be considered a "prevailing party" under I. R. C. § 7430. Therefore, he was not the proper party to file a petition under I. R. C. § 7430(f)(2), and the court lacked jurisdiction to review the IRS's denial of his application for administrative costs.

Reasoning

The court's reasoning focused on the statutory language of I. R. C. § 7430, which limits awards of administrative costs to "prevailing parties. " The court interpreted "prevailing party" to mean a party to the underlying proceeding, not a representative or attorney acting on behalf of a party. The court referenced *Estate of Palumbo v. United States*, where the Third Circuit held that only a party to the underlying action can be a prevailing party. The court also drew parallels to the Equal Access to Justice Act (EAJA), which similarly restricts fee awards to prevailing parties.

The court rejected Greenberg's argument that he was the real party in interest, citing *Reeves v. Astrue*, which held that attorney's fees under fee-shifting statutes are awarded to the party who incurred the fees, not the attorney. The court emphasized that the term "incurred" in § 7430(a) implies costs paid by the prevailing party, not charged by them. The court also noted that the legislative history of § 7430 supported the conclusion that only parties to the underlying action can pursue an award.

The court distinguished Greenberg's case from test cases like *Young v. Commissioner* and *Dixon v. Commissioner*, where non-test-case taxpayers were treated as real parties in interest due to their independent legal rights at stake. Greenberg, however, had no such independent legal claim but rather a derivative claim as a potential beneficiary of a § 7430 award.

The court further supported its decision by citing cases interpreting the EAJA, such as *Panola Land Buying Ass'n v. Clark*, which held that attorneys do not have standing to apply for fees on their own behalf. The court concluded that Greenberg's lack of standing as a non-party to the underlying proceeding meant he could not be a prevailing party and thus lacked the right to petition for administrative costs.

Disposition

The court granted the Commissioner's motion to dismiss for lack of jurisdiction,

© 2025 SCOTUSreports.com. All rights reserved.

holding that Greenberg was not a proper party to file a petition under I. R. C. § 7430(f)(2).

Significance/Impact

The Greenberg decision clarifies the jurisdictional limits of the U. S. Tax Court in reviewing claims for administrative costs under I. R. C. § 7430. It establishes that only parties to the underlying tax dispute can be considered “prevailing parties” eligible to seek such costs, thereby excluding attorneys representing taxpayers from directly claiming fees. This ruling aligns with interpretations of similar fee-shifting statutes like the EAJA and reinforces the principle that attorneys’ fees are awarded to the party incurring the costs, not the attorney charging them. The decision impacts the practice of tax law by limiting the avenues through which attorneys can recover fees from administrative proceedings, potentially affecting their willingness to represent clients in such matters.

© 2025 SCOTUSreports.com. All rights reserved.