Whistleblower 26876-15W v. Commissioner of Internal Revenue, 147 T. C. No. 12, 2016 U. S. Tax Ct. LEXIS 29, 112 T. C. M. (CCH) 4743 (U. S. Tax Court 2016)

In a significant ruling, the U. S. Tax Court clarified the timeliness of whistleblower award appeals. The court held that a whistleblower's petition was timely filed within 30 days of receiving a remailed IRS notice of determination, despite an initial invalid mailing to the wrong address. This decision underscores the importance of proper notification in the whistleblower award process and impacts how such appeals are handled, ensuring that whistleblowers receive due process in their claims for awards.

Parties

Whistleblower 26876-15W, the Petitioner, filed a whistleblower award claim against the Commissioner of Internal Revenue, the Respondent. The case was heard in the United States Tax Court.

Facts

In February 2009, the Petitioner filed Form 211 with the IRS Whistleblower Office, alleging tax noncompliance by Taxpayer 1. The IRS initiated an examination of Taxpayer 1 but closed it without adjustments. In May 2014, Stephen A. Whitlock, the Director of the Whistleblower Office, executed Form 11369, approving the denial of the Petitioner's claim due to no proceeds collected. On May 30, 2014, the IRS sent a final determination letter to the Petitioner, signed by Kimberlee Loren, a senior tax analyst, but it was mailed to an incorrect address. The Petitioner did not receive this letter. In September 2015, upon inquiry, the IRS remailed the determination letter on October 15, 2015, to the Petitioner's correct address. The Petitioner received this letter and filed a petition with the Tax Court on October 26, 2015.

Procedural History

The Petitioner filed a petition with the U. S. Tax Court on October 26, 2015, following the receipt of the remailed determination letter. On July 1, 2016, the Petitioner moved to dismiss the case for lack of jurisdiction, arguing that the original May 30, 2014, determination letter was invalid because it was not signed by the Director of the Whistleblower Office and was not mailed to the Petitioner's last known address. The Respondent opposed the motion on August 12, 2016. The Tax Court denied the motion to dismiss, affirming its jurisdiction over the matter.

Issue(s)

Whether the Tax Court has jurisdiction over the Petitioner's claim when the IRS's original notice of determination was mailed to an incorrect address and not received by the Petitioner, but a subsequent notice was properly remailed and received within 30 days of which the Petitioner filed a petition?

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Rule(s) of Law

Section 7623(b)(4) of the Internal Revenue Code provides that any determination regarding a whistleblower award may be appealed to the Tax Court within 30 days of such determination. The Tax Court has jurisdiction over such matters if the petition is timely filed. Delegation Order 25-7 (Rev. 1) delegates authority to the Director of the Whistleblower Office to approve or disapprove awards under section 7623.

Holding

The Tax Court held that it had jurisdiction over the Petitioner's claim. The Court found that the original May 30, 2014, determination letter was invalid because it was not mailed to the Petitioner's last known address and was not received by him. However, the remailed notice of determination on October 15, 2015, was valid, and the Petitioner's filing of the petition on October 26, 2015, within 30 days of receiving this notice, was timely.

Reasoning

The Tax Court reasoned that the original determination letter, which was not mailed to the Petitioner's last known address and not received by him, did not trigger the 30-day filing period under section 7623(b)(4). The Court relied on its precedent in *Bongam v. Commissioner*, which held that a notice of determination must be sent to the taxpayer's last known address to be effective. The Court also considered its broad, practical construction of jurisdictional provisions, as seen in cases like *Lewy v. Commissioner* and *Traxler v. Commissioner*. The Court emphasized that the remailed notice on October 15, 2015, was properly sent to the Petitioner's correct address, and thus, the 30-day period for filing a petition began upon receipt of this notice. The Court also clarified that the Director's execution of Form 11369 was a valid exercise of authority under Delegation Order 25-7, and there was no requirement for the Director to personally sign the determination letter.

Disposition

The Tax Court denied the Petitioner's motion to dismiss for lack of jurisdiction, finding that the petition was timely filed within 30 days of the remailed notice of determination.

Significance/Impact

This case clarifies the procedural requirements for whistleblower award appeals, particularly regarding the validity of IRS notices of determination. It establishes that a notice sent to an incorrect address and not received by the whistleblower does not trigger the 30-day appeal period, and a subsequent valid notice can restart the period. This ruling ensures that whistleblowers are not disadvantaged by administrative errors in notification and reinforces the importance of proper mailing

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procedures in IRS communications. The decision may influence future cases involving the timeliness of appeals and the interpretation of jurisdictional provisions in the Tax Court.

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