Borenstein v. Commissioner, 149 T. C. No. 10 (2017)

In Borenstein v. Commissioner, the U. S. Tax Court ruled that a nonfiler who secured an extension but did not file a return before receiving a notice of deficiency was not eligible for a three-year lookback period for refunds under IRC Section 6512(b)(3). The decision clarified the application of statutory lookback periods for tax refunds, impacting how the IRS and taxpayers handle overpayments in deficiency cases, especially for nonfilers with extensions.

Parties

Plaintiff: Roberta Borenstein (Petitioner) Defendant: Commissioner of Internal Revenue (Respondent)

Facts

Roberta Borenstein, the petitioner, had until April 15, 2013, to file her 2012 federal income tax return. She secured a six-month extension, extending the filing deadline to October 15, 2013. By April 15, 2013, Borenstein had made tax payments totaling $112,000, deemed paid on that date. She did not file her return by the extended deadline or within the subsequent 22 months. On June 19, 2015, the IRS issued a notice of deficiency for 2012. Shortly before filing her petition, Borenstein submitted a delinquent return on August 29, 2015, reporting a tax liability of $79,559. The parties agreed on a deficiency of $79,559 and an overpayment of $32,441. The dispute centered on whether Borenstein was entitled to a credit or refund of the overpayment under the applicable lookback period.

Procedural History

The case was submitted without trial under Rule 122 of the Tax Court. The IRS issued a notice of deficiency on June 19, 2015, determining a deficiency of $1,666,463 and additions to tax for Borenstein’s 2012 tax year. Borenstein filed a timely petition with the U. S. Tax Court on September 16, 2015. The parties stipulated to a deficiency of $79,559 and an overpayment of $32,441. The Tax Court considered whether it had jurisdiction to determine a refund or credit of the overpayment under IRC Sections 6511 and 6512.

Issue(s)

Whether a nonfiler who obtained an extension of time to file but did not file a return before the issuance of a notice of deficiency is eligible for the three-year lookback period under IRC Section 6512(b)(3) for determining the refund of an overpayment?

Rule(s) of Law

IRC Section 6512(b)(1) grants the Tax Court jurisdiction to determine overpayments in deficiency cases. IRC Section 6512(b)(3) limits the amount of credit or refund to

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the tax paid within specified lookback periods from the mailing date of the notice of deficiency. IRC Section 6511(b)(2) provides two lookback periods: three years from the filing of the return or two years from the filing of a claim for refund. The 1997 amendment to Section 6512(b)(3) added a three-year lookback period for nonfilers if the notice of deficiency was mailed during the third year after the due date (with extensions) for filing the return.

Holding

The Tax Court held that Borenstein was not eligible for the three-year lookback period under IRC Section 6512(b)(3) because the notice of deficiency was not mailed during the third year after the extended due date for filing her return. Consequently, the court lacked jurisdiction to award a refund or credit of Borenstein's $32,441 overpayment.

Reasoning

The court's reasoning was based on the plain language interpretation of IRC Section 6512(b)(3). The court found that the phrase "due date (with extensions)" unambiguously meant the due date after accounting for any extensions granted. In Borenstein's case, the extended due date was October 15, 2013, and the notice of deficiency was mailed on June 19, 2015, which fell within the second year, not the third year, after the extended due date. The court rejected Borenstein's argument that "with extensions" should modify "the third year" or "3 years," as such interpretations would violate normal English syntax and the last antecedent rule of statutory construction. The court also found that the legislative history did not support Borenstein's interpretation and that the statutory scheme, although complex, was not absurd under the plain meaning rule. The court emphasized that it was bound by the statutory language and could not extend jurisdiction beyond what Congress had expressly authorized.

Disposition

The Tax Court entered a decision for the respondent, denying Borenstein's claim for a refund or credit of her overpayment.

Significance/Impact

Borenstein v. Commissioner clarified the application of the lookback periods under IRC Sections 6511 and 6512, particularly for nonfilers who have obtained extensions of time to file. The decision highlights the importance of the timing of notices of deficiency relative to extended due dates and underscores the strict construction of statutory language in determining Tax Court jurisdiction over refunds. The case has implications for IRS procedures in handling deficiency cases involving nonfilers and for taxpayers seeking refunds of overpayments in such situations. It also serves as a reminder of the complexities and potential gaps in tax legislation, urging careful

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attention to filing deadlines and extensions.

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