Schussel v. Commissioner of Internal Revenue, 149 T. C. No. 16, 2017 U. S. Tax Ct. LEXIS 50 (United States Tax Court, 2017)

In Schussel v. Comm'r, the U. S. Tax Court ruled that a petition for redetermination of transferee liability cannot be dismissed without a decision on the liability amount, akin to deficiency cases. This decision reinforces the procedural parity between transferee liability and deficiency cases under I. R. C. section 6901, ensuring that the Commissioner can assess, collect, and enforce transferee liabilities under the same stringent conditions as tax deficiencies, impacting how settlements are handled in tax litigation.

Parties

George Schussel, as the transferee of Driftwood Massachusetts Business Trust, formerly known as Digital Consulting, Inc. , was the petitioner. The respondent was the Commissioner of Internal Revenue. At the trial level, Schussel was represented by Francis J. DiMento, and the Commissioner was represented by Carina J. Campobasso.

Facts

On September 15, 2015, the Commissioner issued a notice of liability to George Schussel as the transferee of Driftwood Massachusetts Business Trust, assessing him with a transferee liability of $6,881,291 for Driftwood's unpaid income tax, penalties, and interest for the tax years ended December 31, 1988, 1991, and 1992. Schussel, whose legal residence was stated as Florida, timely petitioned the United States Tax Court for a redetermination of this liability on December 8, 2015. The case was set for trial in Boston, Massachusetts, commencing November 28, 2016. At the trial session, Schussel moved to dismiss his petition with prejudice, citing a comprehensive settlement that included claims not before the court.

Procedural History

Schussel's petition for redetermination of his transferee liability was filed with the United States Tax Court on December 8, 2015, following the issuance of a notice of liability on September 15, 2015. The case was calendared for trial in Boston, Massachusetts, starting November 28, 2016. At the trial session, Schussel filed a motion to dismiss his case with prejudice. The Commissioner responded, opposing the dismissal and asserting that the court must enter a decision on the liability amount. Schussel replied, arguing that section 7459(d) was inapplicable to his case. The Tax Court took the motion under advisement and requested a response from the Commissioner, leading to the current opinion.

Issue(s)

Whether a petition for redetermination of transferee liability under I. R. C. section 6901(a) can be dismissed with prejudice without the court entering a decision as to

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the amount of the liability?

Rule(s) of Law

I. R. C. section 6901(a) provides that transferee liability shall be assessed, paid, and collected in the same manner and subject to the same provisions and limitations as a deficiency in the tax with respect to which the liability was incurred. I. R. C. section 7459(d) states that if a petition for redetermination of a deficiency has been filed by the taxpayer, a decision of the Tax Court dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Secretary, unless the dismissal is for lack of jurisdiction. Treasury Regulation section 301. 6901-1(a) reiterates that transferee liability for income, estate, or gift tax shall be assessed, paid, and collected as if it were a deficiency in tax.

Holding

The Tax Court held that a petition for redetermination of transferee liability, like a petition for redetermination of a deficiency, cannot be dismissed with or without prejudice without the court entering a decision as to the amount of the liability, in accordance with I. R. C. section 6901(a) and the principles established in Estate of Ming v. Commissioner.

Reasoning

The court's reasoning was based on a detailed analysis of the statutory framework and regulatory guidance governing transferee liability. The court highlighted that I. R. C. section 6901(a) explicitly subjects transferee liability to the same procedural rules as deficiencies, including the requirement for a notice of liability and the right to petition the Tax Court for redetermination. The court distinguished the case from Wagner v. Commissioner, which dealt with a different type of nondeficiency case, and emphasized the historical treatment of transferee liability cases as akin to deficiency cases. The court rejected Schussel's argument that the principles of Estate of Ming were inapplicable because his motion was for dismissal with prejudice, noting that any dismissal would effectively be with prejudice due to the court's exclusive jurisdiction. Additionally, the court addressed Schussel's contention about the court's inability to determine the liability amount from the record, clarifying that the amount was clear from the Commissioner's notice of liability and that the parties should submit a stipulated decision reflecting their settlement.

Disposition

The Tax Court denied Schussel's motion to dismiss the petition and ordered the parties to submit an agreed stipulated decision document reflecting the terms of their settlement.

Significance/Impact

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The decision in Schussel v. Comm’r is significant for its reaffirmation of the procedural parity between transferee liability and deficiency cases under I. R. C. section 6901. It clarifies that a settlement in a transferee liability case must be formalized through a stipulated decision document, ensuring that the Commissioner’s ability to assess and collect such liabilities is not undermined by informal or unrecorded agreements. This ruling has practical implications for tax practitioners and taxpayers involved in transferee liability disputes, as it mandates a structured approach to resolving such cases through the Tax Court. The decision also reinforces the importance of the Tax Court’s role in ensuring that tax liabilities, whether direct or transferee, are adjudicated and resolved within the legal framework established by the Internal Revenue Code and its regulations.

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