Creditguard of America, Inc. v. Commissioner, 149 T. C. No. 17, 2017 U. S. Tax Ct. LEXIS 52 (U. S. Tax Court 2017)

In a significant ruling, the U. S. Tax Court held that when the IRS retroactively revokes a corporation's tax-exempt status, interest on the resulting tax deficiency begins accruing from the date the tax return would have been due had the organization never been exempt. This decision, stemming from Creditguard of America's challenge to the interest assessed on its 2002 tax liability after its exemption was revoked, underscores the IRS's power to restore itself to the position it would have occupied absent the exemption, impacting how tax-exempt organizations manage potential liabilities.

Parties

Creditguard of America, Inc. , as Petitioner, challenged the Commissioner of Internal Revenue, as Respondent, in a collection due process (CDP) proceeding before the United States Tax Court.

Facts

Creditguard of America, Inc. (Creditguard) was incorporated as a nonprofit in Florida in 1991, engaged in credit counseling. The IRS granted Creditguard tax-exempt status under section 501(a) and (c)(3) in December 1993. In 2003, Creditguard filed a Form 990 for the 2002 tax year. Following an examination initiated in December 2003, the IRS, on February 1, 2012, issued a final determination revoking Creditguard's tax-exempt status retroactively to January 1, 2002. Creditguard was required to file a Form 1120 for 2002 and subsequent years. When Creditguard failed to file the Form 1120, the IRS prepared a substitute for return and issued a notice of deficiency on June 6, 2012. Creditguard petitioned the Tax Court, and a stipulated decision was entered on November 30, 2012, determining a $216,547 deficiency for 2002, with interest to be assessed as provided by law. The IRS assessed the deficiency and interest on March 13, 2013, with interest accruing from March 17, 2003, the due date for the Form 1120 for a calendar-year corporation. Creditguard disputed the interest calculation in a subsequent CDP proceeding.

Procedural History

Following the revocation of its tax-exempt status, Creditguard received a notice of deficiency and petitioned the Tax Court, resulting in a stipulated decision on November 30, 2012, acknowledging a $216,547 deficiency for 2002. The IRS assessed this deficiency and accrued interest on March 13, 2013, based on interest beginning from March 17, 2003. In response to collection actions, Creditguard requested a CDP hearing, challenging the interest calculation. The settlement officer (SO) sustained the IRS's interest calculation, leading to a notice of determination on December 17, 2015, upholding the collection action. Creditguard timely petitioned

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the Tax Court, which reviewed the case de novo on the issue of interest calculation.

Issue(s)

Whether, upon retroactive revocation of a corporation's tax-exempt status, the interest on the resulting tax deficiency begins to accrue from the date the tax return would have been due had the corporation never been exempt?

Rule(s) of Law

Section 6601(a) of the Internal Revenue Code mandates that interest on unpaid taxes accrues from the last date prescribed for payment until the date paid. Section 6151(a) specifies that the last date prescribed for payment is the date fixed for filing the return. For a calendar-year corporation in 2002, the due date for the Form 1120 was March 17, 2003, as provided under section 6072(b).

Holding

The U. S. Tax Court held that upon retroactive revocation of Creditguard's tax-exempt status to January 1, 2002, interest on the resulting tax deficiency for that year began accruing from March 17, 2003, the due date for filing a Form 1120 for a calendar-year corporation.

Reasoning

The Court's reasoning focused on the statutory framework governing interest accrual. It noted that section 6601(a) clearly establishes that interest on unpaid taxes begins from the last date prescribed for payment, which, under section 6151(a), is the date fixed for filing the return. The due date for Creditguard's 2002 Form 1120, as a calendar-year corporation, was determined to be March 17, 2003, under section 6072(b). The Court rejected Creditguard's argument that interest should begin from the date of the final determination letter revoking its exemption, emphasizing the retroactive nature of the revocation. The Court reasoned that retroactive revocation aims to restore the IRS to the position it would have been in had Creditguard never been exempt, which logically extends to the accrual of interest from the date the tax would have been due had Creditguard been taxable from the outset. The Court also dismissed the applicability of section 6601(b)(5), which deals with taxes payable by stamp or for which the last date for payment is not otherwise prescribed, as irrelevant given the clear prescription of the due date under section 6072(b). The Court's analysis underscored the compensatory nature of interest as designed to compensate the Government for the use of its money during the period the tax remained unpaid, aligning with established case law.

Disposition

The Tax Court granted summary judgment to the Commissioner, affirming the interest calculation from March 17, 2003, and sustaining the proposed collection

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action.

Significance/Impact

This decision clarifies the IRS's authority to assess interest from the due date of a tax return when a corporation's tax-exempt status is retroactively revoked. It has significant implications for tax-exempt organizations, highlighting the potential liabilities and the importance of timely filing and payment considerations even in the face of uncertainty regarding exempt status. The ruling emphasizes the retroactive effect's purpose of restoring the IRS to its rightful position, which extends beyond mere tax liability to include interest accrual. The case also sets a precedent for how the Tax Court views the interplay between sections 6601 and 6151 in the context of retroactive revocations, likely influencing future administrative and judicial interpretations of similar tax disputes.

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