Christian Bernd Alber v. Commissioner of Internal Revenue, T. C. Memo. 2020-20 (U. S. Tax Court 2020)

In Christian Bernd Alber v. Commissioner, the U. S. Tax Court upheld the IRS Whistleblower Office's (WBO) decision to reject a whistleblower claim. Alber, a German resident, alleged illegal actions by the German court system and unidentified individuals but failed to provide specific or credible information about U. S. tax law violations. The court ruled that the WBO did not abuse its discretion in summarily rejecting the claim, emphasizing the need for clear, actionable information in whistleblower submissions. This decision reinforces the WBO's authority to evaluate and reject claims that do not meet statutory thresholds.

Parties

Christian Bernd Alber, Petitioner, represented himself. Commissioner of Internal Revenue, Respondent, represented by Ryan Z. Sarazin, Bartholomew Cirenza, and Shari A. Salu.

Facts

Christian Bernd Alber, a non-U. S. citizen residing in Germany, filed a whistleblower claim with the IRS Whistleblower Office (WBO) alleging illegal actions by the German court system and unspecified violations by 17 individuals or entities. Alber's Form 211 claimed that the German government had treated him illegally, stealing his assets through invalid tax laws and other means. However, he provided no specific information linking these allegations to U. S. internal revenue laws or identifying any U. S. tax violations. The WBO reviewed Alber's claim and, finding it speculative and lacking specific or credible information about U. S. tax underpayments or violations, rejected it without referral to an IRS operating division for further investigation.

Procedural History

Alber filed his whistleblower claim on December 11, 2018. The WBO acknowledged receipt on December 19, 2018, and after review, formally rejected the claim on February 8, 2019, citing a lack of specific or credible information regarding U. S. tax violations. Alber petitioned the U. S. Tax Court for review on March 8, 2019. The Commissioner moved for summary judgment, asserting that the WBO's decision was not an abuse of discretion. The Tax Court, applying an abuse of discretion standard, granted the Commissioner's motion on January 30, 2020.

Issue(s)

Whether the IRS Whistleblower Office abused its discretion in summarily rejecting Alber's whistleblower claim under section 7623 of the Internal Revenue Code?

Rule(s) of Law

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Under section 7623 of the Internal Revenue Code, the IRS Whistleblower Office evaluates whistleblower claims to determine their eligibility for an award. The WBO's regulations at 26 C. F. R. sec. 301. 7623-1(c)(4) require claims to contain specific, credible information about a violation of U. S. internal revenue laws. The Tax Court reviews WBO decisions for abuse of discretion, which occurs if the decision is arbitrary, capricious, or without sound basis in fact or law (Kasper v. Commissioner, 150 T. C. 8 (2018); Murphy v. Commissioner, 125 T. C. 301 (2005)).

Holding

The U. S. Tax Court held that the IRS Whistleblower Office did not abuse its discretion in rejecting Alber's whistleblower claim. The court found that the WBO's decision was supported by Alber's failure to provide specific or credible information about violations of U. S. internal revenue laws, as required by the applicable regulations.

Reasoning

The court's reasoning focused on the WBO's authority to evaluate whistleblower claims for threshold eligibility under section 7623 and the regulations. The court noted that Alber's claim was speculative and did not provide the necessary specific or credible information about U. S. tax violations. The WBO's decision to reject the claim without referral to an IRS operating division was within its discretion, as it was based on a reasonable evaluation of the claim's content. The court emphasized that its review was limited to determining whether the WBO's decision was an abuse of discretion, not whether the court would have reached the same decision. The court found that the WBO's decision had a sound basis in fact and law, given Alber's failure to meet the statutory and regulatory requirements for a whistleblower claim. The court also considered the policy behind allowing the WBO to reject claims that do not meet minimum standards, to prevent the unnecessary expenditure of IRS resources on meritless claims.

Disposition

The U. S. Tax Court granted the Commissioner's motion for summary judgment, affirming the IRS Whistleblower Office's rejection of Alber's whistleblower claim.

Significance/Impact

This case reinforces the IRS Whistleblower Office's authority to evaluate and reject whistleblower claims that do not meet statutory and regulatory thresholds. It underscores the importance of providing specific and credible information about U. S. tax violations in whistleblower submissions. The decision may deter frivolous or speculative claims and encourage whistleblowers to ensure their allegations are well-founded and clearly related to U. S. tax laws. Subsequent courts may cite this case to support the WBO's discretion in evaluating the sufficiency of whistleblower

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claims at the initial stage.

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