Pulcine v. Commissioner, T. C. Memo. 2020-29 (U. S. Tax Court 2020)

In Pulcine v. Commissioner, the U. S. Tax Court upheld the IRS Whistleblower Office's denial of a whistleblower award to Charles Stuart Pulcine. The court ruled that since no additional tax, penalties, interest, or other amounts were collected from the taxpayer based on Pulcine's information, he was not entitled to an award under Section 7623(b). This decision underscores the necessity of collected proceeds for whistleblower awards and clarifies the court's limited review scope over IRS tax liability determinations.

Parties

Charles Stuart Pulcine, the petitioner, filed a pro se whistleblower award claim against the Commissioner of Internal Revenue, the respondent, represented by Richard Hatfield.

Facts

Charles Stuart Pulcine submitted a Form 211 to the IRS Whistleblower Office on September 16, 2013, alleging that a corporate taxpayer had failed to file certain Forms 1120 and pay income tax. He claimed that $4 million in expenses should have been capitalized rather than deducted. The Whistleblower Office referred Pulcine's claim to the IRS Large Business & International (LB&I) Division, which conducted an examination. Meanwhile, the taxpayer filed delinquent returns and made payments. The LB&I team found that the expenses in question were properly deducted, and no audit adjustments were warranted, except for a $9,966 refund issued after an amended return. The Whistleblower Office subsequently denied Pulcine's claim for an award, stating that his information did not result in any additional tax, penalties, interest, or amounts.

Procedural History

Pulcine timely filed a petition with the U. S. Tax Court after receiving the final determination letter from the Whistleblower Office. Both parties filed motions for summary judgment. The court reviewed the motions under the standard of no genuine dispute as to any material fact and entitlement to judgment as a matter of law, as outlined in Rule 121(b) of the Tax Court Rules of Practice and Procedure.

Issue(s)

Whether the IRS abused its discretion in denying Charles Stuart Pulcine a whistleblower award under Section 7623(b) when no additional tax, penalties, interest, or other amounts were collected based on his information.

Rule(s) of Law

Under Section 7623(a), the Secretary has discretion to pay an award for detecting

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underpayments of tax or violations of internal revenue laws. Section 7623(b) mandates an award if the Secretary proceeds with an administrative or judicial action based on the whistleblower's information and collects proceeds. The award ranges from 15% to 30% of collected proceeds. The court reviews the Secretary's determination under an abuse-of-discretion standard, as established in Kasper v. Commissioner, 150 T. C. 8 (2018).

Holding

The U. S. Tax Court held that the IRS did not abuse its discretion in denying Charles Stuart Pulcine a whistleblower award under Section 7623(b) because no additional tax, penalties, interest, or other amounts were collected based on his information.

Reasoning

The court reasoned that for a whistleblower to qualify for an award under Section 7623(b), the IRS must proceed with an action based on the whistleblower's information and collect proceeds from that action. In this case, the IRS examined the specific expenses Pulcine identified and determined they were properly substantiated and deducted, resulting in no additional tax liability. The court emphasized that it lacked jurisdiction to review the IRS's determinations of tax liability or to direct the IRS to proceed with further actions, as established in Cohen v. Commissioner, 139 T. C. 299 (2012) and Cooper v. Commissioner, 136 T. C. 597 (2011). The court found no abuse of discretion by the IRS, as the decision to deny the award was based on a sound factual and legal basis.

Disposition

The court granted the Commissioner's motion for summary judgment and denied Pulcine's motion for summary judgment.

Significance/Impact

Pulcine v. Commissioner reinforces the requirement that collected proceeds are necessary for a whistleblower to receive an award under Section 7623(b). It also clarifies the limited scope of judicial review over IRS determinations regarding tax liability and the discretion afforded to the IRS in handling whistleblower claims. This decision may affect future whistleblower claims by emphasizing the importance of tangible results from the information provided.

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