Rickey B. Barnhill v. Commissioner of Internal Revenue, 155 T. C. No. 1 (2020)

In Rickey B. Barnhill v. Commissioner, the U. S. Tax Court denied the IRS's motion for summary judgment, ruling that a taxpayer's inability to participate in an Appeals conference due to non-receipt of notification did not preclude a subsequent challenge to the Trust Fund Recovery Penalty (TFRP) liability at a Collection Due Process (CDP) hearing. This decision underscores the importance of a meaningful opportunity to dispute tax liabilities before the IRS can bar such challenges in later proceedings, ensuring taxpayers are not denied due process rights.

Parties

Rickey B. Barnhill, as the Petitioner, challenged the assessment of Trust Fund Recovery Penalties by the Commissioner of Internal Revenue, the Respondent, in the U. S. Tax Court. The case originated from Barnhill's appeal of the proposed TFRP assessments and subsequent CDP hearing request following the IRS's filing of a notice of federal tax lien.

Facts

Rickey B. Barnhill was a director at Iron Cross, Inc. , which failed to pay over employment withholding taxes for ten quarters from 2010 to 2012. The IRS sent Barnhill a Letter 1153 proposing to assess TFRPs against him as a responsible person. Barnhill timely filed an appeal with the IRS Office of Appeals (Appeals). Appeals then sent a Letter 5157 to schedule a conference, which Barnhill alleges he never received. As a result, he did not participate in the scheduled conference. Appeals rejected Barnhill's appeal, assessed the penalties, and filed a notice of federal tax lien. Barnhill requested a CDP hearing to challenge the underlying TFRP liability, but Appeals rejected this challenge, citing the prior opportunity provided by the Letter 1153.

Procedural History

The IRS assessed TFRPs against Barnhill after Appeals rejected his initial appeal. Upon receiving a notice of federal tax lien, Barnhill requested a CDP hearing, where he attempted to dispute his underlying liability for the TFRPs. Appeals sustained the lien filing, determining that Barnhill had a prior opportunity to dispute his liability due to his receipt of Letter 1153. Barnhill then filed a petition in the U. S. Tax Court, which denied the Commissioner's motion for summary judgment, holding that the absence of a meaningful opportunity to dispute the TFRP liability in the initial Appeals conference did not preclude a subsequent challenge at the CDP hearing.

Issue(s)

Whether a taxpayer who received a Letter 1153 but did not receive subsequent correspondence (Letter 5157) scheduling an Appeals conference has had an

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“opportunity,” for purposes of I. R. C. sec. 6330(c)(2)(B), to dispute his underlying TFRP liability, thereby precluding a challenge to that liability at a later CDP hearing?

Rule(s) of Law

Under I. R. C. sec. 6330(c)(2)(B), a taxpayer may challenge the existence or amount of the underlying tax liability at a CDP hearing if the taxpayer “did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability. ” A prior conference with Appeals, whether pre- or post-assessment, constitutes an “opportunity” to dispute the liability. See 26 C. F. R. sec. 301. 6320-1(e)(3), Q&A-E2, Proced. & Admin. Regs.

Holding

The U. S. Tax Court held that if a taxpayer received a Letter 1153 but did not receive the subsequent Letter 5157, thereby missing the Appeals conference, the taxpayer did not have an “opportunity” to dispute the underlying TFRP liability within the meaning of I. R. C. sec. 6330(c)(2)(B). Therefore, the taxpayer should not be precluded from challenging that liability at a subsequent CDP hearing.

Reasoning

The Tax Court reasoned that the mere receipt of Letter 1153 does not constitute an “opportunity” to dispute the TFRP liability; rather, it is the Appeals conference that provides the actual opportunity. The court distinguished between the receipt of a notice and the opportunity it occasions, emphasizing that the statutory text of I. R. C. sec. 6330(c)(2)(B) bars a liability challenge at a CDP hearing only if the taxpayer had a genuine chance to dispute the liability. In Barnhill’s case, the absence of the Letter 5157 meant he was not informed of the conference and thus did not have a meaningful opportunity to participate. The court rejected the Commissioner’s argument that merely receiving the Letter 1153 was sufficient to preclude a subsequent challenge, finding that the lack of participation in the Appeals conference due to non-receipt of the scheduling letter constituted a denial of the opportunity to dispute the liability. The court also found that any error in the TFRP appeal process could not be considered harmless, as it potentially affected the outcome of the appeal and the subsequent CDP hearing.

Disposition

The U. S. Tax Court denied the Commissioner’s motion for summary judgment, holding that the absence of a meaningful opportunity to dispute the TFRP liability in the initial Appeals conference did not preclude a subsequent challenge at the CDP hearing.

Significance/Impact

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This decision clarifies the requirement for a meaningful opportunity to dispute tax liabilities before such challenges can be barred in subsequent proceedings. It reinforces the importance of due process in tax collection actions, ensuring that taxpayers are not denied the right to challenge their liabilities based on procedural deficiencies in the IRS's appeals process. The case may influence future IRS procedures and taxpayer rights in TFRP assessments and CDP hearings, emphasizing the necessity of effective communication and the provision of actual opportunities for taxpayers to engage in the appeals process.

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