Robert Rowen v. Commissioner of Internal Revenue, 156 T. C. No. 8 (2021)

In Robert Rowen v. Commissioner of Internal Revenue, the U. S. Tax Court upheld the Commissioner's certification of a seriously delinquent tax debt under I. R. C. § 7345, rejecting claims that the statute violated constitutional rights or international human rights. The court clarified that § 7345 only authorizes certification, not passport revocation, thus not infringing on the right to travel. This ruling reaffirms the IRS's authority to certify tax debts over $51,000 as a tool for encouraging tax compliance.

Parties

Robert Rowen, the petitioner, challenged the certification of his tax debt as seriously delinquent by the Commissioner of Internal Revenue, the respondent, in the U. S. Tax Court. Throughout the litigation, Rowen was designated as the petitioner and the Commissioner as the respondent.

Facts

Robert Rowen, a U. S. citizen and licensed medical doctor, repeatedly failed to file Federal income tax returns for over two decades. Relevant to this case, Rowen first failed to file for tax year 1994. In 1997, he pleaded guilty to corruptly endeavoring to impede an IRS investigation and, as part of his plea agreement, filed delinquent returns for 1994 and 1996 and a timely return for 1997. Despite this, Rowen did not pay the assessed taxes for these years. The IRS issued notices of deficiency and intent to levy, but Rowen did not seek a hearing with the IRS Office of Appeals. Rowen filed for bankruptcy in 2001, seeking discharge of his tax liabilities for 1992 through 1997, which was denied due to willful failure to file and pay. Rowen again ceased filing returns starting in 2003, only submitting returns for 2003 through 2007 after IRS intervention. The IRS filed notices of Federal tax lien and notices of intent to levy for these years, and after Rowen's request for a hearing, the IRS Appeals sustained the filings and proposed levies. Rowen petitioned the U. S. Tax Court, which upheld the IRS's determinations. In 2018, the Commissioner certified Rowen as owing a seriously delinquent tax debt of at least $474,847 under I. R. C. § 7345 for tax years 1994, 1996, 1997, and 2003 through 2007.

Procedural History

Rowen filed a petition in the U. S. Tax Court under I. R. C. § 7345(e)(1) to challenge the Commissioner's certification of his seriously delinquent tax debt. Both parties filed motions for summary judgment. The Tax Court reviewed the administrative record and the arguments presented, focusing on the constitutionality of § 7345 and the correctness of the certification. The court applied a summary adjudication procedure to decide the issues raised by the parties.

Issue(s)

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Whether I. R. C. § 7345 violates the Due Process Clause of the Fifth Amendment by prohibiting international travel?

Whether I. R. C. § 7345 violates the right to travel as expressed in the Universal Declaration of Human Rights (UDHR)?

Whether the Commissioner erred in certifying Rowen's tax debt as seriously delinquent under I. R. C. § 7345?

Rule(s) of Law

I. R. C. § 7345 authorizes the Commissioner to certify to the Secretary of the Treasury that an individual has a seriously delinquent tax debt, defined as an unpaid, legally enforceable Federal tax liability greater than $51,000 for which a notice of lien has been filed or levy has been made. The certification is transmitted to the Secretary of State for action with respect to denial, revocation, or limitation of a passport under FAST Act § 32101. The Tax Court has jurisdiction under I. R. C. § 7345(e)(1) to determine whether the certification was erroneous.

Holding

The Tax Court held that I. R. C. § 7345 does not violate the Due Process Clause of the Fifth Amendment or the UDHR because it does not restrict the right to international travel. The court further held that the Commissioner did not err in certifying Rowen's tax debt as seriously delinquent under I. R. C. § 7345, as Rowen's debt exceeded $51,000 and met the statutory criteria.

Reasoning

The court reasoned that I. R. C. § 7345 merely provides for the certification of tax-related facts and does not authorize any passport-related decisions, which are left to the discretion of the Secretary of State under FAST Act § 32101(e). Therefore, § 7345 cannot be considered to infringe on the right to international travel. The court also rejected Rowen's UDHR argument, noting that the UDHR does not create enforceable rights in U. S. courts and, regardless, § 7345 does not restrict travel. The court further found that Rowen's procedural due process and statute of limitations claims were abandoned as he did not pursue them in his motion for summary judgment. The court examined the administrative record, which included certified Forms 4340 showing Rowen's outstanding tax liabilities and confirmed that the period of limitations on collection remained open for all relevant years. The court concluded that the Commissioner's certification was proper and consistent with the requirements of I. R. C. § 7345.

Disposition

The Tax Court denied Rowen's motion for summary judgment and granted the Commissioner's cross-motion for summary judgment, sustaining the certification of

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Rowen’s seriously delinquent tax debt.

Significance/Impact

This case clarifies the scope of I. R. C. § 7345, affirming its constitutionality and the IRS’s authority to certify seriously delinquent tax debts as a means to encourage tax compliance. The ruling may impact taxpayers with significant tax debts by reinforcing the potential consequences of non-compliance, including the certification process that could lead to passport-related actions by the Secretary of State. The decision also highlights the limited nature of the Tax Court’s review under § 7345(e)(1), focusing solely on the correctness of the certification rather than broader constitutional challenges to the entire tax collection mechanism established by the FAST Act.

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