Bobby Lee Rogers v. Commissioner of Internal Revenue, 157 T. C. No. 3 (2021)

In Bobby Lee Rogers v. Commissioner of Internal Revenue, the U. S. Tax Court ruled that the IRS Whistleblower Office (WBO) abused its discretion by rejecting a whistleblower's claim using a rationale associated with a denial under the regulations. The court found that the WBO's decision to reject the claim because the IRS chose not to pursue the information provided was inconsistent with regulatory requirements, thus entitling the whistleblower to further consideration and transparency in the decision-making process.

Parties

Bobby Lee Rogers, the petitioner, filed a claim for a whistleblower award against the Commissioner of Internal Revenue, the respondent, in the U. S. Tax Court under docket number 17985-19W.

Facts

Bobby Lee Rogers submitted nine claims to the IRS Whistleblower Office (WBO) asserting that certain individuals had conspired to commit "grand theft through conversion" of his mother's assets. The claims were reviewed by a classifier from the IRS Small Business Self-Employed (SBSE) operating division, who recommended rejection because the claims failed to meet threshold criteria outlined in the regulations under I. R. C. sec. 7623. However, the WBO issued a letter purporting to reject the claims on the alternative ground that the IRS decided not to pursue the information provided.

Procedural History

Rogers timely appealed the WBO's determination to the U. S. Tax Court under I. R. C. sec. 7623(b)(4). The Commissioner filed an answer that did not address the monetary thresholds required under I. R. C. sec. 7623(b)(5). Subsequently, the Commissioner filed a motion for summary judgment, arguing that the WBO's determination should be classified as a rejection and did not represent an abuse of discretion. The Tax Court reviewed the case based on the administrative record and the arguments presented.

Issue(s)

Whether the IRS Whistleblower Office abused its discretion by rejecting the whistleblower's claim using a rationale associated with a denial under the regulations?

Whether the monetary thresholds under I. R. C. sec. 7623(b)(5) are jurisdictional requirements?

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Rule(s) of Law

I. R. C. sec. 7623(b) governs whistleblower award determinations and provides for Tax Court review when certain monetary thresholds are met. The regulations under I. R. C. sec. 7623 distinguish between rejections and denials. A rejection relates to the whistleblower's eligibility and the information provided, while a denial relates to or implicates taxpayer information. The monetary thresholds under I. R. C. sec. 7623(b)(5) are not jurisdictional but rather affirmative defenses that the Commissioner must plead and prove.

Holding

The Tax Court held that the WBO abused its discretion by rejecting Rogers' claim using a rationale associated with a denial under the regulations. The court also held that the monetary thresholds under I. R. C. sec. 7623(b)(5) are not jurisdictional but rather affirmative defenses that the Commissioner must plead and prove.

Reasoning

The court's reasoning was based on the regulatory framework for whistleblower award determinations. The WBO's letter to Rogers purported to reject his claim but used a rationale associated with a denial under the regulations, specifically that the IRS decided not to pursue the information provided. The court found this to be inconsistent with the regulations, which require a rejection to be based on the whistleblower's eligibility or the information provided, not on the IRS's decision to pursue or not pursue the information. The court also considered the administrative record, which showed that the SBSE classifier and WBO technician recommended rejection based on the claim's failure to meet threshold criteria, not on the IRS's decision not to pursue. The court concluded that the WBO's determination was an abuse of discretion because it did not follow the regulatory requirements for rejections and denials. The court also addressed the Commissioner's arguments, rejecting the contention that the WBO's determination was based solely on the face of the claim and that the involvement of an IRS operating division precluded judicial review. The court emphasized that the substance of the determination, not the identities of the actors involved, governed the analysis.

Disposition

The court denied the Commissioner's motion for summary judgment and remanded the case to the WBO for further consideration.

Significance/Impact

This case is significant for its clarification of the regulatory framework governing whistleblower award determinations and the distinction between rejections and denials. It emphasizes the importance of the WBO's compliance with the regulations and the whistleblower's right to transparency and candor in the decision-making

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process. The case also reaffirms that the monetary thresholds under I. R. C. sec. 7623(b)(5) are not jurisdictional but rather affirmative defenses, which has implications for the Commissioner's pleading and proof requirements in whistleblower cases. The decision may lead to more careful consideration by the WBO of the grounds for rejecting or denying claims and increased scrutiny of the WBO's decision-making process by the Tax Court.

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