DelPonte v. Commissioner, 158 T. C. No. 7 (2022)

In DelPonte v. Commissioner, the U. S. Tax Court ruled that IRS Chief Counsel retains the authority to concede or settle innocent-spouse relief claims raised as an affirmative defense in deficiency proceedings, not the IRS's Cincinnati Centralized Innocent Spouse Operation (CCISO). This decision clarifies the roles within the IRS regarding innocent-spouse relief when it is first raised in Tax Court, impacting how such claims are processed and potentially resolved.

Parties

Michelle DelPonte, the petitioner, sought innocent-spouse relief in deficiency proceedings against the Commissioner of Internal Revenue, the respondent. DelPonte was the petitioner throughout the litigation in the Tax Court.

Facts

Michelle DelPonte, formerly Michelle Goddard, was married to William Goddard. During their marriage, they filed joint tax returns for the years 1999, 2000, and 2001. Goddard, a lawyer, engaged in tax-avoidance schemes with his business partner David Greenberg, leading to IRS notices of deficiency issued to the couple. DelPonte was unaware of these notices until November 2010. Goddard had filed petitions on her behalf, claiming innocent-spouse relief under I. R. C. § 6015(c), without her knowledge. Upon discovering the litigation, DelPonte hired her own legal representation and ratified the petitions. The IRS's Cincinnati Centralized Innocent Spouse Operation (CCISO) reviewed DelPonte's request for relief and determined she was entitled to it. However, the IRS's Chief Counsel sought further information and did not accept CCISO's determination, prompting DelPonte to move for entry of decision granting her relief.

Procedural History

DelPonte's case began with deficiency notices issued to her and Goddard for the tax years in question. Goddard filed petitions on her behalf, asserting innocent-spouse relief. DelPonte later ratified these petitions. The IRS referred her claim to CCISO, which concluded she was entitled to relief under § 6015(c). Despite this, the IRS Chief Counsel sought additional information and did not adopt CCISO's conclusion. DelPonte then moved for entry of decision in her favor based on CCISO's determination. The Tax Court treated this motion as one for partial summary judgment.

Issue(s)

Whether the IRS Chief Counsel has the authority to concede or settle an innocent-spouse relief claim raised as an affirmative defense in a deficiency proceeding, or whether such authority lies with the Cincinnati Centralized Innocent Spouse Operation (CCISO).

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Rule(s) of Law

The Commissioner of Internal Revenue, through delegation to the Chief Counsel, has the authority to administer and enforce internal revenue laws, including making determinations about innocent-spouse relief under I. R. C. § 6015. The Chief Counsel Notice CC-2009-021 instructs attorneys to request CCISO's determination on innocent-spouse relief claims raised for the first time in deficiency proceedings, but such determinations are advisory, not binding.

Holding

The Tax Court held that the IRS Chief Counsel has the authority to concede or settle innocent-spouse relief claims raised as an affirmative defense in deficiency proceedings, and that CCISO's determinations are not binding on the Chief Counsel.

Reasoning

The court's reasoning centered on the statutory and regulatory framework governing the IRS's authority. The court noted that the Commissioner's broad powers to administer the tax laws are delegated to the Chief Counsel in cases pending before the Tax Court. The court reviewed the history of innocent-spouse relief, noting that such claims have been raised as defenses in deficiency proceedings long before the current administrative processes were established. The court analyzed Chief Counsel Notices and the Internal Revenue Manual (IRM), concluding that while CCISO provides determinations on innocent-spouse relief, these are advisory in nature when the claim is first raised in a deficiency case. The court rejected DelPonte's argument that principles of fairness required CCISO's determinations to be binding, stating that the statutory scheme clearly allocates authority to the Chief Counsel in such litigation contexts. The court also considered and dismissed the possibility that Chief Counsel Notice CC-2009-021 constituted a redelegation of authority to CCISO, as CCISO is not within the Office of the Chief Counsel. The court's decision emphasized the distinction between administrative determinations and litigation decisions, affirming the Chief Counsel's discretion in the latter.

Disposition

The Tax Court denied DelPonte's motion for entry of decision, affirming the Chief Counsel's authority to decide whether to concede or settle her innocent-spouse relief claim.

Significance/Impact

This case clarifies the delineation of authority within the IRS regarding innocent-spouse relief claims raised in deficiency proceedings. It reinforces the Chief Counsel's role in litigation decisions, potentially affecting how taxpayers approach such claims and the procedural steps they must follow. The decision may influence

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future cases where innocent-spouse relief is sought in deficiency proceedings, emphasizing the need for taxpayers to engage with the Chief Counsel directly when such relief is contested. The ruling also highlights the advisory nature of CCISO's role in deficiency cases, which could impact the strategic considerations of both taxpayers and IRS attorneys in handling these claims.

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