Brown v. Commissioner, 158 T. C. No. 9 (2022)

In *Brown v. Commissioner*, the U. S. Tax Court ruled that an Offer-in-Compromise (OIC) submitted during a Collection Due Process (CDP) hearing is not automatically accepted if not rejected within 24 months, as per I. R. C. § 7122(f). The court held that the rejection period ends when the IRS returns the OIC, not when Appeals issues a notice of determination. This decision clarifies the application of the "deemed acceptance" rule in the context of CDP proceedings, ensuring that the IRS can promptly address OICs without being pressured by the 24-month deadline during ongoing CDP cases.

Parties

Michael D. Brown, as the petitioner, sought review of the Commissioner of Internal Revenue's decision to reject his OIC. The Commissioner of Internal Revenue served as the respondent in this case, which was heard in the U. S. Tax Court.

Facts

Michael D. Brown, with a tax liability exceeding $50 million, received a Notice of Federal Tax Lien Filing and his right to a CDP hearing from the IRS on November 9, 2017. He timely requested the hearing and submitted an OIC on April 19, 2018, offering $320,000 to settle his liabilities for the tax years 2009 and 2010. The OIC was forwarded to the IRS's Centralized Offer in Compromise Unit (COIC unit), which determined the offer to be processable. Subsequently, the offer was referred to a collection specialist in the Laguna Niguel branch (Laguna Group). On November 5, 2018, the Laguna Group returned the OIC to Brown, closing the file on his offer due to pending investigations that might affect the liability. Despite Brown's efforts to have the decision overturned during the CDP hearing, the IRS Appeals officer upheld the Laguna Group's decision and closed the case, issuing a notice of determination on August 12, 2020.

Procedural History

Following the IRS's notice of determination on August 12, 2020, Brown timely petitioned the U. S. Tax Court for review. He filed a Motion for Summary Judgment on July 22, 2021, arguing that his OIC should be deemed accepted under I. R. C. § 7122(f). The court heard oral arguments on March 28, 2022, and issued its opinion on June 23, 2022, denying Brown's motion. The court's decision was based on the precedent set in *Brown II* and *Brown III*, where similar arguments were rejected.

Issue(s)

Whether an OIC submitted during a CDP hearing is deemed accepted under I. R. C. § 7122(f) if the IRS does not issue a notice of determination within 24 months of the offer's submission.

Rule(s) of Law

I. R. C. § 7122(f) states that an OIC "shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. " Treasury Regulation § 301. 7122-1(d)(2) clarifies that an OIC is deemed pending only between the date it is accepted for processing and the date it is returned to the taxpayer. Notice 2006-68, § 1. 07, further explains that the 24-month period does not include time spent by the IRS Office of Appeals reviewing a rejected OIC.

Holding

The U. S. Tax Court held that Brown's OIC was not deemed accepted under I. R. C. § 7122(f) because it was returned by the Laguna Group within 24 months of submission, specifically in November 2018. The court emphasized that the rejection period terminates upon the return of the OIC, not upon the issuance of the notice of determination by Appeals.

Reasoning

The court's reasoning was grounded in the plain language of I. R. C. § 7122(f) and the applicable regulations and notices. It relied on previous decisions in *Brown II* and *Brown III*, which established that the 24-month period ends when the COIC unit returns the OIC. The court rejected Brown's argument that the notice of determination by Appeals should be the terminating event, noting that such a rule would conflict with the statutory purpose of ensuring prompt IRS action on OICs. The court also addressed policy concerns, stating that requiring Appeals to issue a notice of determination within 24 months could lead to premature closures of CDP cases, potentially resulting in reversals and remands. Additionally, the court considered the practical implications of Brown's theory, suggesting it could encourage delay tactics by taxpayers.

Disposition

The court denied Brown's Motion for Summary Judgment, upholding the IRS's decision to return his OIC within the 24-month period specified in I. R. C. § 7122(f).

Significance/Impact

The *Brown* decision clarifies the application of the "deemed acceptance" rule under I. R. C. § 7122(f) in the context of CDP proceedings. It reinforces the IRS's ability to manage OICs efficiently without being constrained by the 24-month deadline during ongoing CDP cases. This ruling is significant for practitioners and taxpayers, as it sets a clear precedent that the return of an OIC by the IRS, rather than the issuance of a notice of determination by Appeals, is the critical event for determining whether an OIC is deemed accepted. The decision also underscores the importance of the IRS's administrative procedures in handling OICs and may influence future legislative or regulatory adjustments to the tax collection process.