Whistleblower 769-16W v. Commissioner, 159 T. C. No. 2 (U. S. Tax Court 2022)

In a significant ruling, the U. S. Tax Court affirmed its discretion to remand whistleblower claims to the IRS Whistleblower Office without retaining jurisdiction. The decision, stemming from a joint motion by the parties, allows for further evaluation of the whistleblower's contribution to IRS actions against targeted taxpayers. This ruling clarifies the court's role in whistleblower cases and enhances flexibility in handling such claims.

Parties

Whistleblower 769-16W, as the Petitioner, brought this case against the Commissioner of Internal Revenue, the Respondent. Throughout the litigation, the Petitioner was represented by Jason D. Wright, T. Barry Kingham, and Kaitlyn T. Devenyns, while the Respondent was represented by Jadie T. Woods and Eric R. Skinner.

Facts

The case originated in 2016 and involved the application of Internal Revenue Code section 7623(b), which governs whistleblower awards. In 2019, the Tax Court had previously remanded the case to the Whistleblower Office (WBO) to supplement an incomplete record and address specific questions. Upon remand, the WBO issued a supplemental determination, but the Petitioner remained unsatisfied. Following further proceedings, the parties narrowed their dispute and jointly moved for another remand to evaluate the whistleblower's contribution to ongoing IRS actions against certain targets. This motion requested the court to vacate prior WBO determinations and remand the case without retaining jurisdiction.

Procedural History

The case was initially remanded in 2019 to the WBO for further consideration with the court retaining jurisdiction (Whistleblower 769-16W v. Commissioner, 152 T. C. 172 (2019)). After the WBO's supplemental determination, the case returned to the Tax Court. Following additional pretrial proceedings and conferences, the parties filed a Joint Motion to Remand on August 4, 2022, seeking to vacate prior determinations and remand without jurisdiction. The court granted this motion, vacating the prior determinations and remanding the case to the WBO without retaining jurisdiction.

Issue(s)

Whether the U. S. Tax Court has discretion to remand a whistleblower case to the IRS Whistleblower Office without retaining jurisdiction?

Rule(s) of Law

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The court applied principles of judicial discretion in remanding cases, drawing from precedents like Jacobson v. Commissioner, 148 T. C. 68 (2017), which allowed for voluntary dismissal of whistleblower cases. The court also relied on the Administrative Procedure Act (APA) standards for judicial review of agency actions, as discussed in cases such as Am. Bioscience, Inc. v. Thompson, 269 F. 3d 1077 (D. C. Cir. 2001).

Holding

The U. S. Tax Court held that it has the discretion to remand whistleblower claims to the IRS Whistleblower Office without retaining jurisdiction. The court exercised this discretion and granted the parties' Joint Motion to Remand, vacating prior determinations and remanding the case without jurisdiction.

Reasoning

The court's reasoning focused on the discretion afforded to appellate courts in remanding cases to lower courts or agencies. It distinguished the present case from previous remands under section 7623(b), noting that the joint motion by the parties and the unique circumstances of the case supported remand without jurisdiction. The court cited Jacobson v. Commissioner for its discretion to permit voluntary dismissals, and highlighted the norm of vacating agency action deemed arbitrary and capricious, followed by remand without retaining jurisdiction, as seen in cases like Burlington Resources, Inc. v. FERC, 513 F. 3d 242 (D. C. Cir. 2008). The court also noted that retaining jurisdiction is not necessary when the timeline for IRS actions is uncertain and not under the control of the WBO, and when there is no history of agency noncompliance or resistance to legal duties. The court emphasized that section 7623(b) does not limit whistleblowers to one proceeding before the WBO, thus supporting the decision to remand without jurisdiction.

Disposition

The U. S. Tax Court granted the parties' Joint Motion to Remand, vacating the prior determinations of the Whistleblower Office and remanding the case without retaining jurisdiction.

Significance/Impact

This decision clarifies the Tax Court's discretion in managing whistleblower cases, particularly in remanding claims to the IRS Whistleblower Office without retaining jurisdiction. It provides flexibility in handling whistleblower claims, allowing for more thorough evaluation by the WBO of the whistleblower's contribution to ongoing IRS actions. The ruling may influence future whistleblower cases by setting a precedent for remands without jurisdiction when circumstances warrant, potentially affecting the procedural approach to whistleblower litigation and the efficiency of the IRS in evaluating claims.

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