Tooke v. Commissioner, 164 T. C. No. 2 (2025)

In Tooke v. Commissioner, the U. S. Tax Court upheld the constitutionality of the IRS Independent Office of Appeals, rejecting arguments that its officers' appointments violated the Appointments Clause and that the Chief's removal restrictions infringed on separation of powers. The court found that Appeals Officers and Team Managers are not "Officers of the United States," and thus do not require formal appointment under the Constitution. This ruling clarifies the status of administrative adjudicators and supports the IRS's current structure for handling collection due process hearings.

Parties

Charlton C. Tooke III (Petitioner) v. Commissioner of Internal Revenue (Respondent). The case was filed in the U. S. Tax Court, Docket No. 398-21L.

Facts

Charlton C. Tooke III filed federal income tax returns for the years 2012 through 2017 but did not pay the assessed taxes. The IRS issued a Notice of Federal Tax Lien Filing and a Final Notice of Intent to Levy. Tooke requested a Collection Due Process (CDP) hearing with the IRS Independent Office of Appeals (Appeals). During the hearing, Tooke raised constitutional arguments concerning the separation of powers, specifically the Appointments Clause and removal power of Appeals Officers, Appeals Team Managers, and the Chief of Appeals. The Appeals Officer rejected these arguments, and the Appeals Team Manager issued a Notice of Determination sustaining the tax lien and proposed levy action. Tooke subsequently filed a petition in the U. S. Tax Court challenging the constitutionality of the Appeals process.

Procedural History

Tooke timely filed a petition in the U. S. Tax Court challenging the Notice of Determination issued by the IRS Independent Office of Appeals. He filed two motions: an Appointments Clause Motion asserting that the Appeals Officers, Appeals Team Managers, and the Chief of Appeals were unconstitutionally appointed, and a Separation of Powers Motion asserting that the Chief's removal restrictions violated constitutional principles. The Tax Court considered these motions under the standard of review applicable to summary judgment.

Issue(s)

Whether Appeals Officers and Appeals Team Managers are "Officers of the United States" under the Appointments Clause, requiring formal appointment? Whether Tooke has standing to challenge the appointment and removal of the Chief of Appeals?

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Rule(s) of Law

The Appointments Clause of the U. S. Constitution, Article II, Section 2, Clause 2, requires that all "Officers of the United States" be appointed by the President with the advice and consent of the Senate, or by Congress vesting the appointment of inferior officers in the President alone, the courts of law, or the heads of departments. "Officers of the United States" are those who hold a continuing position, exercise significant authority pursuant to the laws of the United States, and are established by law.

Holding

The U. S. Tax Court held that Appeals Officers and Appeals Team Managers are not "Officers of the United States" and thus do not need to be appointed under the mandates of the Appointments Clause. The court also held that Tooke lacked standing to challenge the appointment and removal of the Chief of Appeals.

Reasoning

The court reasoned that Appeals Officers and Appeals Team Managers do not wield significant authority as defined by Supreme Court precedents in cases like Buckley v. Valeo, Freytag v. Commissioner, and Lucia v. SEC. Appeals Officers lack the power to take testimony, issue subpoenas, or enforce compliance with discovery orders, powers that are characteristic of officers. Their decisions are subject to review by Appeals Team Managers and the Commissioner, further diminishing their authority. The court also found that the positions of Appeals Officers and Team Managers are not "established by Law" as required by the Appointments Clause, citing the diffuse statutory language in sections 6320 and 6330 of the Internal Revenue Code. Regarding standing, the court determined that Tooke's injury was not traceable to the Chief of Appeals, who did not participate in Tooke's CDP hearing, and thus Tooke lacked standing to challenge the Chief's appointment and removal. The court rejected Tooke's "root-to-branch" theory of causation, which argued that the Chief's unconstitutional appointment tainted the entire Appeals process.

Disposition

The court denied Tooke's Appointments Clause Motion as to the Chief of Appeals and his Separation of Powers Motion. The court also denied Tooke's Appointments Clause Motion as to Appeals Officers and Appeals Team Managers, finding that they are not "Officers of the United States. "

Significance/Impact

The decision in Tooke v. Commissioner affirms the constitutionality of the IRS Independent Office of Appeals' current structure and operations. It clarifies that Appeals Officers and Team Managers do not require formal appointment under the

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Appointments Clause, upholding the IRS's authority to conduct CDP hearings without constitutional challenge. The ruling also sets a precedent for standing requirements in challenges to the appointment and removal of high-level administrative officials who do not directly participate in a taxpayer's case. This case may influence future challenges to the constitutionality of administrative adjudicators and the separation of powers doctrine in tax administration.

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