UNITED STATES TAX COURT

John W. Schroeder, Jr. v. Commissioner of Internal Revenue

84 T.C.M. (CCH) 141 (2002) · No. 8820-01L · Decided August 5, 2002

SUMMARY

The United States Tax Court granted the Commissioner’s motion for summary judgment in a collection due process proceeding involving the petitioner’s unpaid 1992 federal income tax liability. The court held that the Appeals officer satisfied the verification requirements under section 6330 and that the petitioner could not validly challenge the underlying liability or notice-and-demand procedures. The court also imposed a $1,000 penalty under section 6673(a)(1) because the proceeding was primarily for delay and rested on frivolous arguments.

CASE DETAILS

COURT	United States Tax Court
WRITING FOR THE COURT	Robert N. Armen, Jr., Special Trial Judge
JURISDICTION	USA
DECIDED	August 5, 2002
DOCKET	8820-01L
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought judicial review under section 6330(d) of the Commissioner's notice of determination sustaining collection by levy of petitioner's 1992 federal tax liability. The Commissioner moved for summary judgment under Tax Court Rule 121.
STANDARD OF REVIEW	Summary judgment is appropriate when the pleadings, discovery materials, admissions, affidavits, and other acceptable materials show no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. In reviewing a section 6330 determination, the Tax Court reviews whether the Appeals Office complied with applicable legal requirements and satisfied the verification requirement of section 6330(c)(1).
PRECEDENTIAL VALUE	Unpublished memorandum opinion; limited precedential value under applicable Tax Court practice.
PARTIES	John W. Schroeder, Jr. v. Commissioner of Internal Revenue

TOPICS

tax collection · tax court procedure · tax deficiency · summary judgment · tax penalties

PRACTICE AREAS

Federal income tax · Tax collection · Tax Court procedure · Civil procedure · Tax penalties

QUESTIONS PRESENTED

1. Whether summary judgment was proper because there was no genuine dispute of material fact concerning the collection of petitioner's 1992 tax liability.
2. Whether section 6330(c)(2)(B) barred petitioner from contesting the existence or amount of his underlying tax liability because he received a notice of deficiency and had an earlier opportunity to challenge it.
3. Whether the Appeals officer satisfied the verification requirement of section 6330(c)(1) by reviewing a TXMODA transcript of petitioner's account.
4. Whether the record established that the Commissioner issued the required notice and demand for payment under section 6303(a).
5. Whether petitioner should be assessed a penalty under section 6673(a)(1) for maintaining a proceeding primarily for delay and advancing frivolous or groundless arguments.

HOLDINGS

1. Summary judgment was proper because there was no genuine issue as to any material fact and the Commissioner was entitled to judgment as a matter of law.
2. Because petitioner received a notice of deficiency and had an earlier opportunity to challenge his 1992 liability, section 6330(c)(2)(B) barred him from contesting the existence or amount of that liability in the collection review proceeding.
3. Petitioner's arguments that wages and other income earned by a United States citizen are not subject to federal income tax were frivolous and groundless.
4. The Appeals officer satisfied section 6330(c)(1)'s verification requirement by obtaining and reviewing the TXMODA transcript of petitioner's account.
5. The record established that the Commissioner issued petitioner a notice and demand for payment as required by section 6303(a).
6. The Court imposed a $1,000 penalty on its own motion because petitioner instituted and maintained the proceeding primarily for delay and advanced frivolous and groundless positions.

KEY QUOTATIONS

> *“We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit.”* (206)

FACTUAL BACKGROUND

Petitioner failed to file a 1992 federal income tax return despite receiving wage income, nonemployee compensation, and unemployment compensation. The Commissioner issued a notice of deficiency, which was not returned undelivered, but petitioner did not seek redetermination; the resulting liability was assessed and notice and demand for payment were issued. After petitioner requested a collection due process hearing concerning the limitations period and other tax-law arguments, the Appeals officer reviewed a TXMODA transcript and determined that the applicable requirements had been satisfied. Petitioner did not respond to two attempts to schedule the hearing.

PROCEDURAL HISTORY

The Commissioner issued a 1994 notice of deficiency for petitioner's 1992 income tax, additions to tax, and interest. Petitioner did not petition for redetermination, and the liabilities were assessed in 1995. After receiving a final notice of intent to levy, petitioner requested a collection due process hearing, did not respond to attempts to schedule the hearing, and then petitioned the Tax Court after the Appeals Office sustained collection. The Tax Court granted the Commissioner's motion for summary judgment and imposed a $1,000 penalty under section 6673(a)(1).

DISPOSITION

other

CASES CITED

- Fla. Peach Corp. v. Commissioner, 90 T.C. 678, 681 (1988)
- Sundstrand Corp. v. Commissioner, 98 T.C. 518, 520 (1992), aff'd, 17 F.3d 965 (7th Cir. 1994)
- Zaentz v. Commissioner, 90 T.C. 753, 754 (1988)
- Naftel v. Commissioner, 85 T.C. 527, 529 (1985)
- Dahlstrom v. Commissioner, 85 T.C. 812, 821 (1985)
- Jacklin v. Commissioner, 79 T.C. 340, 344 (1982)
- Davis v. Commissioner, 115 T.C. 35, 37 (2000)
- Goza v. Commissioner, 114 T.C. 176, 179 (2000)
- Sego v. Commissioner, 114 T.C. 604, 609 (2000)
- Crain v. Commissioner, 737 F.2d 1417, 1417 (5th Cir. 1984)
- United States v. Romero, 640 F.2d 1014, 1016 (9th Cir. 1981)
- Madge v. Commissioner, T.C. Memo 2000-370, aff'd, 23 Fed. Appx. 604 (8th Cir. 2001)
- Corcoran v. Commissioner, T.C. Memo 2002-18
- Roberts v. Commissioner, 118 T.C. 365, 371 (2002)
- Weishan v. Commissioner, T.C. Memo 2002-88
- Lindsey v. Commissioner, T.C. Memo 2002-87
- Tolotti v. Commissioner, T.C. Memo 2002-86

- Duffield v. Commissioner, T.C. Memo 2002-53
- Kuglin v. Commissioner, T.C. Memo 2002-51
- Davis v. Commissioner, 115 T.C. 35, 41 (2000)
- Mann v. Commissioner, T.C. Memo 2002-48
- Nicklaus v. Commissioner, 117 T.C. 117, 120-121 (2001)
- Hughes v. United States, 953 F.2d 531, 536 (9th Cir. 1992)
- Hansen v. United States, 7 F.3d 137, 138 (9th Cir. 1993)
- Pierson v. Commissioner, 115 T.C. 576, 580-581 (2000)
- Williams v. Commissioner, T.C. Memo 2002-111
- Roberts v. Commissioner, 118 T.C. No. 23 (2002)
- Perry v. Commissioner, T.C. Memo 2002-165
- Crow v. Commissioner, T.C. Memo 2002-149
- Smeton v. Commissioner, T.C. Memo 2002-140
- Newman v. Commissioner, T.C. Memo 2002-135
- Yacksyzn v. Commissioner, T.C. Memo 2002-99
- Watson v. Commissioner, T.C. Memo 2001-213
- Davis v. Commissioner, T.C. Memo 2001-87

Retrieved from lawtools.ai · https://lawtools.ai/cases/state/usa-united-states-tax-court/2002/john-w-schroeder-jr-v-commissioner-of-internal-revenue-ix3sgfz4