

Overpayment was outside the “look-back” period, and refund claim was thus time barred

U.S. Court of Federal Claims recently held that although the taxpayer overpaid her 2002 tax liability, her claim for credit of that overpayment was time barred under Internal Revenue Code (“IRC”) Section 6511. *Doyle v. U.S.*, No. 09-6 (August 6, 2009).

Background

In this case, Cynthia Doyle, an individual taxpayer (“taxpayer”), received a letter from the Internal Revenue Service (“IRS”) on October 23, 2006, notifying her that the IRS had no record of her 2002 federal income tax return (“return”). The taxpayer claimed that she timely filed her 2002 return and sent a copy of the 2002 return that showed an overpayment of \$12,785.02 to the IRS. That copy was signed by her on October 23, 2006, and received by the IRS on October 30, 2006.

When the taxpayer requested that the 2002 overpayment be applied to outstanding tax liabilities in subsequent tax years, the IRS informed her that the 2002 overpayment could not be applied to subsequent tax years because any claim for credits or offsets based on that overpayment was time barred.

The issue before the Court was whether the taxpayer’s claim for refund was timely. The Court cited *United States v. Dalm*, 494 U.S. 596 (1990), which held that a refund claim must be filed within the time limits imposed by IRC Section 6511(a) in order for a claim for refund to be maintained in any court. As such, the Court first had to determine when the 2002 return was considered filed.

Physical delivery requirement

The taxpayer contended that she had timely filed her 2002 return prior to its due date of April 15, 2003. The IRS, however, argued that the 2002 return was filed on October 30, 2006, the date on which it was received by the IRS. The “general rule is a claim for refund must be physically delivered to and received by the IRS.” *Davis v. United States*, 85 A.F.T.R.2d 1029 (Fed. Cir. 2000). Section 7502(c) provides an exception to the physical delivery rule for documents sent via registered or certified mail and for electronic filings. However, these exceptions did not apply in this case because the return was not sent by certified or registered mail.

There is a split in the federal circuits as to whether Section 7502 creates the only exceptions to the physical delivery rule or whether a taxpayer may introduce parole evidence as proof of filing. The Court stated, citing *Davis v. United States*, that “a taxpayer’s own uncorroborated testimony to show timely mailing is not enough to establish a presumption of delivery under any view of the law.” In the instant case, the Court did not need to choose between the approaches that divide the circuits because the taxpayer could not establish a presumption of delivery even if given the benefit of the more liberal approach. The taxpayer, in this case, did not have any corroborative evidence, such as proof of mailing or other evidence to support her timely filing.

Statute of limitations for refunds

The Court next addressed whether the refund claim filed by the taxpayer on October 30, 2006, was considered timely. IRC Section 6511(a) states that a claim for refund must be filed “within 3 years from the time return was filed or 2 years from the time tax was paid,” whichever is later. The taxpayer’s claim for refund was filed on the 2006 return itself and, as such, was timely filed. However, Section 6511(b) limits the refund to “the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return,” commonly referred to as the “look-back period.” As such, the taxpayer’s refund was limited to payments made between April 30, 2003, and October 30, 2006.

Conclusion

IRC Section 6513 provides that payments made by the taxpayer prior to the due date of the return are deemed paid on the due date of the return. Thus, the payments made by the taxpayer for the 2002 tax year were considered paid on April 15, 2003, the due date of her 2002 return. The Court concluded that the overpayments were outside the look-back period and the taxpayer’s claim for refund was time barred.

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