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D.C. Circuit: Taxpayer lawsuit challenging voluntary disclosure program barred

The U.S. Court of Appeals for the District of Columbia Circuit today upheld a federal district court dismissal of an action filed by taxpayers who challenged the IRS's decision not to allow them to enroll in a new IRS disclosure program.

The D.C. Circuit concluded that the Anti-Injunction Act bars this lawsuit because this judicial action would have the effect of stopping the IRS from collecting accuracy-related penalties for which the taxpayers are currently liable under a voluntary disclosure program.

The case is: *Maze v. IRS*, No. 16-5265 (D.C. Circuit July 14, 2017). Read the D.C. Circuit's [decision](#) [PDF 110 KB]

Summary

The taxpayers failed to report and pay tax on foreign income. To be relieved of liability for their past non-compliance on reporting and paying taxes with respect to undisclosed foreign income or assets, the taxpayers in 2012 enrolled in the IRS "offshore voluntary disclosure program" (2012 OVDP).

The 2012 OVDP enabled the taxpayers to settle most potential penalties for which they would be liable by means of a lump-sum compromise equal to 27.5% of the aggregate value of the foreign assets, provided that certain payment and filing requirements were satisfied (for instance, the taxpayers would have to pay eight years' worth of accuracy-related penalties).

In 2014, the IRS launched an expanded "streamlined procedures" program that offered fewer benefits to noncompliant taxpayers, but it also had fewer compliance requirements. For instance, the streamlined procedures did not require the payment of any accuracy-related penalties.

The IRS provided “transition rules” to allow taxpayers currently participating in the OVDP and who satisfied the eligibility requirements for the expanded streamlined procedures program to remain in the OVDP but to take advantage of the favorable penalty structure. However, the transition rules left in place the requirement to pay eight years of accuracy-related penalties.

The taxpayers tried to withdraw from the 2012 OVDP and apply for the streamlined procedures, but the IRS denied their requests and directed them to apply for treatment under the transition rules.

Instead, the taxpayers filed suit in federal district court, seeking among other relief, an injunction allowing them to transfer from one IRS voluntary program to another. The federal district court dismissed their complaint, asserting that it lacked jurisdiction under the Anti-Injunction Act (AIA) provisions of section 7421.

On appeal, the D.C. Circuit affirmed the dismissal. The appeals court explained that as participants in the 2012 OVDP, the taxpayers were required to pay eight years’ worth of accuracy-related penalties and that these penalties were to be treated as taxes under the AIA. Thus, any lawsuit that seeks to restrain their assessment and collection was barred.

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