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"Eighth Circuit Reverses Tax Court in Coffey Case"

Quote by Pete Lowy about Eighth Circuit reversing a Tax Court Decision

Tax Notes

December 16, 2020

Pete Lowy, Co-Chair of our State and Local Taxes practice, discussed with *Tax Notes* whether the Eighth Circuit's reversal of a 2018 Tax Court decision concerning the filing obligations of alleged U.S. Virgin Islands residents applies to other circuits and those taxpayers with distinguishable situations.

In its December 15 decision in *Coffey v. Commissioner*, the Eighth Circuit reversed a 2018 ruling in favor of the taxpayers' motion for summary judgment and remanded the case to the Tax Court for further proceedings. The case concerns whether Judith and James Coffey satisfied the return filing condition of section 6501, which suspends the normal three-year time limit for an IRS assessment in the case of taxpayers who fail to file a return. Claiming that Judith Coffey was a bona fide resident of the Virgin Islands during the relevant period, the couple only filed returns with the Virgin Islands Bureau of Internal Revenue (VIBIR) in 2003 and 2004.

While the outcome is not surprising in light of the Eighth Circuit panel's emphasis on Heckman during oral argument, the denial of relief to taxpayers acting in good faith is disappointing, according to Peter Lowy of Chamberlain Hrdlicka. "Taxpayers are required to make a judgment about whether they are a resident of the U.S.V.I. or not, and that judgment affects the place of filing. The court could have left open on summary judgment that if at trial the taxpayer proves a good-faith belief, then the statute started upon filing with the [VIBIR]," Lowy said. "But at least in the Eighth Circuit, the Coffey decision seems to foreclose this possibility."

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