United States Tax Court

T.C. Memo. 2026-81

IVAN MERIDA ORTIZ,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 13093-25. Filed September 3, 2026.

Ivan Merida Ortiz, pro se.

Joseph L. Damele and *Christopher S. Kippes*, for respondent.

MEMORANDUM OPINION

GUIDER, *Judge*: Pursuant to section 6213(a),[1] petitioner, Ivan Merida Ortiz, seeks redetermination of the deficiency related to tax year 2021. Respondent issued a Statutory Notice of Deficiency (SNOD) on July 24, 2025, reflecting a deficiency of $1,400. This deficiency resulted from respondent's disallowance of a claimed 2021 economic recovery rebate credit under section 6428B. Before the Court is respondent's Motion for Judgment on the Pleadings, in which respondent argues that petitioner's use of an individual taxpayer identification number (ITIN) on his 2021 return made him ineligible to receive the credit. We agree and will grant the Motion.

[1] Unless otherwise indicated, statutory references are to the Internal Revenue Code, Title 26 U.S.C., in effect at all relevant times, regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and Rule references are to the Tax Court Rules of Practice and Procedure.

Served 09/03/26

[*2] *Background*

The following facts are derived from the pleadings and Motion papers. They are stated solely for the purposes of ruling on the Motion before us and not as findings of fact in this case. *See Rowen v. Commissioner*, 156 T.C. 101, 103 (2021).

At some point before 2021, petitioner obtained an ITIN from the Internal Revenue Service (IRS). When petitioner filed his income tax return for taxable year 2021, he included this ITIN on his return. Petitioner claimed a 2021 economic recovery rebate credit of $1,400 under section 6428B.

The IRS disallowed the claimed credit on the ground that petitioner failed to provide a valid identification number under section 6428B.

Petitioner timely filed his Petition disputing the SNOD and claiming entitlement to a 2020 recovery rebate credit that he did not receive. The core dispute in this case concerns petitioner's eligibility to receive a 2021 economic recovery rebate credit equal to $1,400. This matter is before the Court on respondent's Motion for Judgment on the Pleadings under Rule 120(a).

Discussion

I. *Judgment on the Pleadings Standard*

Rule 120(a) permits a party, "[a]fter the pleadings are closed but within such time as not to delay the trial," to move for judgment on the pleadings. Such a motion must be based "solely on the allegations and information contained in the pleadings and not on any outside matters." *Nis Fam. Tr. v. Commissioner*, 115 T.C. 523, 537 (2000). The movant "must show that the pleadings do not raise a genuine issue of material fact and that he is entitled to a judgment as a matter of law." *Id.* (citing *Abrams v. Commissioner*, 82 T.C. 403, 408 (1984)).

II. *Operation of Section 6428B*

On March 11, 2021, Congress passed the American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 9601(a), 135 Stat. 4, 138 (codified at § 6428B), which created a 2021 economic recovery rebate credit for the first taxable year of a taxpayer that begins in 2021. The amount of the credit is $1,400, or $2,800 for a joint return (section 6428B(b)(1)

[*3] amount), plus an additional $1,400 for each of the taxpayer's dependents. § 6428B(b). However, there are limitations on the credit, including limitations based on the taxpayer's gross income and whether the taxpayer is an eligible individual. *See* § 6428B(c) and (d).

The limitation at issue is found in section 6428B(e)(2)(A), which provides that "[i]n the case of a return other than a joint return, the [section 6428B(b)(1) amount] shall be treated as being zero unless the taxpayer includes the valid identification number of the taxpayer on the return of tax for the taxable year." A valid identification number is defined as "a social security number issued to an individual by the Social Security Administration on or before the due date for filing the return for the taxable year." § 6428B(e)(2)(D)(i).

III. *Application to Petitioner*

"The law is well settled that tax deductions and credits are matters of legislative grace," and the taxpayer bears the burden of proving his or her entitlement to them. *Rickard v. Commissioner*, 88 T.C. 188, 196 (1987) (citing *Deputy v. du Pont*, 308 U.S. 488, 493 (1940)); *see also* Rule 142(a).

Petitioner asserts that he is entitled to the 2021 economic recovery rebate credit because he provided a "taxpayer identification number" on his return, thereby meeting the valid identification number requirement. Petitioner fails to recognize the difference between a valid identification number, which is required by the statute, and the ITIN that he provided. An ITIN is "a taxpayer identifying number issued to an alien individual by the Internal Revenue Service, upon application, for use in connection with filing requirements under [title 26]." Treas. Reg. § 301.6109-1(d)(3)(i). The regulations also specify that "the term IRS individual taxpayer identification number *does not* refer to a social security number." *Id.* (emphasis added). A person who has or is entitled to a Social Security number "will not be issued an IRS individual taxpayer identification number." *Id.* subpara. (4).

Section 6428B is clear that if the taxpayer does not provide a valid identification number on his or her return, then the $1,400 section 6428B(b)(1) amount is treated as being zero. § 6428B(e)(2)(A). The statute is also clear that a valid identification number is a Social Security number. § 6428B(e)(2)(D)(i). An ITIN is not a Social Security number, so it is not a valid identification number. Petitioner would never have been issued his ITIN if he had, or was entitled to, a Social

[*4] Security number. *See* Treas. Reg. § 301.6109-1(d)(4). Petitioner's inclusion of an ITIN shows that he did not have a valid identification number. Consequently, petitioner is not entitled to a 2021 economic recovery rebate credit.

IV. *Petitioner's Request for Consideration of 2020 Taxable Year*

Petitioner also requests that this Court "release [the] economic impact payment for [the] year 2020" that he did not receive. This claim arises from petitioner's alleged claiming of credits under sections 6428 and 6428A for the 2020 taxable year. The 2020 taxable year was not included in respondent's SNOD, so we lack jurisdiction to consider this claim.

The Tax Court is a court of limited jurisdiction. We may therefore exercise jurisdiction only to the extent expressly provided by statute. *Williams v. Commissioner*, 131 T.C. 54, 55 (2008) (citing *Breman v. Commissioner*, 66 T.C. 61, 66 (1976)). The Court has deficiency jurisdiction only over taxable years included in the Notice of Deficiency. *See id.*; *Hillenbrand v. Commissioner*, T.C. Memo. 2002-303, 2002 WL 31779972, at *4. "[W]e also have jurisdiction to determine the amount of an overpayment of tax in limited circumstances." *Menard, Inc. v. Commissioner*, 130 T.C. 54, 59–60 (2008) (footnote omitted), *supplementing* T.C. Memo. 2004-207 *and* T.C. Memo. 2005-3; *see also* § 6512(b). However, this overpayment jurisdiction "is limited to the same taxable year or years for which the Commissioner has issued a notice of deficiency and with regard to which the taxpayer has timely filed a petition for redetermination of the deficiency." *Menard, Inc.*, 130 T.C. at 60.

The SNOD which forms the basis of this case relates only to taxable year 2021—not 2020. We therefore lack jurisdiction over the Petition to the extent that it seeks relief pertaining to taxable year 2020.

V. *Conclusion*

Petitioner was not entitled to the 2021 economic recovery rebate credit because he did not include a valid identification number with his return. The ITIN petitioner provided was not a valid identification number for purposes of section 6428B. The very fact that petitioner possesses an ITIN confirms that he could not have been issued a valid identification number (i.e., a Social Security number). *See* Treas. Reg. § 301.6109-1(d)(4).

[*5] We have considered all arguments made and, to the extent not addressed above, conclude that they are moot, irrelevant, or without merit.

To reflect the foregoing,

Decision will be entered for respondent.