'Standing' Up for Refunds for Deceased Taxpayers

A recent court ruling details missteps in a claim to recover an income tax overpayment.

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A recent District Court ruling found that the decedent's two nephews (who were acting as her certified public accountant and fiduciary) had no standing to sue for a refund of income taxes the decedent had overpaid.

Required Rules and Procedures

According to its own published data, the Internal Revenue Service processed over 600 million refunds in fiscal year 2021, amounting to more than $1.1 trillion being sent out to taxpayers across the county and around the world.

As nothing is perfect, including an underfunded bureaucratic entity such as the IRS, it should be no surprise that a taxpayer's return could go missing or a refund might not be sent out in a timely manner. To preserve the rights of individual taxpayers, Congress and the federal court system have developed rules and procedures to ensure the due process rights of taxpayers claiming an overpayment of income tax to the IRS. Whether convenient or inconvenient, these rules must be followed to ensure the proper administration of the tax laws in force.

In the recent District Court case, these rules and procedures were put to the test. Here's what happened:

***Huberty* and Humility**

In *Matthew J. Huberty, et. al. v. IRS,* No. 222CV827KJMKJNPS, 2023 WL 36164 (E.D. Cal. Jan. 4, 2023), Matthew and Robert Huberty sought to obtain a judgment against the IRS to recover $2,102 in taxes overpaid by their deceased aunt, Barbara Huberty, related to her 2018 income taxes.

The facts of the case are simple. Acting as a certified public accountant, Matthew filed for an automatic extension of time to file Barbara's 2018 income tax return on April 3, 2019. Robert was appointed as the fiduciary of Barbara's estate on May 3, 2019. Matthew prepared and filed the 2018 income tax return on Oct. 3, 2019. At a time not alleged in the court pleadings, Robert filed a Form 1310, "Statement of Person Claiming Refund Due a Deceased Taxpayer," requesting a $2,102 refund on behalf of Barbara's estate. After nearly three years of going back and forth with the IRS to obtain the refund, Matthew and Robert filed a pro se civil complaint against the IRS on May 13, 2022 (the Complaint). While the Complaint referred to "Huberty & Huberty" as plaintiffs, only Matthew signed it. In response to the Complaint, the IRS alleged that Matthew is the sole plaintiff to the action as he was the only one who signed the Complaint. Arguing that Matthew lacked standing to bring the suit, the IRS moved for the case to be dismissed. Matthew and Robert filed an opposition to the motion and amended their Complaint to include signatures by both Matthew and Robert. The IRS argued that even if Robert had standing, he couldn't bring a suit on behalf of the estate without an attorney representing him. At a hearing, the court confirmed that Robert is the appointed executor of Barbara's estate, and that both he and Matthew are beneficiaries of Barbara's estate.

The central issue in the case: do Matthew and/or Robert have standing to bring a suit for a refund against the IRS on behalf of Barbara, the taxpayer?

Establishing Standing

Federal law permits litigants to bring civil actions against the United States for the recovery of wrongfully assessed or collected internal revenue taxes (see 26 USC Section 1346(a)(1) and 26 USC Section 7422(a)). Such actions are permitted if the refund claim was timely filed within either three years of the return filing or two years of the overpayment, whichever is last to occur (see 26 USC Section 6511(a) and 26 USC Section 7422(a)).

As part of any civil action brought against the IRS, the litigant is required to establish standing. Generally, standing in a suit to obtain a refund is limited to "the person who made the overpayment" (see 26 USC Section 6402(a)). In circumstances in which a taxpayer is deceased, a refund claim may be brought by an appointed representative of the estate of such taxpayer. However, contradictory to 28 USC Section 1654, which permits litigants to bring a claim against the government pro se without attorney representation, a fiduciary of an estate isn't entitled to represent the estate pro se if there are other beneficiaries or creditors of the estate. This is because courts have routinely adhered to the general rule prohibiting pro se plaintiffs from pursuing claims on behalf of others in a representative capacity (see *Moore v. Natl. City Mortg, Co.*, 2010 WL 2176456 (D. Haw. May 25, 2010), *citing Simon v. Harford Life, Inc.*, 546 F.3d 661, 664 (9th Cir. 2008)). Without appropriate standing, the court is required to dismiss the action for lack of subject matter jurisdiction.

Although Matthew prepared Barbara's income tax return and is a beneficiary of her estate, the court held that he had no standing to pursue a claim. There are no facts to suggest that Matthew was the individual who made the overpayment. Additionally, once a court appoints a personal representative for the estate of the decedent, the personal representative is the correct party to make a claim for the refund. The court held that Matthew had no standing to continue in this matter.

While Robert should have signed the Complaint before it was filed, the court gave leave to amend the Complaint, citing that pro se litigants don't lose their right to proceed in litigation based on the ignorance of technical procedural requirements. Robert, as appointed fiduciary, was the correct individual to bring a suit against the IRS for any overpayment. However, as Robert isn't the only beneficiary of Barbara's estate, the court held that it would be improper for Robert to bring a suit without being represented by an attorney pursuant to legal precedent. Until such time as he retained legal counsel, Robert wouldn't have sufficient standing to bring the case before the court.

Key Takeaways

As the IRS is further burdened by Congress with additional responsibilities without appropriate funding, it's certainly foreseeable that claims for refunds through administrative channels within the agency may become futile. To get the attention of the IRS to issue a refund, more and more individuals may have no choice but to turn to the federal courts to enforce their rights. If enough time passes and the IRS doesn't issue a refund on the filing of a tax return, for example, taxpayers and their representatives, beneficiaries and creditors may forego real money, as there are statutory time limits in place to bring such a suit. To preserve the right to receive a refund, great care must be taken by those interested in petitioning the federal courts to secure such a refund.