United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

August 15, 2006

Before

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. DANIEL A. MANION, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Nos. 05-1424 & 05-1435

David and Lynette Kindred,
Petitioners-Appellants,

v.

Commissioner of Internal Revenue ,
Respondent-Appellee.

Appeals from an Order of the United States Tax Court.
Nos. 5658-04L & 5860-04L

O R D E R

The slip opinion issued in the above-entitled cause on July 20, 2006, is amended as follows:

Page 1: The sentence: "They failed to do so, and the tax was assessed as due in owing on December 16, 2002."; is hereby amended to read as follows:

"They failed to do so, and the tax was assessed as due and owing on December 16, 2002."

Page 3: The first word in the first line: "Kindreds" is hereby amended to read as follows: "Kindreds'."

Page 3, footnote 3: the date "May 9, 1999" is hereby amended to read as follows: "May 9, 2002."

Page 4: The last clause of the first sentence which reads: "...the tax was statutorily assessed as due in owing." is hereby amended to read as follows: "...the tax was statutorily assessed as due and owing."

Page 4: The last clause of the last sentence which reads: “the IRS would seek a federal tax lien against their assets.” is hereby amended to read as follows: “the IRS would file a notice of federal tax lien against their assets.”

Page 5: The first clause of the first sentence of the second full paragraph (line 16) which reads: “After receiving the required statutory notice of the filing of a levy...” is hereby amended to read as follows: “After receiving the required statutory notice of the filing of a tax lien...”

Page 6: The fifth line which reads: “they argued that instead of being subject to a levy, they” is hereby amended to read as follows: “they argued that instead of being subject to a lien, they...”

Page 7: The last sentence of the first full paragraph which reads: “Accordingly, the levies were sustained.” is hereby amended to read as follows: “Accordingly, the liens were sustained...”

Page 8: The ninth line which reads: “his discretion in sustaining the respective levies, that the” is hereby amended as follows: “his discretion in sustaining the lien, that the...”

Page 11: The seventh line which reads: “upholding the levy imposed on the petitioners, then” is hereby amended as follows: “upholding the lien imposed on the petitioners, then...”

Page 11: The second line of the first full paragraph which reads: “tary of the Treasury to levy against ‘any person liable” is hereby amended as follows: “tary of the Treasury to file a lien against ‘any person liable...”

Page 12: The second line which reads: “was procedurally required prior to an IRS lien attaching to” is hereby amended as follows: “was procedurally required prior to the IRS (following the filing of a lien) levying against...”

Page 12: The eighth line which reads: “their property prior to the lien attaching, as long as the” is hereby amended as follows: “their property, as long as the...”

Page 13: The third and fourth lines which reads: “appropriate collection device, before that lien actually attaches. In particular, IRS § 6330(c)(2)(A) authorizes the” is hereby amended as follows: “appropriate collection device. In particular, IRS § 6330(c)(2)(A) authorizes the...”

Page 13: The last line which reads: “faced with an IRS levy the right to proffer collection” is hereby amended as follows: “faced with an IRS tax lien or levy the right to proffer collection...”

Page 16: The fourth line of the second paragraph which reads: "issued a determination that day sustaining the levy and" is hereby amended as follows: "issued a determination that day sustaining the lien and..."

Page 16: The eleventh line of the second paragraph which reads: "13, 2004 a determination sustaining the levy was issued." is hereby amended as follows: "13, 2004 a determination sustaining the lien filing was issued."

Page 19: The citation at the end of the first full paragraph which reads: "*Id.* at 6015-5(b)." is hereby amended as follows: "*Id.* at 1.6015-5(b)."

Page 20: The Treasury Regulation citation in line 10 which reads: "*see also* Treas. Reg. § 6330-1(f)(2)" is hereby amended as follows: *see also* Treas. Reg. § 301.6330-1(f)(2)..."

Page 21: The Treasury Regulation citation in footnote 25 which reads: "Treas. Reg. 301.6330-1(e)(4)" is hereby amended as follows: "Treas. Reg. § 301.6330-1(e)(4)..."

Page 22: The Treasury Regulation citation in the last line of the first paragraph which reads: "Treas. Reg. § 6330-1(f)(2) A-F5." is hereby amended as follows: "Treas. Reg. § 301.6330-1(f)(2) A-F5."