

Bank Secrecy Act - 31 USC 5321(a)(5)(F)

United States Tax Court Jurisdiction over Bank Secrecy Act matters

Proposed change:

31 USC 5321(a)(5) is amended to add new sub-section (F) to read as follows:

(F) The United States Tax Court shall have jurisdiction to hear any case where a penalty is asserted under this section against an individual, partnership, trust or estate.

Reason for change:

The Internal Revenue Service is assessing penalties both under Title 26 and Title 31 of the United States Code against individual taxpayers simultaneously. Assuming that procedural requirements are met, the taxpayer may challenge any assessment under Title 26 in the United States Tax Court prior to payment, but may not challenge any assessment under Title 31 in the United States Tax Court. A taxpayer may challenge an assessment under Title 31 in the United States District Court or United States Claims Court, but may only challenge an assessment under Title 26 through a refund action after paying the penalty assessed.

This split jurisdiction requires two legal actions and places a taxpayer in an unfair position vis a vis the Government in defending penalties arising from a single transaction or occurrence.

The proposed amendment promotes judicial economy by permitting a case involving both Internal Revenue Code and Bank Secrecy Act claims to be heard in a single forum. It reduces the cost to the Government and taxpayers by allowing a case involving both types of claims to be heard in a single action in a single forum.