12 T.C. 1071 (1949)

A notice of deficiency mailed by the Commissioner of Internal Revenue to the address listed on a taxpayer's return for the tax year in question constitutes sufficient notice if the Commissioner is unaware of any subsequent change of address, even if the taxpayer has since moved and filed returns with a new address.

Summary

The Tax Court addressed whether a deficiency notice mailed to the address on the taxpayer's 1945 return was sufficient, even though the taxpayers had moved to California and filed subsequent returns there. The court sustained the Commissioner's motion to dismiss for lack of jurisdiction because the petition was filed more than 90 days after the notice was mailed to the address on the 1945 return, which was deemed the last known address to the Commissioner. The court reasoned that filing subsequent returns with a different address did not automatically impute knowledge of the new address to the Commissioner for purposes of the 1945 tax year.

Facts

Joseph and Jeanne Marcus filed a joint income tax return for 1945, listing their address as 1 Pulaski Street, Brooklyn, New York. In April 1946, they moved to San Gabriel, California, and then in May 1947, to Los Angeles, California. They filed individual returns for 1946 and 1947 from their California addresses. On September 13, 1948, the Commissioner mailed a deficiency notice for the 1945 tax year to the Brooklyn address. The notice was returned undelivered. The Commissioner then sent another notice to their Los Angeles address via ordinary mail on December 9, 1948, which the couple received on December 13, 1948. The taxpayers filed a petition with the Tax Court on December 17, 1948, 95 days after the initial deficiency notice was mailed.

Procedural History

The Commissioner moved to dismiss the taxpayer's petition for lack of jurisdiction, arguing it was filed beyond the 90-day statutory period. The Tax Court heard the motion in Los Angeles, California.

Issue(s)

Whether the notice of deficiency, mailed by registered mail by the Commissioner to the address listed on the taxpayer's 1945 return, was mailed to the petitioners at their last known address and, therefore, was sufficient within the meaning of section 272(k) of the Internal Revenue Code.

Holding

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No, because the Commissioner mailed the deficiency notice to the last address known to him, as the subsequent tax filings in California did not constitute sufficient notice of a change of address for the tax year in question.

Court’s Reasoning

The court emphasized that the

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