12 T.C. 1079 (1949)

A notice of deficiency is sufficient if mailed to the taxpayer's last known address, even if the taxpayer has also provided an attorney's address and requested that all correspondence be sent there.

Summary

The Tax Court dismissed the Parkers' petitions for lack of jurisdiction because they were filed more than 90 days after the deficiency notices were mailed. The IRS mailed the notices to the Parkers' address listed on a power of attorney, although the power of attorney also included their attorney's address and a request that all correspondence be sent there. The court held that mailing the notice to the taxpayer's last known address, as required by statute, was sufficient, even if the taxpayer requested correspondence be sent to an attorney.

Facts

The Commissioner mailed deficiency notices to Bert and Violet Parker at 3619 East Gage Avenue, Bell, California, which they received. Their 1944 tax returns listed 6340 Loma Vista Avenue, Bell, California, as their address. A power of attorney, received by the IRS in 1947, listed Bert and Violet Parker at 3619 East Gage Avenue, Bell, California, and their attorney, Monroe F. Marsh, at 424 S. Beverly Drive, Beverly Hills, California. The power of attorney directed that all correspondence be sent to Marsh. The IRS sent other letters regarding the Parkers' taxes to Marsh's address.

Procedural History

The Commissioner issued deficiency notices to the Parkers. The Parkers filed petitions with the Tax Court more than 90 days after the notices were mailed. The Commissioner moved to dismiss for lack of jurisdiction. The Tax Court granted the Commissioner's motions and dismissed the cases.

Issue(s)

Whether the Commissioner was required to mail the notice of deficiency to the taxpayers in care of their attorney, instead of to the taxpayers at their own address, because the taxpayers directed that "all correspondence, documents, warrants or other data" be sent in care of their attorney, and whether the deficiency notice was insufficient to start the 90-day period of limitation running despite the taxpayers receiving the notices in due course at their own address.

Holding

No, because the Commissioner complied with the statute by mailing the deficiency notice to the taxpayers' last known address, and the statute does not require mailing

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to an attorney's address even if requested by the taxpayer.

Court's Reasoning

The court reasoned that Section 272(k) of the Internal Revenue Code requires the notice of deficiency to be mailed to the taxpayer's last known address. The court found that the last known address was 3619 East Gage Avenue, Bell, California. While the power of attorney requested that all correspondence be sent to the attorney, the directive did not specifically refer to the notice of deficiency. The court stated, "In the face of the statute stating that such notice is sufficient if mailed to the last known address of the taxpayer, the Commissioner would not have been justified, in our view, in addressing the deficiency notice in care of the attorney." Furthermore, the court emphasized that the taxpayers actually received the notices in due course at their address.

The court distinguished between general correspondence and a formal notice of deficiency. While the IRS had previously sent other letters to the attorney, this did not obligate them to send the deficiency notice to the attorney, particularly since the taxpayers received the notice at their own address. The court concluded that "no logical reason appears for preferring the one address, that of the attorney, over the other, that of the taxpayer, when both are given in the power of attorney, and the statute speaks only of the address of the taxpayer."

Practical Implications

This case clarifies that the IRS satisfies its obligation to provide notice of deficiency by mailing it to the taxpayer's last known address, regardless of any requests to send correspondence to an attorney. Tax practitioners should advise clients that while the IRS may send routine correspondence to a designated representative, the official notice of deficiency will likely be sent directly to the taxpayer. Therefore, taxpayers must monitor their mail and respond to deficiency notices within the statutory timeframe, even if they have an attorney handling their tax matters. This decision emphasizes the importance of taxpayers keeping the IRS informed of their current address.

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