27 T.C. 375 (1956)

The 90-day period for filing a petition with the Tax Court, in response to a notice of tax deficiency sent by registered mail, begins on the date the notice is mailed, not the date it is received.

Summary

The United States Tax Court considered whether it had jurisdiction over a tax case when the petition was filed more than 90 days after the mailing of the notice of deficiency, even though the taxpayers did not actually receive the notice until later. The court held that the 90-day period started on the mailing date, not the receipt date, because the Commissioner had fulfilled the statutory requirement of mailing the notice to the taxpayers' last known address by registered mail. The court emphasized that the taxpayers had ample time to file a petition after finally receiving the notice, regardless of the delay in delivery caused by their absence at the initial delivery attempt.

Facts

The Commissioner of Internal Revenue determined a tax deficiency for the Teels and sent a notice by registered mail on August 9, 1955, to their last known address. The post office attempted delivery on August 10, but neither petitioner was available to sign the receipt. Notices were left, and a second notice was mailed by the post office. On August 22, an IRS employee contacted Mr. Teel, and the letter was redirected to his office and delivered on August 23. The Teels filed a petition with the Tax Court on November 18, 1955, more than 90 days after the August 9 mailing.

Procedural History

The Commissioner moved to dismiss the case in the U.S. Tax Court for lack of jurisdiction because the petition was filed beyond the statutory 90-day period. The Tax Court granted the motion to dismiss for lack of jurisdiction.

Issue(s)

Whether the 90-day period for filing a petition with the Tax Court, after the mailing of a notice of deficiency by registered mail, begins on the date of mailing or the date of receipt by the taxpayer.

Holding

Yes, the 90-day period begins on the date the notice of deficiency is mailed by registered mail because the Commissioner fulfilled the statutory requirement.

Court's Reasoning

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The court relied on sections 6212 and 6213 of the Internal Revenue Code of 1954, which state that a notice of deficiency must be sent by registered mail to the taxpayer's last known address and that the petition with the Tax Court must be filed within 90 days after the mailing of the notice. The court held that the Commissioner met these requirements when the notice was mailed on August 9, 1955. The court cited that receipt of the registered notice is not required by the statute. The court noted the petitioners had ample time to file after receiving the notice. The court distinguished the case from *Eppler v. Commissioner* because in this case, the taxpayers were not misled about the mailing date or filing deadline. The court stated, "The receipt of the registered notice is not required by the statute."

Practical Implications

This case underscores the importance of the mailing date when calculating the deadline to file a petition with the Tax Court. Taxpayers and their legal counsel must be diligent in monitoring their mail and aware of the initial mailing date of a notice of deficiency, regardless of actual receipt date. It also demonstrates that the IRS's obligation is to mail the notice, and the failure of the taxpayer to receive it does not invalidate the notice as long as it was sent to the correct address. This case also influences how subsequent courts determine whether a petition was timely filed, emphasizing that a timely mailing starts the clock for the taxpayer.

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