Estate of William Krueger, Deceased, Anna Krueger, Administratrix and Anna Krueger, Individually, Petitioners, v. Commissioner of Internal Revenue, Respondent, 33 T.C. 667 (1960)

A taxpayer is entitled to a 150-day period to file a petition with the Tax Court if the taxpayer is outside the United States when the notice of deficiency is mailed, regardless of whether their absence is temporary or permanent.

Summary

The Estate of William Krueger challenged the IRS's assessment of a tax deficiency. The central issue was whether the petition for review, filed more than 90 days but less than 150 days after the notice of deficiency was mailed, was timely. The Tax Court, following prior precedent, held that the longer 150-day filing period applied because the taxpayer, Anna Krueger, was outside the United States when the notice was mailed, even though her mailing address was within the U.S. The court clarified that the statutory provision focuses on the taxpayer's location at the time of mailing, not the address to which the notice was sent. The court rejected the Commissioner's argument that the 150-day rule only applied to those with permanent residences outside of the United States.

Facts

The IRS mailed a notice of tax deficiency to Anna Krueger at her Chicago, Illinois address on April 10, 1959. Anna Krueger was outside the United States on a world cruise from January 17, 1959, to May 9, 1959. On the day the notice was mailed, she was in Yokohama, Japan. Anna filed a petition with the Tax Court on August 18, 1959, which was more than 90 days but less than 150 days after the mailing of the notice of deficiency. The IRS moved to dismiss the case, arguing the petition was untimely because it was not filed within 90 days as required by law.

Procedural History

The IRS determined a tax deficiency and sent a notice to Anna Krueger, leading her to file a petition with the Tax Court. The Commissioner moved to dismiss the petition, claiming it was not filed within the 90-day limit. The Tax Court heard the motion after the parties filed a stipulation of facts. The Tax Court sided with the petitioner, ruling that the 150-day period applied. The Tax Court relied on prior precedent, and no further appeal appears to have been noted in the provided documentation.

Issue(s)

1. Whether the Tax Court has jurisdiction over the case where the petition was filed more than 90 days but less than 150 days after the notice of deficiency was mailed.

2. Whether the 150-day filing period applies when the taxpayer is outside the United

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States at the time the notice of deficiency is mailed, even if their address of record is within the United States.

Holding

1. Yes, the Tax Court has jurisdiction because the petition was filed within the 150-day period.

2. Yes, the 150-day filing period applies because the taxpayer was outside the United States when the notice of deficiency was mailed.

Court's Reasoning

The court examined Section 272(a)(1) of the 1939 Code (and Section 6213(a) of the 1954 Code), which states that a petition must be filed within 90 days of the notice of deficiency, unless the notice is addressed to a person outside the United States, in which case the period is extended to 150 days. The court interpreted this to mean that the location of the taxpayer at the time the notice is mailed determines the applicable filing period, regardless of the mailing address. The court referenced the case of *Rebecca S. Hamilton*, which supported the interpretation that the extended filing period applies when the person is outside the United States. The court also cited *Mindell v. Commissioner*. Critically, the court rejected the Commissioner's argument that the extended period applied only to those residing abroad on a more settled basis, concluding that

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