Mianus Realty Company, Inc. v. Commissioner of Internal Revenue, McNeil Brothers, Incorporated v. Commissioner of Internal Revenue, 50 T. C. 418 (1968)

The 90-day period for filing a Tax Court petition begins from the date the notice of deficiency is mailed, not from the date it is received.

Summary

Mianus Realty Company and McNeil Brothers received notices of tax deficiency on January 27, 1967. The notices were mailed to their last-known address, but the only authorized officer was out of the country until April 6, 1967, and did not receive the notices until June 15, 1967. The companies filed petitions on the 150th day after the notices were mailed. The Tax Court held that the 90-day filing period starts from the mailing date of the notice, not from the date of receipt, and dismissed the petitions for lack of jurisdiction, as they were filed beyond the 90-day limit.

Facts

On January 27, 1967, the Commissioner mailed notices of deficiency to Mianus Realty Company and McNeil Brothers at their last-known address. Roderick C. McNeil II, the only officer authorized to act on tax matters for both corporations, was in Florida and left the U. S. on February 4, 1967, returning on April 6, 1967. The notices were received by McNeil's son and handed to the companies' accountant, but no action was taken until the notices were given to counsel on June 15, 1967. The petitions were filed on June 26, 1967, the 150th day after the notices were mailed.

Procedural History

The Commissioner moved to dismiss the petitions for lack of jurisdiction due to untimely filing. The Tax Court heard the motions and determined that the petitions were filed beyond the statutory 90-day period from the date the notices were mailed.

Issue(s)

1. Whether the 150-day period for filing a Tax Court petition applies when the only authorized officer of the corporate taxpayers was out of the country at the time the notices of deficiency were mailed?

Holding

1. No, because the 90-day period for filing a petition begins from the date the notice of deficiency is mailed to the taxpayer's last-known address, not from the date of receipt or the officer's location at the time of mailing.

Court's Reasoning

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The court reasoned that the statutory 90-day filing period under section 6213(a) of the Internal Revenue Code begins from the date the notice is mailed to the taxpayer's last-known address. The court rejected the argument that the 150-day period applies because the authorized officer was out of the country, emphasizing that the notices were properly mailed to the corporate taxpayers within the United States. The court cited precedents such as *Healy v. Commissioner* and *Estate of Frank Everest Moffat* to support the principle that the filing period is computed from the mailing date. The court also noted that the notices were received by an authorized representative, further invalidating any claim of delayed receipt.

Practical Implications

This decision emphasizes the strict adherence to the 90-day filing period for Tax Court petitions, starting from the date of mailing the notice of deficiency. Legal practitioners must ensure timely filing based on the mailing date, regardless of when the notice is actually received or the location of the taxpayer's representatives. This ruling affects how tax disputes are managed, requiring diligent monitoring of mail and prompt action upon receipt of deficiency notices. Subsequent cases like *Pfeffer v. Commissioner* and *Alma Helfrich* have reinforced the validity of notices mailed to the last-known address, even if not received by the taxpayer.

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