Estate of McKaig v. Commissioner, 52 T. C. 171 (1969)

The IRS must use the taxpayer's last known address when mailing a notice of deficiency, and if the notice is returned undelivered due to an address change, a new 90-day period may start upon re-mailing to the correct address.

Summary

In Estate of McKaig v. Commissioner, the Tax Court ruled that a notice of deficiency mailed to an outdated address, which was returned undelivered, did not trigger the 90-day filing period. The IRS had knowledge of the taxpayer's new address but failed to use it. The court held that the filing period began when the IRS re-mailed the notice to the correct address, allowing the taxpayer's subsequent petition to be timely filed. This case underscores the importance of the IRS using the most current address for taxpayers and the potential for a new filing period if the initial notice is undelivered due to an address change.

Facts

Nettie M. McKaig, executrix of her deceased husband's estate, received a notice of deficiency from the IRS on February 12, 1968, mailed to an old address in Bellaire, Texas. This notice was returned undelivered with the old address crossed out and a new address in Houston written on the envelope. The IRS had previously mailed a letter to McKaig at the new Houston address over eight months before the deficiency notice. On July 1, 1968, after her attorney requested it, the IRS sent a copy of the deficiency notice to the correct address. McKaig filed a petition with the Tax Court on August 1, 1968.

Procedural History

The IRS moved to dismiss McKaig's petition for lack of jurisdiction, arguing it was filed more than 90 days after the original mailing date. The Tax Court denied the motion, determining that the 90-day period did not start until the notice was re-mailed to the correct address on July 1, 1968.

Issue(s)

1. Whether the 90-day period for filing a petition with the Tax Court begins when a notice of deficiency is mailed to an outdated address that is returned undelivered.

2. Whether the IRS's re-mailing of the deficiency notice to the correct address starts a new 90-day filing period.

Holding

1. No, because the notice was not mailed to the taxpayer's last known address as required by statute, and the IRS had knowledge of the correct address.

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2. Yes, because the re-mailing to the correct address on July 1, 1968, triggered a new 90-day period, making the petition filed on August 1, 1968 timely.

Court’s Reasoning

The court emphasized that the IRS must mail notices of deficiency to the taxpayer’s last known address as per IRC § 6212(b)(1). The IRS knew of McKaig’s new address, having used it previously, yet mailed the deficiency notice to an outdated address. The court reasoned that when the notice was returned undelivered with the correct address indicated, the IRS should have re-mailed it promptly. The court found that the re-mailing on July 1, 1968, constituted the effective mailing date, restarting the 90-day period. The court distinguished this case from others where the taxpayer received actual notice within the original period or where the address issue did not cause a delivery delay. The court’s decision was influenced by the policy of ensuring taxpayers have adequate opportunity to contest deficiencies in court.

Practical Implications

This ruling impacts how the IRS must handle address changes and the mailing of deficiency notices. Practitioners should advise clients to promptly notify the IRS of address changes to avoid similar issues. The decision also affects how similar cases should be analyzed, focusing on whether the IRS used the last known address and the impact of undelivered notices on filing deadlines. Businesses and individuals should be aware that an undelivered notice due to an address change could provide additional time to file a petition if the IRS re-mails to the correct address. Subsequent cases like Mulvania v. Commissioner have cited McKaig to support the principle that the filing period can restart upon re-mailing to the correct address.

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