Fishman v. Commissioner, 51 T. C. 851 (1969)

The timely mailing rule under IRC §7502 does not apply to metered mail unless the regulations' conditions are met, which include proving the cause of any delivery delay.

Summary

In Fishman v. Commissioner, the Tax Court addressed the validity and application of regulations under IRC §7502(b) concerning the timely filing of petitions via metered mail. The petition was mailed on the 90th day after a deficiency notice but received on the 96th day. The court held that the petition did not meet the regulatory requirements for timely filing, as the petitioners could not prove the cause of the delivery delay. The court also upheld the regulations as valid, emphasizing the need for objective evidence of timely mailing. This case underscores the strict application of filing deadlines and the specific evidentiary burdens placed on taxpayers using metered mail.

Facts

On November 7, 1967, the respondent moved to dismiss a petition filed by Irving Fishman for lack of jurisdiction, arguing it was not filed within 90 days after the mailing of the deficiency notice. The petition was mailed from New York City on September 5, 1967, using a private postage meter, and was received by the Tax Court in Washington, D. C. , on September 11, 1967. The ordinary delivery time from New York to Washington, D. C. , is one day, but the petition took three days to arrive. The envelope bore no U. S. postmark, only the private meter's postmark dated September 5, 1967.

Procedural History

The respondent filed a motion to dismiss the petition in the Tax Court on November 7, 1967, for lack of jurisdiction due to untimely filing. The Tax Court considered written and oral evidence and briefs before issuing its decision on the validity and application of the regulations under IRC §7502(b).

Issue(s)

1. Whether the petition was timely filed under the regulations applicable to metered mail under IRC §7502(b).
2. Whether the regulations under IRC §7502(b) are valid and enforceable.

Holding

1. No, because the petitioners failed to establish the cause of the delay in delivery as required by the regulations.
2. Yes, because the regulations are not unreasonable or arbitrary and are consistent

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with the statutory delegation of authority.

Court’s Reasoning

The court applied IRC §7502(a), which deems a document timely filed based on the U. S. postmark date, but noted that §7502(b) allows the Secretary to prescribe conditions for metered mail. The regulations required the petition to be delivered within the ordinary time or, if delayed, the petitioners must prove timely deposit, delay in transmission, and the cause of the delay. The court found that the petition was not delivered within the ordinary time and that the petitioners failed to prove the cause of the delay. The court also upheld the regulations, citing the Supreme Court’s deference to Treasury regulations and noting that the regulations provide an objective standard for timely mailing, analogous to that required for U. S. postmarked mail. The court referenced Commissioner v. South Texas Co. and Allstate Insurance Co. v. United States to support the validity of the regulations. The court also noted the practical difficulties in proving delays in mail transmission but found the regulations’ requirements necessary to ensure objective evidence of timely mailing.

Practical Implications

This decision reinforces the strict application of filing deadlines and the specific evidentiary burdens on taxpayers using metered mail. Practitioners must ensure that documents are delivered within the ordinary time or be prepared to prove the cause of any delay. The case highlights the importance of understanding and complying with the regulations under IRC §7502(b) when using metered mail. It also underscores the deference courts give to Treasury regulations, impacting how similar regulations are challenged in the future. Subsequent cases, such as Luther A. Madison and Samuel J. King, have continued to apply these principles, emphasizing the need for objective evidence in tax filing disputes.

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