51 T.C. 869 (1969)

Regulations governing the timely filing of tax documents via metered mail are valid and enforceable, requiring taxpayers to meet specific conditions to benefit from the 'timely mailing as timely filing' rule when using private postage meters.

Summary

Irving and Helen Fishman mailed a petition to the Tax Court using a private postage meter, with the postmark dated the 90th day after the deficiency notice. The petition arrived on the 96th day. The Tax Court considered whether the petition was timely filed under I.R.C. § 7502 and related Treasury Regulations, which set conditions for metered mail to be considered timely filed. The court upheld the validity of these regulations, finding that the Fishmans did not meet the requirements for timely filing via metered mail because they failed to prove the cause of the delivery delay. Consequently, the petition was dismissed for lack of jurisdiction.

Facts

1. The Commissioner of Internal Revenue mailed a notice of deficiency to the Fishmans.
2. The 90th day after the mailing of the deficiency notice was September 5, 1967.
3. The Fishmans mailed their petition to the Tax Court from New York City.
4. The envelope was postmarked by a private postage meter with the date September 5, 1967.
5. The U.S. Post Office did not postmark or cancel the envelope.
6. The Tax Court received the petition on September 11, 1967, the 96th day after the deficiency notice was mailed.
7. The normal delivery time for mail from New York City to Washington, D.C., is one day.

Procedural History

1. The Commissioner moved to dismiss the petition for lack of jurisdiction because it was filed more than 90 days after the deficiency notice.
2. The Tax Court considered the motion, reviewed evidence, and heard arguments regarding the timeliness of the filing under I.R.C. § 7502 and related regulations.

Issue(s)

1. Whether the Treasury Regulations under I.R.C. § 7502(b), specifically § 301.7502-1(c)(1)(iii)(*b*), governing the timely filing of documents sent via private postage meter, are valid.
2. Whether, under these regulations, the Fishmans' petition should be deemed timely filed based on the private postage meter postmark date.

Holding

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1. No, the Treasury Regulations under I.R.C. § 7502(b) are valid because Congress granted broad authority to the Secretary of the Treasury to prescribe regulations for metered mail, and these regulations are neither inconsistent with the statute nor arbitrary or unreasonable.
2. No, the Fishmans' petition is not deemed timely filed because it was not delivered within the ordinary time for delivery, and the Fishmans failed to establish the cause of any delay in mail transmission as required by the regulations.

Court's Reasoning

The court reasoned that I.R.C. § 7502(b) explicitly authorizes the Secretary of the Treasury to issue regulations determining the extent to which the timely mailing rule applies to metered mail. The regulations require that for metered mail to be considered timely filed based on the postmark date, it must be delivered within the time ordinarily required for delivery. If delivery is delayed, the sender must prove timely deposit, delay in transmission, and the cause of the delay.

The court found the regulations valid because they are a reasonable exercise of the delegated rulemaking authority. The court noted that Congress was aware of the potential for abuse with private postage meters, as they can be easily misdated, unlike official U.S. Post Office postmarks. Therefore, the regulations aim to ensure objective proof of timely mailing for metered mail, analogous to the objective evidence provided by a U.S. Post Office postmark. The court stated, "In view of the unreliability of the postmark date on metered mail, the Treasury regulations could have provided that the timely mailing rule of section 7502 does not apply to such mail; instead, they have established procedures under which the rule can apply when such mail is used."

The court rejected the Fishmans' argument that the regulations were invalid or that their petition should be considered timely filed based on Mr. Fishman's testimony and the uncorrected meter date. The court emphasized that the Fishmans failed to provide evidence of the cause of the delay, which is a requirement under the regulations for mail not delivered within the ordinary timeframe. Even if the regulations were invalid, the court noted that without valid regulations, there would be no basis to apply the timely mailing rule to metered mail at all, and the petition would be considered filed only upon actual receipt, which was beyond the statutory deadline.

Practical Implications

* *Strict Adherence to Regulations for Metered Mail:* Taxpayers using metered mail to file documents with the Tax Court must strictly comply with Treasury Regulations § 301.7502-1(c)(1)(iii)(*b*) to ensure timely filing. This case underscores that a private postage meter postmark date alone is insufficient to establish timely filing if the document is not received within the ordinary delivery time.
* *Burden of Proof on Taxpayer:* If metered mail is not delivered within the expected

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timeframe, the burden is on the taxpayer to prove not only timely mailing but also that the delay was due to mail transmission issues and, crucially, the cause of such delay. Vague assertions of possible postal delays are insufficient.
* *Importance of Verifiable Mailing Methods:* For critical filings with strict deadlines, using certified mail or other methods that provide verifiable proof of mailing and receipt by the U.S. Postal Service is advisable to avoid jurisdictional challenges based on timely filing.
* *Continued Validity of Regulations:* This case affirms the broad authority of the Treasury to issue legislative regulations under I.R.C. § 7502(b) and reinforces the validity of the specific regulations concerning metered mail. These regulations remain controlling precedent for similar cases.
* *Limited Relief for Minor Delays:* Even seemingly minor delays in mail delivery can be fatal to Tax Court jurisdiction. The court expressed sympathy for the Fishmans' situation but emphasized the statutory limitations and the need for adherence to filing deadlines.

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