McCormick v. Commissioner, 55 T. C. 138 (1970)

The 'last known address' for tax deficiency notices is the address on the taxpayer's most recent return unless a clear, permanent change of address is communicated to the IRS.

Summary

Harvey L. McCormick challenged the IRS's notice of deficiency for his 1966 taxes, arguing it was not sent to his 'last known address. ' The notice was mailed to his Milwaukee address listed on his 1966 return, despite McCormick having informed an IRS officer of a temporary Rochester address in connection with a 1967 tax issue. The Tax Court held that the Milwaukee address was McCormick's 'last known address' for the 1966 deficiency notice because the Rochester address was not communicated as a permanent change or for all tax matters. The decision underscores the necessity for taxpayers to clearly notify the IRS of permanent address changes for all tax correspondence.

Facts

Harvey L. McCormick filed his 1966 income tax return on June 2, 1967, listing his address as 1647 North Mayflower Court, Milwaukee, Wisconsin. In April 1969, McCormick moved to Rochester, New York, and informed IRS Revenue Officer Donald Holland about his new Rochester address in connection with a delinquent tax liability for 1967. On May 5, 1969, the IRS mailed a notice of deficiency for 1966 to the Milwaukee address. McCormick filed a petition with the Tax Court on January 5, 1970, claiming the notice was not sent to his 'last known address. '

Procedural History

McCormick filed his petition with the United States Tax Court challenging the IRS's notice of deficiency for his 1966 taxes. The Commissioner moved to dismiss the case for lack of jurisdiction, arguing that McCormick's petition was filed more than 90 days after the notice was mailed. The Tax Court considered the motion and ultimately sustained it, dismissing the case for lack of jurisdiction.

Issue(s)

1. Whether the IRS's mailing of the 1966 tax deficiency notice to McCormick's Milwaukee address complied with the requirement to mail to the taxpayer's 'last known address' under section 6212(b)(1) of the Internal Revenue Code.

Holding

1. Yes, because the Milwaukee address was the address listed on McCormick's 1966 tax return, and the communication of the Rochester address to an IRS officer was not a clear indication of a permanent change or applicable to all tax matters.

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Court’s Reasoning

The Tax Court relied on the statutory requirement that a notice of deficiency must be mailed to the taxpayer’s ‘last known address. ‘ The court interpreted ‘last known address’ to refer to the address on the most recent tax return unless a clear, permanent change of address is communicated to the IRS. McCormick’s notification to the IRS about his Rochester address was linked to a specific issue (1967 tax delinquency) and did not indicate a permanent change or that it applied to all tax matters. The court cited *Gregory v. United States* and *Langdon P. Marvin, Jr.* to emphasize the need for a clear and concise notification of a permanent address change. The court also considered the administrative burden on the IRS in maintaining accurate address records, concluding that without a clear, permanent address change, the IRS was justified in using the address on the 1966 return.

Practical Implications

This decision clarifies that taxpayers must clearly communicate permanent address changes to the IRS for all tax correspondence to ensure proper mailing of deficiency notices. Practitioners should advise clients to update their addresses with the IRS promptly and clearly whenever they move, especially if they have multiple tax issues pending. The ruling impacts how the IRS handles address changes across different divisions, highlighting the importance of ensuring that such changes are communicated to all relevant IRS departments. Subsequent cases have followed this precedent, reinforcing the need for taxpayers to be proactive in managing their IRS correspondence. This case also underscores the importance of timely filing of petitions with the Tax Court within 90 days of receiving a deficiency notice to maintain jurisdiction.

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