Stewart v. Commissioner, 55 T. C. 238 (1970)

A notice of deficiency must be mailed to the taxpayer's last known address for the Tax Court to have jurisdiction over a petition filed within 90 days of that mailing.

Summary

In Stewart v. Commissioner, the U. S. Tax Court dismissed Frances Lois Stewart's petition for lack of jurisdiction because it was filed after the 90-day period following the mailing of a notice of deficiency. The notice was sent to Stewart's Santa Cruz address, her last known address according to IRS records, despite her having moved to Los Gatos. The court held that the IRS had properly mailed the notice to the address on file, and Stewart's failure to update her address did not extend the filing period. This case underscores the importance of taxpayers updating their addresses with the IRS and the strict jurisdictional time limits of the Tax Court.

Facts

Frances Lois Stewart filed tax returns for 1964 and 1965 with the IRS in San Francisco. On December 10, 1969, the IRS mailed a notice of deficiency to her Santa Cruz address, which was the address listed on her power of attorney and a consent form filed by her attorney. The notice was forwarded to Stewart in Los Gatos, where she received it late in 1969 or early 1970. Stewart filed her petition with the Tax Court on March 16, 1970, which was after the 90-day period following the mailing of the notice.

Procedural History

Stewart filed a petition in the U. S. Tax Court on March 16, 1970, to redetermine the deficiencies for tax years 1964 and 1965. The Commissioner moved to dismiss the petition for lack of jurisdiction due to untimely filing. The Tax Court held a hearing and subsequently granted the Commissioner's motion to dismiss.

Issue(s)

1. Whether the Tax Court has jurisdiction over a petition filed more than 90 days after the mailing of a notice of deficiency, when the notice was mailed to the taxpayer's last known address.

Holding

1. No, because the notice of deficiency was mailed to Stewart's last known address, and the petition was filed after the 90-day period following that mailing, the Tax Court lacked jurisdiction.

Court's Reasoning

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The court emphasized that the 90-day period for filing a petition with the Tax Court is jurisdictional and cannot be extended unless the notice of deficiency was not mailed to the taxpayer's last known address. The court found that the IRS had properly mailed the notice to the Santa Cruz address listed in its records, which was Stewart's last known address. Stewart's attorney had mentioned her move to Los Gatos during a conference, but no official change of address was filed. The court cited precedent that a taxpayer must file a clear and concise notification of a definite change of address for the IRS to be obligated to use a different address. Since Stewart did not do so, the notice was validly mailed, and the court lacked jurisdiction over her untimely petition.

Practical Implications

This decision reinforces the importance of taxpayers keeping their addresses current with the IRS. Practitioners should advise clients to promptly notify the IRS of any address changes to avoid similar jurisdictional issues. The ruling also underscores the strict enforcement of the 90-day filing period by the Tax Court, with no extensions granted for late receipt due to forwarding. Subsequent cases have continued to apply this principle, emphasizing the need for taxpayers to be vigilant about their IRS records. For legal practice, this case highlights the need to carefully review IRS records and consider filing protective petitions when there is uncertainty about the notice's receipt date.

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