

Nappi v. Commissioner, 58 T. C. 282 (1972)

The 90-day period for filing a petition with the U. S. Tax Court following a notice of deficiency is strictly jurisdictional and is not extended by subsequent audit changes.

Summary

In *Nappi v. Commissioner*, the U. S. Tax Court held that it lacked jurisdiction over a petition filed 147 days after the IRS mailed a notice of deficiency, as the 90-day filing period under IRC section 6213(a) was not extended by subsequent audit adjustments. The court clarified that the Administrative Procedure Act does not apply to the Tax Court, emphasizing the strict adherence to the 90-day filing deadline. This ruling underscores the necessity for taxpayers to file petitions within the statutory period, unaffected by post-notice audit changes.

Facts

On May 28, 1971, the IRS mailed Vincent O. Nappi, Jr. , a notice of deficiency for \$889. 96 for the year 1969. After receiving the notice, Nappi's representative provided additional information to an IRS auditor, leading to adjustments reducing the deficiency to \$807. 27. Nappi was notified of these changes on September 24, 1971. On October 22, 1971, 147 days after the notice of deficiency was mailed, Nappi sent his petition to the Tax Court by certified mail.

Procedural History

The IRS filed a motion to dismiss the case for lack of jurisdiction on December 10, 1971, arguing the petition was filed beyond the 90-day period prescribed by IRC sections 6213(a) and 7502. Nappi opposed this motion on February 22, 1972. A hearing was held on April 17, 1972, leading to the Tax Court's decision to grant the motion to dismiss for lack of jurisdiction on May 11, 1972.

Issue(s)

1. Whether the Tax Court has jurisdiction over a petition filed 147 days after the IRS mailed a notice of deficiency.
2. Whether subsequent audit changes extend the 90-day period for filing a petition with the Tax Court.
3. Whether the Administrative Procedure Act applies to Tax Court procedures and jurisdiction.

Holding

1. No, because the petition was filed beyond the 90-day period prescribed by IRC sections 6213(a) and 7502.
2. No, because subsequent audit changes do not extend the 90-day filing period.
3. No, because the Tax Court is a court of record established under Article I of the

Constitution, and thus not subject to the Administrative Procedure Act.

Court's Reasoning

The Tax Court applied IRC section 6213(a), which mandates that a petition must be filed within 90 days after the mailing of a notice of deficiency. The court emphasized that this requirement is jurisdictional, citing cases like *Estate of Frank Everest Moffat* and *Jacob L. Rappaport*. The subsequent audit changes were deemed supplemental and did not constitute a new notice of deficiency, hence did not restart the 90-day period. The court also rejected Nappi's argument that the Administrative Procedure Act should apply, clarifying that the Tax Court is excluded from this Act's provisions as it is a court of the United States. The court's decision underscores the strict nature of the filing deadline, unaffected by post-notice audit changes, and reinforced by the principle that the Tax Court's jurisdiction is governed by specific statutory requirements.

Practical Implications

This decision has significant implications for taxpayers and tax practitioners. It reinforces the need to adhere strictly to the 90-day filing deadline after receiving a notice of deficiency, regardless of subsequent audit adjustments. Practitioners must advise clients to file petitions within this period to ensure the Tax Court's jurisdiction. The ruling also clarifies that the Tax Court operates independently of the Administrative Procedure Act, emphasizing its unique status as a court under Article I. For similar cases, this decision serves as a precedent that audit changes post-notice do not extend the filing period. Taxpayers can still seek judicial review by paying the assessed tax and filing for a refund, providing an alternative avenue for legal recourse.