***Traxler v. Commissioner, 61 T. C. 97 (1973)***

The date of mailing for a tax deficiency notice is the postmark date on the envelope, not the date the notice is deposited with the postal service.

**Summary**

In Traxler v. Commissioner, the U. S. Tax Court determined that the date of mailing for a tax deficiency notice should be the postmark date on the envelope, rather than the date the Internal Revenue Service (IRS) deposited the notice with the postal service. The IRS had sent a deficiency notice dated March 29, 1973, which was postmarked March 31, 1973. The taxpayers filed their petition within 90 days of the postmark date, but not within 90 days of the deposit date. The court held that the postmark date was the operative date for determining the timeliness of the petition, allowing the taxpayers' case to proceed.

**Facts**

The IRS issued a notice of deficiency to Duane M. Traxler and Marion C. Traxler, dated March 29, 1973, for tax years 1969 and 1970. This notice was sent via certified mail, with the IRS's certified mail receipt showing a deposit date of March 29, 1973. However, the envelope containing the notice was postmarked March 31, 1973. The Traxlers received the notice and filed their petition with the Tax Court on June 28, 1973, which was within 90 days of the postmark date but 91 days after the deposit date. The IRS moved to dismiss the case, arguing that the petition was filed late based on the deposit date.

**Procedural History**

The IRS issued the deficiency notice on March 29, 1973, and it was postmarked March 31, 1973. The Traxlers filed their petition with the Tax Court on June 28, 1973. The IRS filed a motion to dismiss for lack of jurisdiction on August 20, 1973, asserting that the petition was filed late. The Traxlers objected to the motion on September 10, 1973, arguing that their petition was timely based on the postmark date. The Tax Court heard the motion and issued its opinion on October 25, 1973.

**Issue(s)**

1. Whether the date of mailing for a tax deficiency notice is the date the IRS deposits the notice with the postal service or the postmark date on the envelope?

**Holding**

1. No, because the date of mailing for a tax deficiency notice is the postmark date on the envelope, not the date the IRS deposits the notice with the postal service. The court reasoned that the postmark date is the best evidence of when the notice was mailed and that using it aligns with common understanding and fairness to

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taxpayers.

**Court’s Reasoning**

The Tax Court focused on interpreting the term “mailed” in section 6213(a) of the Internal Revenue Code, which governs the time limit for filing a petition after receiving a deficiency notice. The court noted that the term “mailed” is ambiguous and could refer to different dates: the date on the notice, the date of deposit with the postal service, or the postmark date. The court rejected the date on the notice as the operative date, citing precedent that this date is not always reliable. The court also considered the date of deposit with the postal service but found it problematic because taxpayers have no knowledge of this date. The court ultimately settled on the postmark date, reasoning that it is the most readily ascertainable to taxpayers and aligns with common understanding of when a letter is mailed. The court emphasized fairness to taxpayers, noting that using the postmark date would not burden the IRS and would allow taxpayers to rely on a date they can verify. The court supported its decision with the principle that ambiguous statutory language should be construed to preserve jurisdiction when possible.

**Practical Implications**

This decision clarifies that taxpayers should rely on the postmark date when calculating the 90-day period for filing a petition in response to a tax deficiency notice. For legal practitioners, this means advising clients to use the postmark date as the starting point for the 90-day countdown. The ruling also emphasizes the importance of retaining envelopes with postmark dates as evidence in tax disputes. For the IRS, the decision suggests a need to ensure that the postmark date is accurately recorded and that any discrepancies between deposit and postmark dates are resolved promptly. Subsequent cases have followed this precedent, reinforcing the postmark date as the key factor in determining the timeliness of tax petitions.

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