Whirlpool Corp. v. Commissioner, 61 T. C. 182 (1973)

A notice of deficiency mailed on the last day of the statute of limitations period effectively suspends the running of that period.

Summary

In Whirlpool Corp. v. Commissioner, the U. S. Tax Court ruled that the mailing of a notice of deficiency on the last day of the statute of limitations period for assessment suspends the running of that period. Whirlpool Corporation challenged the IRS's deficiency notice mailed on the final day of the three-year assessment window, arguing that the suspension should only start the day after mailing. The court, relying on precedent and longstanding interpretation, held that the notice suspends the statute on the day it is mailed, ensuring the IRS can still assess the deficiency without the statute expiring prematurely.

Facts

Whirlpool Corporation filed its 1968 federal income tax return on September 12, 1969. On September 12, 1972, the IRS sent Whirlpool a notice of deficiency for the 1968 tax year by certified mail. Whirlpool had not consented to extend the statute of limitations for assessing taxes for that year. The issue was whether this notice, mailed on the last day of the three-year assessment period, effectively suspended the statute of limitations.

Procedural History

Whirlpool filed a petition with the U. S. Tax Court challenging the IRS's notice of deficiency. The court granted a motion to sever the statute of limitations issue from other matters. Whirlpool then moved for judgment on the pleadings concerning this issue, leading to the Tax Court's decision on the matter.

Issue(s)

1. Whether a notice of deficiency mailed on the last day of the statute of limitations period for assessment suspends the running of that period.

Holding

1. Yes, because the mailing of the notice on the last day of the assessment period effectively suspends the statute of limitations, consistent with judicial precedent and the IRS's longstanding interpretation.

Court's Reasoning

The court relied on previous cases such as *Rosser* and *Brown v. United States*, which held that a notice mailed on the last day of the statutory period suspends the

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statute. The court rejected Whirlpool's argument that the word 'after' in the relevant statute meant the day after mailing, citing that such an interpretation would create an illogical gap allowing assessments on the mailing day. The court also noted the long-standing IRS regulation and the absence of Congressional action to change the statute despite numerous opportunities, indicating acceptance of the judicial interpretation. The court emphasized the importance of predictability and certainty in tax administration, concluding that overturning established precedent would cause unnecessary confusion.

Practical Implications

This decision clarifies that the IRS can mail a notice of deficiency on the last day of the statute of limitations period and still suspend the statute, ensuring they have time to assess a deficiency without the period expiring prematurely. Practitioners should be aware that this ruling endorses a longstanding practice of the IRS and affects how they advise clients on the timing of deficiency notices. The decision reinforces the need for clear statutory interpretation and the role of precedent in tax law, impacting how similar cases are analyzed. Subsequent cases have followed this ruling, solidifying its impact on tax assessment practices.

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