***Zaun v. Commissioner, 60 T. C. 476 (1973)***

The Tax Court has jurisdiction over a case when taxpayers receive actual notice of deficiency, even if it was sent to the wrong address.

**Summary**

In Zaun v. Commissioner, the Tax Court upheld its jurisdiction over a tax deficiency case despite the IRS sending notices to an outdated address. Richard and Lois Zaun received oral notice of the deficiency and timely filed their petitions, despite arguing that the notices should have been sent to their Valdosta, Georgia address instead of their Miami, Florida address. The court found that actual notice, even if oral, satisfied the statutory requirements for jurisdiction. This case underscores the importance of actual notice over the strict adherence to the last known address for deficiency notices.

**Facts**

Richard A. Zaun and Lois Jean Zaun, a married couple, received separate deficiency notices from the IRS on December 18, 1970, mailed to their Miami, Florida address listed on Mr. Zaun's tax return. Mrs. Zaun did not file a return for the year in question. Both Zauns timely filed petitions with the Tax Court on March 18, 1971, the last day of the statutory period. The case involved an involuntary conversion of property in 1964, a subsequent jeopardy assessment, and extensions of time to reinvest conversion proceeds, all of which were handled with communications to the Miami address.

**Procedural History**

The Zauns moved to dismiss the case, arguing that the IRS should have sent the deficiency notices to their Valdosta, Georgia address, which they claimed was their last known address. The Tax Court denied the motion, asserting jurisdiction over the case due to the Zauns receiving actual notice of the deficiency and timely filing their petitions.

**Issue(s)**

1. Whether the Tax Court has jurisdiction over the case when deficiency notices were sent to an address other than the taxpayers' last known address.
2. Whether oral notice of a deficiency is sufficient to establish jurisdiction when written notices were not received until later.

**Holding**

1. Yes, because the taxpayers received actual notice of the deficiency and timely filed their petitions, satisfying statutory requirements for jurisdiction.
2. Yes, because even oral notice, when followed by timely filing of petitions, is

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sufficient to establish jurisdiction.

### Court’s Reasoning

The Tax Court emphasized that the critical factor for jurisdiction is whether the taxpayers received actual notice of the deficiency and timely filed their petitions. The court noted the confusion over the Zauns’ last known address but found that the IRS was not clearly put on notice of any change from the Miami address listed on Mr. Zaun’s return. The court cited Daniel Lifter, 59 T. C. 818 (1973), to support the principle that actual notice, even if oral, satisfies the statutory requirements for jurisdiction. The court also dismissed the significance of the Zauns not receiving written copies of the deficiency notices until later, as they had received oral notice and timely filed their petitions. The court further noted that the period for assessment remained open for Mrs. Zaun due to her failure to file a return, and potential substantive issues regarding her liability should be addressed at trial.

### Practical Implications

This decision underscores the importance of actual notice over strict adherence to the last known address for deficiency notices. Practitioners should advise clients that receiving oral notice of a deficiency and timely filing a petition can establish the Tax Court’s jurisdiction, even if written notices are not received until later. This case may affect how the IRS handles address changes and notice procedures, potentially leading to more emphasis on ensuring actual notice is received. Future cases may reference Zaun to support the sufficiency of oral notice in establishing jurisdiction, particularly in situations where there is confusion over a taxpayer’s address.

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