Degill Corp. v. Commissioner, 62 T. C. 292 (1974)

A corporation is considered a "person" under the Internal Revenue Code and may qualify for a 150-day filing period if its entire business operations are conducted outside the United States.

Summary

Degill Corp. , a Pennsylvania corporation, operated entirely in the South Pacific. The IRS sent a deficiency notice to its registered office in Philadelphia, but also sent a copy to its Singapore address. Degill argued it was entitled to a 150-day filing period due to its operations being outside the U. S. The Tax Court held that the notice was properly sent to Degill's last known address, and that as a corporation operating entirely abroad, it qualified as a "person" outside the U. S. under IRC § 6213(a), thus entitled to the 150-day filing period. This decision emphasizes the importance of the location of a corporation's operational hub in determining applicable filing deadlines.

Facts

Degill Corp. , a Pennsylvania corporation, conducted its business operations in South Vietnam, Singapore, and the Philippines during the relevant period. Its registered office was in Philadelphia, but its officers, employees, shareholders, books, records, and equipment were located in the South Pacific. The IRS mailed a notice of deficiency to the Philadelphia address on December 12, 1972, and sent a conformed copy to Singapore. Degill received the Philadelphia notice on December 13, 1972, and forwarded it to the Philippines, receiving it there on December 29, 1972. Degill filed its petition with the Tax Court on March 10, 1973, from the Philippines, which was received by the court on March 19, 1973, the 97th day after the notice was mailed.

Procedural History

The IRS filed a motion to dismiss for lack of jurisdiction, claiming Degill's petition was not timely filed within 90 days. Degill objected, asserting entitlement to a 150-day filing period, and filed a cross-motion to dismiss, arguing the notice was not sent to its last known address. The Tax Court heard both motions on January 9, 1974, and issued its opinion on June 10, 1974.

Issue(s)

1. Whether the notice of deficiency was mailed to Degill's "last known address" under IRC § 6212(b)?
2. Whether Degill, as a corporation operating entirely abroad, qualified as a "person" outside the U. S. under IRC § 6213(a), thereby entitled to a 150-day filing period?

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Holding

1. Yes, because Degill consistently used the Philadelphia address for all tax-related matters, indicating it as its last known address for IRS correspondence.
2. Yes, because under IRC § 7701(a)(1), a corporation is a “person” and Degill’s entire business operations were conducted outside the U. S. , making it a “person” outside the U. S. under IRC § 6213(a).

Court’s Reasoning

The court determined that the IRS had reason to mail the notice to the Philadelphia address, as Degill consistently used it for tax filings and other tax-related communications. The court emphasized that the IRS’s purpose in sending the notice was fulfilled as Degill received actual notice in time to file a petition. Regarding the 150-day filing period, the court interpreted “person” under IRC § 6213(a) to include corporations, citing IRC § 7701(a)(1). It reasoned that Degill’s entire business operations were outside the U. S. , making it a “person” outside the U. S. entitled to the extended filing period. The court distinguished this case from others where the corporation’s home office was within the U. S. , noting Degill’s home office was effectively in the South Pacific. The decision was influenced by the policy of providing adequate time for taxpayers to respond to deficiency notices, especially when located abroad.

Practical Implications

This decision clarifies that corporations with operations entirely outside the U. S. can qualify for the 150-day filing period under IRC § 6213(a). Practitioners must consider the location of a corporation’s operational hub when determining applicable filing deadlines. This ruling may affect how the IRS sends deficiency notices to corporations with international operations, potentially requiring them to send notices to foreign addresses as well. The decision also underscores the importance of clear communication regarding address changes with the IRS. Subsequent cases have referenced Degill in discussions about the “last known address” and the applicability of the 150-day rule to corporations.

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