T.C. Memo. 1974-290

A domestic corporation with its entire business operations located outside of the United States can be considered a “person outside the United States” for the purpose of the 150-day period to file a petition with the Tax Court.

Summary

Degill Corp., a Pennsylvania corporation, conducted all its business operations in the South Pacific. The IRS mailed a notice of deficiency to Degill’s registered office in Philadelphia. Degill argued it was entitled to a 150-day filing period, claiming it was a “person outside the United States.” The Tax Court agreed, holding that a domestic corporation whose entire business is abroad qualifies for the extended filing period. The court reasoned that the purpose of the 150-day rule is to provide adequate response time for taxpayers physically located overseas, and this rationale applies equally to corporations operating entirely outside the U.S.

Facts

Degill Corp. was a Pennsylvania corporation that conducted all its business operations in the South Pacific, including South Vietnam, Singapore, and the Philippines. Its registered office was located at the address of its accountants in Philadelphia. All of Degill’s tax returns listed the Philadelphia address. The IRS knew that Degill’s officers, books, and records were located in the South Pacific. The IRS sent a notice of deficiency by certified mail to the Philadelphia address and a copy by regular mail to Singapore. The original notice was received in Philadelphia and forwarded to the Philippines. Degill filed its petition with the Tax Court from the Philippines 98 days after the notice was mailed from the IRS, but within 150 days.

Procedural History

The IRS moved to dismiss Degill’s case for lack of jurisdiction, arguing the petition was not filed within the standard 90-day period. Degill objected and cross-moved to dismiss, arguing the notice was not sent to its last known address and that it was entitled to a 150-day filing period as a “person outside the United States.” The Tax Court heard arguments on both motions.

Issue(s)

1. Whether the notice of deficiency was mailed to the petitioner’s “last known address” as required by section 6212(b) of the Internal Revenue Code.
2. Whether the petitioner, a domestic corporation conducting all business operations outside the United States, qualifies as a “person outside the States of the Union and the District of Columbia” within the meaning of section 6213(a) of the Internal Revenue Code, thus entitling it to a 150-day period to file a petition with the Tax Court.

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Holding

1. No. The notice of deficiency was mailed to the petitioner's last known address because the IRS reasonably relied on the Philadelphia address consistently used by Degill on tax returns and other documents.
2. Yes. A domestic corporation with its entire business operations outside the United States can be considered a "person outside the States of the Union and the District of Columbia" for the purposes of the 150-day filing period.

Court's Reasoning

Last Known Address: The court found that the IRS acted reasonably in mailing the notice to the Philadelphia address. Degill consistently used this address on its tax returns and other filings. The purpose of the last known address rule is to give the taxpayer notice, which Degill received. The court cited *Daniel Lifter, 59 T.C. 818, 821 (1973)*, stating that a taxpayer's last known address is "the address which, in the light of such circumstances, the respondent reasonably believes the taxpayer wishes to have the respondent use in sending mail to him."

150-Day Filing Period: The court interpreted the term "person" in section 6213(a) to include corporations, noting that section 7701(a)(1) defines "person" broadly to include corporations unless context dictates otherwise. The court reasoned that the legislative intent behind the 150-day rule was to alleviate hardship for taxpayers in remote locations due to mail delays. This hardship applies equally to corporations operating abroad. The court emphasized that Degill's "home office" – the place where its business affairs were managed – was in the South Pacific, not Philadelphia. The court distinguished *Mianus Realty Co., 50 T.C. 418 (1968)*, where the corporation's home office was in the U.S. The court stated, "As we see it, the crucial criterion to be gleaned from the decided cases is whether the 'person' is physically located outside the United States so that the notice of deficiency mailed to its United States address will be delayed in reaching it in a foreign country, possession, or territory, and thereby hamper its ability to adequately respond by filing a petition to litigate its case in this Court."

Practical Implications

Degill Corp. clarifies that the 150-day Tax Court filing period is not strictly limited to individuals physically residing abroad but can extend to domestic corporations with substantial foreign operations. This case emphasizes a practical, functional approach, focusing on the location of the taxpayer's business operations and home office rather than just its legal domicile or registered address. For legal practitioners, this case highlights the importance of considering the taxpayer's actual business location when determining filing deadlines, especially for corporations with international operations. It also underscores that the "last known address" is determined by what the IRS reasonably believes is the taxpayer's desired address for tax correspondence, based on the taxpayer's actions and filings.

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