Stotter v. Commissioner, 69 T. C. 896 (1978)

A tax court petition mailed via private postage meter is considered timely filed if received within the ordinary course of mail delivery.

Summary

In Stotter v. Commissioner, the U. S. Tax Court addressed whether a petition, mailed 90 days after a deficiency notice using a private postage meter, was timely filed. The petition was received by the court four days after mailing. The court held that the petition was timely because it was received within the ordinary course of mail, despite the Commissioner's argument that it should have arrived sooner. This decision clarifies the application of the timely mailing rule under Section 7502 of the Internal Revenue Code when private postage meters are used, emphasizing the factual determination of what constitutes ordinary mail delivery time.

Facts

The Commissioner mailed a deficiency notice to the Stotters on March 29, 1977, determining tax deficiencies for 1967 and 1968. On June 27, 1977, exactly 90 days later, the Stotters mailed their petition from Philadelphia using a private postage meter. The petition was received by the Tax Court on July 1, 1977, and filed later that day. There were no other postal markings on the envelope besides the private meter postmark.

Procedural History

The Commissioner filed a motion to dismiss on August 31, 1977, arguing the Tax Court lacked jurisdiction because the petition was not timely filed. The Tax Court considered the motion and ultimately denied it, ruling that the petition was timely filed.

Issue(s)

1. Whether a petition mailed via a private postage meter on the last day of the statutory period, and received four days later, is considered timely filed under Section 7502 of the Internal Revenue Code.

Holding

1. Yes, because the petition was received within the time ordinarily required for delivery from Philadelphia to Washington, D. C. , satisfying the requirements of the timely mailing rule under Section 7502 and the corresponding regulations.

Court's Reasoning

The court applied Section 7502 of the Internal Revenue Code, which allows for

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timely filing if a document is postmarked within the statutory period and received within the ordinary course of mail. The court noted that Congress recognized potential issues with private meter postmarks and thus authorized the Secretary to issue regulations, resulting in Section 301. 7502-1(c)(1)(iii)(b) of the Procedure and Administration Regulations. These regulations stipulate that privately metered mail is considered timely if it bears a timely date and is delivered within the ordinary delivery time. The court found that the petition was delivered within such ordinary time, despite testimony from a Postal Service officer suggesting a shorter delivery time. The court emphasized that the ordinary delivery time could vary and that it was not convinced that four days was outside the ordinary for delivery from Philadelphia to Washington, D. C. The court also highlighted its reluctance to dismiss petitions lightly and considered the broader context of mail delivery issues. The court's decision was influenced by the factual nature of determining ordinary delivery times and the policy of ensuring taxpayers their day in court.

Practical Implications

This decision has significant implications for taxpayers and their attorneys when filing petitions with the Tax Court using private postage meters. It establishes that the timely mailing rule under Section 7502 applies to private meter postmarks, provided the document is received within what the court determines to be the ordinary course of mail delivery. Practitioners should be aware that the court may consider broader evidence and context in determining what constitutes ordinary delivery time, which can be influenced by postal service performance and other factors. This ruling may encourage taxpayers to use private postage meters with confidence, knowing that the court will not strictly adhere to postal service goals or estimates when assessing timeliness. Later cases have cited Stotter to support the application of the timely mailing rule to private meter mail, reinforcing its importance in tax practice.

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