70 T.C. 712 (1978)

A legible date on a private postage meter postmark is deemed conclusive evidence of the mailing date for purposes of Tax Court petition filing deadlines, and extrinsic evidence to contradict an untimely postmark is inadmissible to establish timely filing.

Summary

William Wiese mailed a petition to the Tax Court, seeking review of a tax deficiency notice. The petition was received 95 days after the notice was mailed, but the envelope bore a private postage meter postmark dated 91 days after the notice. Wiese attempted to introduce evidence that the meter was set incorrectly and the petition was actually mailed within the 90-day deadline. The Tax Court held that a legible private postage meter postmark is controlling and refused to admit extrinsic evidence to contradict it, dismissing the petition for lack of jurisdiction due to untimely filing.

Facts

1. The IRS mailed a notice of deficiency to Wiese on August 19, 1977.
2. The deadline to file a petition with the Tax Court was 90 days from this date.
3. Wiese's petition was received by the Tax Court on November 22, 1977, which was 95 days after the notice of deficiency was mailed.
4. The envelope containing the petition had a private postage meter postmark dated November 18, 1977, which was 91 days after the deficiency notice.
5. There were no other postal markings on the envelope.
6. Wiese argued the postage meter was incorrectly set and sought to introduce evidence that the petition was actually mailed on November 17, 1977, the 90th day.

Procedural History

1. The Commissioner of Internal Revenue filed a Motion to Dismiss for Lack of Jurisdiction, arguing the petition was not filed within the statutory 90-day period.
2. The Tax Court considered the motion to dismiss.

Issue(s)

1. Whether a legible private postage meter postmark date that is beyond the statutory filing deadline can be contradicted by extrinsic evidence to prove timely mailing of a Tax Court petition.

Holding

1. No, because a legible private postage meter postmark is considered

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controlling, and extrinsic evidence is inadmissible to contradict an untimely postmark for the purpose of establishing timely filing of a Tax Court petition.

Court's Reasoning

The Tax Court reasoned that Section 7502 of the Internal Revenue Code and its implementing regulations are designed to rely on tangible evidence of mailing dates, primarily official government postmarks, to avoid disputes based on potentially unreliable testimony. The court acknowledged that while Section 7502(b) and regulations allow for consideration of private postage meter postmarks, and permit extrinsic evidence to corroborate a timely private postmark, this is only when the private meter postmark itself is timely. The court stated, "But the statute and regulations clearly contemplate presentation of such extrinsic evidence *only* when the private postage meter postmark reflects a date on or before the 90th day after mailing the notice of deficiency."

The court emphasized that the "threshold prerequisite" for the relief provided by Section 7502 is a timely postmark, regardless of whether it is a Postal Service or private meter postmark. Quoting prior precedent, the court highlighted that when a legible Postal Service postmark is present, no evidence is allowed to contradict it if it indicates untimely mailing. The court extended this principle to legible private meter postmarks that are untimely, stating, "We see no reason why a taxpayer who has independent control over his postmark should fare any better, especially when the regulations require both postmarks to be made on or before the 90th day."

The court concluded that allowing extrinsic evidence to contradict a legible, but untimely, private postage meter postmark would undermine the purpose of Section 7502, which is to provide a clear and administrable rule based on postmark dates. Therefore, because the legible private postage meter postmark was dated after the 90-day deadline, the petition was deemed untimely, and the court lacked jurisdiction.

Practical Implications

Wiese v. Commissioner establishes a strict rule regarding the finality of legible private postage meter postmarks for Tax Court filings. This case clarifies that taxpayers using private postage meters bear the risk of errors in meter settings. Attorneys and taxpayers must ensure that petitions are mailed sufficiently in advance of the deadline to account for potential mailing delays and to ensure the postage meter is correctly set. This decision reinforces the importance of relying on objective, verifiable dates like postmarks to determine timeliness in tax litigation and limits the admissibility of potentially self-serving extrinsic evidence when a legible postmark is present and indicates late filing. Later cases have consistently followed *Wiese* in holding that a legible private meter postmark, if untimely, cannot be contradicted by extrinsic evidence to establish timely filing, emphasizing the need for taxpayers to diligently manage their filing deadlines and postage

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procedures.

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