Mulder v. Commissioner, 73 T. C. 25 (1979)

The Soldiers' and Sailors' Civil Relief Act does not toll the statutory filing period for petitions to the Tax Court under the Internal Revenue Code.

Summary

In Mulder v. Commissioner, the Tax Court ruled that the statutory filing period for a petition challenging a tax deficiency notice was not extended for a member of the military under the Soldiers' and Sailors' Civil Relief Act. The petitioner, an active-duty Air Force officer, received a notice of deficiency but filed his petition 101 days later, missing the 90-day statutory period. He argued that his military service should toll the filing deadline, but the court rejected this, citing a specific exclusion in the Act for Internal Revenue Code limitations. This case clarifies that military service does not automatically extend tax-related filing deadlines, impacting how military personnel must manage tax disputes.

Facts

The Commissioner of Internal Revenue determined a tax deficiency of $227. 30 against the petitioner for the 1976 tax year and mailed a notice of deficiency on March 2, 1979. The petitioner, an active-duty U. S. Air Force officer, was required to file a petition with the Tax Court within 90 days of the mailing date, by May 31, 1979. He filed his petition on June 11, 1979, which was postmarked June 8, 1979, 98 days after the notice was mailed. The petitioner argued that his military service should toll the filing period under the Soldiers' and Sailors' Civil Relief Act.

Procedural History

The Commissioner moved to dismiss the petition for lack of jurisdiction due to untimely filing. A hearing was held on October 3, 1979, and the case was assigned to a Special Trial Judge who recommended dismissal. The Tax Court reviewed and adopted the Special Trial Judge's opinion, leading to the dismissal of the petition.

Issue(s)

1. Whether the statutory filing period for a petition to the Tax Court under section 6213(a) of the Internal Revenue Code is tolled by the petitioner's military service under section 205 of the Soldiers' and Sailors' Civil Relief Act.

Holding

1. No, because section 207 of the Soldiers' and Sailors' Civil Relief Act specifically excludes the application of section 205 to periods of limitation prescribed by the Internal Revenue Code.

Court's Reasoning

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The court applied section 207 of the Soldiers' and Sailors' Civil Relief Act, which explicitly states that section 205 does not apply to periods of limitation under the Internal Revenue Code. Despite the petitioner's military service, the court found that Congress had clearly intended to exclude tax-related filing deadlines from the tolling provisions of the Act. The court cited section 207, which reads, "Section 205 of this Act shall not apply with respect to any period of limitation prescribed by or under the internal revenue laws of the United States. " This unambiguous statutory language controlled the court's decision, overriding the petitioner's argument and the general principle of liberally construing the Act in favor of military personnel. The court also noted that the Internal Revenue Code has its own provisions for tolling in combat zones, which did not apply to the petitioner's situation.

Practical Implications

This ruling has significant implications for military personnel facing tax disputes. It clarifies that they must adhere strictly to the statutory filing deadlines under the Internal Revenue Code, regardless of their service status, unless they are in a designated combat zone. Practitioners advising military clients must be aware of this limitation and ensure timely filing of tax petitions. The decision also reinforces the principle that specific statutory exclusions can override general provisions of the Soldiers' and Sailors' Civil Relief Act. Subsequent cases, such as those involving other types of legal actions by military personnel, have distinguished Mulder by applying section 205 where the Internal Revenue Code is not involved. This case underscores the need for precise attention to statutory language and the importance of understanding the interplay between different federal laws.

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