Looper v. Commissioner, 73 T. C. 690 (1980)

A notice of deficiency or transferee liability must be sent to the taxpayer's "last known address" to be valid, and an error in address can invalidate the notice if it prejudices the taxpayer's ability to file a timely petition.

Summary

John Stuart Looper received a notice of transferee liability 133 days after it was mailed to his former college address in Oxford, England, leaving him only 17 days to file a petition. The Tax Court held that the notice was not sent to Looper's "last known address" as required by law, and the error was not harmless because it prevented him from filing within the 150-day period allowed for notices sent to foreign addresses. The court granted Looper's motion to dismiss, invalidating the notice and requiring the Commissioner to issue a new one.

Facts

John Stuart Looper was a shareholder in JCAJ Investments, Inc. , which was found liable for a tax deficiency. In 1975, Looper was interviewed by an IRS agent in London and provided a temporary college address in Oxford, England. The IRS mailed a notice of transferee liability to this Oxford address on May 15, 1978. The notice was forwarded to Looper's permanent address in Urbana, Illinois, and then to him in Princeton, New Jersey, where he received it on or about September 25, 1978. Looper attempted to file a petition but did so outside the statutory 150-day period applicable to notices sent to foreign addresses.

Procedural History

The Commissioner filed a motion to dismiss for lack of jurisdiction, arguing that Looper's petition was untimely. Looper filed a cross-motion to dismiss, contending that the notice was invalid because it was not sent to his "last known address. " The Tax Court granted Looper's motion and denied the Commissioner's motion.

Issue(s)

1. Whether the 150-day period for filing a petition applies when a notice of transferee liability is addressed to a foreign address, even if the taxpayer is no longer at that address?
2. Whether the Oxford, England, address was Looper's "last known address" under the circumstances?
3. Whether the error in sending the notice to the incorrect address was harmless?

Holding

1. Yes, because the notice was addressed to a foreign address, the 150-day period applied.

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2. No, because the Oxford address was only a temporary college address, and Looper had not clearly indicated it should be used for future correspondence.
3. No, the error was not harmless because it prevented Looper from filing a petition within the statutory period, despite his due diligence.

Court’s Reasoning

The court held that the 150-day period applied because the notice was addressed to a foreign address, consistent with the purpose of providing extra time when notices must travel abroad. The court found that the Oxford address was not Looper’s “last known address” because it was temporary and Looper had not clearly indicated it should be used for future correspondence. The court rejected the Commissioner’s argument that the error was harmless, noting that Looper received the notice only 17 days before the 150-day period expired and took responsible steps to contest the liability. The court concluded that Looper was prejudiced by the error, as he was unable to file a timely petition despite exercising due diligence.

Practical Implications

This decision emphasizes the importance of the IRS using the taxpayer’s “last known address” when sending notices of deficiency or transferee liability. Practitioners should ensure that clients keep the IRS informed of current addresses, especially when living abroad. The ruling clarifies that errors in mailing addresses are not automatically harmless and can invalidate notices if they prejudice the taxpayer’s ability to file a timely petition. This case may encourage the IRS to be more diligent in verifying addresses before sending notices, potentially reducing the number of invalid notices. Subsequent cases have applied this principle, requiring the IRS to show that an address error did not prejudice the taxpayer’s rights.

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