T.C. Memo. 1980-96

A notice of deficiency must be sent to the taxpayer's last known address to be valid, and a college address, without explicit instruction from the taxpayer, is not considered a last known address for IRS correspondence.

Summary

The Tax Court considered motions from both the Commissioner and the petitioner, Looper, regarding the validity of a notice of transferee liability. The IRS sent the notice to Looper at Magdalen College, Oxford, based on a 1975 affidavit, while Looper argued this was not his last known address. The court addressed whether the 150-day filing period for taxpayers outside the US applied and whether the notice was sent to the last known address. The court held that the 150-day rule applied because the notice was addressed to a foreign address, but the Oxford address was not Looper's last known address, rendering the notice invalid and thus dismissing the case for lack of jurisdiction based on the improper notice.

Facts

John Stuart Looper was a shareholder of JCAJ Investments, Inc., which was found liable for tax deficiency and penalties. During an IRS investigation in 1975, Looper, then studying in Oxford, England, provided an affidavit listing his college address. IRS files also contained his US home and business addresses. In 1978, the IRS mailed a notice of transferee liability to Looper at his Oxford college address. This notice was forwarded to his US permanent address and eventually reached him in New Jersey approximately 17 days before the 150-day period to petition the Tax Court expired. Looper sought legal assistance and then requested an extension from the Tax Court, which was treated as an imperfect petition.

Procedural History

1. IRS issued a notice of transferee liability to Looper at his Oxford college address.

2. Looper received the notice in New Jersey and filed a letter to the Tax Court requesting an extension, deemed an imperfect petition.

3. Respondent (Commissioner) moved to dismiss for lack of jurisdiction due to the late filing (beyond 150 days from notice mailing).

4. Petitioner (Looper) moved to dismiss for lack of jurisdiction, arguing improper notice (not sent to last known address).

5. The Tax Court considered both motions.

Issue(s)

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1. Whether the petitioner was entitled to a 150-day period to file a petition with the Tax Court because the notice of deficiency was addressed to an address outside the United States.

2. Whether the notice of transferee liability was mailed to the petitioner's last known address as required by law.

3. Whether receiving the notice 17 days before the filing deadline cured the defect of sending it to an incorrect address.

Holding

1. Yes, because the notice of deficiency was addressed to an address outside the United States, the 150-day period applies.

2. No, because under the facts and circumstances, the Oxford college address was not the petitioner's last known address; the IRS should have reasonably believed he wished correspondence sent to his permanent US address.

3. No, because under the specific facts of this case, the taxpayer was prejudiced by the improperly addressed notice, despite receiving it with 17 days remaining to file a petition.

Court's Reasoning

The court reasoned that the 150-day rule in section 6213(a) applies when the notice is *addressed* to a person outside the United States, not strictly based on the taxpayer's physical location. The court stated, "And although the language of section 6213(a) may be ambiguous, we hold that it should be read to provide this petitioner 150 days within which to file a petition because the notice of deficiency was addressed to him at a foreign address." Regarding 'last known address,' the court applied the standard that it is the address where the IRS reasonably believes the taxpayer wishes the notice to be sent, citing *Delman v. Commissioner*. The court found that a temporary college address, without clear instruction from the taxpayer to use it for all correspondence, does not constitute a 'last known address' superseding more permanent addresses already known to the IRS. The court distinguished cases where errors in address were deemed harmless because the taxpayer still filed a timely petition. Here, while the petition was technically late under the 90-day rule, the court considered the prejudice to the taxpayer, noting the notice concerned transferee liability (less expected than personal liability), and the taxpayer acted promptly upon receipt but still struggled to secure legal help in time. Therefore, the court concluded the notice was invalid due to improper address, even though received before the extended 150-day deadline.

Practical Implications

This case clarifies that for purposes of the 150-day rule, the address on the notice is

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paramount. It also reinforces that a ‘last known address’ requires a reasonable belief by the IRS as to where the taxpayer wants correspondence sent, not just any address the IRS happens to have. A temporary address, like a college dorm, is insufficient without explicit taxpayer direction. Practitioners should advise clients to clearly notify the IRS of any address changes intended to be ‘last known addresses,’ especially if temporarily residing at an unconventional address. This case also highlights that even if a taxpayer receives a misaddressed notice with time to respond, the notice can still be invalid if the delay caused prejudice, particularly in complex matters like transferee liability where immediate understanding and response are critical. Later cases will need to delineate further what constitutes ‘prejudice’ in the context of late-received but technically still ‘timely’ notices.

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