Estate of Salvatore A. Cerrito, Deceased, Stephen Cerrito, Executor, Petitioner v. Commissioner of Internal Revenue, Respondent, 73 T. C. 896 (1980)

A petition to the Tax Court must be properly addressed to be considered timely filed under section 7502 of the Internal Revenue Code.

Summary

In Estate of Cerrito v. Commissioner, the Tax Court dismissed a petition for lack of jurisdiction because it was not properly addressed when initially mailed. The court held that for a document to be considered timely under section 7502, it must be correctly addressed as specified in the Tax Court's rules. The estate's attorney mailed the petition to an outdated address, and although it was remailed to the correct address after being returned, it arrived after the 90-day statutory period. This case underscores the necessity of following specific filing procedures and addresses the importance of section 7502's requirements for timely filing.

Facts

The Commissioner of Internal Revenue issued a notice of deficiency to the Estate of Salvatore A. Cerrito on June 4, 1979. The estate's attorney prepared a petition and mailed it on August 30, 1979, to the Tax Court's outdated address, P. O. Box 70, Washington, D. C. 20044. The envelope was returned with the notation "Moved Not Forwardable. " The attorney then remailed the petition on September 17, 1979, to the correct address, 400 Second Street, N. W. , Washington, D. C. , but with an incorrect zip code. The Tax Court received the petition on September 19, 1979, 107 days after the notice of deficiency was mailed.

Procedural History

The Commissioner filed a motion to dismiss for lack of jurisdiction on November 19, 1979, asserting that the petition was not filed within the statutory period. The estate objected, and a hearing was held on January 16, 1980. The Tax Court, through Special Trial Judge Francis J. Cantrel, ruled on February 26, 1980, that the petition was not timely filed under either section 6213(a) or section 7502, granting the Commissioner's motion to dismiss.

Issue(s)

1. Whether the petition was timely filed under section 7502 of the Internal Revenue Code because it was initially mailed to an outdated address.
2. Whether the petition was timely filed under section 6213(a) of the Internal Revenue Code when it was ultimately received by the Tax Court after the 90-day statutory period.

Holding

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1. No, because the petition was not properly addressed as required by section 7502(a)(2)(B), which specifies that the document must be properly addressed to the agency with which it is required to be filed.
2. No, because the petition was not received by the Tax Court within the 90-day period specified in section 6213(a).

Court's Reasoning

The court applied the legal rule that a petition must be properly addressed to qualify for timely filing under section 7502. The Tax Court's rules explicitly stated the correct address for filing petitions. The court emphasized that the first mailing to the outdated P. O. Box 70 did not meet the requirement of being "properly addressed. " The court distinguished this case from Minuto v. Commissioner, where the rules did not specify a mailing address, noting that in Cerrito, the rules were clear and had been in effect for over four years. The court also considered the policy of section 7502 to relieve taxpayers of hardships due to postal delays, but found that this policy did not apply when the delay was due to the taxpayer's failure to use the correct address. The court quoted from Minuto, "a reasonable interpretation of the words 'properly addressed' in section 7502(a)(2)(B) is that the envelope in which the petition in this case was enclosed was properly addressed," to highlight the difference in circumstances between the two cases.

Practical Implications

This decision underscores the importance of strict adherence to procedural rules when filing with the Tax Court. Attorneys must ensure that all filings are sent to the correct address as specified in the court's rules to avoid jurisdictional issues. The case serves as a reminder that section 7502 does not excuse a taxpayer's failure to use the proper address, even if the incorrect address was used successfully in the past. Practitioners should regularly update their records to reflect changes in court addresses and procedures. Subsequent cases, such as Axe v. Commissioner and Lurkins v. Commissioner, have applied similar reasoning, emphasizing the strict interpretation of "properly addressed" under section 7502. This ruling impacts legal practice by highlighting the need for diligence in procedural compliance and affects taxpayers by reinforcing the importance of timely and correctly addressed filings to preserve their rights to contest tax deficiencies.

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