Burford v. Commissioner, 74 T. C. 959 (1980)

A notice of deficiency remains valid despite a typographical error in the stated tax period if the taxpayer is not misled and the correct period is included within the stated period.

Summary

In Burford v. Commissioner, the Tax Court upheld the validity of a notice of deficiency issued for the tax year ended December 31, 1976, despite a typographical error, as it included the correct calendar quarter ended December 31, 1976. The petitioner, Burford, argued the notice was invalid because gift tax should be assessed quarterly, not annually. The court found that since the notice covered the entire year which included the relevant quarter, and the petitioner was not misled, the notice was valid. This case clarifies that minor errors in a notice of deficiency do not invalidate it if the correct period is encompassed and the taxpayer understands the intended period.

Facts

Petitioner Burford received a notice of deficiency from the IRS on March 27, 1980, for a gift tax deficiency of $73,326. 20 for the tax year ended December 31, 1976. The notice contained a typographical error, incorrectly stating the period as a tax year rather than the correct calendar quarter ended December 31, 1976. Burford filed a gift tax return for this quarter and made several gifts, including forgiving a debt and transferring funds into a trust. He filed a motion to dismiss for lack of jurisdiction, arguing the notice was invalid due to the incorrect period stated.

Procedural History

Burford timely filed his petition and motion to dismiss on June 2, 1980. The case was assigned to Special Trial Judge Francis J. Cantrel, who conducted a hearing and issued an opinion denying the motion to dismiss. The Tax Court reviewed and adopted the Special Trial Judge’s opinion, affirming the validity of the notice of deficiency.

Issue(s)

1. Whether a notice of deficiency issued for the tax year ended December 31, 1976, instead of the correct calendar quarter ended December 31, 1976, is invalid due to the typographical error?

Holding

1. No, because the notice of deficiency covered the entire calendar year which included the correct calendar quarter, and the petitioner was not misled as to the period covered.

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Court’s Reasoning

The Tax Court applied the rule that a notice of deficiency remains valid despite a typographical error if the taxpayer is not misled and the correct period is included within the stated period. The court referenced Sanderling, Inc. v. Commissioner, noting that a notice covering a longer period than necessary is valid if it includes the correct taxable period. The court found that the notice covered the entire year 1976, which included the correct quarter, and Burford’s petition demonstrated he understood the intended period. The court distinguished Schick v. Commissioner, where the notice covered a shorter period than the taxable year, which invalidated the notice. The court emphasized that Burford’s arguments about overpayment further indicated he was not misled by the typographical error.

Practical Implications

This decision informs legal practitioners that minor errors in notices of deficiency do not automatically invalidate them if the correct period is encompassed and the taxpayer is not misled. Attorneys should focus on whether the notice covers the correct taxable period and whether their client understood the intended period. This ruling may reduce the success of jurisdictional challenges based on minor errors in notices. Businesses and taxpayers should carefully review notices of deficiency to ensure they understand the period covered, rather than focusing solely on the exact language used. Subsequent cases, such as those cited in the opinion, have followed this principle, reinforcing the importance of the taxpayer’s understanding of the notice’s intent.

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