Lovelace v. Commissioner, 74 T. C. 237 (1980)

Taxpayers temporarily abroad at the time of delivery of a notice of deficiency are entitled to 150 days to file a petition with the Tax Court.

Summary

In Lovelace v. Commissioner, the court addressed whether taxpayers, who were temporarily abroad when a notice of deficiency was delivered to their U. S. residence, were entitled to 150 days to file a petition with the Tax Court, rather than the usual 90 days. The taxpayers left the U. S. on the same day the notice was mailed and did not receive it until their return. The court held that the 150-day period applied, emphasizing the policy of ensuring a prepayment hearing and recognizing that the taxpayers' temporary absence abroad delayed their receipt of the notice.

Facts

On April 13, 1979, the taxpayers and the Commissioner agreed to extend the period for assessing the taxpayers' 1975 federal income tax liabilities until June 15, 1979. On June 14, 1979, the Commissioner mailed a notice of deficiency to the taxpayers' Chicago residence and another address. On the same day, the taxpayers left Chicago for a vacation in Jamaica, where they arrived that afternoon. They returned to Chicago on June 19, 1979, and did not receive the notice until then. The taxpayers filed their petition on September 21, 1979, the 99th day after the notice was mailed. The Commissioner moved to dismiss for lack of jurisdiction, arguing the petition was filed outside the 90-day statutory period.

Procedural History

The Commissioner moved to dismiss the case for lack of jurisdiction due to the petition being filed outside the 90-day period prescribed by section 6213(a). The taxpayers objected, asserting they were entitled to 150 days because they were outside the United States when the notice was mailed. The Tax Court, in its decision, denied the Commissioner's motion to dismiss.

Issue(s)

1. Whether taxpayers who are temporarily abroad at the time of delivery of a notice of deficiency are entitled to 150 days to file a petition with the Tax Court under section 6213(a).

Holding

1. Yes, because the taxpayers were temporarily abroad and delayed in receiving the notice of deficiency, which aligns with the statutory purpose of providing an extended period for taxpayers not present in the U. S. at the time of delivery.

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Court’s Reasoning

The court’s decision hinged on the interpretation of section 6213(a), which provides 150 days for filing a petition if the notice is addressed to a person outside the U. S. The court clarified that this provision applies when taxpayers are physically abroad at the time of the notice’s delivery, not merely at the time of mailing. The court cited precedents such as Hamilton v. Commissioner and Lewy v. Commissioner to support this interpretation, emphasizing that the purpose of the extended period is to prevent hardship due to delayed receipt of the notice. The court distinguished this case from Cowan v. Commissioner, where the taxpayers’ brief absence did not delay receipt of the notice. The court underscored the policy of preserving the right to a prepayment hearing, as articulated in King v. Commissioner, stating, “We should not adopt an interpretation which curtails [the right to a prepayment hearing] in the absence of a clear congressional intent to do so. “

Practical Implications

This decision expands the scope of the 150-day filing period under section 6213(a) to include taxpayers who are temporarily abroad at the time of delivery of a notice of deficiency, even if they were in the U. S. at the time of mailing. Practitioners should advise clients that temporary travel outside the U. S. may qualify them for the extended period if it delays receipt of the notice. This ruling reinforces the policy of ensuring access to a prepayment hearing and may affect how the IRS handles notices of deficiency for taxpayers abroad. Subsequent cases, such as Lewy v. Commissioner, have followed this interpretation, emphasizing the importance of actual receipt over the timing of mailing.

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