Malekzad v. Commissioner, 76 T. C. 963 (1981)

The U. S. Postal Service postmark determines the timeliness of a tax deficiency petition, and taxpayers must be substantially outside the U. S. to qualify for the 150-day filing period.

Summary

In Malekzad v. Commissioner, the U. S. Tax Court ruled that the U. S. Postal Service postmark, rather than a private postage meter mark, determines the timeliness of a tax deficiency petition. The petitioners, who were briefly in Mexico when the notice was delivered to their U. S. home, argued for the 150-day filing period for those outside the U. S. The court rejected this, affirming that only the U. S. Postal Service postmark controls and that petitioners' brief absence did not qualify them for the extended period. The decision underscores the importance of understanding postal regulations and the criteria for extended filing periods in tax deficiency cases.

Facts

On August 19, 1980, the IRS mailed a statutory notice of deficiency to the Malekzads' Beverly Hills address. The notice was delivered on August 23, 1980, while the petitioners were on a weekend trip to Mexico. They returned home the next day and received the notice. The petition was mailed on November 14, 1980, with a private postage meter mark, but also bore a U. S. Postal Service postmark dated November 21, 1980. The Tax Court received the petition on November 24, 1980, which was 97 days after the mailing of the statutory notice.

Procedural History

The Commissioner moved to dismiss the petition for lack of jurisdiction due to untimely filing. The Tax Court, in its decision dated June 9, 1981, granted the motion, ruling that the U. S. Postal Service postmark was controlling and that the petitioners were not entitled to the 150-day filing period.

Issue(s)

1. Whether the U. S. Postal Service postmark or a private postage meter mark determines the timeliness of a tax deficiency petition?
2. Whether petitioners, who were briefly outside the U. S. when the statutory notice was delivered to their home, are entitled to the 150-day filing period?

Holding

1. No, because the regulations specify that the U. S. Postal Service postmark is controlling, and the petition was postmarked after the 90-day period.
2. No, because the petitioners' brief absence from the U. S. did not qualify them for the 150-day period as they were not substantially outside the U. S. when the notice

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was mailed and received.

Court’s Reasoning

The court applied IRS regulations stating that only the U. S. Postal Service postmark is considered for determining the timeliness of a petition, thus disregarding the private postage meter mark. The court also relied on the statutory language of section 6213(a), which allows the 150-day period only if the notice is addressed to a person outside the U. S. The court cited Cowan v. Commissioner to support that a brief absence from the U. S. does not entitle a taxpayer to the extended period. The court emphasized that the notice function was served adequately since the petitioners received the notice the day after it was delivered to their home, and they had over 84 days to file, which was deemed sufficient.

Practical Implications

This decision reinforces the importance of understanding postal regulations for timely filing of tax deficiency petitions. Practitioners should ensure that petitions bear only a U. S. Postal Service postmark to avoid jurisdictional issues. The ruling clarifies that brief absences from the U. S. do not automatically extend the filing period to 150 days, which is significant for taxpayers who travel frequently. This case impacts how similar situations should be analyzed, emphasizing the need for substantial presence outside the U. S. for the extended period to apply. Subsequent cases like Levy v. Commissioner have further refined these principles, but Malekzad remains a foundational case for understanding the interplay between postal regulations and tax filing deadlines.

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