Frieling v. Commissioner, 81 T. C. 42 (1983)

A notice of deficiency mailed to an incorrect address but received by the taxpayer and followed by a timely petition is valid for tolling the statute of limitations.

Summary

The Frielings moved and orally notified the IRS of their new address 12 days before the statute of limitations for assessing their 1976 tax expired. Despite this, the IRS mailed the notice of deficiency to their old address on the last day of the limitations period. The notice was forwarded and received by the Frielings, who timely filed a petition. The Tax Court held that although the notice was not sent to the last known address, it was valid under IRC § 6212(a) because it was received and a timely petition was filed, tolling the statute of limitations under IRC § 6503(a)(1).

Facts

In 1976, the Frielings filed their tax return with an Allentown, PA address. In April 1979, they moved to Niles, MI, and in April 1980, orally notified the IRS's Returns Program Manager of their new address. The IRS mailed a Form 872 to extend the limitations period to the Niles address on the same day. However, the IRS mailed the notice of deficiency to the Allentown address on April 15, 1980, the last day of the limitations period. The notice was forwarded to and received by the Frielings in Niles, who timely filed a petition with the Tax Court.

Procedural History

The Frielings moved to dismiss the case, arguing the notice of deficiency was not timely mailed to their last known address, thus the statute of limitations had expired. The Tax Court denied the motion, holding that the notice was valid under IRC § 6212(a) and tolled the statute of limitations under IRC § 6503(a)(1).

Issue(s)

1. Whether a notice of deficiency mailed to an address other than the taxpayer's last known address is valid for purposes of tolling the statute of limitations under IRC § 6503(a)(1) when received by the taxpayer and followed by a timely petition.
2. Whether oral notification to the IRS of a change of address constitutes sufficient notice to the IRS.

Holding

1. Yes, because the notice of deficiency complied with IRC § 6212(a) by being received by the taxpayer and followed by a timely petition, it was effective to toll the statute of limitations on the date it was mailed under IRC § 6503(a)(1).
2. Yes, because the oral notification to the IRS's Returns Program Manager, the office responsible for monitoring the limitations period, was sufficient to put the IRS

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on notice of the new address.

Court's Reasoning

The court reasoned that IRC § 6212(a) does not require the notice of deficiency to be mailed to the last known address, only that it be sent to the taxpayer by certified or registered mail. The court found that the notice was valid under IRC § 6212(a) because the Frielings received it and timely filed a petition. The court cited *Clodfelter v. Commissioner* to support that such a notice tolls the statute of limitations under IRC § 6503(a)(1) on the date of mailing. The court also held that the oral notification to the Returns Program Manager was adequate because it was the office responsible for monitoring the limitations period. The court distinguished cases where notices were not received or were returned undelivered, emphasizing that receipt and timely filing of a petition validate the notice for all purposes, including tolling the limitations period.

Practical Implications

This decision clarifies that a notice of deficiency, even if not mailed to the last known address, can be valid if received by the taxpayer and followed by a timely petition, thus tolling the statute of limitations. Tax practitioners must ensure clients receive and act on forwarded notices of deficiency promptly. The IRS must exercise due diligence in updating taxpayer addresses but is not strictly liable for using an outdated address if the notice is received. This ruling may reduce the need for the IRS to remail notices when the original is forwarded and received, streamlining the deficiency process. Subsequent cases like *McPartlin v. Commissioner* have followed this reasoning, emphasizing the importance of actual receipt and timely filing in validating notices of deficiency.

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