Mulvania v. Commissioner, 81 T. C. 65 (1983)

The IRS must exercise reasonable diligence to ascertain a taxpayer's 'last known address' before mailing a notice of deficiency, particularly when it has previously corresponded with the taxpayer at a different address.

Summary

In Mulvania v. Commissioner, the Tax Court held that the IRS did not mail a notice of deficiency to the taxpayers' 'last known address' as required by IRC § 6212(b)(1). The taxpayers had moved and updated their address on subsequent tax returns, which the IRS acknowledged by sending correspondence to the new address for other years. However, the IRS sent the deficiency notice to the old address, which was returned undelivered. The court ruled that the IRS's failure to use the new address, known to them through prior correspondence, constituted a lack of reasonable diligence, rendering the notice invalid. This decision emphasizes the IRS's duty to use the most recent address when it has been made aware of a change.

Facts

The Mulvanias, who operated a liquor store and gas station, resided at 17039 Faysmith, Torrance, CA, when they filed their 1976 and 1977 tax returns. In January 1979, they moved to 3004 Carolwood Lane, Torrance, CA, and updated their address on subsequent tax returns. During an IRS examination of their 1976 and 1977 returns, the IRS corresponded with them at the Carolwood address regarding other tax years. Despite this, the IRS mailed a notice of deficiency for the 1976 and 1977 tax years to the Faysmith address, which was returned undelivered. The Mulvanias learned of the deficiency 11 months later when the IRS informed them that the 90-day period to petition the Tax Court had lapsed.

Procedural History

The Mulvanias filed a petition with the Tax Court challenging the IRS's determination of tax deficiencies for 1976 and 1977. Both parties moved to dismiss for lack of jurisdiction: the Mulvanias argued the notice was not sent to their 'last known address,' while the IRS claimed the petition was untimely. The Tax Court granted the Mulvanias' motion, holding that the IRS did not mail the notice to their last known address, thus invalidating the notice and rendering the court without jurisdiction.

Issue(s)

1. Whether the IRS's mailing of the notice of deficiency to the Mulvanias' old address, rather than their new address known to the IRS, constituted a valid mailing under IRC § 6212(b)(1).

Holding

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1. No, because the IRS failed to exercise reasonable diligence in ascertaining and using the Mulvanias' last known address, the Carolwood address, which was known to them through prior correspondence.

Court's Reasoning

The Tax Court applied the rule that the IRS must mail the notice of deficiency to the taxpayer's 'last known address,' defined as the address the IRS reasonably believes the taxpayer wishes the notice to be sent. The court found that the IRS had knowledge of the Mulvanias' new address through multiple correspondences sent to the Carolwood address for other tax years. The court cited Weinroth v. Commissioner, stating that once the IRS becomes aware of an address change, it must use reasonable care to ascertain and use the correct address. The court rejected the IRS's argument that the Mulvanias' failure to update the address on a Form 872 consent form negated this duty, emphasizing the IRS's prior use of the new address. The court concluded that mailing the notice to the old address, despite knowledge of the new address, was not a valid mailing under IRC § 6212(b)(1).

Practical Implications

This decision reinforces the IRS's obligation to use the most current address known to them when mailing deficiency notices. It impacts how taxpayers and their representatives should handle address changes and how the IRS must manage its records and communications. Practitioners should ensure clients update their addresses with the IRS and on all tax-related documents. The ruling may lead to changes in IRS procedures regarding address verification, potentially increasing the use of centralized computer systems to track taxpayer addresses. Subsequent cases have cited Mulvania to support the principle that the IRS must act with reasonable diligence in determining a taxpayer's last known address.

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