86 T.C. 1128 (1986)

An electronically transmitted copy of a petition to the Tax Court does not constitute a valid filing for jurisdictional purposes, as it is considered a communication similar to telegrams or cablegrams, which are explicitly disallowed by Tax Court Rules.

Summary

Lois Blum attempted to file a petition with the U.S. Tax Court by delivering it to Federal Express on the 90th day after a notice of deficiency. Federal Express electronically transmitted a copy to Washington D.C. and tendered it to the Tax Court the same day, but the court refused it. The original petition arrived on the 91st day. The Tax Court considered whether the electronic transmission constituted a timely filing. The court held that electronic transmissions are similar to prohibited communications like telegrams under Rule 34(a)(1) of the Tax Court Rules, and thus, the petition was untimely, resulting in a dismissal for lack of jurisdiction.

Facts

1. The IRS issued a notice of deficiency to Lois Blum on April 3, 1985.
2. The 90th day after the notice was July 2, 1985.
3. On July 2, 1985, Blum's attorney delivered a petition to Federal Express in St. Paul, Minnesota.
4. The delivery contract included electronic transmission of a copy via satellite ("Zapmail") and express delivery of the original.
5. On July 2, 1985, Federal Express electronically transmitted a copy of the petition to Washington, D.C., and tendered it to the Tax Court, which was refused.
6. The original petition was hand-delivered to the Tax Court by Federal Express on July 3, 1985, the 91st day.

Procedural History

1. The Commissioner of Internal Revenue filed a motion to dismiss for lack of jurisdiction, arguing the petition was not timely filed within the 90-day statutory period.
2. Blum objected, arguing the electronic transmission on the 90th day constituted a timely filing.
3. The Tax Court, Special Trial Judge Cantrel, agreed with the Commissioner and recommended dismissal.
4. Chief Judge Sterrett adopted the Special Trial Judge's opinion, granting the motion to dismiss for lack of jurisdiction.

Issue(s)

1. Whether an electronically transmitted copy of a petition, tendered to the Tax Court within the 90-day filing period, constitutes a valid petition for

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jurisdictional purposes.
2. Whether the delivery of a petition to a private delivery service (Federal Express) on the 90th day, with hand-delivery to the Tax Court on the 91st day, constitutes a timely filing under section 7502 of the Internal Revenue Code.

Holding

1. No, because Tax Court Rule 34(a)(1) explicitly states that "no telegram, cablegram, radiogram, telephone call, or similar communication will be recognized as a petition," and an electronically transmitted copy falls under "similar communication."
2. No, because section 7502 applies only to filings made via the U.S. Postal Service, not private delivery services like Federal Express, as established in *Blank v. Commissioner*, 76 T.C. 400 (1981).

Court's Reasoning

The Tax Court's jurisdiction is strictly defined by statute, requiring a petition to be filed within 90 days of the notice of deficiency. This deadline is jurisdictional and cannot be extended. The court relies on its own Rule 34(a)(1), which explicitly disallows telegrams and similar communications as valid petitions, a rule derived from Board of Tax Appeals Rules since 1942.

The court reasoned that electronically transmitted copies, like "Zapmail," share the same issues of authenticity and definiteness as telegrams, cablegrams, and radiograms, which the rule was designed to prevent. The court emphasized its long-standing practice, reinforced by a 1984 Press Release, of not accepting electronically transmitted documents for jurisdictional purposes. As the court stated, "We will not accept documents that are the products of such media for jurisdictional purposes."

Regarding section 7502, the court reiterated its prior holding in *Blank v. Commissioner* that this section, which deems timely mailing as timely filing, applies only to the U.S. Postal Service, not private delivery services. Therefore, physical delivery on the 91st day, even if sent via private delivery service on the 90th day, does not meet the statutory filing deadline.

The court noted the importance of adhering to its Rules of Practice and Procedure, designed to ensure efficiency and proper form, including original signatures on filed documents. Rule 23 and Rule 34 detail requirements for captions, signatures, and the filing of original documents, which electronic transmissions inherently fail to meet. The court stated, "There are important reasons behind the Rules of Practice and Procedure of this Court which would be entirely lost should we fail to enforce its strictures."

Practical Implications

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- **Strict Adherence to Filing Rules:** This case underscores the critical importance of strictly adhering to the Tax Court's rules regarding filing deadlines and acceptable methods of filing. Attorneys and taxpayers must ensure petitions are physically filed with the court within the 90-day period and in the required format.
- **Electronic Filing Not Permitted (at the time):** In 1986, electronic transmission was not a recognized method for filing petitions with the Tax Court. This case clarified that attempts to use emerging technologies like "Zapmail" would not be accepted, reinforcing the need for physical, signed original documents. Note: Tax Court rules have since evolved to permit electronic filing, but this case highlights the jurisdictional pitfalls of non-conforming filings.
- **Reliance on U.S. Postal Service for Timely Mailing Rule:** Taxpayers seeking to utilize the timely mailing as timely filing rule under section 7502 must use the U.S. Postal Service. Private delivery services, even if seemingly faster, do not qualify under the statute as it was interpreted at the time of this case. Subsequent amendments to section 7502 have broadened the definition of "U.S. Mail" to include designated private delivery services, but this case remains instructive for understanding the original limitations.
- **Jurisdictional Nature of Filing Deadline:** The case reinforces that the 90-day filing deadline is jurisdictional. Failure to meet this deadline deprives the Tax Court of jurisdiction, regardless of the taxpayer's intent or efforts to file. This highlights the unforgiving nature of jurisdictional rules in tax litigation.
- **Alternative Remedies:** While Blum lost her opportunity to litigate in Tax Court, the court pointed out alternative remedies, such as paying the deficiency and suing for a refund in U.S. District Court or the U.S. Claims Court, offering a pathway for taxpayers who miss the Tax Court deadline but still wish to contest the tax assessment.

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