***Ramirez v. Commissioner, 83 T. C. 414 (1984)***

The Tax Court has jurisdiction over a case despite an untimely notice of deficiency post-termination assessment if it is mailed within the general three-year statute of limitations period and to the taxpayer's last known address.

**Summary**

In Ramirez v. Commissioner, the Tax Court addressed the jurisdiction over a case where the IRS issued a notice of deficiency more than 60 days after the due date of the taxpayer's return following a termination assessment. The court held that the notice of deficiency, although untimely under the 60-day rule, was valid because it was mailed within the three-year statute of limitations and to the taxpayer's last known address. The court also considered the IRS's duty to exercise reasonable diligence in ascertaining the taxpayer's address, ultimately dismissing the case for lack of jurisdiction due to the untimely petition filing by the taxpayer.

**Facts**

Alvaro Ramirez resided in Bogota, Colombia, when he filed his petition. On August 8, 1980, the IRS terminated his taxable year effective July 3, 1980, and assessed income tax. On August 11, 1980, the IRS notified Ramirez of the termination assessment at a Miami Beach address. Ramirez appointed attorneys-in-fact on August 14, 1980, specifying a different address. After exhausting administrative remedies, Ramirez challenged the assessment in U. S. District Court, which upheld it on December 5, 1980. On May 10, 1982, the IRS mailed duplicate notices of deficiency to two Miami addresses, which were returned as undeliverable. Ramirez's attorney requested copies of the notices in January 1983, but none were provided. Ramirez filed a petition with the Tax Court on May 13, 1985, more than three years after the notices were mailed.

**Procedural History**

The IRS made a termination assessment against Ramirez on August 8, 1980. Ramirez challenged this assessment in the U. S. District Court, which upheld it on December 5, 1980. On May 10, 1982, the IRS mailed notices of deficiency, which were returned undeliverable. Ramirez filed a petition in the Tax Court on May 13, 1985, over three years later. The IRS moved to dismiss for lack of jurisdiction due to the untimely filing of the petition.

**Issue(s)**

1. Whether the Tax Court retains jurisdiction over a case when the IRS fails to mail a notice of deficiency within 60 days following a termination assessment, as required by section 6851(b).
2. Whether the notices of deficiency were mailed to Ramirez's "last known address" within the meaning of section 6212(b).

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## Holding

1. Yes, because the notice of deficiency was mailed within the general three-year statute of limitations period, despite being untimely under section 6851(b).
2. Yes, because the notices were mailed to Ramirez's last known address, and the IRS exercised reasonable diligence in ascertaining this address.

## Court's Reasoning

The court reasoned that the 60-day rule under section 6851(b) is not a jurisdictional requirement but rather a condition on maintaining a termination assessment. The court cited Teitelbaum v. Commissioner, where it held that a similar rule under section 6861(b) was not jurisdictional. The court also noted that Congress intended to provide taxpayers with equal access to Tax Court regardless of the type of assessment. Regarding the last known address, the court determined that the IRS used reasonable diligence in mailing the notices to the addresses listed in Ramirez's administrative records, despite minor discrepancies. The court emphasized the taxpayer's responsibility to update their address with the IRS. The court was critical of the IRS's failure to provide copies of the notices to Ramirez's attorney but clarified that this did not affect jurisdiction.

## Practical Implications

This decision clarifies that the 60-day rule for mailing notices of deficiency post-termination assessment is not jurisdictional, allowing the IRS flexibility in such cases. Practitioners should note that the general three-year statute of limitations remains the primary constraint on IRS action. The ruling also reinforces the importance of taxpayers keeping the IRS informed of their current address, as the burden is on the taxpayer to ensure the IRS has up-to-date contact information. This case may influence how similar cases are handled, particularly concerning the IRS's duty to exercise reasonable diligence in ascertaining a taxpayer's address. Subsequent cases have distinguished Ramirez when addressing the IRS's obligation to mail notices to attorneys under powers of attorney, highlighting the need for clarity in such documents.

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