Emmons v. Commissioner, 92 T. C. 342 (1989)

An untimely filed tax return is considered filed on the date of receipt by the IRS, not the postmark date, and can trigger negligence penalties under Section 6653(a) for late filing.

Summary

Gary and Martha Emmons filed their 1981 and 1982 tax returns late, postmarked on May 5, 1983, and received by the IRS on May 9, 1983. The IRS issued a deficiency notice on May 8, 1986, within three years of receipt, asserting negligence penalties under Section 6653(a). The Tax Court ruled that the returns were filed on the date of receipt, thus the notice was timely. The court also found the Emmons liable for negligence penalties due to their late filing and refusal to cooperate with the IRS audit, without presenting any countervailing evidence.

Facts

Gary and Martha Emmons filed their 1981 and 1982 federal income tax returns late. The returns, due on April 15, 1982, and April 15, 1983, respectively, were postmarked on May 5, 1983, and received by the IRS on May 9, 1983. They reported wage income for both years and claimed significant business expenses related to their Amway business. During an audit, they refused to provide records to substantiate their deductions and credits. The IRS issued a notice of deficiency on May 8, 1986, disallowing their claimed deductions and asserting negligence penalties under Section 6653(a).

Procedural History

The Emmons petitioned the Tax Court to contest the deficiency and penalties. The IRS amended its answer to assert negligence penalties under Section 6653(a) instead of fraud penalties. The Tax Court considered whether the deficiency notice was timely and whether the Emmons were liable for negligence penalties.

Issue(s)

1. Whether, for the purpose of commencing the three-year statute of limitations under Section 6501(a), a late-filed return is considered filed on the date it is mailed or the date it is received by the IRS?
2. Whether the Emmons are liable for negligence penalties under Section 6653(a)?

Holding

1. No, because an untimely return is considered filed on the date it is received by the IRS, not the postmark date, thus the notice of deficiency was timely issued within the three-year period.
2. Yes, because the Emmons' late filing and refusal to cooperate with the IRS audit,

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without presenting any countervailing evidence, established negligence under Section 6653(a).

Court's Reasoning

The Tax Court applied the general rule that a return is filed when it is received by the IRS, not when mailed, as supported by Section 6501(a) and case law such as *Hotel Equities Corp. v. Commissioner*. The court noted that Section 7502(a)(1), which deems a return filed on the postmark date, applies only to timely mailed returns, not late-filed ones. For the negligence penalties, the court found that the Emmons' late filing inherently created an underpayment under Section 6653(a), and their refusal to cooperate with the audit, coupled with their failure to present any evidence, established negligence. The court cited *Neely v. Commissioner* to define negligence as the failure to act as a reasonable and prudent person would under the circumstances.

Practical Implications

This decision clarifies that late-filed tax returns trigger the statute of limitations upon receipt by the IRS, not the postmark date, impacting how practitioners advise clients on filing deadlines. It also establishes that late filing can be considered negligence under Section 6653(a), potentially leading to penalties. Practitioners should emphasize the importance of timely filing and maintaining records to substantiate claims during audits. This ruling has been cited in subsequent cases like *Badaracco v. Commissioner* to support the imposition of negligence penalties for late filing.

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