Monge v. Commissioner, 95 T. C. 468 (1990)

The IRS must mail a notice of deficiency to the taxpayer's 'last known address,' which is typically the address on the most recent tax return unless clearly and concisely notified otherwise.

Summary

In Monge v. Commissioner, the court addressed whether the IRS properly mailed a deficiency notice to the taxpayers' 'last known address' as required by law. The case involved Isidro and Linda Monge, who had filed joint returns but lived separately. The IRS sent a single notice to an old address of their financial consultant, which was returned as undeliverable. The court held that the notice was invalid for Linda because her most recent tax return clearly indicated a new address, triggering the requirement for a separate notice under IRC section 6212(b)(2). However, the notice was valid for Isidro because he did not provide clear notification of an address change. This decision emphasizes the importance of clear communication of address changes to the IRS and the implications of separate residences on deficiency notice mailing procedures.

Facts

Isidro and Linda Monge filed a joint federal income tax return for 1982, listing Hendricks Management Co. 's Houston address. Later, they lived separately, with Isidro in Massachusetts and Linda in Arizona. Linda filed her 1985 return from a Tucson address, which the IRS updated in June 1986. Isidro used various addresses on extension forms for his 1985 return but continued to use Hendricks Co. 's address on his tax returns. In September 1986, the IRS mailed a single notice of deficiency for the 1982 return to the Houston address, which was returned undeliverable. The IRS did not remail the notice or search for Linda's new address.

Procedural History

The Tax Court considered cross-motions to dismiss for lack of jurisdiction. The key issue was whether the notice of deficiency was mailed to the 'last known address' of both petitioners. The court granted Linda's motion to dismiss because the IRS failed to send a separate notice to her Tucson address as required by IRC section 6212(b)(2). The court denied Isidro's motion, ruling that the IRS had properly mailed the notice to his last known address.

Issue(s)

1. Whether the IRS properly mailed the notice of deficiency to Linda Monge's 'last known address' under IRC section 6212(b)(1) and (b)(2).
2. Whether the IRS properly mailed the notice of deficiency to Isidro Monge's 'last known address' under IRC section 6212(b)(1).

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Holding

1. No, because the IRS failed to send a separate notice to Linda's Tucson address, which was her last known address as per her most recent tax return, and the IRS was on notice of separate residences under section 6212(b)(2).
2. Yes, because Isidro did not provide clear and concise notification of a change of address, so the IRS properly used the address on his most recent return.

Court's Reasoning

The court applied the rule from Abeles v. Commissioner, which states that a taxpayer's last known address is the address on their most recently filed return unless clear and concise notification of a change is provided. For Linda, her 1985 return, processed before the deficiency notice was mailed, established her Tucson address as her last known address and notified the IRS of separate residences. Thus, the IRS was required to send a separate notice to her under section 6212(b)(2). For Isidro, the court found that he did not clearly notify the IRS of an address change. The court rejected the argument that extension forms constituted clear notification, emphasizing that the burden of proof for such notification lies with the taxpayer. The court also clarified that the IRS's duty to exercise reasonable care to ascertain an address arises only if it becomes aware of an address change before mailing the notice, not after it is returned undeliverable.

Practical Implications

This decision impacts how taxpayers and the IRS handle address changes and deficiency notices. Taxpayers must clearly and concisely notify the IRS of address changes to ensure proper mailing of notices. The IRS must be diligent in updating records and sending separate notices when aware of separate residences. This ruling may lead to increased scrutiny of IRS mailing practices and could affect future cases involving undeliverable notices. Practitioners should advise clients to use their actual address on tax returns and provide clear notification of any changes. Subsequent cases have further refined the definition of 'last known address' and the IRS's obligations, but Monge remains a key precedent for understanding these requirements.

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