Miller v. Commissioner, 94 T. C. 316 (1990)

Actual notice of a tax deficiency determination can override the requirement to mail a notice to the taxpayer's last known address.

Summary

Jacob and Ardythe Miller, after ceasing to file tax returns and withholding, were assessed a deficiency by the IRS. A joint notice was sent to Jacob's address, but not to Ardythe's new address. Despite this, Ardythe received actual notice and timely filed a petition. The Tax Court held that it had jurisdiction over Ardythe's case due to her actual notice and timely filing, even though the IRS failed to send a duplicate notice to her last known address. The court also found the Millers liable for fraud penalties under Section 6653(b) for their deliberate tax evasion scheme.

Facts

Jacob and Ardythe Miller, educated professionals, regularly filed and paid their taxes until 1982. They then claimed exemption from withholding and stopped filing returns. After IRS inquiry, they filed late returns for 1982-1984 upon their attorney's advice. Following their divorce, they established separate residences. The IRS sent a joint notice of deficiency to Jacob's address but not to Ardythe's new address, which was in the IRS's system. Ardythe received actual notice from Jacob and timely filed a petition with the Tax Court.

Procedural History

The IRS issued a joint notice of deficiency to Jacob Miller's address on September 1, 1987, but not to Ardythe's last known address. Jacob received the notice and informed Ardythe, who timely filed a joint petition with the Tax Court on November 30, 1987. The IRS amended its answer to assert fraud penalties under Section 6653(b). The Tax Court considered the validity and timeliness of the notice as to Ardythe and the applicability of fraud penalties.

Issue(s)

1. Whether the IRS mailed a joint notice of deficiency to Ardythe Miller.
2. Whether actual notice and timely filing are sufficient to provide the Tax Court with jurisdiction over Ardythe's case.
3. Whether the joint notice of deficiency was timely issued to Ardythe under Section 6501(a).
4. Whether the Millers are liable for the addition to tax for fraud under Section 6653(b).

Holding

1. Yes, because the IRS issued and mailed a joint notice of deficiency to Ardythe,

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albeit to an incorrect address.
2. Yes, because Ardythe received actual notice and timely filed a petition, providing the Tax Court with jurisdiction over her case.
3. Yes, because the IRS timely mailed the notice for purposes of providing Ardythe with notice, and she received actual notice and timely filed a petition.
4. Yes, because the Millers' actions constituted fraud under Section 6653(b).

Court's Reasoning

The Tax Court found that the IRS had mailed a notice to Ardythe, despite it being to an incorrect address, based on the joint notice issued in her name. The court relied on precedent that actual notice can validate a notice not sent to the last known address if received without prejudicial delay. The court emphasized that the notice's purpose—to inform the taxpayer of a deficiency and allow for a petition—was fulfilled. The court rejected the argument that the notice was untimely because Ardythe received actual notice before the limitations period expired. On the fraud issue, the court found clear and convincing evidence of the Millers' intent to evade taxes through false withholding claims and non-filing, citing their education and prior compliance as factors.

Practical Implications

This decision reinforces that actual notice can override the last known address requirement for IRS deficiency notices, ensuring taxpayers can contest assessments even if the notice was not properly mailed. Practitioners should advise clients to act upon receiving any notice, even if not addressed to their last known address. The ruling also underscores the IRS's ability to assess fraud penalties where taxpayers use schemes to evade taxes, such as false withholding claims. Subsequent cases have applied this principle, confirming that the IRS's duty to provide notice can be satisfied through actual communication, not just proper mailing.

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