Boisi v. Commissioner, 117 T. C. 372 (U. S. Tax Court 2001)

In Boisi v. Commissioner, the U. S. Tax Court upheld the validity of a notice of deficiency despite the IRS's failure to specify the last date for filing a petition, as required by the Internal Revenue Service Restructuring and Reform Act of 1998. The court dismissed the taxpayer's petition as untimely, ruling that the absence of the specified date did not extend the statutory 90-day filing period. This decision clarifies that the IRS's noncompliance with the new statutory requirement does not invalidate the notice when the taxpayer has actual notice and the notice includes the statutory filing period.

Parties

Petitioner: William Boisi, an attorney residing in Austin, Texas, at the time of filing the petition. Respondent: Commissioner of Internal Revenue.

Facts

William Boisi, an attorney, received a notice of deficiency from the IRS on or about July 23, 1999, concerning deficiencies in federal income tax and accuracy-related penalties for the tax years at issue. The notice was mailed on July 20, 1999, to Boisi's last known address in Austin, Texas. The notice failed to specify the last possible date for filing a petition with the Tax Court, a requirement introduced by section 3463(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998). However, the notice did inform Boisi that he had 90 days from the mailing date to file a petition. Boisi filed his petition on December 10, 1999, which was 143 days after the notice was mailed.

Procedural History

Boisi moved to dismiss the case for lack of jurisdiction, arguing that the notice of deficiency was invalid due to the absence of the last filing date. The Commissioner moved to dismiss on the ground that Boisi's petition was untimely filed. The U. S. Tax Court heard arguments on these motions on February 5, 2001, and issued its opinion on the validity of the notice and the timeliness of the petition.

Issue(s)

Whether the notice of deficiency is invalid due to the IRS's failure to specify the last date for filing a petition with the Tax Court as required by section 3463(a) of RRA 1998?

Whether Boisi's petition was timely filed despite being submitted beyond the 90-day statutory period set forth in section 6213(a) of the Internal Revenue Code?

Rule(s) of Law

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Section 3463(a) of RRA 1998 mandates that the IRS include on each notice of deficiency the date determined by the Secretary as the last day on which the taxpayer may file a petition with the Tax Court. Section 6213(a) of the Internal Revenue Code provides that a taxpayer has 90 days (or 150 days if outside the U. S.) from the mailing of the notice of deficiency to file a petition with the Tax Court. The amended section 6213(a) states that any petition filed on or before the last date specified for filing by the Secretary in the notice of deficiency shall be treated as timely filed.

Holding

The U. S. Tax Court held that the notice of deficiency was valid despite the IRS's failure to specify the last filing date, as required by section 3463(a) of RRA 1998. The court further held that Boisi's petition was untimely filed because it was submitted beyond the statutory 90-day period and the last sentence of section 6213(a) did not apply due to the absence of a specified last filing date in the notice.

Reasoning

The court's reasoning was based on the following considerations:

The primary purpose of the notice of deficiency is to provide the taxpayer with actual notice of the deficiency determination in a timely manner, which was satisfied in Boisi's case as he received the notice within days of its mailing. The court emphasized that the notice included clear instructions about the 90-day filing period, thus fulfilling the statutory goal of providing the taxpayer with sufficient information to file a timely petition.

The court relied on its decision in Smith v. Commissioner, where it held that the absence of the last filing date on the notice did not invalidate the notice when the taxpayer filed within the statutory period. The court extended this reasoning to Boisi's case, finding that the notice's validity was not affected by the omission of the specific date, given that Boisi received actual notice and the notice contained the statutory filing period.

Regarding the timeliness of Boisi's petition, the court interpreted the last sentence of section 6213(a), which states that a petition filed on or before the last date specified in the notice shall be treated as timely filed. The court held that this provision did not apply to Boisi's case because the notice did not specify a last filing date. The court rejected Boisi's argument that the absence of a specified date should be interpreted to mean that any petition filed would be considered timely, finding this interpretation inconsistent with the statutory text and legislative intent.

The court also considered the legislative history behind the amendment to section 6213(a), which aimed to protect taxpayers who might detrimentally rely on an incorrect filing date provided by the IRS. The court found no evidence of such

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detrimental reliance in Boisi's case, noting that the notice clearly stated the 90-day filing period and emphasized the consequences of late filing.

Disposition

The U. S. Tax Court denied Boisi's motion to dismiss for lack of jurisdiction and granted the Commissioner's motion to dismiss for lack of jurisdiction, finding that Boisi's petition was untimely filed.

Significance/Impact

Boisi v. Commissioner clarifies that the IRS's failure to comply with section 3463(a) of RRA 1998 by not specifying the last filing date on a notice of deficiency does not automatically invalidate the notice. The decision emphasizes the importance of actual notice and the statutory filing period in determining the validity of a notice of deficiency. The ruling also reinforces the strict application of the 90-day filing period under section 6213(a), even when the IRS omits the last filing date from the notice. This case has implications for taxpayers and their representatives in understanding the requirements for timely filing petitions with the Tax Court and the consequences of noncompliance with statutory deadlines.

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