1 T.C. 653 (1943)

An estate tax return containing an election for alternate valuation (one year after death) must be filed under oath within the statutory deadline to be valid; otherwise, the estate is bound by the date-of-death valuation.

Summary

The executor of Frederick L. Flinchbaugh's estate attempted to elect the alternate valuation date for estate tax purposes, but the return, though mailed on the due date, was not sworn to until two days later. The Tax Court held that because the return was not filed under oath by the due date, the election was invalid, and the estate had to be valued as of the date of death. The court also upheld a 5% penalty for the late filing of a properly verified return, emphasizing the mandatory nature of the oath requirement for tax returns.

Facts

Frederick L. Flinchbaugh died on April 23, 1937. The estate tax return was due on Saturday, July 23, 1938. On that date, the executor mailed a signed but unsworn return claiming the alternate valuation date. The return was received on July 25, 1938, and stamped "delinquent." On July 25, a deputy collector administered the oath to the executor.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in estate tax based on the date-of-death valuation and assessed a penalty for the late filing. The executor petitioned the Tax Court, arguing the return was timely filed and the valuation election valid. The Tax Court upheld the Commissioner's determination, finding the unsworn return did not constitute a valid election.

Issue(s)

1. Whether the estate effectively elected to value the property as of one year after the decedent's death under Section 302(j) of the Revenue Act of 1926, as added by Section 202(a) of the Revenue Act of 1935, when the estate tax return was mailed on the due date but not sworn to until after the due date.
2. Whether the 5% penalty for filing a delinquent return was properly imposed.

Holding

1. No, because the statute requires the return, including the election, to be made under oath and filed within the prescribed time.
2. Yes, because a verified return was not filed by the due date, and the executor did not demonstrate reasonable cause for the delay.

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Court’s Reasoning

The court emphasized that the election to use the alternate valuation date is a matter of “legislative grace,” requiring strict compliance with statutory and regulatory requirements. Section 304 of the Revenue Act of 1926, as amended, mandates that estate tax returns be filed under oath. Because the return was not sworn to until after the filing deadline, it did not meet the statutory requirement for a valid election. The court quoted *Lucas v. Pilliod Lumber Co.*, stating that a return “unsupported by oath” does not meet the definite requirements of the statute. The court further reasoned that the oath requirement is mandatory, providing assurance of accuracy and aiding the Commissioner in assessing taxes. Regarding the penalty, the court cited Section 3176 of the Revised Statutes, as amended, which imposes a penalty for failure to file a timely return unless reasonable cause is shown. Since the executor failed to demonstrate reasonable cause for filing an unverified return, the penalty was upheld.

Practical Implications

This case underscores the importance of strict adherence to the formal requirements of tax law, particularly the oath requirement for returns. Attorneys and executors must ensure that all estate tax returns are properly verified before the filing deadline to preserve valuable elections such as the alternate valuation date. Failure to do so can result in the loss of the election and the imposition of penalties. This decision serves as a reminder that substantial compliance is insufficient when specific statutory mandates exist. Later cases will cite this ruling for the principle that statutory elections require strict compliance.

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