Brampton Corporation, 31 B.T.A. 809 (1937)

A personal holding company cannot avoid the personal holding company surtax if any shareholder fails to include their pro rata share of the company's adjusted net income in their timely filed individual income tax return.

Summary

Brampton Corporation, a personal holding company, sought to avoid surtax liability by arguing substantial compliance with Section 351(d) of the Revenue Act of 1934. While most shareholders included their pro rata share of the company's adjusted net income in their initial tax returns, one shareholder, Henry M. Marx, failed to do so until filing a second amended return after the March 15th deadline. The Board of Tax Appeals ruled against the corporation, holding that strict compliance with the statute is required, and the failure of even one shareholder to timely report their share of the income subjects the corporation to the surtax, regardless of the reason for the failure or the relative size of the unreported share.

Facts

- Brampton Corporation was a personal holding company.
- To avoid personal holding company surtax under Section 351(d) of the Revenue Act of 1934, all shareholders had to include their pro rata share of the company's adjusted net income in their individual income tax returns filed by the statutory deadline (March 15th).
- All shareholders except Henry M. Marx included their share of Brampton's adjusted net income in their initially filed income tax returns or first amended returns, which were filed before March 15.
- Henry M. Marx filed his initial return on February 20, 1936, and an amended return on March 7, 1936, neither of which included his share of Brampton Corporation's adjusted net income for 1935.
- Marx was notified of his share of the income (approximately $5,444.67) around March 8 or 9, 1936.
- Marx filed a second amended return on March 28, 1936, including his share of the income.

Procedural History

The Commissioner determined a deficiency in Brampton Corporation's surtax liability. Brampton Corporation appealed to the Board of Tax Appeals, arguing that it had substantially complied with the requirements of Section 351(d) and that the surtax should not apply.

Issue(s)

1. Whether a personal holding company can avoid surtax liability under Section 351(d) of the Revenue Act of 1934 when one shareholder fails to include their

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pro rata share of the company's adjusted net income in their income tax return filed on or before the statutory deadline (March 15), even if that shareholder subsequently files an amended return including the income.

Holding

1. No, because Section 351(d) requires strict compliance; all shareholders must include their pro rata shares of the company's adjusted net income in their returns filed by the statutory deadline for the personal holding company to avoid the surtax.

Court's Reasoning

The Board of Tax Appeals emphasized the unambiguous language of Section 351(d) and Article 351-7 of Treasury Regulations 86, which mandate that *all* shareholders must include their pro rata shares of the adjusted net income in their returns filed "at the time of filing their returns." Citing *Automobile Loans, Inc., 36 B.T.A. 809*, the Board reiterated that the "time of filing a return" refers to the original due date, not a later amended return. The Board rejected the argument of substantial compliance, stating that the statute's requirements were strict and the court had no power to relax them. The Board acknowledged the potential harshness of the result, especially given the shareholder's oversight, but held it was bound by the clear statutory requirements. Quoting *Riley Investment Co. v. Commissioner, 311 U.S. 65*, the Board stated, "That may be the basis for an appeal to Congress in amelioration of the strictness of that section. But it is no ground for relief by the courts from the rigors of the statutory choice which Congress has provided."

Practical Implications

Brampton Corporation establishes a high bar for personal holding companies seeking to avoid surtax liability under Section 351(d) of the Revenue Act of 1934 (and similar subsequent provisions). It makes clear that even a good-faith error by a single shareholder, if uncorrected by the filing deadline, can result in the imposition of the surtax on the entire company. This case reinforces the importance of meticulous compliance with tax regulations and the limited scope for equitable arguments when statutory language is unambiguous. Tax advisors should counsel personal holding companies to ensure that all shareholders are aware of their reporting obligations and file accurate, timely returns. Later cases applying this ruling emphasize the need for careful planning and monitoring to avoid inadvertent non-compliance.

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