2 T.C. 629 (1943)

A taxpayer who refuses to file a capital stock tax return, leading to the filing of a delinquent return by a tax collector, loses the right to later amend that return to reduce excess profits tax liability.

Summary

Second Carey Trust refused to file capital stock tax returns, arguing it was not an association taxable as a corporation. A deputy collector filed delinquent returns on its behalf. After a court determined the Trust was taxable as a corporation, the Trust attempted to file amended returns with increased capital stock values to eliminate excess profits tax liability. The Tax Court held that the Trust was not entitled to amend the returns filed by the deputy collector or substitute its own delinquent returns. The taxpayer took a risk by not filing, and is bound by the collector's return.

Facts

Second Carey Trust, an express trust, originally filed fiduciary income tax returns. Upon advice of counsel, it did not file corporate income tax or timely capital stock tax returns, believing it was not an association taxable as a corporation. In 1936, a revenue agent determined the Trust was an association taxable as a corporation, leading to a deficiency. On August 18, 1937, a deputy collector filed delinquent capital stock tax returns for 1934-1937, valuing the capital stock at $500,000 each year, after the Trust refused to file returns. The Trust's records were available to the deputy collector. The capital stock taxes were assessed against and paid by the Trust.

Procedural History

The Commissioner determined that the Trust was taxable as a corporation. The Board of Tax Appeals affirmed the Commissioner's determination. The Circuit Court of Appeals affirmed the Board, and the Supreme Court denied certiorari. After the Supreme Court denied certiorari in October 1942, the Trust prepared its own capital stock tax returns for all years, claiming a higher capital stock value. These returns were rejected by the collector. The Tax Court proceeding involved income and excess profits tax deficiencies for 1937-1939. The remaining issue before the Tax Court was whether the Commissioner erred in using a capital stock value of $500,000 for 1937.

Issue(s)

Whether a taxpayer can amend a capital stock tax return filed by a deputy collector under Section 3176 of the Revised Statutes, when the taxpayer initially refused to file such a return.

Holding

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No, because the taxpayer had every opportunity to file the required returns and declare a value for its capital stock but refused to do so, thus it is now too late to amend the collector's return or substitute the taxpayer's declaration for that of the collector.

Court's Reasoning

The court reasoned that the capital stock tax return filed by the deputy collector must stand as the Trust's return. The Trust was afforded every opportunity to file the required returns and declare a value for its capital stock but refused, believing it was a trust and not an association taxable as a corporation. As the court pointed out in *Hartford-Connecticut Trust Co. v. Eaton*, a "taxpayer takes a severe risk if it permits the collecter to make his own computation and return." The court also stated that the right to amend a return filed by a collector or deputy collector under section 3176 belongs to the "Commissioner of Internal Revenue," but no such right is granted to a taxpayer who has failed to file a return at the time required by law. The Court rejected the argument that using the same capital stock value in 1937 as in 1936 was incorrect, noting any adjustments would benefit the taxpayer, which the Commissioner had not moved to correct.

Practical Implications

This case reinforces the principle that taxpayers have a responsibility to file required tax returns. If they fail to do so and the IRS files a return on their behalf, they may be bound by that return, even if it is not the most advantageous to them. Taxpayers cannot strategically refuse to file returns and then later attempt to amend returns filed by the IRS to minimize their tax liability. This decision emphasizes the importance of compliance with tax laws and the consequences of non-compliance. It limits a delinquent taxpayer's ability to retroactively manipulate capital stock valuations to minimize excess profits tax.

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