Estate of Edward H. Forstall, Deceased, et al., 45 B.T.A. 234 (1941)

An estate tax return is considered timely filed if mailed in ample time to reach the collector's office by the due date, and a return signed by only one co-executor is sufficient if made in the name and on behalf of all co-executors.

Summary

The Board of Tax Appeals addressed whether an estate tax return was timely filed and validly executed for the estate of Edward H. Forstall. The IRS argued the return was untimely because it arrived after the due date and was improperly signed by only one of the two co-executors, thus invalidating the election for valuation one year after death. The Board held the return was timely because it was mailed in time to reach the collector's office, and a single co-executor's signature was sufficient, given their joint authority. Thus, the estate validly elected the alternate valuation date.

Facts

- Edward H. Forstall died, and his estate was subject to federal estate tax.
- Two co-executors were appointed to administer the estate.
- An estate tax return was filed, purportedly on behalf of both executors, but signed under oath by only one executor.
- The return was mailed on the due date, April 14, and arrived at the collector's post office box in the same building as the collector's office, but potentially after business hours.
- The executors elected to value the estate assets one year after the date of death, as permitted by law if the return was timely filed.

Procedural History

- The Commissioner determined a deficiency in estate taxes, arguing the return was untimely and improperly signed.
- The estate appealed to the Board of Tax Appeals, contesting the deficiency assessment.

Issue(s)

1. Whether the estate tax return was "filed within the time prescribed by law" when it was mailed on the due date and arrived at the collector's post office box in the same building, potentially after business hours.
2. Whether the estate tax return complied with regulations when signed under oath by only one of the two co-executors.

Holding

1. Yes, because the return was mailed in ample time to reach the collector's office

by the due date, satisfying the regulatory requirements for timely filing.
2. Yes, because an estate tax return made in the name and on behalf of two co-executors, and signed by one co-executor, is a "return made jointly" within the meaning of the applicable regulation.

Court's Reasoning

The Board of Tax Appeals reasoned that the applicable regulation (Article 63 of Regulations 80) states that if a return is "made and placed in the mails in due course, properly addressed, and postage paid, in ample time to reach the office of the collector on or before the due date, no penalty will attach." The Board emphasized the return reached the collector's post office box, which was the designated point of receipt within the same building, on the due date. The Board also cited clarifying language in Regulations 105, section 81.63, stating that such a filing "will not be regarded as delinquent."

Regarding the signature issue, the Board noted that the statute refers to "the executor" in the singular, recognizing the unity of the executorship. Quoting 21 American Jurisprudence, the Board emphasized that co-executors are "in law, only one person representing the testator, and acts done by one… are deemed the acts of all." Thus, one co-executor's signature on a return made on behalf of all co-executors fulfills the regulatory requirement for a "return made jointly." The Board cited *Baldwin v. Commissioner*, 94 F.2d 355, suggesting that requiring all executors to sign could invalidate the regulation. The Board stated that if each of several executors is severally liable as "the executor", then each should be allowed to file a return as "the executor."

Practical Implications

This decision provides clarity on what constitutes a timely filed estate tax return when mailed on the due date, even if it arrives after typical business hours. It also clarifies that the signature of one co-executor on a jointly filed return is sufficient. This ruling benefits estates where logistical issues might delay the physical receipt of a mailed return. Legal practitioners should advise clients that mailing a return on the due date to the designated postal location satisfies the filing requirement. Additionally, this case supports the argument that a single co-executor can act on behalf of the estate for tax matters, simplifying administrative processes. Later cases may distinguish this ruling based on specific facts or changes in regulations, but the core principles regarding timely mailing and co-executor authority remain relevant.