4 T.C. 613 (1945)

A tax election, such as the option to expense intangible drilling costs, must be made on a timely and properly executed return; otherwise, the election is invalid.

Summary

Burford Oil Company sought to deduct intangible drilling and development costs as expenses for the 1940 and 1941 tax years. The company filed an initial 1939 return signed only by its treasurer, then filed an amended return after the filing deadline, including the election to expense these costs. The Tax Court held that the initial return was invalid because it wasn't signed by the required officers, and the subsequent amended return was untimely. Therefore, Burford Oil Company could not deduct these costs for later years, and penalties were assessed for failure to file excess profits tax returns.

Facts

The Burford Oil Company incurred intangible drilling and development costs related to its oil and gas leases in 1939, 1940, and 1941.
The company's initial 1939 income and excess profits tax return, filed on March 15, 1940, was signed and sworn to only by the company's treasurer.
An "amended" return for 1939 was filed on March 13, 1941, after the original due date, and was signed by both the president and treasurer/secretary. This amended return included a deduction for intangible drilling and development costs.
The company did not file excess profits tax returns (Form 1121) for 1940 and 1941.

Procedural History

The Commissioner of Internal Revenue assessed deficiencies in the company's income, declared value excess profits, and excess profits taxes for 1940 and 1941.
The Commissioner also imposed penalties for failure to file excess profits tax returns.
Burford Oil Company petitioned the Tax Court for a redetermination of these deficiencies and penalties.

Issue(s)

Whether the petitioner is entitled to deductions from income for the calendar years 1940 and 1941 on account of intangible drilling and development costs as to oil and gas properties.
Whether the petitioner is liable for a 25 percent penalty on the excess profits taxes asserted by the Commissioner for the calendar years 1940 and 1941 for failure to file excess profits tax returns (Form 1121).

Holding

© 2025 SCOTUSreports.com. All rights reserved.

No, because the company did not make a valid election to expense intangible drilling costs on a timely and properly executed return for the first year such costs were incurred (1939).
Yes, because the company failed to demonstrate reasonable cause for not filing the excess profits tax returns, and the failure was not due to willful neglect.

Court's Reasoning

The court emphasized that the election to expense intangible drilling costs must be made in "the return for the first taxable year in which the taxpayer makes such expenditures," as per Regulations 103, section 19.23(m)-16.
Citing Section 52 (a) of the Internal Revenue Code, the court stated that a valid corporate return must be signed and sworn to by both a principal officer (president, vice president, etc.) and the treasurer (or assistant treasurer/chief accounting officer). The initial 1939 return, signed only by the treasurer, did not meet this requirement and was therefore not a valid return.
The "amended" 1939 return, while properly executed, was filed after the statutory deadline and any permissible extension. Referencing Riley Investment Co. v. Commissioner, <span normalizedcite="311 U.S. 55">311 U.S. 55, the court determined that a late filing does not constitute a valid election.
Regarding the penalty for failure to file excess profits tax returns, section 291, Internal Revenue Code, stipulates a penalty unless the failure is due to reasonable cause and not willful neglect. The company presented no evidence of reasonable cause.

Practical Implications

This case emphasizes the critical importance of adhering to the strict requirements for filing tax returns, including proper execution by the specified corporate officers and timely submission.
Taxpayers must make elections, such as the one for expensing intangible drilling costs, in a valid and timely filed return for the first year the election is available. Failure to do so can preclude the taxpayer from taking advantage of the election in subsequent years.
The case serves as a reminder that a belief that a tax return is not necessary is insufficient to avoid penalties for failure to file, absent a showing of reasonable cause.
Later cases have cited Burford Oil for the proposition that tax elections must be made in a timely manner and in compliance with the relevant regulations. This principle remains a cornerstone of tax law.

© 2025 SCOTUSreports.com. All rights reserved. | 2