9 T.C. 689 (1947)

An executor’s reliance on an attorney does not automatically constitute reasonable cause for the late filing of an estate tax return; executors have a non-delegable duty to ensure timely filing, and negligence in providing necessary information to the attorney can result in penalties.

Summary

The estate of Abraham Werbelovsky failed to file its estate tax return until nearly three years after his death. The Commissioner of Internal Revenue assessed a 25% penalty for the late filing. The executors argued that the delay was due to difficulties in valuing certain estate assets and reliance on their attorney. The Tax Court upheld the penalty, finding that the executors did not demonstrate reasonable cause for the delay because they were negligent in gathering and providing information to the attorney. The court emphasized that the duty to file a timely return ultimately rests with the executor, not the attorney.

Facts

Abraham Werbelovsky died on February 17, 1940. His executors were appointed in March 1940. The estate included cash, notes, equipment, securities, and stock in several corporations. Two lawsuits involving the decedent’s stock holdings were pending at the time of his death, complicating the valuation of those assets. The estate tax return was due May 17, 1941, but was not filed until January 15, 1943. The executors claimed they delayed filing due to difficulty valuing certain assets and relied on their attorney to handle the estate tax matters.

Procedural History

The Commissioner determined a deficiency in estate tax and added a 25% penalty for late filing. The executors petitioned the Tax Court, arguing that the delay was due to reasonable cause and the penalty should be abated. The Tax Court upheld the Commissioner’s determination, finding no reasonable cause for the late filing.

Issue(s)

Whether the executors’ failure to file the estate tax return within the prescribed time was due to reasonable cause and not willful neglect, thus excusing them from the late filing penalty under Section 3612(d)(1) of the Internal Revenue Code.

Holding

No, because the executors failed to demonstrate that the delay in filing was due to reasonable cause. The executors were negligent in their duty to gather and provide necessary information to their attorney in a timely manner.

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Court’s Reasoning

The court emphasized that the duty to file a timely and reasonably complete estate tax return rests with the executor. While reliance on an attorney is a factor to consider, it does not automatically constitute reasonable cause for delay. The court found that the executors were negligent in several respects: they failed to promptly appraise the assets of the real estate companies, delayed providing their attorney with necessary information, and did not seek an extension of time for filing the return. The court noted that a “reasonably complete return” was required within 15 months, and an extension of only 3 months was permissible with a showing of good cause. Even after the settlement of one of the lawsuits in June 1941, there was no reasonable cause for further delay. The court distinguished this case from situations where the attorney specifically advised the executors that no return was necessary. The court cited *Estate of Charles Curie, 4 T.C. 1175, 1186* stating, “Moreover, the whole question is colored by the protracted delay in filing the return. * * * All of these circumstances combine to show clearly a lack of reasonable cause for failure to file, if not willful neglect to file.”

Practical Implications

This case underscores the non-delegable duty of executors to ensure the timely filing of estate tax returns. Attorneys must advise their clients about the importance of providing complete and timely information necessary for preparing the return. Executors cannot simply rely on their attorney without actively participating in the process of gathering and valuing assets. This case serves as a reminder that executors must exercise due diligence and take proactive steps to meet filing deadlines. Subsequent cases have cited Werbelovsky to emphasize that while reliance on counsel is a factor, it’s not a shield against penalties if the executor fails to act reasonably. The case informs legal practice by highlighting the importance of clear communication and defined responsibilities between executors and their legal counsel.

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