Girard Investment Co. v. Commissioner, 122 F.2d 843 (1941)

A taxpayer bears the burden of proving that its failure to file a tax return was due to reasonable cause and not willful neglect, and merely believing that no return is required is insufficient to meet this burden.

Summary

Girard Investment Co. was assessed penalties for failing to file timely excess profits tax returns for 1943 and 1944. The company argued that its failure was due to reasonable cause, relying on the advice of a bookkeeper who had made inquiries at the local collector's office years prior. The Tax Court upheld the penalty, stating that the taxpayer failed to demonstrate reasonable cause. The court emphasized that taxpayers must use reasonable care in determining whether a return is necessary and that reliance on incomplete or outdated advice is not sufficient.

Facts

The president and sole stockholder of Girard Investment Co. delegated all tax matters to Hancock, who kept the books and prepared the returns. In March 1941, Hancock inquired at the local collector's office regarding the necessity of filing excess profits tax returns for 1940. The details of this conversation and the specific information provided were not documented. For the 1944 tax year, the company's income tax return indicated that an excess profits tax return was being filed and included the amount of excess profits net income, however, no such return was filed. In 1946, company officers learned an excess profits tax return was required for 1945, but did not investigate whether returns were also required for 1943 and 1944.

Procedural History

The Commissioner of Internal Revenue determined a 25% penalty for each of the years 1943 and 1944 due to the petitioner's failure to file timely excess profits tax returns. Girard Investment Co. petitioned the Tax Court, arguing that its failure was due to reasonable cause and not willful neglect. The Tax Court reviewed the case and ruled in favor of the Commissioner, upholding the penalties.

Issue(s)

Whether the taxpayer's failure to file timely excess profits tax returns for 1943 and 1944 was due to reasonable cause and not willful neglect, thereby precluding the imposition of penalties under Section 291 of the Internal Revenue Code.

Holding

No, because the taxpayer did not demonstrate that it exercised reasonable care in determining whether an excess profits tax return was required, and reliance on a vague, undocumented inquiry made years prior was insufficient to establish reasonable cause.

Court’s Reasoning

The Tax Court emphasized that the burden of proving reasonable cause rests on the taxpayer. The court distinguished the case from situations where taxpayers relied on competent advice based on a complete disclosure of facts. In this instance, the inquiry made by Hancock in 1941 was insufficiently detailed, and the record lacked evidence that the person providing advice was qualified or had sufficient knowledge of the company’s business. The court noted that Hancock did not even remember the name of the person he spoke to. Furthermore, the fact that the 1944 return indicated an excess profits tax return was being filed, coupled with the failure to investigate the potential need to file for 1943 and 1944 after learning about the 1945 requirement, demonstrated a lack of reasonable care. The court stated, “Taxpayers deliberately omitting to file returns must use reasonable care to ascertain that no return is necessary. We think the petitioner did not use such care.” The court also referenced other cases, such as *Fairfax Mutual Wood Products Co.*, where reliance on the advice of the local collector’s office was deemed reasonable cause because the advice was based on a full discussion of the matter.

Practical Implications

This case reinforces the importance of taxpayers taking proactive steps to determine their tax obligations. It highlights that simply believing no return is required is not enough to avoid penalties for failure to file. Taxpayers must demonstrate that they exercised reasonable care, which may include seeking advice from qualified professionals and providing them with complete and accurate information. Furthermore, reliance on past advice or inquiries may not be sufficient, especially if the circumstances have changed. This case is often cited to emphasize the taxpayer’s burden of proof when claiming reasonable cause and the need for thorough documentation of tax-related inquiries and advice.