*13 T.C. 554 (1949)*

A surviving spouse does not automatically have the authority to represent a deceased spouse's estate in Tax Court proceedings unless specifically authorized by state law or appointed as the estate's representative.

**Summary**

The Tax Court addressed whether a surviving spouse could file a petition on behalf of her deceased husband regarding a joint tax deficiency notice. The Commissioner argued the wife lacked the authority to represent her deceased husband's estate. The court held that, in the absence of evidence showing that the wife was authorized to represent her husband's estate under Florida law (where they resided), or appointed as the estate's representative, the court lacked jurisdiction over the portion of the petition relating to the deceased husband's tax liability. The decision underscores the importance of proper estate representation in tax disputes.

**Facts**

The Commissioner issued a joint notice of tax deficiency to Alex and Irene Davison, a married couple residing in Florida. Alex Davison died four days later. Irene Davison filed a petition in Tax Court on behalf of herself and her deceased husband, stating that no probate proceedings had been initiated and that she believed herself to be the proper party to represent his estate.

**Procedural History**

The Commissioner filed a motion to dismiss the petition for lack of jurisdiction insofar as it related to Alex Davison's deficiency, arguing that Irene Davison lacked the authority to represent his estate. The Tax Court heard arguments on the motion.

**Issue(s)**

Whether a surviving spouse, who has not been appointed as the representative of the deceased spouse's estate, has the authority to file a petition in Tax Court on behalf of the deceased spouse regarding a joint notice of deficiency.

**Holding**

No, because the surviving spouse failed to demonstrate that she possessed the legal authority under Florida law to represent her deceased husband's estate in the tax matter, nor was she an appointed representative.

**Court's Reasoning**

The Tax Court reviewed Florida law, which allowed for dispensing with estate administration under specific circumstances, such as when the estate is exempt

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from creditors' claims or is below a certain value and the beneficiaries agree on distribution. However, the Court noted that the petitioner presented no evidence that these conditions were met, nor that a required petition to the county judge was ever filed. Citing relevant Florida statutes, the court emphasized the necessity of either formal estate administration or compliance with specific statutory provisions for dispensing with administration. The court stated that it found

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