Frank Little, Jr., 17 T.C. 1282 (1952)

A taxpayer is not liable for a fraud penalty when false statements on a tax return are attributable to reliance on a tax preparer's advice, particularly regarding complex deduction rules, absent clear evidence of the taxpayer's intent to evade taxes.

Summary

Frank Little, Jr., a T.W.A. pilot, filed amended returns for 1944 and original returns for 1945 that included deductions for travel and hotel expenses he did not incur. The IRS alleged that these returns were fraudulent with the intent to evade taxes. Little argued that he signed blank returns that were filled out by Nimro, a tax preparer, who incorrectly advised him regarding deductible expenses. The Tax Court held that the Commissioner failed to prove fraud, finding Little relied on Nimro's advice regarding complex deduction rules. The court also adjusted Little's income by eliminating an additional $2 per day initially included by the IRS, as Little's actual travel expenses met the airline's reimbursement rate.

Facts

- Frank Little, Jr. was a pilot for T.W.A.
- Little's amended return for 1944 and original return for 1945 contained false statements related to travel and hotel expenses.
- Little claimed he signed blank returns that were later filled out by Nimro.
- Nimro allegedly advised Little that he could deduct all living expenses while away from his Georgia home.
- The IRS determined that Little's actual travel expenses were less than the amount reimbursed by T.W.A., leading to an adjustment in income.

Procedural History

- The Commissioner determined deficiencies in Little's income tax for 1944 and 1945 and asserted fraud penalties.
- Little petitioned the Tax Court for a redetermination of the deficiencies and penalties.

Issue(s)

1. Whether the returns filed by Little for 1944 and 1945 were false and fraudulent with the intent to evade tax.
2. Whether the Commissioner properly included $2 per day in Little's income for the time he was on travel status.

Holding

1. No, because the Commissioner failed to prove that the false statements were made with the intent to evade tax; Little relied on the advice of his tax

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preparer.
2. No, because Little's actual travel expenses were not less than the $8 per day reimbursed by T.W.A.

Court's Reasoning

The Tax Court relied heavily on the similarity of the facts to those in *Charles C. Rice, 14 T.C. 503* and *Dale R. Fulton, 14 T.C. 1453*, cases involving other T.W.A. pilots and the same tax preparer, Nimro. The court noted Little's testimony that Nimro advised him he was entitled to deduct all living expenses while away from his Georgia home. The court found no clear evidence of intent to evade taxes, attributing the false statements to Nimro's incorrect advice, stating that a "mistaken impression" of deductibility does not equate to fraud. The court also found that Little's actual travel expenses were at least $8 per day, justifying the T.W.A. reimbursement and negating the additional income assessed by the IRS.

Practical Implications

This case illustrates that reliance on a tax preparer can negate a fraud penalty, particularly when the tax law is complex and the taxpayer discloses all relevant information to the preparer. It emphasizes the Commissioner's burden of proving fraudulent intent. Taxpayers should document their reliance on professional advice and ensure they provide accurate information to their preparers. Later cases may distinguish this ruling based on the taxpayer's knowledge of the falsity or the unreasonableness of relying on the preparer's advice.

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