14 T.C. 1448 (1950)

A taxpayer is not liable for a fraud penalty when false statements in their tax return are the result of reliance on a tax preparer, especially when the taxpayer provides accurate information and the preparer alters it.

Summary

Idus Inglis, a pilot for Transcontinental & Western Air, Inc. (TWA), was assessed deficiencies and fraud penalties for his 1944 and 1945 income taxes. The Commissioner argued that Inglis filed false returns with the intent to evade tax. Inglis contended that he relied on a tax preparer, Nimro, who inserted false information into his returns without his knowledge. The Tax Court held that the Commissioner failed to prove fraud because Inglis relied on Nimro's advice and did not knowingly file false returns. The court also found that Inglis's actual foreign travel expenses were not less than his per diem allowance, thus eliminating the additional income charged to him by the Commissioner.

Facts

Inglis was a flight instructor for the Army Air Corps before being employed by TWA as a student navigator in September 1944. In 1945, he made numerous flights to foreign countries. TWA reimbursed him for travel expenses ($6 per day domestic, $8 per day foreign). Inglis sought help from Nimro, a tax consultant, to prepare amended returns for prior years. Inglis signed blank forms that Nimro said he would complete. The amended 1944 return and the 1945 return contained inflated travel expense deductions. Nimro had a history of embezzlement convictions and had been disbarred.

Procedural History

The Commissioner determined deficiencies and fraud penalties for 1944 and 1945. Inglis petitioned the Tax Court contesting the fraud penalty for 1944 and the fraud penalty and deficiency for 1945 resulting from the inclusion of excess travel expenses. The cases were consolidated for hearing before the Tax Court.

Issue(s)

1. Whether the overstatements of travel expenses in Inglis's returns for 1944 and 1945 were false and fraudulent with the intent to evade tax.
2. Whether Inglis's actual expenses of foreign travel were less than his per diem allowance, thus requiring him to recognize the difference as income.

Holding

1. No, because the Commissioner failed to prove that Inglis knowingly filed false returns with the intent to evade tax; he relied on the advice of a tax preparer.

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2. No, because the evidence showed Inglis's actual travel expenses were not less than his per diem allowance.

Court's Reasoning

The Tax Court found that Inglis relied on Nimro's advice and that Nimro inserted false information into the returns. The court relied on two similar cases, *Charles C. Rice, 14 T.C. 503*, and *Dale R. Fulton, 14 T.C. 1453*, where TWA pilots also relied on Nimro and filed returns with incorrect statements. The court noted that Inglis's mistaken impression regarding deductible living expenses was not novel, as "The impression that a person away from his legal residence or domicile on war duty was absent from home for the purpose of allowing on income tax returns deductions for living expenses was widely prevalent." Because Inglis provided information to Nimro and relied on his expertise, the Commissioner failed to prove that Inglis acted with fraudulent intent. The court also found that Inglis's actual travel expenses were at least equal to his per diem allowance, based on his testimony about staying in civilian hotels which cost more than the provided service accommodations.

Practical Implications

This case illustrates that a taxpayer's reliance on a tax preparer can be a valid defense against fraud penalties, even if the return contains false statements. The key is whether the taxpayer provided accurate information to the preparer and reasonably believed the preparer's advice. This decision highlights the importance of due diligence in selecting a tax preparer and the need for taxpayers to review their returns carefully. Later cases have distinguished *Inglis* by focusing on whether the taxpayer had knowledge of the false statements, regardless of who prepared the return. Attorneys can use this case to argue that the burden of proof for fraud rests on the IRS and requires demonstrating the taxpayer's knowledge and intent, not just the existence of errors on the return. It is imperative to show the taxpayer acted in good faith and with reasonable reliance on professional advice.

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