15 T.C. 912 (1950)

A taxpayer cannot retroactively change their accounting period (from calendar year to fiscal year, or vice versa) without obtaining prior approval from the IRS, even if the taxpayer is in a community property state and their spouse uses a different accounting period for their business.

Summary

Irene Theriot, a Louisiana resident, had always filed her income tax returns on a calendar year basis. After marrying a man who operated a sole proprietorship with a fiscal year-end, she attempted to retroactively change her accounting period to match his without obtaining IRS approval. The Tax Court held that Theriot was required to continue filing on a calendar year basis because she had not obtained the necessary permission from the IRS to change her accounting period, and the books of her husband's business were not her individual books.

Facts

Prior to her marriage on November 25, 1942, Irene Theriot always filed her income tax returns using the calendar year. Her husband, Romeal Theriot, operated R. Theriot Liquor Stores as a sole proprietorship and used a fiscal year ending August 31 for his business accounting and tax filings. After the marriage, Irene initially continued to file her returns on the calendar year basis. She later requested permission from the IRS to change to a fiscal year ending August 31, retroactive to August 31, 1943, but her request was denied because it was not timely filed. Although she filed amended returns attempting to switch to a fiscal year, the IRS did not accept them. Under Louisiana's community property laws, Irene reported one-half of her husband's business income on her tax returns, but she did not keep separate books. Romeal had previously received permission to use a fiscal year for his business.

Procedural History

The IRS determined deficiencies in Irene Theriot's income tax liability for 1943 and 1945 because she attempted to file using a fiscal year without prior approval. Theriot petitioned the Tax Court, arguing that she was required to report her income on the same fiscal year basis as her husband's business. The Tax Court upheld the IRS's determination, finding that she was not entitled to use the fiscal year basis.

Issue(s)

Whether the petitioner, a resident of a community property state, was entitled to report her income on a fiscal year basis to match her husband's business, even though she had historically filed on a calendar year basis and did not obtain prior approval from the IRS to change her accounting period.

Holding

No, because the petitioner did not keep individual books separate from her husband's business and failed to comply with the IRS regulations requiring prior approval for a change in accounting period.

Court's Reasoning

The Tax Court relied on Section 41 of the Internal Revenue Code, which states that net income should be computed based on the taxpayer's annual accounting period in accordance with the method of accounting regularly employed in keeping the taxpayer's books. If the taxpayer does not keep books, income must be computed on a calendar year basis. The court found that Irene Theriot did not keep individual books. The court distinguished her situation from cases where taxpayers consistently kept books on a basis different from their filings, emphasizing that she was attempting to retroactively change her accounting period without IRS approval. The court cited *Pacific National Co. v. Welch, 304 U.S. 191*, for the proposition that taxpayers cannot retroactively change their accounting methods to gain a tax advantage. Furthermore, the court emphasized the importance of complying with Section 46 of the Internal Revenue Code and its regulations, which require taxpayers to obtain IRS approval before changing their accounting period. The court stated: "The respondent's regulations under section 46 provide for established procedures to be followed where a taxpayer desires to change the accounting period for which he computes income. Admittedly, this established procedure was not followed by the petitioner."

Practical Implications

This case underscores the importance of obtaining IRS approval before changing accounting periods for income tax purposes. Taxpayers cannot retroactively change their accounting methods, even in community property states where they share income with a spouse using a different accounting period. This ruling is significant for tax planning and compliance, as it clarifies the procedural requirements for changing accounting periods and prevents taxpayers from manipulating their tax liabilities through retroactive changes. Later cases cite *Theriot* for the principle that taxpayers must adhere to established procedures when seeking to change their accounting methods and cannot circumvent these requirements through amended returns or litigation.

