Swift & Co. v. Commissioner, 17 T.C. 1269 (1952)

A taxpayer must file tax returns based on the accounting period (fiscal or calendar year) in accordance with the method of accounting regularly employed in keeping the taxpayer's books.

Summary

Swift & Co. filed its first tax return after incorporation on a fiscal year basis ending November 30th. The Commissioner determined deficiencies based on this fiscal year. However, the company's books were closed at the end of the calendar year. The Tax Court held that Swift & Co. was required to file its returns on a calendar year basis because its books were maintained on a calendar year basis, and the late filing of the first return did not constitute a valid election to use a fiscal year.

Facts

Swift & Co. was incorporated sometime before November 30th. The company filed its first tax return on a fiscal year basis ending November 30th. The books were actually closed at the end of the calendar year, December 31st. This practice was influenced by Interstate Commerce Commission regulations.

Procedural History

The Commissioner determined deficiencies based on the fiscal year returns filed by Swift & Co. Swift & Co. petitioned the Tax Court, arguing that it should be taxed on a calendar year basis because that was how its books were kept. The Tax Court reviewed the case and sided with the petitioner, Swift & Co.

Issue(s)

Whether Swift & Co. was required to file its tax returns on a fiscal year basis ending November 30, as it had initially done, or on a calendar year basis, consistent with the closing of its books.

Holding

No, because Swift & Co.'s books of account were maintained on a calendar year basis, and the filing of the initial return on a fiscal year basis did not constitute a valid election to use a fiscal year.

Court's Reasoning

The court reasoned that under Section 41 of the Internal Revenue Code, taxpayers are generally required to file tax returns based on the method of accounting regularly employed in keeping their books. The court acknowledged the Commissioner's argument that filing the first return on a fiscal year basis could be considered an election to use a fiscal year. However, the court pointed out that, according to the Commissioner's own rulings (Regulations 111, sections 29.41-4 and 29.52-1; O. D. 404, 2 C. B. 67 (1920); O. D. 1120, 5 C. B. 233 (1931); I. T. 3466, 1941-1 C. B. 238), the return was filed too late to constitute a valid election. The court emphasized that the company's books were actually closed at the end of the calendar year, regardless of the influence of Interstate Commerce regulations. The court stated that "the taxpayer had no election; section 226 (a) * * * refers only to a change in bookkeeping, not to a change in the period of the return which must always conform with the books." The court concluded that the deficiencies were incorrectly determined on a fiscal year basis.

Practical Implications

This case clarifies that the actual method of accounting used to maintain a taxpayer's books is the primary factor in determining the appropriate accounting period for tax purposes. The case emphasizes that a taxpayer cannot simply choose an accounting period for tax purposes that differs from how their books are actually kept. Taxpayers should ensure that their tax reporting aligns with their actual bookkeeping practices. This case reinforces the principle that tax returns should accurately reflect the financial reality as recorded in the taxpayer's books and records. Later cases may cite this as precedent where the taxpayer's method of bookkeeping is unambiguous. This case also serves as a caution against inadvertently adopting a fiscal year through untimely filings.

