78 T.C. 19 (1982)

Reliance on an attorney to file tax returns does not automatically constitute reasonable cause to excuse penalties for late filing; taxpayers have a non-delegable duty to ensure tax obligations are met.

Summary

The Estate of DiRezza sought to challenge a penalty for the late filing of an estate tax return, arguing that reliance on an attorney constituted reasonable cause for the delay. The Tax Court addressed two key issues: first, whether it had jurisdiction to hear a challenge to a late filing penalty when no deficiency in the underlying tax was being contested, and second, whether the executor's reliance on counsel constituted reasonable cause for the late filing. The court held that it did have jurisdiction and that, under the facts presented, reliance on the attorney did not constitute reasonable cause, thus upholding the penalty.

Facts

Nero DiRezza died on April 17, 1975. His son, James DiRezza, was appointed personal representative of the estate. The estate tax return was due January 17, 1976, but was not filed until January 10, 1977. James DiRezza hired attorney Harold Fielding to handle the estate matters, relying on him to prepare and file all necessary tax returns. DiRezza had some business experience but limited formal education and no prior experience as an estate representative. He was aware of the need to file taxes generally but did not inquire about specific estate tax obligations or deadlines, relying entirely on Fielding. Despite receiving IRS inquiries about the unfiled return, DiRezza accepted Fielding's reassurances without further investigation.

Procedural History

The IRS initially assessed penalties for late filing and payment based on the tax reported on the return. After examination, the IRS proposed an additional tax liability, which DiRezza agreed to and paid. However, DiRezza contested the late filing penalty associated with this additional tax. The IRS issued a statutory notice regarding only the disputed late filing penalty, not a deficiency in estate tax. The Estate then petitioned the Tax Court to redetermine the penalty.

Issue(s)

1. Whether the Tax Court has jurisdiction to redetermine a late filing penalty attributable to an agreed additional tax liability when the statutory notice determines the penalty but not an estate tax deficiency.

2. If jurisdiction exists, whether the petitioner exercised ordinary business care and prudence in relying on an attorney to prepare and timely file the estate tax return,

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thus establishing reasonable cause to avoid the late filing penalty under Section 6651(a)(1) of the Internal Revenue Code.

Holding

1. Yes, the Tax Court has jurisdiction because the late filing penalty is attributable to a deficiency in tax as defined by Section 6211 of the Internal Revenue Code.

2. No, the petitioner did not exercise ordinary business care and prudence. Reliance on the attorney, in this case, did not constitute reasonable cause for the late filing penalty.

Court's Reasoning

Jurisdiction: The court analyzed Section 6659(b)(1) of the Internal Revenue Code, which provides an exception to the general rule that deficiency procedures do not apply to certain penalties like late filing penalties under Section 6651. The exception applies when the penalty is attributable to a 'deficiency in tax.' The court reasoned that the additional tax liability agreed upon by DiRezza constituted a 'deficiency' under Section 6211, even though it was assessed before the statutory notice. The legislative history of Section 6659(b)(1) and administrative policy considerations supported the view that jurisdiction exists to review penalties related to tax liabilities subject to deficiency procedures. The court emphasized that restricting jurisdiction would create a 'trap' for taxpayers and limit access to prepayment review in the Tax Court.

Reasonable Cause: The court reiterated the established standard that 'reasonable cause' requires the taxpayer to demonstrate ordinary business care and prudence. It emphasized that ignorance of the filing requirement itself is not reasonable cause, and a personal representative has a 'positive duty to ascertain the nature of his or her responsibilities.' The court found that DiRezza did not fulfill this duty. He delegated complete responsibility to the attorney without inquiring about tax obligations or deadlines, even after receiving IRS notices and acknowledging the federal estate tax return on the state inheritance tax application. The court distinguished cases where reliance on an attorney was deemed reasonable, noting that DiRezza was not misled by his attorney and had sufficient awareness to prompt further inquiry, which he failed to pursue. The court quoted *Estate of Lammerts v. Commissioner*, 54 T.C. 420, 446 (1970): 'This duty is not satisfactorily discharged by delegating the entire responsibility for filing the estate tax return to the attorney for the estate.'

Practical Implications

Estate of DiRezza reinforces the principle that while taxpayers often rely on professionals for tax matters, the ultimate responsibility for timely filing and payment rests with the taxpayer, particularly estate executors. This case clarifies

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that simply hiring an attorney is not a blanket shield against penalties. Executors and personal representatives must actively engage in understanding their tax obligations, including deadlines, and must diligently monitor the attorney's progress to ensure compliance. Subsequent cases have consistently cited *DiRezza* to deny reasonable cause defenses based on mere reliance on counsel when the taxpayer fails to demonstrate proactive engagement in fulfilling their tax duties. This case serves as a cautionary reminder for fiduciaries to maintain oversight of estate administration, especially concerning tax filings, even when professional help is retained.

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