

Respondent states that Schedule 25J should have been filed December 17, 1973. It wasn't filed until November 21, 1975, almost 2 years later.

The Respondent states further that without Schedule 25J, which lists certain allowable deductions, the Director of Revenue cannot determine the proper assessment as Delaware inheritance tax is based on the net and not the gross estate.

Furthermore, the Respondent states that interest shall accrue within 15 months after the date of death and gives reference to 30 Del.C., Section 1342.

In addition, the Respondent states that the inventory schedule likewise was filed untimely. It should have been filed February 28, 1973. It was filed October 19, 1973, almost 8 months later.

To counteract this the Petitioner says that normally under the statute the inheritance tax report being 25J would have been due on or about January 17, 1974, and the tax itself would have been due February 17, 1974.

The Petitioner admits that in this particular case, the 25J was not filed, and is not totally sure as to why it wasn't filed.

It was filed in November 1975, at which time the Director made the assessment and accrued the interest.

The Petitioner states that on June 19, 1974 the account was verified and sworn to by the co-executors and filed with the Register of Wills. At this point, according to the Petitioners, the Register of Wills gave to the Director of Revenue notification of the filing along

with the proper figures, and that 30 Delaware Code states that the Department of Finance shall, within 14 months of the death of the decedent assess the tax.

According to the Petitioners this was ample notice to the Department of Finance, who in turn, should have made the proper assessment and demanded the tax. The Petitioners say this was not done.

In arriving at a decision the Board cannot help but feel that there was some lack of compliance with the statute on the part of the Petitioners.

For example, in order to make an assessment or computation of inheritance tax due certain requirements are necessary. An inventory is needed ^{and} Schedule 25J, which is a report of deductions, is necessary.

Without these, how can the Director make a proper and fair assessment? Would the accounting paper filed with the Register of Wills suffice? We hardly think so.

We think that what we have is simply this: When the tax was paid, the Director of Revenue contends that the tax that was computed to be due was paid, but apparently was paid late and since it was paid late, they have calculated that some interest is due because of the late payment.

Accordingly, the Board rules in favor of the Respondent.

IT IS SO ORDERED.

[Handwritten signatures and lines]

Dated: *May 6, 1977*

SYNOPSIS

DOCKET NO. 619

TAX SEGMENT: INHERITANCE TAX
 Interest on Late Filing

ISSUE: The question is on late filing of inheritance tax returns - when does interest start.

 Respondent claimed that interest should begin fifteen (15) months after date of death as the return was filed late.

 Petitioner admits returns were filed late but stated that the account was verified and sworn to by the co-executors and filed with the Register of Wills at an earlier date.

TAB DECISION: The Tax Appeal Board felt that there was a lack of compliance with the statute on the part of the Petitioners and that the Director cannot assess the tax without the proper information.

 As the tax was paid late interest was computed due to this late payment.

DECISION: For Respondent

DECISION DATE: May 6, 1977