

10/25/00

ESTATE OF JAMES W. SMITH

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IN THE

vs.

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MARYLAND TAX COURT

COMPTROLLER OF THE TREASURY

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M.T.C. No. 97-EI-OO-0452

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MEMORANDUM AND GROUNDS FOR DECISION

Petitioner, Estate of James W. Smith, seeks a refund of interest paid on estate taxes previously paid to the Comptroller of the Treasury, Respondent. Petitioner primarily contends that in light of harsh circumstances surrounding the development of two parcels of real property which comprised one-third (1/3) of the value of the estate, the Respondent abused its discretion in denying the Petitioner a refund of \$163,016.93 in interest on estate taxes.

The facts in the present case are largely undisputed and involve the development of two parcels of real estate. The Petitioner contends that the appraisals of the real estate did not disclose the difficulties and costs of developing properties in Montgomery County and Prince George's County. As a result of numerous development problems, the Petitioner was unable to sell the properties in question for a price near the appraised value. The Petitioner argues that the great disparity between the actual value of the land and the appraised value of the land served as the basis for the estate taxes. In addition, the Personal Representative's brother who was another son of the deceased and an heir to the estate was gravely ill requiring the Personal Representative to make

advances to his ill brother rather than pay the estate tax. As a result, the estate's inability to pay the estate tax liability in full resulted in the accrual of interest from July of 1990 to August of 1997. Finally, the Petitioner paid the entire estate tax bill together with interest pursuant to stipulated extension agreements. The alternate payment schedules granted by the Comptroller for the deferred estate tax payment included the provision for interest in the amount of \$163,016.93. After payment, the Estate filed a claim for a refund of the interest paid. The claim was denied by the Comptroller.

Petitioner requested the Respondent to provide a refund of the interest pursuant to Md. Code Ann. Tax-Gen. Sec. 13-606 which provides that the Comptroller may waive interest for reasonable cause. James Dawson, an Attorney in the Comptroller's Office, whose duties include making the determinations for the Comptroller on all requests for waivers and refunds of interest on Maryland Estate Tax stated that there were only three instances in which he was familiar with interest being waived on Maryland Estate Taxes. Mr. Dawson stated that the facts in the present case were not similar to any of the examples in which interest had previously been waived. He suggested that the Estate had a number of other alternatives for payment of the estate tax on a timely basis without accruing interest.

In the present case the Maryland Estate Tax was due on July 21, 1990, nine months after the death of James W. Smith. The tax was not fully paid until 1997. Maryland law provides that interest on unpaid Maryland Estate Tax begins nine months after the date of the death of the decedent and applies to tax that is not paid by that date, including . . . (2) a payment made in accordance with an Alternative Payment Schedule.

Sec. 13-606 of the Tax Gen. Art. provides that for reasonable cause, a tax collector may waive interest on unpaid tax. The term "reasonable cause" is not clearly defined under the statute or by case law.

Although both parties contend that the standard of "reasonable cause" may be defined differently, the Court has very little difficulty in finding that the Petitioner has not demonstrated "reasonable cause" as set forth in Sec. 13-606 of the Md. Code Ann. Tax-Gen. Art. The mere difficulty in selling unimproved parcels of land does not demonstrate "reasonable cause" to waive interest under the facts of the present case. Although the Court is sympathetic to the personal family needs, the Personal Representative's choice to provide for his brother as opposed to the payment of Estate Tax liability suggests the priority of the Petitioner. The facts are clear that the Estate included seven rental properties worth in excess of 1.2 million dollars and that the Estate collected rents from these properties and paid out expenses thereon. The expenses to maintain the property were also afforded a priority over payments to the Comptroller. The Estate had difficulty in selling the unimproved lots but retained the marketable income producing rental properties. The fact that the Estate proceeded to pursue development rather than liquidate the property in College Park or the land in Laurel was based on a business judgment made by the Personal Representative of the Estate.

Other assets could have been sold to pay the Estate Tax liability or in the alternative funds could have been borrowed in ordinary commercial course to pay the Comptroller the Estate Tax liability. The fact that the Estate proceeded under the assumption that the land was as valuable as the Appraiser had valued it does not relieve

the Petitioner from liquidating any assets necessary to pay the Estate Tax on a timely basis. In addition, assigning blame to the Appraiser is not persuasive.

The Court finds that there was no reasonable cause to warrant Comptroller's waiver of interest pursuant to Sec. 13-606 of the Tax-Gen. Art. of the Annotated Code of Maryland. Finally, there was no abusive discretion of the Comptroller in declining to waive interest and in denying the claim for a refund of interest. This Court will hold that the Comptroller's denial of the Estate's claim for refund of interest paid was proper and should be affirmed.