

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTA GROPPER,	:	
Plaintiff,	:	
v.	:	No. 04-CV-279
	:	
UNITED STATES,	:	
Defendant.	:	

Findings of Fact and Conclusions of Law

A non-jury trial was held in this matter on November 2 and 3, 2005. At the conclusion of trial Defendant moved for judgment as a matter of law. I reserved ruling on Defendant's motion until after trial. Plaintiff filed proposed Findings of Fact and Conclusions of law for the Court's review. The court's Findings of Fact and Conclusions of Law follow.

Findings of Fact

Plaintiff filed this action for a refund of \$108,759.52 she paid to the Internal Revenue Service ("IRS") in penalties and interest due to the late filing of her 1999 federal income tax return. Plaintiff asserts that the late filing of her 1999 federal tax return was for reasonable cause and was not the result of willful neglect. In 1994 Plaintiff won the Pennsylvania state lottery in the amount of \$5.6 million which entitled her to receive annual installments of \$271,197.50 beginning in April 1994 and ending in April 2014. The annual installments Plaintiff received were subject to automatic withholding of federal income taxes. In September 1999 Plaintiff assigned a portion of her annuity receipts to Statewide Funding, LLC and received \$600,000.00. Plaintiff was represented by counsel at a hearing held for court approval of the lottery assignment. Plaintiff's also signed an affidavit before a notary public which stated "I also recognize and understand that I will be responsible for payment of any taxes due on the \$600,000.00 purchase price." No federal income taxes were withheld from the \$600,000.00 Plaintiff received from Statewide Funding.

Plaintiff's 1999 federal income tax return was due by April 15, 2000. Plaintiff did not file her 1999 federal income tax return until December 21, 2001. The amount of tax due in 1999 on Plaintiff's federal income tax return was \$270,452.00 in total taxes, with a net tax due of \$169,219 after adjustments for withheld taxes and additional credits were applied. Plaintiff paid the taxes due in two installment on March 5, 2002 and August 26, 2002.

In February 2002, the IRS assessed penalties against Plaintiff pursuant to 26 U.S.C. §§ 6651(a) and 6641(a)(2) for the tax year 1999. In March 2003 the IRS notified Plaintiff that the assessment for the year 1999 penalties and interest was \$108,759.52. Plaintiff subsequently paid the assessments¹ and then filed an administrative claim for a return of the penalties paid.

In her administrative claim and in testimony during the non-jury trial, Plaintiff stated that due to various medical conditions she was unable to manage her affairs since 1997. Plaintiff alleges that the severity of her conditions and the effects of the medications she took, made her unable to file her income tax returns as they were due. Plaintiff suffered serious back injuries as a result of three separate automobile accidents which occurred in 1989 and 1991. Her father was killed in an automobile accident on November 25, 1997. On the way to identifying her father's body Plaintiff stepped into a hole in her mother's yard, aggravated her pre-existing back injury, and became more permanently and seriously disabled. In December 1997 Plaintiff was diagnosed with cauda equina syndrome. Plaintiff continues to suffer with serious medical conditions and takes several medications to cope with her pain and other symptoms resulting from her injuries. At times, the effects of her medications cause Plaintiff to be depressed, sedated, and drowsy.

¹Plaintiff paid \$75,331.68 as a portion of the assessment due in June 2003. The IRS confiscated Plaintiff's 2001 and 2002 tax refunds to satisfy the remainder of the assessment.

Since she sustained her most disabling injury Plaintiff has required varying levels of assistance to help her cook, clean her home, drive, and bathe independently. Until her death in October 2002, Plaintiff's mother had signatory authority on Plaintiff's personal checking account. However, for years before her injury in 1997 - and since then, Plaintiff ran a dog breeding business from her home. The court further specifically finds that during the years 1999-2001, Plaintiff - while limited by her physical condition - nevertheless continued to direct and exercise control and authority over both her personal and business affairs. Plaintiff exercised authority over her personal financial affairs as well as the affairs of her dog breeding business, although the day-to-day physical responsibilities of handling her affairs may have been performed by others. In addition, the court finds that while Plaintiff suffers from various serious physical conditions, the conditions were not sufficiently severe to constitute reasonable cause for Plaintiff's failure to timely file her income tax returns. The court cannot credit in total Plaintiff's evidence in support of her assertions that her physical condition impaired her such that she could not timely file her federal income tax returns. Her conduct in continuing to oversee and participate in her dog breeding business contradicts the opinion of Dr. Fried that she was incapable of filing her returns. Dr. Fried did not examine Plaintiff during the relevant time frame Plaintiff had to timely file her 1999 return, namely from January 1, 2000 through April 15, 2000. In fact, Plaintiff was still conducting and participating in her dog breeding business at the time Dr. Fried examined her in September 2001. The court also notes that the check book for the dog breeding business as well as a detailed journal of transactions relevant to the dog breeding business, both of which included entries for the years 1999 and 2000, were in Plaintiff's own handwriting. While Plaintiff testified that she gave others instructions for tasks to be performed to run the dog breeding business, nothing more than that was required of her to timely file her federal income tax returns. Plaintiff testified that in late 2001 she instructed her mother and fiancée to gather the necessary documents and to deliver them to her accountant

so that her taxes could be filed. Plaintiff did not present any testimony or evidence to demonstrate that the instructions she gave to her mother and her fiancée for the filing of her taxes could not have been given sooner so that the tax returns were filed timely in 2000.

Conclusions of Law

In order to be excused from the imposition of penalties for failure to file, or the late filing of a tax return, a taxpayer “. . . bears the heavy burden of proving both (1) that the failure did not result from ‘willful neglect,’ and (2) that the failure ‘was due to reasonable cause.’” United States v. Boyle, 105 S.Ct. 687, 690 , 469 US. 241, 245 (1985). While “willful neglect” and “reasonable cause” are not defined in the Internal Revenue Code, the Treasury Regulations require that the taxpayer demonstrate that he exercised “ordinary business care and prudence but nevertheless was unable to file the return within the prescribed time.” Id. (quotations omitted); 26 CFR §301.6651(c)(1). In reaching its conclusion that the taxpayer was not excused from late filing due to relying on his attorney to timely file, the Supreme Court in Boyle reasoned that Congress intended to place on the taxpayer the obligation of ascertaining the statutory filing deadline and then meeting that deadline except in a vary narrow range of situations. Id. at 693.

Here, this court cannot conclude that Plaintiff exercised the ordinary business care and prudence nor that she had reasonable cause for failing to timely file her 1999 federal income tax return. During 1999 and 2000 Plaintiff was able to, and did, participate in the management of her dog breeding business. She wrote checks and kept a business journal for said business. She was, therefore, capable of exercising ordinary business care in ascertaining the deadline for filing her federal income taxes and ensuring that they were timely filed. The court acknowledges that Plaintiff suffered with serious medical conditions, however, those conditions did not leave her unable to file the returns by the prescribed deadline.

Consequently, she cannot be excused from paying the penalties and interest imposed for late filing. Therefore, Plaintiff will not be awarded the refund of any monies paid to the Internal Revenue Service due to the imposition of penalties for late filing of her federal income tax return for the year 1999.

judgment will be entered in favor of Defendant and against Plaintiff.

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Plaintiff,	:	
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v.	:	No. 04-CV-279
	:	
UNITED STATES,	:	
	:	
Defendant.	:	

JUDGMENT

AND NOW, this day of November 2005, **IT IS HEREBY ORDERED** that judgment is entered in favor of Defendant and against Plaintiff.

BY THE COURT:

Clifford Scott Green