

June 2021

Current Developments in Taxation

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Recommended Citation

Albert J. Gould & Kenneth L. Smith, Current Developments in Taxation, 27 Dicta 98 (1950).

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CURRENT DEVELOPMENTS IN TAXATION

BY ALBERT J. GOULD AND KENNETH L. SMITH

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Reliance on Qualified Experts

The Second Circuit (*Haywood, etc.* C. A. 2, 1/4/50) has held that a corporation is not liable for the negligence penalty for failure to file a personal holding company return when the officer of the corporation turned over all of the files to a qualified CPA who the court found was competent to advise on tax matters. In this respect the Court of Appeals reversed the Tax Court. It held that where a corporate taxpayer selects a competent accountant who is proved to be an expert, requests him to prepare proper tax returns and furnishes him with all necessary information, the taxpayer has done all that ordinary business care and prudence can reasonably demand. However, in *Genesee Valley Gas Co.* (C.A., 11 1/30/50), the taxpayer who prepared its own return in good faith, believing that it was not a personal holding company, was properly assessed a personal holding company penalty, the court ruling that there was no reasonable cause to excuse the company's failure to file.

REMARKS: The two requirements necessary are that there must be a showing of the expert's competency and qualifications and that the taxpayer must furnish to the expert all of the necessary information.

Proposed New Tax Law

In the administration's tax program it has been proposed that in consideration for the reduction of certain excise taxes, certain other increases in taxes should be enacted and certain tax loopholes closed. It has been proposed to increase certain corporate taxes for corporations with higher incomes, to combine estate and gift taxes with the effect of increasing the tax, to tax certain insurance proceeds payable in installments, to make certain revisions of capital gain taxes, to deny capital gain treatment to stockholders in liquidation where the type of corporation was intended to have a short life (similar to the Hollywood type corporation), to place certain taxes on charitable corporations, to revamp the percentage depletion on oil and gas operations, and to change the law regarding foreign income.

REMARKS: The proposed act when submitted should be studied for future business operations.