

An executor's dilemma

Kresimir Telesmanich had a difficult problem when he was named executor of his uncle's estate. The uncle, who died in 2000, was a resident of Croatia at his death. When Telesmanich attempted to have the will probated in New Jersey, that court required him to turn to the Croatian courts. The Croatian courts did not cooperate immediately. The estate included an account with Fidelity Investments worth \$438,572. Telesmanich did not gain access to that account until 2008.

In 2002 Telesmanich obtained an employer identification number for the estate. Soon after, he received a notice from the IRS informing him of the requirement to file Form 1041, the estate's income tax return. Telesmanich called the IRS to explain that, without access to the account, he couldn't pay any taxes. An unidentified IRS employee told him to send a letter to the IRS explaining the situation, which he promptly did. The employee told him that he would not owe anything other than the taxes.

Once Telesmanich gained access to the funds, he promptly filed Forms 1041 for 2001 through 2006 and paid the taxes. The IRS assessed late-filing penalties and interest on both the penalties and late taxes. When Telesmanich protested, the late-filing penalties were removed, but not the interest due on the underlying tax liabilities. That controversy went to the Tax Court.

The IRS did not abuse its discretion in assessing the interest, the Tax Court decided. The advice given to Telesmanich in 2002, which apparently was incorrect, did not bind the IRS. Moreover, whatever that advice was, it had no impact on the delay in payment of the tax, which was caused by the probate controversies.

Some people consider the position of estate executor to be an honorary one. Some amateurs have accepted the position, underestimating the work and time involved. This case may serve as a warning to those with such views.

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