2 T.C. 70 (1943)

A taxpayer seeking to rebut the presumption of shifted tax burden under Section 501(e) of the Revenue Act of 1936 must provide necessary cost, selling price, and margin information for the tax period, and the Commissioner is not required to determine an average margin based on representative concerns before determining a deficiency if the taxpayer fails to provide this essential data.

Summary

Wilson Athletic Goods, as the transferee of General Sports Mfg. Co., contested a deficiency for unjust enrichment tax. Wilson argued that the Commissioner erred by not using the average margin of representative concerns to determine if General Sports had shifted the burden of a processing tax. The Tax Court upheld the Commissioner's determination, stating that the taxpayer must first provide its own cost and pricing data for the tax period. The court reasoned that the Commissioner is not obligated to seek external data when the taxpayer fails to provide essential information on its return. This case underscores the taxpayer's responsibility to furnish necessary data for tax computations.

Facts

General Sports Mfg. Co., later acquired by Wilson Athletic Goods, was assessed a deficiency for unjust enrichment tax for the fiscal year ending October 31, 1936. The Commissioner determined the deficiency under Section 501(a)(2) of the Revenue Act of 1936. Wilson contended that it could not provide average margin data because its records for the relevant period were inadequate. Wilson requested that the Commissioner use the average margin of similar businesses, which the Commissioner declined to do. The company's tax return, Form 945, lacked the information necessary for the Commissioner to calculate the tax liability.

Procedural History

The Commissioner determined a deficiency in unjust enrichment tax against General Sports Mfg. Co., for which Wilson Athletic Goods was liable as a transferee. Wilson petitioned the Tax Court, arguing that the Commissioner improperly determined the deficiency by not using the average margin of representative concerns. The Commissioner moved to dismiss the petition on the grounds that it failed to state a cause of action. The Tax Court granted the Commissioner's motion and dismissed the petition.

Issue(s)

Whether the Commissioner is required to use the average margin of representative concerns in determining unjust enrichment tax liability under Section 501 of the Revenue Act of 1936, even when the taxpayer fails to provide necessary cost and pricing information for the tax period.

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Holding

No, because Section 501 does not mandate the Commissioner to use the average margin of representative concerns as a prerequisite to determining a deficiency when the taxpayer has not provided the required cost, selling price, or margin information for the tax period.

Court's Reasoning

The Court reasoned that the statutory scheme under Section 501(e) and (f)(1) prioritizes the taxpayer's own records for both the tax period and the base period. While the statute allows for substitution of the base period data with information from representative concerns under certain circumstances, it does not provide for any substitute for the taxpayer's records during the tax period itself. The court emphasized that the taxpayer's failure to provide essential information on Form 945, specifically cost, selling price, and margin, precluded the Commissioner from performing the calculations necessary under Section 501(e). The court noted, "That subsection provides that the extent to which the taxpayer shifted to others the burden of a Federal excise tax shall be presumed to be either, (1) the excess of the selling price of the articles over the sum of the cost of the articles and the average margin with respect to the quantity involved, or, (2), if the taxpayer elects by filing his return on that basis, the excess of the margin per unit over the average margin multiplied by the number of units." The court concluded that the Commissioner was not required to conduct an independent investigation to obtain data the taxpayer should have provided.

Practical Implications

This case clarifies the taxpayer's responsibility to provide complete and accurate information on tax returns, particularly regarding cost and pricing data relevant to determining unjust enrichment tax liability. It establishes that a taxpayer cannot compel the IRS to use external data from representative concerns if the taxpayer has failed to provide its own essential data for the tax period. Legal professionals should advise clients that they must furnish all required information to support their claims and cannot rely on the IRS to independently gather data. This ruling has implications for cases involving similar tax computations where the taxpayer bears the initial burden of providing information.

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