4 T.C. 75 (1944)

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A mutual insurance company seeking tax exemption must operate substantially at cost for its members, meaning it cannot pay excessive commissions to affiliated entities and must provide for the return of excess premiums to policyholders.

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Summary

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Safeguard Mutual Fire Insurance Company sought tax exemption as a mutual insurance company under Section 101(11) of the Internal Revenue Code. The Tax Court held that while the company was indeed a mutual insurance company, it did not operate substantially at cost because it paid a significant portion of its premiums to an underwriting manager and did not provide for the return of excess premiums to policyholders. Thus, it was not entitled to the tax exemption. However, the court also held that the company was taxable under Section 207 as a mutual insurance company other than life, but was not entitled to an additional deduction for premium deposits retained because it had already deducted all losses and expenses.

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Facts

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Safeguard Mutual Fire Insurance Company was chartered in Pennsylvania in 1938 as a mutual fire insurance company. It had no stock or stockholders; its policyholders were its only members, each entitled to one vote per policy. The company charged standard premium rates and policyholders were liable for assessments if funds were insufficient. No nonassessable policies were issued. A partnership, Gorson Co., acted as underwriting manager, receiving 47% of gross premiums for its services and certain expenses.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in Safeguard Mutual's income tax for 1939 and 1940, and a deficiency in excess profits tax for 1940, disallowing deductions claimed for

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