*5 T.C. 362 (1945)*

A notice of excessive profits determination issued by a delegatee of the War Contracts Price Adjustment Board does not trigger the 90-day period for petitioning the Tax Court for review; only a notice from the Board itself, after a final determination, starts the clock.

**Summary**

Aircraft & Diesel Equipment Corp. sought Tax Court review of a determination of excessive profits made by a delegatee of the War Contracts Price Adjustment Board. The Tax Court considered whether the notice from the delegatee was sufficient to invoke the court's jurisdiction. The court held that it lacked jurisdiction because the notice was not issued by the Board itself after a final determination, but by a delegatee. The 90-day period for filing a petition with the Tax Court begins only after the Board issues its own notice of a final order determining excessive profits. Determinations by delegatees are tentative and subject to Board review.

**Facts**

Aircraft & Diesel Equipment Corporation received a notice regarding excessive profits for the fiscal year ending November 30, 1943. This notice was issued by a delegatee of the War Contracts Price Adjustment Board, not the Board itself. The corporation then filed a petition with the Tax Court for redetermination of the excessive profits.

**Procedural History**

The respondents (Secretary of War and Under Secretary of War) moved to dismiss the proceeding in the Tax Court for lack of jurisdiction, arguing that the petition was based on a preliminary order from a Board delegatee, not a final order from the Board itself. The Tax Court considered this motion to determine if it had the authority to hear the case.

**Issue(s)**

Whether a notice of excessive profits determination issued by a delegatee of the War Contracts Price Adjustment Board is sufficient to initiate the 90-day period for filing a petition with the Tax Court under Section 403(e)(1) of the Renegotiation Act.

**Holding**

No, because the statute requires a notice from the War Contracts Price Adjustment Board itself, following a final determination of excessive profits, to trigger the 90-day period for filing a petition with the Tax Court.

**Court's Reasoning**

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The court emphasized the specific language of Section 403(c)(1) and 403(e)(1) of the Renegotiation Act, which requires the Board to issue and mail a notice of its order determining excessive profits. The court reasoned that Congress intended the 90-day period to commence only upon notice from the Board, not from its delegatees. The court stated, “A contractor may file a petition with the Tax Court only after there has been mailed to him by the Board a notice as required in section 403 (c) (1). That notice and that notice alone starts the 90-day period specified in section 403 (e) (1).” Determinations by delegatees are considered tentative and subject to review by the Board. Allowing a delegatee’s notice to start the 90-day clock would place contractors in a precarious position, unsure whether the Board would review the determination or if the determination would become final. The court also noted that the Board’s own regulations (Renegotiation Regulations section 625.3 and .4) support this interpretation.

**Practical Implications**

This case clarifies the jurisdictional requirements for appealing renegotiation determinations to the Tax Court. It establishes that contractors must wait for a formal notice from the War Contracts Price Adjustment Board following a final determination of excessive profits before filing a petition with the Tax Court. This prevents premature filings based on tentative determinations by delegatees. Attorneys advising contractors undergoing renegotiation must ensure that petitions to the Tax Court are filed within 90 days of the Board’s official notice. Later cases addressing similar jurisdictional issues in administrative law often cite this case for the principle that statutory notice requirements must be strictly followed to invoke a court’s jurisdiction. This case also informs best practices for administrative agencies delegating authority: agencies must ensure clear communication channels and final determinations to provide regulated parties with proper notice and opportunity for appeal.

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