***6 T.C. 1009 (1946)***

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A foreign corporation is not considered to be “engaged in trade or business within the United States” if its activities consist primarily of purchasing goods from a U.S. company for resale, even if the U.S. company ships the goods directly to the foreign corporation’s customers and handles invoicing and payment collection due to wartime restrictions, provided these activities are considered incidental to a buyer-seller relationship and not a formal agency agreement.

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**Summary**

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Amalgamated Dental Co., a British corporation, challenged the IRS’s determination that it was engaged in trade or business within the United States. Prior to 1940, Amalgamated purchased dental supplies from Dentists’ Supply Co. in New York. Due to wartime restrictions, Dentists’ Supply began shipping directly to Amalgamated’s customers, handling invoicing, and collecting payments, remitting the profits (retail price less wholesale price) to Amalgamated. The Tax Court held that Amalgamated was not engaged in trade or business in the U.S., emphasizing the lack of a formal agency agreement and the continuation of a buyer-seller relationship, with Dentists’ Supply’s actions viewed as accommodations due to the war.

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**Facts**

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Amalgamated Dental Co., Ltd. (petitioner), a British corporation, manufactured, bought, and sold dental supplies with its principal office in London. It had no U.S. presence. Before 1940, Amalgamated purchased dental supplies from Dentists’ Supply Co. of New York. Due to the war, Amalgamated could no longer import these supplies. Dentists’ Supply, without a formal agency agreement, began shipping directly to Amalgamated’s customers, billing them at Amalgamated’s retail prices, and crediting Amalgamated’s account with the difference between retail and wholesale prices. Dentists’ Supply also handled export licenses and insurance, without charging Amalgamated for these services. Invoices from Dentists’ Supply to Amalgamated stated the supplies were

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