7 T.C. 1065 (1946)

A taxpayer cannot utilize Internal Revenue Code Section 713(e)(1) to increase their excess profits tax credit by reconstructing income under Section 722 for another year; the benefits are mutually exclusive.

Summary

Stimson Mill Company sought to increase its excess profits tax credit for 1942. The company argued that it was entitled to reconstruct its 1937 income (due to a strike) under Section 722 of the Internal Revenue Code, and then also apply Section 713(e)(1) to increase its 1938 income (the lowest base period year) to 75% of the average of the other three base period years (1936, 1937, and 1939). The Commissioner argued that these sections were mutually exclusive and only allowed the benefit of 713(e)(1). The Tax Court agreed with the Commissioner, holding that Section 713(e)(1) could not be applied using income reconstructed under Section 722.

Facts

- Stimson Mill Company, a Washington corporation, filed its 1942 excess profits tax return.
- The company sought relief under Section 722 due to a strike in 1937 which abnormally lowered its earnings that year. They proposed a reconstructed income for 1937.
- Additionally, the company sought to apply Section 713(e)(1), which allows increasing the excess profits net income for the base period year with the lowest income (1938) to 75% of the average excess profits net income of the other three base period years (1936, 1937, and 1939).
- The Commissioner allowed the computation of the four-year base period average after increasing the 1938 income to 75% of the average of the other three years.

Procedural History

- The Commissioner determined a deficiency in Stimson Mill's 1942 excess profits tax, disallowing the company's claim for additional relief under Section 722 beyond the benefits already received under Section 713(e)(1).
- Stimson Mill petitioned the Tax Court, arguing it was entitled to compute its excess profits credit for 1942 using both Sections 722 and 713(e)(1).

Issue(s)

- Whether a taxpayer can apply Section 713(e)(1) to increase the average base period net income by raising the income of the lowest year (1938) after already reconstructing income for another year (1937) under Section 722(a).

Holding

- No, because the statute does not permit computation under Section 713(e)(1) by using, for any base period year, not the actual income, but an income reconstructed under Section 722(a).

Court's Reasoning

The court reasoned that Section 713(e)(1) requires the use of

