10 T.C. 1174 (1948)

The Tax Court possesses jurisdiction under Section 403(e)(2) of the Renegotiation Act to increase the amount of excessive profits in a renegotiation proceeding, regardless of whether the fiscal year ended before July 1, 1943, and this jurisdiction is not negated by the exception contained in the last sentence of that section.

Summary

H. E. Wolfe Construction Co. challenged the Secretary of War's determination of excessive profits for a fiscal year ending before July 1, 1943. The Secretary then sought a determination from the Tax Court for a greater amount of excessive profits than initially determined. Wolfe Construction moved to strike the Secretary's pleading, arguing the Tax Court lacked jurisdiction to increase the amount of excessive profits for fiscal years ending before July 1, 1943. The Tax Court denied the motion, holding that it had explicit jurisdiction under Section 403(e)(2) of the Renegotiation Act to increase the amount of excessive profits. This jurisdiction was not dependent on the application of Section 403(e)(1) and was not removed by the exception in the final sentence of Section 403(e)(2).

Facts

- The Secretary of War determined that H. E. Wolfe Construction Co. had realized excessive profits.
- The company filed a petition with the Tax Court under section 403(e)(2) of the Renegotiation Act, contesting the Secretary's determination.
- The company's fiscal year ended before July 1, 1943.
- The Secretary of War then requested the Tax Court to determine an amount of excessive profits greater than his initial determination.

Procedural History

- The Secretary of War determined that the petitioners had realized excessive profits.
- The petitioners filed a petition with the Tax Court under section 403 (e) (2) of the Renegotiation Act.
- The Secretary of War asked the Court to determine, as excessive profits, an amount greater than that determined by him.
- The petitioners moved to strike that part of the pleading on the ground that the Tax Court has no jurisdiction to determine an amount of excessive profits greater than that determined by the Secretary with respect to a fiscal year ending before July 1, 1943.

Issue(s)

1. Whether the Tax Court has jurisdiction under Section 403(e)(2) of the Renegotiation Act to determine an amount of excessive profits greater than

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that determined by the Secretary of War for a fiscal year ending before July 1, 1943.

Holding

1. Yes, because Section 403(e)(2) expressly confers jurisdiction upon the Court to increase the amount of excessive profits in a proceeding before it. This jurisdiction does not depend in any way upon the application of section 403 (e) (1) and is not taken away by the exception contained in the last sentence of section 403 (e) (2).

Court's Reasoning

The Tax Court reasoned that Section 403(e)(2) explicitly grants the court jurisdiction over these cases. The court stated that the legislators, in (2), adopted, by reference, certain language of (1) instead of repeating that language. They said in (2) that the Court, for the purpose of (2), shall have the same jurisdiction, powers, and duties and the proceedings shall be subject to the same provisions as in the case of a petition filed with the Court under paragraph (1). The reference to paragraph (1) was merely to avoid the repetition of words. But the conferring of jurisdiction is in (2) for the purpose of (2) and (1) does not need to be applied in any respect in order to carry out the purpose of (2). The application of (1) is therefore immaterial under (2). The purpose of the exception in (2) is readily apparent. April 28, 1942, was the original effective date of renegotiation. Some of the amendments to section 403 (e), made by the Revenue Act of 1943, were not made applicable as of that date, particularly those relating to the powers, duties, and procedures of the new Board. Others were made retroactive. Congress intended that renegotiation as it had been conducted by the Secretaries up to and including all fiscal years ending before July 1, 1943, should stand, subject to certain amendments, and the new Board would not have to go back over all of that renegotiation, but could take over beginning with all subsequent fiscal years.

The court also emphasized its prior request to Congress to be allowed to increase the amount of excessive profits in appropriate cases. The court felt that too large a burden of renegotiation might be thrown upon the Court unless the possibility of an increase in the amount of excessive profits were provided as an appropriate deterrent. The court concluded that nothing in the exception at the end of Section 403(e)(2) supported the contention that the Tax Court lacks jurisdiction to increase the amount in cases contesting the Secretaries' determinations for fiscal years ended before July 1, 1943.

Practical Implications

This decision clarifies the scope of the Tax Court's jurisdiction in renegotiation cases under the Renegotiation Act of 1942, as amended. It establishes that the Tax Court's power to increase the amount of excessive profits is not limited by the timing of the

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fiscal year in question, ensuring a more comprehensive review process. This ruling informs how similar cases should be analyzed, preventing contractors from strategically challenging excessive profit determinations with the expectation of avoiding potential increases. It also reinforces the Tax Court's role as an impartial arbiter in renegotiation disputes, empowered to adjust profit determinations based on the specific merits of each case. This authority acts as a deterrent against frivolous appeals and ensures a fair outcome for both the government and contractors.

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