10 T.C. 1217 (1948)

A dissolved corporation that transferred its assets to a parent company in a non-taxable transaction cannot claim additional amortization deductions for emergency facilities if it cannot recompute taxes for all years within the elected amortization period.

Summary

Ken-Rad Transmitting Tube Corporation (Transmitting) sought additional amortization deductions for 1942 and 1943 based on a shortened amortization period for emergency facilities. Transmitting had been a subsidiary of Ken-Rad Tube & Lamp Corporation (Lamp). Transmitting transferred all its assets to Lamp in June 1943 and dissolved. The Tax Court held that Transmitting was not entitled to the additional amortization because it could not recompute taxes for all relevant years (1942-1945) as required by Section 124(d)(4) of the Internal Revenue Code, since it was dissolved and no longer in possession of the assets.

Facts

Transmitting was formed in October 1941 as a subsidiary of Lamp to manufacture transmitting tubes for defense purposes. Transmitting obtained certificates of necessity for its facilities and elected to amortize the cost over 60 months in its 1942 and 1943 tax returns. On June 30, 1943, Transmitting transferred all its assets to Lamp in exchange for its stock in a tax-free transaction under Section 112(b)(6) of the Internal Revenue Code and then dissolved. Lamp sold these assets on January 2, 1945, at a profit. After the President proclaimed the end of the emergency period on September 29, 1945, Transmitting attempted to elect a shortened amortization period ending September 30, 1945, seeking additional deductions.

Procedural History

Transmitting filed claims for refund of excess profits taxes for 1942 and the period ending June 30, 1943, based on the shorter amortization period. The Commissioner denied the claims. Lamp conceded it was the transferee of Transmitting's assets and liable for any deficiencies. The Tax Court reviewed the Commissioner's determination of deficiencies against Transmitting and Lamp as the transferee.

Issue(s)

1. Whether Transmitting is entitled to an amortization allowance based on the shortened period prescribed in Section 124(d)(1) of the Internal Revenue Code, considering it transferred its assets and dissolved before the end of the emergency period.

Holding

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1. No, because Section 124(d)(4) requires taxes for all taxable years within the amortization period (1942-1945) to be recomputed, and Transmitting cannot comply with this requirement due to its dissolution and lack of ownership of the assets.

Court’s Reasoning

The court reasoned that Section 124(d)(4) mandates a recomputation of taxes for all relevant years to determine the benefit of the shortened amortization period. Since Transmitting had dissolved and transferred its assets, it could not perform this recomputation. The court quoted *New Colonial Ice Co. v. Helvering, 292 U.S. 435*, stating,

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