10 T.C. 1282 (1948)

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A taxpayer electing to report gains from a real estate sale on the installment basis under Section 44(b) of the Internal Revenue Code cannot later claim that the entire gain is attributable to the year of sale for excess profits tax relief under Section 721.

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Summary

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R.H. Bogle Co. sold real estate in 1941 and elected to report the gain on the installment basis over three years (1941-1943). For excess profits tax calculations in 1942 and 1943, the company argued the gain was abnormal income attributable solely to 1941, seeking relief under Section 721 of the Internal Revenue Code. The Tax Court ruled that the taxpayer, having chosen the installment method, could not then claim the entire gain belonged to 1941 to avoid excess profits tax. The election under Section 44(b) prevented the company from later recharacterizing the income for tax advantages under Section 721.

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Facts

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R.H. Bogle Co., a manufacturing chemist, purchased real estate in Memphis, Tennessee, in March 1941. Shortly after, the company received and accepted a high offer and sold the property on August 2, 1941. On its 1941 federal income tax return, the company elected under Section 44(b) of the Internal Revenue Code to report the profit from the sale on the installment basis. The company received payments in 1941, 1942, and 1943 and reported profits accordingly. The company specialized in weed-destroying chemicals and purchased the land intending to build a plant for manufacturing chloride but was unable to obtain the equipment required.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in the company's excess profits tax for 1942 and 1943. The Commissioner argued that the gains from the 1941 sale could not be attributed solely to 1941 because the taxpayer had elected to report the gains on an installment basis. The Tax Court reviewed the Commissioner's determination.

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Issue(s)

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Whether a taxpayer, having elected to report the gain from a sale of real estate on the installment basis under Section 44(b) of the Internal Revenue Code, can claim that the entire gain is attributable to the year of sale for purposes of obtaining excess profits tax relief under Section 721.

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Holding

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No, because the taxpayer chose to spread the installment payments over multiple years and cannot now reassemble the income and attribute it to a single year for tax benefit purposes.

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Court's Reasoning

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The court reasoned that the company made an election to report the gain on the installment basis as permitted by Section 44(b). By choosing this method, the company agreed to spread the income over the years in which payments were received. The court cited *Commissioner v. South Texas Lumber Co., 333 U.S. 496* (1948), drawing parallels to the principle that taxpayers cannot selectively apply accounting methods to gain tax advantages. The court emphasized that Section 44 provides a privilege to defer payment of income tax on profits until installments are collected. The court stated, "In the light of the reasoning and principles so set forth, we find that, since the petitioner chose to spread the installment payments received from the Chapman-Duffy Lumber Co. over the three years 1941, 1942, and 1943, it must use the same basis for the computation of its excess profits taxes under the

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appropriate statutory rules." Having elected the installment method, the income cannot be

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