11 T.C. 200 (1948)

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To claim an amortization deduction for emergency facilities under Section 124 of the Internal Revenue Code, the application for a necessity certificate must be filed within six months after the beginning of construction, reconstruction, erection, or installation, or before December 1, 1941, whichever is later.

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Summary

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American Twist Drill Co. sought an amortization deduction for certain drill milling machines under Section 124 of the Internal Revenue Code. The Tax Court denied the deduction because the company failed to file the application for a necessity certificate within six months after the beginning of construction of the machines, as required by the statute. The court rejected the company's argument that the six-month period should begin from the latest of construction, erection, or installation. The court emphasized the importance of adhering to the statutory deadlines for claiming such deductions.

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Facts

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American Twist Drill Co. decided to increase its production capacity in early 1941 by adding a special type of drill milling machine to its plant facilities. On February 19, 1941, the company began purchasing parts for the construction and installation of seven of these machines. The "heavy frames" of the machines were delivered on April 29, 1941, and assembly began then. At least one machine was completed and operational by August 1941. The remaining machines were placed in operation within approximately two months thereafter. The company filed an application with the Secretary of War for a necessity certificate on January 30, 1942, which was granted on March 5, 1942. The company claimed a depreciation deduction on its 1941 tax return that included depreciation on the drill milling machines.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in American Twist Drill Co.’s income tax, declared value excess profits tax, and excess profits tax for the year ended December 31, 1941. The Commissioner disallowed a portion of the depreciation deduction claimed by the company. The Tax Court addressed whether the petitioner was entitled to an amortization deduction under Section 124 of the Internal Revenue Code.

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Issue(s)

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Whether American Twist Drill Co. filed its application for the necessity certificate within the period of limitations provided by Section 124(f)(3) of the Internal Revenue Code, thus entitling it to an amortization deduction for the drill milling machines.

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Holding

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No, because the company failed to file the application for the necessity certificate within six months after the beginning of construction of the machines, as required by Section 124(f)(3) of the Internal Revenue Code.

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Court’s Reasoning

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The court interpreted Section 124(f)(3) of the Internal Revenue Code, which states that the application for the necessity certificate must be filed “before the expiration of six months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition, or before December 1, 1941, whichever is later.” The court rejected the taxpayer’s argument that the six-month period applied to “whichever is later” among construction, erection, or acquisition. The court reasoned that the phrase

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