11 T.C. 280 (1948)

When a renegotiation process is initiated under one statute but a new statute supersedes it, the initial steps taken under the old statute do not count as the commencement of renegotiation under the new statute for purposes of statutory deadlines.

Summary

The Tax Court addressed whether renegotiation of war contracts was completed within one year of commencement, as required by the Renegotiation Act of 1943. The Secretary of the Navy started renegotiation in 1943 under the 1942 Act. The 1943 Act, passed in February 1944, created the War Contracts Price Adjustment Board with exclusive renegotiation authority. The Board determined Brady's excessive profits in December 1944. Brady argued the determination was beyond the one-year limit from the initial renegotiation start date. The court held that the 1942 Act proceedings did not constitute commencement under the 1943 Act; therefore, the determination was timely.

Facts

John Brady, a consulting engineer and lawyer, had contracts involving automatic printing telegraphic devices. On September 7, 1943, the Under Secretary of the Navy requested information from Brady for renegotiation of 1942 and 1943 contracts under the Renegotiation Act of 1942. Brady provided data, including estimated receipts for the last three months of 1943. Conferences were held between renegotiating officials and Brady from September 1943 to April 1944. The actual receipts for the last three months of 1943 were furnished on March 8, 1944.

Procedural History

The renegotiation process began under the authority of the Secretary of the Navy under the 1942 Act. The War Contracts Price Adjustment Board (created by the 1943 Act) later issued a unilateral determination of excessive profits on December 20, 1944. Brady petitioned the Tax Court, arguing that the renegotiation was not completed within one year of its commencement, as required by the 1943 Act.

Issue(s)

Whether the renegotiation of petitioner's contracts was completed within one year following the commencement of the renegotiation proceeding as required by section 403 (c) (3) of the Renegotiation Act of 1943, when renegotiation began under the 1942 Act but was then governed by the 1943 Act.

Holding

No, because the commencement of renegotiation proceedings under the

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Renegotiation Act of 1942 ceased to be such commencement for fiscal years ending after June 30, 1943, upon the passage of the Renegotiation Act of 1943. The initial steps taken under the 1942 Act do not count as the commencement of renegotiation under the new statute.

Court's Reasoning

The court reasoned that while the 1943 Act amended the 1942 Act, it established a completely new renegotiation scheme for fiscal years ending after June 30, 1943, superseding and impliedly repealing the 1942 Act for those years. The 1943 Act contained no saving provision for pending proceedings initiated under the 1942 Act, so those proceedings terminated upon the enactment of the 1943 Act. Therefore, the September 7, 1943, letter under the 1942 Act did not constitute commencement for the purposes of the 1943 Act's time limitations.

The court pointed to a May 1, 1944 letter, and especially to the October 9, 1944 letter from the Under Secretary of the Navy to Brady, notifying him of a conference regarding excessive profits, as the commencement of renegotiation under the 1943 Act. The court stated, "In our opinion this letter, sent by registered mail, for the first time notifying petitioner of a conference, constituted commencement of renegotiation of petitioner's business under the 1943 Act." Since the Board's determination was made within one year of this commencement, it was timely.

The court cited *Baltimore and Ohio Railroad Co. v. United States*, 201 U.S. 92 (1906) stating: "It is equally well settled that if a law conferring jurisdiction is repealed without any reservation as to pending cases, all such cases fall with the law."

Practical Implications

This case clarifies how to determine the start date of renegotiation when a new statute replaces an old one during the process. It establishes that actions taken under the old statute don't count toward the new statute's deadlines. Agencies must formally re-initiate proceedings under the new law. This impacts how government contractors must track and respond to renegotiation requests, emphasizing the importance of understanding which statute governs their contracts and when the renegotiation clock truly starts ticking. It reinforces that when a statute is repealed or significantly amended, pending cases are affected unless a saving clause exists.

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