11 T.C. 310 (1948)

r
r

Section 742 of the Internal Revenue Code applies only to the computation of average base period net income for the purpose of the excess profits credit under Section 713, and does not extend to excess profits credit carry-overs from other tax years.

r
r

Summary

r

Stanton Brewery merged with its wholly-owned subsidiary. The subsidiary had an excess profits credit carry-over from prior years. Stanton Brewery sought to use this carry-over to reduce its 1942 excess profits tax liability. The Tax Court held that Section 742 of the Internal Revenue Code, which governs the computation of average base period net income in the case of corporate mergers, does not allow the acquiring corporation to utilize the component corporation's excess profits credit carry-over. The court reasoned that Section 742 explicitly refers to the computation of base period income only, not to carry-overs from other excess profits tax years.

r
r

Facts

r

Stanton Brewery, Inc. merged with its wholly-owned subsidiary on December 31, 1941. The subsidiary had excess profits net income for 1940 and 1941. Stanton Brewery itself had net income for 1940, including dividends from its subsidiary. Stanton Brewery sought to utilize the subsidiary's excess profits credit carry-over from 1940 and 1941 to reduce its own excess profits tax liability for 1942.

r
r

Procedural History

r

The Commissioner of Internal Revenue disallowed Stanton Brewery's claim for an excess profits credit carry-over. Stanton Brewery petitioned the Tax Court for a

© 2025 SCOTUSreports.com. All rights reserved.

redetermination of the deficiency. The Tax Court upheld the Commissioner's determination.

r
r

Issue(s)

r

Whether Section 742 of the Internal Revenue Code permits an acquiring corporation in a merger to deduct an excess profits credit carry-over from a component corporation's prior tax years when computing its own excess profits tax liability for the year following the merger.

r
r

Holding

r

No, because Section 742 applies only to the computation of average base period net income for the purpose of the credit under Section 713, and not to the excess profits credit carry-over provided for in Section 710(c).

r
r

Court's Reasoning

r

The court emphasized the explicit language of Section 742, which refers only to the computation of "average base period net income" for the purpose of the credit under Section 713. The court noted that Section 710(b)(3) grants the

© 2025 SCOTUSreports.com. All rights reserved.