

## **11 T.C. 593 (1948)**

A remedial tax law amendment extending the period for filing refund claims based on a waiver of assessment limitations should be liberally construed to effectuate its objectives and apply retroactively unless the specific conditions for retroactivity are not met.

### **Summary**

National Butane Gas Co. sought review of the Commissioner's denial of its claim for relief under Section 722, regarding excess profits tax for 1941. The Commissioner argued the claim was untimely due to the retroactive application of Section 322(b)(3), based on an assessment waiver. The Tax Court held that Section 322(b)(3) did not apply retroactively because the original tax assessment was valid regardless of the waiver. The court emphasized the remedial nature of the legislation, favoring a liberal interpretation to benefit the taxpayer, and denied the Commissioner's motion to dismiss.

### **Facts**

National Butane Gas Co. filed its 1941 excess profits tax return on March 15, 1942. In December 1944, the company executed a waiver, extending the period of limitations to June 30, 1946. The Commissioner issued a deficiency notice on February 15, 1945, and National Butane waived restrictions on assessment. The deficiency was assessed on May 7, 1945, and paid on May 9, 1945. On April 28, 1947, National Butane filed a claim for relief under Section 722, seeking a refund. The Commissioner rejected the claim as untimely, citing Section 322(b)(3) as retroactively applicable due to the waiver.

### **Procedural History**

National Butane Gas Co. petitioned the Tax Court to review the Commissioner's denial of its Section 722 claim. The Commissioner moved to dismiss the petition, arguing the claim was untimely under Section 322(b)(3) as applied retroactively by Section 509(a) of the Revenue Act of 1943.

### **Issue(s)**

Whether Section 322(b)(3) of the Internal Revenue Code, concerning the period for filing refund claims when a waiver of assessment limitations is in place, applies retroactively to the petitioner's 1941 tax year under Section 509(a) of the Revenue Act of 1943, when the initial tax assessment was valid regardless of the existence of a waiver.

### **Holding**

No, because Section 509(a) makes Section 322(b)(3) retroactive only if the

Commissioner could assess the tax solely by reason of the waiver agreement, and in this case, the Commissioner’s original assessment was valid even without the waiver.

### **Court’s Reasoning**

The Tax Court reasoned that Section 509(a) only makes Section 322(b)(3) retroactive if the Commissioner could only assess the tax *\*solely\** because of the waiver. Here, the original assessment on May 7, 1945, was valid because the statute of limitations was suspended due to the deficiency notice issued on February 15, 1945. The court emphasized that the tax could have been assessed even without the waiver. The court cited the remedial nature of Section 322(b)(3), intended to benefit taxpayers by providing an extended period for filing refund claims when assessment limitations had been waived. It stated that a liberal construction was required to effectuate the objectives of remedial legislation. The court found the Commissioner’s interpretation placed too much emphasis on the word “may” in Section 509(a) and not enough on the phrase “assess the tax for the taxable year solely by reason of having made... an agreement...” Disney, J., dissented, arguing the majority opinion denied retroactivity to the rule allowing the waiver period plus six months for filing claims under Section 722, and that there was “some time” the commissioner could assess solely because of the waiver.

### **Practical Implications**

This case clarifies the conditions under which amendments to tax law extending limitations periods apply retroactively. It emphasizes that retroactive application of Section 322(b)(3) is limited to situations where the waiver is the sole basis for the assessment. The decision reinforces the principle that remedial tax statutes should be liberally construed in favor of the taxpayer. It serves as a reminder to tax practitioners to carefully examine the basis for tax assessments when determining the applicable limitations period for refund claims and to consider the specific language and purpose of retroactivity provisions. Later cases will likely distinguish this ruling based on specific factual scenarios and statutory language.