11 T.C. 638 (1948)

The Tax Court has jurisdiction to redetermine excessive profits under the Renegotiation Act of 1943 for contracts spanning fiscal years both before and after July 1, 1943, but the basis for renegotiation (completed contract vs. fiscal year) is determined by the Act in effect at the time of the initial determination.

Summary

Psaty & Fuhrman, Inc. contracted with the U.S. government for hospital construction completed in March 1943. The Secretary of War, acting under the Renegotiation Act of 1942, determined Psaty & Fuhrman's profits were excessive and issued a unilateral order in February 1944. Psaty & Fuhrman petitioned the Tax Court, arguing that the renegotiation should have been conducted on a fiscal year basis under the newly enacted Renegotiation Act of 1943. The Tax Court held that it had jurisdiction to hear the case, but the initial determination was properly made under the 1942 Act, and therefore, the 1943 Act's fiscal year requirement did not apply. The Secretary of War's determination was sustained.

Facts

- Psaty & Fuhrman entered into a contract on March 16, 1942, with the U.S. government to construct a hospital at Camp Campbell, Kentucky.
- Several supplemental agreements were added to the contract in 1942.
- The contract and its supplements were completed in March 1943.
- The total payments to Psaty & Fuhrman amounted to $5,582,779.49, with costs of $4,388,888.48 and profits of $1,193,891.01.
- The costs and profits spanned both the 1942 and 1943 fiscal years.
- On February 7, 1944, the Secretary of War, acting under the Renegotiation Act of 1942, unilaterally determined that Psaty & Fuhrman's profits were excessive by $700,000.
- The Renegotiation Act of 1943 was enacted on February 25, 1944.

Procedural History

- The Secretary of War made a unilateral determination of excessive profits under the Renegotiation Act of 1942.
- Psaty & Fuhrman petitioned the Tax Court for a redetermination, arguing for application of the Renegotiation Act of 1943.

Issue(s)

1. Whether the Tax Court has jurisdiction to redetermine excessive profits when the contract performance spanned fiscal years both before and after July 1, 1943, where the initial determination was made under the Renegotiation Act of 1942.
2. Whether the contract, renegotiated on a completed contract basis under the Renegotiation Act of 1942, should have been renegotiated on a fiscal year basis

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under the Renegotiation Act of 1943.

Holding

1. Yes, because the Renegotiation Act of 1943 specifically authorizes the Tax Court to redetermine excessive profits for fiscal years ending before July 1, 1943, even if the contract performance and renegotiation also covered a period within the succeeding fiscal year.
2. No, because the Secretary of War made the initial determination under the Renegotiation Act of 1942, which allowed for renegotiation on a completed contract basis, and the subsequent enactment of the Renegotiation Act of 1943 does not retroactively invalidate that determination.

Court's Reasoning

The Tax Court first addressed its jurisdiction, emphasizing that it must consider the issue even if not raised by the parties. The court found jurisdiction under section 403(e)(2) of the Renegotiation Act of 1943, noting that the contract performance embraced the fiscal year 1942, which ended before July 1, 1943. Although the contract also spanned into 1943, the court reasoned that denying jurisdiction would frustrate Congress's intent to provide a right of redetermination in all cases of unilateral determinations of excessive profits. The court cited _Fishgold v. Sullivan Drydock & Repair Corp._, stating, "Courts have not stood helpless in such situations; the decisions are legion in which they have refused to be bound by the letter, when it frustrates the patent purpose of the whole statute." However, the court then held that the determination was appropriately made under the 1942 Act, as it was completed before the 1943 Act's enactment. The 1942 Act allowed the Secretary to renegotiate on a completed contract basis, and there was no evidence the Secretary acted arbitrarily. The court rejected the argument that the 1943 Act should apply retroactively, stating that doing so would improperly vest the War Contracts Price Adjustment Board with initial determination authority that it lacked under the 1942 Act.

Practical Implications

This case clarifies the jurisdictional reach of the Tax Court in renegotiation cases and highlights the importance of the timing of the initial determination of excessive profits. It demonstrates that while the Tax Court has broad jurisdiction to redetermine such profits, the substantive rules governing the renegotiation process are those in effect at the time of the Secretary's initial determination, not those subsequently enacted. This ruling provides guidance on which version of the Renegotiation Act applies when contracts span multiple fiscal years and reinforces the principle that statutes are generally not applied retroactively unless expressly stated. Later cases would need to distinguish the fact that the initial determination occurred before the effective date of the 1943 act to apply the later act.

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