12 T.C. 893 (1949)

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A successor corporation in a bankruptcy reorganization can compute its unused excess profits credit carryovers from prior years using its predecessor's basis, as provided by Section 121 of the Revenue Act of 1943, without affecting tax liability for those prior years.

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Summary

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Community Public Service Company (CPSC) acquired assets from its predecessor through bankruptcy proceedings in 1935. CPSC sought to use its predecessor's basis in computing unused excess profits credits for 1941 and 1942, which would then be carried forward to reduce its 1943 excess profits tax. The Commissioner argued that using the predecessor's basis for 1941 and 1942 would retroactively affect the tax liability for those years, which is prohibited by Section 121(e) of the Revenue Act of 1943. The Tax Court held that CPSC could use its predecessor's basis because doing so only affected the 1943 tax liability and not the liabilities for 1941 and 1942.

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Facts

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- In 1935, CPSC acquired assets from its predecessor corporation pursuant to a bankruptcy court order under Section 77B of the National Bankruptcy Act.

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- The acquisition was solely in exchange for CPSC's stock or securities.

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- CPSC sought to compute its unused excess profits credit for 1941 and 1942 using its predecessor's basis in the assets, as permitted by Section 121 of the Revenue Act of 1943.

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- Using the predecessor’s basis would result in a larger unused excess profits credit for 1941 and 1942, which could then be carried forward to reduce CPSC’s 1943 excess profits tax.

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Procedural History

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The Commissioner determined a deficiency in CPSC’s excess profits tax for 1943. CPSC contested this determination, arguing that it was entitled to use its predecessor’s basis in computing its unused excess profits credit carryovers from 1941 and 1942. The Tax Court addressed the issue of whether CPSC could use the predecessor’s basis for the carryover computation.

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Issue(s)

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Whether Section 121 of the Revenue Act of 1943 allows a successor corporation to compute its unused excess profits credit carryovers from 1941 and 1942 using its predecessor’s basis, even though Section 121(e) states that it shall not affect any tax liability for any taxable year beginning prior to January 1, 1943.

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Holding

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Yes, because computing the unused excess profits credit carryovers for 1941 and 1942 using the predecessor’s basis does not

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