13 T.C. 194 (1949)

In an intercorporate liquidation where a parent company receives assets from a subsidiary in a transaction where gain or loss is not recognized, the parent's basis in the subsidiary's stock is determined to be a "cost basis" under Supplement C of the Internal Revenue Code, influencing the parent's equity invested capital for excess profits tax purposes.

Summary

North Jersey Quarry Co. (petitioner) sought a redetermination of a deficiency in excess profits tax for 1942. The central issue was the proper basis for equity invested capital purposes of property petitioner received in 1930 from its wholly-owned subsidiary, Morris County Crushed Stone Co. The Tax Court held that Supplement C of the Internal Revenue Code applied, dictating how the basis of the property should be determined. The court determined that the subsidiary's stock had a "cost basis," which was derived partly from valuing the petitioner's stock given in exchange when acquiring the subsidiary's stock, thereby impacting the calculation of the petitioner's excess profits tax.

Facts

North Jersey Quarry Co. acquired 2,680 shares of Morris County Crushed Stone Co. stock prior to December 29, 1930, at a cost of $109,000. On December 29, 1930, North Jersey Quarry Co. acquired the remaining 1,320 shares of Morris County Crushed Stone Co. by issuing 2,640 shares of North Jersey Quarry Co. stock to the other shareholders. On December 30, 1930, the net assets of Morris County Crushed Stone Co. were transferred to North Jersey Quarry Co., and Morris County Crushed Stone Co. was dissolved. For 1930, North Jersey Quarry Co. filed a consolidated tax return with Morris County Crushed Stone Co.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in North Jersey Quarry Co.'s excess profits tax for 1942. This determination included a reduction in the value of assets acquired from Morris County Crushed Stone Co. The petitioner then sought a redetermination of the deficiency with the Tax Court.

Issue(s)

Whether, in computing equity invested capital for excess profits tax purposes, the basis of property received by North Jersey Quarry Co. in the 1930 liquidation of its wholly-owned subsidiary is determinable under Supplement C of the Internal Revenue Code.

Holding

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Yes, because the transaction constituted an intercorporate liquidation where gain or loss was not recognized due to the filing of a consolidated return, and Supplement C is specifically designed to address such liquidations to calculate equity invested capital.

Court’s Reasoning

The Tax Court determined that Section 761 of the Internal Revenue Code applied because the transaction constituted an “intercorporate liquidation.” The court reasoned that although the 1928 Act lacked a statutory counterpart to Section 112(b)(6), the petitioner and its subsidiary filed a consolidated return, which they were entitled to do under the Revenue Act of 1928. The court stated,

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