14 T.C. 725 (1950)

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A foreign corporation that keeps books and records in the U.S. reflecting its U.S. income can be required to file U.S. tax returns based on those books, even if it also maintains books on a different accounting period in its home country.

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Summary

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The Linen Thread Company, Ltd., a Scottish corporation, challenged the Commissioner's determination of tax deficiencies based on a calendar year. The company argued that it always kept its books on a fiscal year ending September 30th. The Tax Court held that because the company maintained books in the U.S. reflecting its U.S. income and filed returns based on those books for several years, the Commissioner did not err in determining deficiencies based on the calendar year. The court also found the company was not engaged in trade or business within the U.S. during the relevant years.

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Facts

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The Linen Thread Company, Ltd. (petitioner), a Scottish corporation, manufactured and sold linen thread and twines through subsidiaries in the United Kingdom. It also owned the Linen Thread Co., a Delaware corporation operating in the U.S. From 1937-1944, the petitioner maintained a U.S. office with a resident agent who managed investments, filed tax returns, and kept accounting records on a calendar year basis. The company's books in Scotland were kept on a fiscal year basis (October 1 – September 30). The company filed U.S. tax returns on a fiscal year basis until 1936, then switched to a calendar year basis starting in 1937.

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Procedural History

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The Commissioner determined deficiencies for 1941, 1943, and 1944 based on calendar year returns. The Linen Thread Company challenged this determination in the Tax Court. The Tax Court upheld the Commissioner’s determination. Prior cases involving the same parties had established that the Linen Thread Co. was a nonresident foreign corporation for earlier tax years.

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Issue(s)

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1. Whether the Commissioner erred in determining deficiencies for 1941, 1943, and 1944 on the basis of a calendar year rather than the fiscal year ending September 30?

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2. Whether the petitioner was

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