15 T.C. 389 (1950)

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A corporation that leases its mining claims to another party and receives royalty payments is not considered “engaged in mining” under Section 731 of the Internal Revenue Code and therefore does not qualify for the excess profits tax exemption.

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Summary

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Oregon Chrome Mines, Inc. sought an exemption from excess profits tax under Section 731 of the Internal Revenue Code, arguing it was engaged in mining chromite. The company had acquired mining claims in exchange for its stock and briefly explored them before leasing the claims to a third party who extracted the ore. The Tax Court held that receiving royalty payments under a lease agreement did not constitute “engaging in mining” within the meaning of the statute. The court emphasized the company’s passive role as a lessor and the lack of active involvement in the mining operations during the tax year in question.

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Facts

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Oregon Chrome Mines, Inc. (petitioner) was formed in 1941 to mine chrome ore. It acquired seven chrome mining claims (Agnes claims) in exchange for its stock. The petitioner conducted limited exploration and development work on the claims. In April 1942, the petitioner leased the Agnes claims to William S. Robertson. Robertson agreed to pay petitioner a 20% gross royalty on all sales of chrome ore extracted from the claims. After the lease agreement, the petitioner’s income consisted solely of royalty payments from the lease. The petitioner made occasional inquiries about purchasing other mining properties and authorized the attorney to buy previously mined ore.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in the petitioner's income, declared value excess profits, and excess profits taxes for 1944 and 1945. The petitioner challenged this determination in the Tax Court. The Tax Court addressed whether the petitioner's adjusted excess profits net income for 1944 was exempt from excess profits tax under Section 731 of the Internal Revenue Code. The petitioner conceded its claim regarding cost depletion for 1945, resolving the deficiencies for that year. The respondent conceded a deduction for salaries and wages in 1944.

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Issue(s)

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Whether the petitioner was "engaged in the mining" of chromite within the meaning of Section 731 of the Internal Revenue Code during the taxable year 1944, thus entitling it to an exemption from excess profits tax.

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Holding

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No, because the petitioner played a passive role as a lessor of mining claims and did not actively participate in the exploration, development, extraction, or marketing of chromite during the tax year 1944.

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Court's Reasoning

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The court noted the absence of a statutory definition of "engaged in mining" within Section 731 and found no clear-cut standards in the legislative history. The court referenced Section 114(b)(4)(B), which provides a broader definition of "mining" that includes "not merely the extraction of the ores or minerals from the ground but also the ordinary treatment processes normally applied by mine owners or operators." However, even under this broader definition, the court found the petitioner's activities insufficient to qualify as "mining." The court emphasized that

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the petitioner’s sole income was from royalty payments, indicating a passive role. The court found the petitioner’s limited exploration and development before the lease to be an isolated occurrence. The court stated that “tax exemptions are not to be lightly inferred” and concluded that extending Section 731 to cover a corporation that merely held claims for lease would be an undue extension of the statutory language.

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A dissenting opinion argued the majority’s construction of Section 731 was too narrow and defeated the statute’s purpose of encouraging the domestic discovery and development of strategic minerals. The dissent contended the petitioner’s initial exploration and subsequent lease agreement should qualify it as

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