16 T.C. 1406 (1951)

A prior determination by the Board of Tax Appeals regarding depreciation and depletion deductions estops the Commissioner from later contesting the amounts allowable for those years, even if a subsequent ruling establishes a different cost basis.

Summary

C. D. Johnson Lumber Corporation involved a dispute over the adjusted basis for calculating depreciation and depletion deductions. The Tax Court held that the Commissioner was estopped from re-litigating depreciation and depletion amounts for fiscal years 1936 and 1937 because the Board of Tax Appeals had already determined the allowable deductions for those years. For 1938 and 1939, the court ruled that the depreciation amounts "allowed" were those claimed on the taxpayer's returns, regardless of whether a tax benefit was received. The court rejected the taxpayer's argument that using both an excessive basis and then reducing the basis by depreciation attributable to the excess was improper.

Facts

- C. D. Johnson Lumber Corp. acquired assets from an insolvent corporation on December 1, 1935.
- In a prior proceeding, the Board of Tax Appeals (BTA) determined the allowable depreciation and depletion deductions for the fiscal years ended November 30, 1936 and 1937.
- For 1938 and 1939, the corporation used an inflated cost basis (approximately $5,500,000) for calculating depreciation and depletion on its tax returns, which resulted in losses. These deductions were not challenged by the IRS at the time.
- The Commissioner, in a later audit of the 1940 return, used a lower cost basis when computing depreciation and depletion.
- The original opinion in the present Tax Court case established the correct cost basis for depreciation and depletion deductions for the years 1940 and 1941 was $4,346,075.97.

Procedural History

- The Tax Court initially determined the correct cost basis for the assets in question (12 T.C. 348).
- The parties then filed conflicting computations under Rule 50 regarding the adjusted basis at the beginning of the taxable years.
- This supplemental opinion addresses the dispute over the proper amounts of depreciation and depletion to be taken for fiscal years 1936-1939 in arriving at the adjusted basis.

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Issue(s)

1. Whether the Commissioner is estopped from re-litigating the allowable depreciation and depletion deductions for the fiscal years 1936 and 1937, given the prior determination by the Board of Tax Appeals.
2. Whether the amounts of depreciation and depletion

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