17 T.C. 1042 (1951)

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A taxpayer seeking relief from excess profits taxes under Section 722(b)(4) of the Internal Revenue Code must demonstrate that its average base period net income does not reflect normal operations and must establish a fair and just amount representing normal earnings.

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Summary

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Tober-Saifer Shoe Manufacturing Co. sought a refund of excess profits taxes for 1942 and 1943, claiming entitlement to relief under Section 722(b)(4) of the Internal Revenue Code due to a change in the character of its business. The company argued that its "Jolene Plan," a new marketing strategy, significantly altered its operations. The Tax Court denied the refund, holding that Tober-Saifer failed to prove that its average base period net income did not reflect normal operations or to adequately reconstruct its average base period net income to an amount exceeding what was already allowed. The court found the company's projections and evidence unpersuasive, particularly regarding the number of exclusive

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