17 T.C. 1489 (1952)

A taxpayer seeking relief under Section 721 of the Internal Revenue Code must demonstrate the amount of abnormal income, the abnormal net income derived therefrom, and the specific portion of that income attributable to other tax years.

Summary

Powell-Hackney Grocery Company sought a refund of excess profits tax, arguing abnormal income in 1943 was attributable to prior years due to the development of a new wholesale house. The Tax Court denied relief, holding that while the company may have demonstrated a class of abnormal income and the net income derived from it, they failed to adequately prove what portion, if any, of the abnormal net income was attributable to other years. The court emphasized that increased demand and improved business conditions, rather than prior-year activities, primarily drove the increased income during the war years. This case illustrates the stringent requirements for claiming tax relief based on abnormal income.

Facts

Powell-Hackney Grocery Co. operated wholesale grocery houses in Hazard and Jackson, Kentucky, in a coal-dependent area. In April 1940, they acquired a third location in Lawrenceburg, Kentucky, outside the coal region. The Lawrenceburg store was destroyed by fire in December 1943. During 1942 and 1943, the company experienced brisk sales and merchandise scarcity due to wartime conditions. In 1943, the company's sales and net profits increased across all three locations. The company later filed a claim for relief under Section 721 of the Internal Revenue Code, alleging abnormal net income attributable to prior years, which the Commissioner disallowed.

Procedural History

The Commissioner of Internal Revenue disallowed Powell-Hackney's claim for a refund of excess profits tax for the taxable year ended June 30, 1943. Powell-Hackney then petitioned the Tax Court for review of the Commissioner's decision. The case was submitted on oral testimony and exhibits, incorporating the records from two prior dockets.

Issue(s)

Whether the petitioner is entitled to any relief under Section 721 of the Internal Revenue Code based on abnormal net income in the taxable year ended June 30, 1943, attributable to other tax years.

Holding

No, because Powell-Hackney failed to establish that any portion of its abnormal

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income in 1943 was attributable to any other years, as required by Section 721(b) of the Internal Revenue Code.

Court’s Reasoning

The Tax Court applied the three-step test established in *Producers Crop Improvement Association, 7 T.C. 562*, requiring the taxpayer to show: (1) the amount of abnormal income; (2) the abnormal net income derived therefrom; and (3) the portion of abnormal net income attributable to other tax years. The court found the company’s claim for relief was based on the development of the Lawrenceburg house, potentially falling under

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