Southwestern Broadcasting Company v. Commissioner, 20 T.C. 40 (1953)

A taxpayer is entitled to relief from excess profits tax when a change in business character during the base period, such as a significant increase in production capacity, results in an inadequate standard of normal earnings.

Summary

Southwestern Broadcasting Company sought relief from excess profits tax, arguing that the installation of a new antenna in 1937 constituted a change in the character of its business, leading to an inadequate base period net income. The Tax Court held that the new antenna significantly increased the station's effective radiating power and coverage area, warranting relief under Section 722(b)(4) of the Internal Revenue Code. The court also found that a rate increase attributable to the improved coverage had a delayed impact due to trade practices, further supporting the claim that the base period earnings did not reflect normal operations. The court determined that the taxpayer had demonstrated the right to relief and proceeded to determine a constructive average base period net income.

Facts

Southwestern Broadcasting Company operated radio station WOAI. Prior to 1937, the station's antenna operated at only 40% efficiency. In 1937, the company erected a new, more efficient antenna. The new antenna significantly increased the station's effective radiating power by 150%. This resulted in a substantial increase in both daytime and nighttime coverage areas and doubled the population served. Following the antenna upgrade, the company requested and received a rate increase from NBC, which took effect in October 1939. However, due to trade practices, existing advertisers continued to broadcast at old rates for a year, delaying the full financial impact of the rate increase.

Procedural History

Southwestern Broadcasting Company petitioned the Tax Court for relief from excess profits tax for the years in question. The Commissioner of Internal Revenue opposed the petition. The Tax Court reviewed the evidence and arguments presented by both parties.

Issue(s)

1. Whether the erection of a new antenna during the base period constituted a change in the character of the taxpayer's business within the meaning of Section 722(b)(4) of the Internal Revenue Code.
2. Whether the taxpayer's average base period net income was an inadequate standard of normal earnings.

Holding

© 2025 SCOTUSreports.com. All rights reserved.

1. Yes, because the erection of the new antenna resulted in a significant and lasting increase in the station’s effective radiating power and coverage area, representing a substantial change in its capacity for production or operation.
2. Yes, because the full financial impact of the rate increase attributable to the antenna upgrade was delayed due to trade practices, preventing the base period earnings from reflecting normal operations.

Court’s Reasoning

The court reasoned that the new antenna was not merely a routine technical development but a substantial change that significantly improved the station’s coverage area and effective radiating power. This satisfied the requirement of a

© 2025 SCOTUSreports.com. All rights reserved.