17 T.C. 1616 (1952)

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A taxpayer is not entitled to relief from excess profits tax under Section 722(b)(4) or (b)(5) of the Internal Revenue Code merely because the natural growth of citrus trees increased their fruit-bearing capacity during the excess profits tax years compared to the base period years.

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Summary

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Clermont Groves, Inc. sought relief from excess profits tax, arguing that the increased fruit-bearing capacity of its citrus trees, due to natural growth, constituted a change in the character of its business under Section 722(b)(4) or qualified as "any other factor" under Section 722(b)(5) of the Internal Revenue Code. The Tax Court denied relief, holding that the natural growth of trees, even with continuous care and cultivation, does not represent a substantial change in the character of the business. The court reasoned that such growth is inherent to the trees and not a change in the nature of the business operations, nor does it qualify as an independent factor for relief under (b)(5).

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Facts

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Clermont Groves, Inc. was established in 1932 to acquire and operate a citrus grove in Florida. The grove consisted of 3,833 orange trees and 1,000 grapefruit trees. The orange trees were 10 years old and the grapefruit trees were 12 years old at the time of acquisition. The company's business consisted solely of operating that grove and producing oranges and grapefruit for sale. The trees were properly cultivated and cared for throughout the base period and the excess profits tax years. The company sought relief from excess profits taxes for fiscal years 1941, 1943, and 1944 based on the increased fruit production of the trees.

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Procedural History

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Clermont Groves filed applications for relief under Section 722 of the Internal Revenue Code for the fiscal years ended May 31, 1941, 1943, and 1944, along with claims for carry-overs and carry-backs of unused constructive excess profits credits. The Commissioner of Internal Revenue disallowed these applications and claims, leading Clermont Groves to petition the Tax Court for review.

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Issue(s)

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1. Whether the increased fruit-bearing capacity of the petitioner’s citrus trees, resulting from natural growth, constitutes a change in the character of its business under Section 722(b)(4) of the Internal Revenue Code, entitling it to relief from excess profits tax.

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2. Whether the increased fruit-bearing capacity qualifies as “any other factor affecting the taxpayer’s business” under Section 722(b)(5) of the Internal Revenue Code, thereby justifying relief from excess profits tax.

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Holding

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1. No, because the natural growth of citrus trees, even with proper care, does not constitute a substantial change in the character of the business, but rather the continuation of normal business operations.

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2. No, because the increased fruit-bearing capacity, based on natural growth, is not a separate and distinct factor from those enumerated in Section 722(b)(1)-(4) and is therefore inconsistent with the principles underlying those subsections.

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Court’s Reasoning

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The court reasoned that a change in the character of business under Section 722(b)(4) requires a substantial alteration in the nature of the business operations. The court referenced previous cases, such as *Wisconsin Farmer Co.*, which emphasized that changes must be more than routine operational adjustments. The court found that the increased fruit yield, resulting from the natural growth of trees given proper care, was a normal and routine outcome of the company's established business practices. It quoted from E.P.C. 33, stating that "[a]ny increase in productive capacity arising out of natural growth of the trees after the productive stage has been reached cannot be regarded as the consummation of a commitment. Natural growth is inherent in the trees themselves and is not the result of action of the owner, other than usual maintenance required for that type of property." The court further held that allowing such a claim would permit any owner of fruit trees to claim relief annually based on increasing production, which was not the intent of the statute. Regarding Section 722(b)(5), the court stated that "[t]he phrase 'any other factor' in subparagraph (5), as we read it, means a factor other than those enumerated in subparagraphs (1) to (4)." Therefore, the same evidence used to support a claim under (b)(4) could not be used again under (b)(5). To do so would undermine the principles of (b)(4).

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Practical Implications

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This case clarifies that routine operational outcomes, such as the natural growth and increased production of agricultural assets, generally do not qualify for excess profits tax relief under Section 722(b)(4) or (b)(5) of the Internal Revenue Code. Taxpayers seeking relief must demonstrate a more fundamental change in the nature of their business, beyond the expected results of ongoing cultivation and care. This decision emphasizes the importance of identifying specific, non-routine factors that uniquely and adversely affected base period earnings, as opposed to general trends in asset maturation or market conditions. It also limits the scope of "any other factor" under (b)(5), preventing taxpayers from simply re-characterizing arguments that failed under (b)(1)-(4).

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