18 T.C. 690 (1952)

A taxpayer who owns an emergency facility during the tax year in which the emergency period ends can elect to retroactively recompute amortization deductions based on the shortened emergency period, even if they no longer own the facility at the end of that period.

Summary

Frank J. Ambrose purchased property certified as an emergency facility for national defense in 1943 and elected to take amortization deductions over 60 months. In 1945, the U.S. Government condemned the property. Ambrose then elected to retroactively shorten the amortization period to 32 months, the length of the emergency period, and sought to recompute his 1943 taxes accordingly. The Tax Court held that because Ambrose owned the property during 1945, the year the emergency period ended, he was entitled to recompute his 1943 tax liability using the shorter amortization period, even though he did not own the facility at the end of the emergency period.

Facts

Ambrose operated an aviation training school on leased property. In January 1943, he purchased the property where the school was located after receiving a Certificate of Necessity from the War Department, certifying it as necessary for national defense during the emergency. He owned the property until June 7, 1945, when the U.S. Government took title through condemnation proceedings, paying him $200,000. The emergency period ended on September 30, 1945.

Procedural History

Ambrose elected in his 1943 return to amortize the facility over 60 months. In November 1945, he notified the Commissioner of his election to terminate the amortization period as of September 30, 1945 (32 months total), and filed an amended return for 1945. The Commissioner denied his claim for a refund based on the recomputed amortization deduction for 1943, leading to this Tax Court case.

Issue(s)

Whether Ambrose is entitled, under Section 124(d)(4) of the Internal Revenue Code, to recompute his 1943 income tax based on a revised amortization deduction for an emergency facility, using the shortened amortization period specified in Section 124(d)(1), even though he did not own the facility at the end of the emergency period?

Holding

Yes, because Ambrose owned the emergency facility during the tax year in which the

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emergency period ended (1945), he is entitled to recompute his 1943 tax liability using the shorter 32-month amortization period, despite not owning the facility on September 30, 1945.

Court’s Reasoning

The court reasoned that Section 124 was enacted as a relief provision to provide taxpayers who invested in emergency facilities with a more favorable amortization allowance. It found that Ambrose complied with the requirements for electing to terminate the amortization period early. The court distinguished this case from *Ken-Rad Transmitting Tube Corporation, 10 T.C. 1217*, noting that in *Ken-Rad*, the taxpayer had transferred all assets before the end of the emergency period and was therefore not

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