20 T.C. 428 (1953)

The Secretary of War has the authority to determine excessive profits from government contracts if the income from those contracts accrued during a fiscal year ending before July 1, 1943, and in a Tax Court proceeding for the redetermination of excessive profits, the petitioner bears the burden of proof.

Summary

Bass v. Stimson involved a challenge to the Secretary of War's determination of excessive profits on government contracts by a joint venture. The Tax Court upheld the Secretary's authority to determine excessive profits because the income from the contracts accrued before July 1, 1943. The court also found that the petitioner failed to prove the Secretary's determinations were erroneous, reinforcing the principle that the burden of proof lies with the petitioner in such cases. The court further upheld the constitutionality of the Renegotiation Act of 1942, as amended.

Facts

The Bass Company, Steenberg Company, and Fleisher Company formed a joint venture in March 1942. The joint venture secured contracts for construction work at Camp McCoy and Camp Breckenridge. The Secretary of War determined that the joint venture had realized excessive profits on these contracts. The determinations of excessive profits were made against the joint venture, not its individual members, and were computed using the completed contract method of accounting. The joint venture reported income for 1942 and a partial fiscal year in 1943.

Procedural History

The Secretary of War issued unilateral orders determining excessive profits on August 30, 1944. The joint venture protested these determinations, arguing they were invalid. The cases were consolidated and submitted to the Tax Court under Rule 30. The Tax Court upheld the Secretary's determinations, finding that the income accrued before July 1, 1943, and that the joint venture failed to meet its burden of proof.

Issue(s)

1. Whether the Secretary of War had the authority to determine excessive profits on contracts where the income accrued during a fiscal year ending before July 1, 1943.
2. Whether the division of contracts into groups for renegotiation purposes was valid.
3. Whether the Renegotiation Act of 1942, as amended, is constitutional.
4. Whether the petitioner met its burden of proving that the Secretary's determinations of excessive profits were erroneous.

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Holding

1. Yes, because Section 403(e)(2) of the Renegotiation Act of 1943 allows the Secretary to determine excessive profits for fiscal years ending before July 1, 1943.
2. Yes, because the petitioner presented no evidence that the division was arbitrary, unreasonable or disadvantageous.
3. Yes, because previous cases, such as *Lichter v. United States*, have upheld the constitutionality of the Act.
4. No, because the petitioner failed to provide evidence showing that the Secretary's determinations were erroneous.

Court's Reasoning

The Tax Court reasoned that the income from the Camp Breckenridge contracts accrued in the petitioner's calendar year 1942, and the income from the Camp McCoy contracts accrued during the petitioner's fiscal period January 1 to April 30, 1943. The court found that the petitioner's returns indicated a change to a fiscal year ending April 30, 1943, which the Commissioner implicitly approved by accepting the return. The court emphasized that in Tax Court proceedings for redetermining excessive profits, the petitioner bears the burden of proof, citing *Nathan Cohen v. Secretary of War*. The court also relied on *Lichter v. United States* and *Ring Construction Corporation v. Secretary of War* to uphold the constitutionality of the Renegotiation Act of 1942, as amended. The court stated, "it is now well established that in a Tax Court proceeding for the redetermination of excessive profits the petitioner has the burden of proof."

Practical Implications

Bass v. Stimson clarifies the scope of the Secretary of War's authority to determine excessive profits under the Renegotiation Act and reinforces the taxpayer's burden of proof in challenging such determinations before the Tax Court. This case highlights the importance of accurate accounting and reporting practices, as the determination of when income accrues is crucial for determining which set of regulations apply. Furthermore, it confirms that the Renegotiation Act is constitutional, providing a framework for government oversight of wartime contracts. This case is significant for attorneys handling disputes over government contracts and emphasizes the need for contractors to maintain detailed records and be prepared to demonstrate the reasonableness of their profits.

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