22 T.C. 522 (1954)

To claim a refund for excess profits taxes based on a carry-over credit derived from a constructive average base period net income, a taxpayer must file an application or amended application within the statutory period of limitations as prescribed by the tax code and regulations.

Summary

The St. Louis Amusement Company sought a refund of excess profits taxes paid for the fiscal year ending August 31, 1942, based on a carry-over of an unused excess profits credit from the prior year, computed upon the determination of a constructive average base period net income under section 722. The company initially filed applications and claims for refund, but did not base its claim on the constructive average base period net income. An amended claim was filed after the statute of limitations had expired. The U.S. Tax Court held that the company was not entitled to the refund because the amended claim, which introduced a new basis for the refund (constructive average base period net income), was filed after the statute of limitations had run, and was not a permissible amendment of the original, timely filed claims.

Facts

St. Louis Amusement Company filed its 1942 excess profits tax return, claiming an unused excess profits credit carry-over from 1941, but not based on constructive average base period net income (CABPNI). The company also filed an application for relief under section 722 but did not include a claim for a carry-over based on CABPNI. Subsequent claims for refund were filed, again without reference to CABPNI. After the statute of limitations expired for the filing of an original claim for refund, St. Louis filed an amended claim, which included a claim for carry-over credit based on CABPNI. The Commissioner of Internal Revenue disallowed the refund based on the late filing.

Procedural History

The St. Louis Amusement Company filed an excess profits tax return for the year ending August 31, 1942. The Commissioner assessed a deficiency, which the company paid. The company filed several applications and claims for refund for the year ended August 31, 1942. After the statutory period for filing a claim for refund had expired, St. Louis Amusement Company filed an amended claim for refund that included a new basis for its refund claim. The Tax Court ultimately reviewed the case, and decided that the company was not entitled to the refund.

Issue(s)

1. Whether an amended claim for refund of excess profits taxes, based on a carry-over credit from a prior year and computed on the basis of a constructive average

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base period net income, is timely when filed after the statute of limitations has expired for filing the original claim, but is an amendment to a timely filed application?

Holding

1. No, because the amended claim introduces a new basis for the refund, and was filed after the statute of limitations had run.

Court's Reasoning

The court focused on the requirements of the Internal Revenue Code and related regulations regarding claims for refund based on carry-over credits. Specifically, section 722(d) and Regulations 112, section 35.722-5, stated that to obtain the benefits of an unused excess profits credit carry-over, a taxpayer should file an application or amendment to such application within the period of time prescribed by section 322 for filing a claim for credit or refund. The court reasoned that the amended claim, which introduced a new basis for the refund (CABPNI), was filed after the statute of limitations had expired. The court cited its previous holding in *Barry-Wehmiller Machinery Co.*, which established the rule that a claim for a carry-back to a certain year is entirely independent and separate from a claim for a carry-back to a different year. Because the original applications did not mention the CABPNI, the amended claim was considered a new claim, filed out of time.

Practical Implications

This case underscores the importance of timely and comprehensive filing of tax claims. Taxpayers must ensure that all potential grounds for a refund are included in their initial claims or amendments filed within the statutory period. This case illustrates the strict adherence to filing deadlines, especially when new legal theories or calculations are presented. For tax practitioners, this means diligently reviewing all aspects of a tax situation and including all possible claims in the original filings. Failure to do so may result in the loss of valuable tax benefits, even if the underlying claim has merit.

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