***Claremont Waste Mfg. Co. v. Commissioner*, 22 T.C. 953 (1954)**

A claim for a tax refund based on an unused excess profits credit carry-back is timely only if filed within the period ending with the expiration of the fifteenth day of the thirty-ninth month following the end of the taxable year of the unused credit.

Summary

The case concerns the timeliness of a corporation's claim for a refund of excess profits taxes, which was based on an unused excess profits credit carry-back from 1942 to 1941. The court held that the claim was untimely because it was not filed within the period specified by I.R.C. § 322(b)(6). This section provided a special statute of limitations for claims based on carry-backs, measured from the year of the unused credit, not the year of the overpayment. The court emphasized that the earlier litigation concerning the tax liabilities for 1941 became final. Therefore, the claim for the refund was barred because the taxpayer had not adhered to the timeline set in the statute.

Facts

Claremont Waste Mfg. Co. (Petitioner) is a New Hampshire corporation. The petitioner filed excess profits tax returns for 1941, 1942, and 1943. An unused excess profits credit occurred in 1942, which was carried over to 1943. In 1943, the IRS issued a notice of deficiencies for 1941, which the petitioner contested in the Tax Court. The Tax Court issued a decision. In 1947, the petitioner filed a claim for refund for the 1941 taxes based on the carry-back of the 1942 unused excess profits credit. The Commissioner partially allowed this claim. The issue presented was whether the claim for refund was timely under I.R.C. § 322(b)(6).

Procedural History

1. Petitioner filed a petition in the Tax Court contesting a deficiency notice for 1941. A decision was issued, which became final. 2. Petitioner filed a claim for a refund for the entire amount of excess profits tax paid for 1941 based on the carry-back of unused excess profits credit for 1942. 3. The Commissioner issued a notice of overassessment of excess profits tax for 1941, partially allowing the 722 claim but disallowing the carry-back. 4. Petitioner filed a petition in the Tax Court, which was partially dismissed. 5. The Tax Court's order was appealed to the United States Court of Appeals for the First Circuit, which vacated the Tax Court's order and remanded the case for further proceedings.

Issue(s)

1. Whether the petitioner's claim for a refund based on the carry-back of an unused excess profits credit was timely filed under I.R.C. § 322(b)(6).

Holding

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1. No, because the claim was not filed within the period prescribed by I.R.C. § 322(b)(6), which required the claim to be filed within the period ending with the expiration of the fifteenth day of the thirty-ninth month following the end of the taxable year of the unused excess profits credit (1942).

Court’s Reasoning

The court focused on the interpretation of I.R.C. § 322(b)(6), which established a special statute of limitations for claims related to carry-backs. The court reasoned that the special period was to be measured from the year of the unused credit (1942), not from the year of the overpayment (1941). The court found that the claim for refund was not filed within the timeframe prescribed by the statute. The court emphasized that the prior litigation concerning the tax liabilities for 1941 had become final. The legislative history of the Tax Adjustment Act of 1945 showed Congress’s intent to allow overpayments attributable to unused credits. The court also mentioned that Section 322(g) provides an exception to section 322(c) with respect to overpayments attributable to certain carry-backs.

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