24 T.C. 1131 (1955)

A taxpayer's right to an unused excess profits credit carry-over from a prior year is conditioned upon specifically claiming that carry-over in an application for relief filed with respect to the subsequent year.

Summary

May Seed and Nursery Co. sought to claim an unused excess profits credit carry-over from its fiscal year 1941 to its fiscal year 1942, based on a constructive average base period net income. The company had filed an application for relief under Section 722 of the Internal Revenue Code for 1942, but did not claim the carry-over in that application. The U.S. Tax Court held that the taxpayer was not entitled to the carry-over because it had not specifically claimed it in its application, referencing its prior decision in *Lockhart Creamery*.

Facts

May Seed and Nursery Company, an Iowa corporation, filed a tentative excess profits tax return for its fiscal year 1942, followed by a final return. It subsequently filed applications for relief under Section 722 for both fiscal years 1942 and 1943. In the 1942 application, the company claimed a constructive average base period net income but did not claim an unused excess profits credit carry-over from 1941. The company did claim the carry-over in its 1943 application. The Commissioner of Internal Revenue refused to allow the carry-over for 1942, arguing that no claim had been made in the relevant application.

Procedural History

The Commissioner disallowed the unused excess profits credit carry-over. The Tax Court reviewed the case, referencing prior decisions.

Issue(s)

Whether the taxpayer is entitled to the benefit of an unused excess profits credit carry-over from its fiscal year 1941 to its fiscal year 1942, based on a constructive average base period net income, when no claim for such a carry-over was made in the application for relief filed with respect to 1942?

Holding

No, because the court found the right to the carry-over was conditioned upon the making of such claim.

Court's Reasoning

The Court cited its prior ruling in *Lockhart Creamery*, which established the

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principle that a taxpayer must specifically claim the benefit of an unused excess profits credit carry-over. The court determined that the taxpayer's failure to claim the carry-over in its application for the 1942 fiscal year precluded it from receiving the credit, despite the fact that a constructive average base period net income had been calculated. The court did not engage in extensive legal analysis beyond referencing the prior established precedent in *Lockhart Creamery*.

Practical Implications

Tax practitioners must ensure that their clients make all necessary claims for tax benefits in the appropriate tax filings. This case highlights the importance of carefully reviewing all available credits and carryovers and explicitly requesting them. Practitioners should confirm that all potentially available credits and carryovers are specifically requested in the relevant tax filings. Failing to do so may result in the loss of those benefits. This case serves as a reminder that taxpayers must be proactive in claiming benefits and cannot rely on the IRS to automatically apply them, even when the necessary information is available. This also demonstrates how previous case law dictates how the court views similar situations.

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