Flotill Products, Inc. v. Commissioner, 1947 WL 1136 (1947)

A corporation's eligibility for excess profits tax relief under section 722(c) hinges on whether it was 'in existence' before January 1, 1940, irrespective of whether it could use the excess profits credit based on income under section 713.

Summary

The case involves two petitions for excess profits tax relief under the Internal Revenue Code of 1939. Flotill Products, Inc. (Docket No. 31942) sought relief under section 722(b)(4) due to changes in its business character, while Flotill Sales Corporation (Docket No. 32302) sought relief under section 722(c) because its excess profits credit based on invested capital was inadequate. The Tax Court ruled that Flotill Products, Inc. was entitled to a constructive average base period net income, but that Flotill Sales Corporation was not eligible for relief under section 722(c) as it was in existence before January 1, 1940, which rendered it ineligible for relief under 722(c).

Facts

Flotill Products, Inc. was incorporated during the base period with a change in business character after new ownership took control, changing management policies subsequent to acquisition of undivided control by the new ownership in 1939. Flotill Sales Corporation was in existence before January 1, 1940, but claimed to be deprived of the ability to use its income experience under section 713 due to section 740, arguing its credit based on invested capital was inadequate. The new ownership in 1939, increased the contracted tomato acreage with the farmers and began installing new, improved equipment and generally modernizing the plant. She increased the sales activities and established new outlets for petitioner's products. The contract acreage was increased from 1,650 acres in 1938 to approximately 2,712 acres in 1939, and the 1940 acreage was further increased to 5,165 acres.

Procedural History

The cases were consolidated before the Tax Court. The Commissioner determined that Flotill Products, Inc. qualified for excess profits tax relief under section 722(b)(4). Flotill Sales Corporation sought relief under section 722(c). The Tax Court reviewed the facts and legal arguments and issued a ruling on the eligibility for tax relief.

Issue(s)

1. Whether Flotill Products, Inc. was entitled to the constructive average base period net income it requested.

2. Whether Flotill Sales Corporation was eligible for excess profits tax relief under section 722(c).

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Holding

1. Yes, Flotill Products, Inc. was entitled to a constructive average base period net income of $140,000.

2. No, Flotill Sales Corporation was not eligible for relief under section 722(c).

Court’s Reasoning

The court found that Flotill Products, Inc. was entitled to a constructive average base period net income, adjusting the figure due to the short development period under the changed conditions, it was determined that the company’s earnings had not reached their normal level by the end of the base period. For Flotill Sales Corporation, the court focused on the interpretation of section 722(c) which granted relief to taxpayers who were not entitled to use the excess profits credit based on income pursuant to section 713. The court determined that the sole test for eligibility under section 722(c) was whether the corporation was

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