26 T.C. 377 (1956)

Competition in the newspaper industry, even if it negatively impacts a publisher's earnings during the base period, does not qualify for excess profits tax relief under Section 722(b)(2) or (b)(5) of the Internal Revenue Code of 1939, as it is not considered an unusual economic circumstance.

Summary

The Democrat Publishing Co. and The Times Company, publishers of newspapers in Davenport, Iowa, sought excess profits tax relief, arguing that competition from a third newspaper, the Tri-City Star, depressed their earnings during the base period. The Tax Court denied relief, holding that competition in the newspaper business is not an unusual economic circumstance, and thus does not qualify for relief under Section 722(b)(2) or (b)(5) of the Internal Revenue Code. The court emphasized that competition is common in the newspaper industry and rejected the petitioners' claims that the Tri-City Star's unethical practices justified relief.

Facts

The Democrat Publishing Co. and The Times Company were Iowa corporations publishing daily newspapers in Davenport. From 1935 to 1937, a third daily paper, the Tri-City Star, competed with them. The Tri-City Star engaged in aggressive tactics, including circulation contests, reduced subscription rates, and editorial attacks on the owners of the existing papers. The Times and Democrat also responded with competitive measures. The petitioners' argued that the presence of the Tri-City Star depressed their base period earnings, entitling them to excess profits tax relief under Section 722 of the Internal Revenue Code of 1939. The Tri-City Star ceased publication in March 1937.

Procedural History

The Commissioner of Internal Revenue disallowed the petitioners' claims for excess profits tax relief for the years 1943, 1944, and 1945. The petitioners brought their claims to the U.S. Tax Court, which consolidated the cases. The Tax Court considered the issue of whether the petitioners' base period net income was depressed by competition from the Tri-City Star, and if so, whether relief was available under section 722 (b)(2) or (b)(5). The Tax Court ultimately ruled against the petitioners, denying their claims for excess profits tax relief.

Issue(s)

1. Whether the petitioners' base period net income was depressed by competition from the Tri-City Star.

2. Whether, if so, the petitioners are entitled to excess profits tax relief under Section 722(b)(2) of the Internal Revenue Code of 1939.

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3. Whether, if so, the petitioners are entitled to excess profits tax relief under Section 722(b)(5) of the Internal Revenue Code of 1939.

Holding

1. No, because the court found the competition did not depress the petitioners' net income in a way that entitled them to relief.

2. No, because competition in the newspaper business is not considered a "temporary economic circumstance unusual" to the petitioners' business.

3. No, because the court found no merit to the claim that the petitioners were entitled to relief under this section.

Court's Reasoning

The court found that the competition from the Tri-City Star, though intense and perhaps employing unethical tactics, was still considered standard competition. The Court stated that "competition is present in almost any business. Instead of it being something unusual, it is quite common. It is of the very essence of our capitalistic system." The court cited *Constitution Publishing Co.*, where it was held that competition in the newspaper industry is not a temporary economic circumstance that qualifies for relief under section 722 (b)(2). The court distinguished between ordinary competition and temporary economic circumstances. It found that while the competition was aggressive, it did not meet the criteria for "unusual circumstances." The court also found no merit in the petitioner's claim under 722(b)(5) because it was based on the same grounds as the (b)(2) claim.

Practical Implications

This case sets a precedent for how competition is viewed in excess profits tax relief claims. The case demonstrates that competition is considered a normal part of the business environment, not an unusual circumstance. This has implications for any business facing competition. When assessing similar cases involving excess profits tax relief, legal professionals and business owners should consider:

- The nature and type of competition the business faces.
- Whether the competitive circumstances can be considered unusual or temporary.
- The need to prove that the competition caused a specific depression in base period earnings.
- This case provides clear guidelines for how the courts will view competition, including when aggressive behavior is not considered an extraordinary circumstance, and thus does not trigger tax relief.

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