***Edell v. War Contracts Price Adjustment Board, 17 T.C. 624 (1951)***

Under the Renegotiation Act of 1942, a contract or arrangement is a "subcontract" if any amount payable under it is contingent upon procuring a government contract or subcontract, or if any part of the services involves soliciting or procuring such contracts.

**Summary**

The Edell partnership provided services to eight companies, assisting them in obtaining government contracts during World War II. The War Contracts Price Adjustment Board determined that the partnership's earnings were subject to renegotiation under the Renegotiation Act of 1942, as amended, because their arrangements with the companies constituted "subcontracts." The Tax Court agreed, holding that the partnership's activities in soliciting and procuring government contracts for its clients fell within the definition of a subcontract, even though they provided other services as well. The court found that the partnership's compensation was contingent, at least in part, on securing government contracts. The court then determined the amount of excessive profits derived by the partnership for each of the years in question, considering the applicable factors as outlined in the Renegotiation Act of 1942.

**Facts**

The Edell partnership entered into arrangements with eight corporations during the years 1943-1945. The services performed for each client included research, analysis, obtaining information, and providing advisory services. The compensation for the Edell partnership was a percentage of the amounts paid by the government to each of its principals. The Edell partnership also represented their clients in dealings with government agencies, assisting in bid preparation, contract negotiation, and stimulating government interest in client products. The War Contracts Price Adjustment Board determined the partnership's earnings were subject to renegotiation under the Renegotiation Act. The parties stipulated that the services performed by the petitioner for each of its eight clients and that the terms of the arrangement it had with each one were substantially the same.

**Procedural History**

The War Contracts Price Adjustment Board issued orders determining the amount of excessive profits realized by the Edell partnership. The Edell partnership then filed a petition with the Tax Court for a redetermination of the excessive profits. The Tax Court reviewed the case, focusing on whether the arrangements between the Edell partnership and its clients constituted "subcontracts" under the Renegotiation Act of 1942, and if so, the amount of excessive profits for each year. The Tax Court found that the Edell partnership was a subcontractor, and made its determination based on the aggregate amounts received by the petitioner in each of the years 1943,

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1944, and 1945. The court determined the amount of excessive profits for each year separately, as the statute dictated.

**Issue(s)**

1. Whether the Edell partnership's arrangements with eight corporations constituted "subcontracts" under section 403(a)(5)(B) of the Renegotiation Act of 1942, as amended.
2. If the arrangements were "subcontracts," what was the amount of excessive profits derived by the Edell partnership in each of the years 1943, 1944, and 1945?

**Holding**

1. Yes, because the Edell partnership solicited and procured government contracts for its clients, as part of their service, making the arrangements "subcontracts" within the meaning of the Act.
2. The Tax Court determined the amount of excessive profits, reducing the government's initial figures for each year. For 1943: $26,000, for 1944: $54,000, and for 1945: $70,000.

**Court's Reasoning**

The court focused on the definition of "subcontract" in section 403 (a)(5)(B) of the Renegotiation Act. The court referenced prior cases, such as *George M. Wolff et al. v. Macauley*, where the petitioners were not considered subcontractors because they did not solicit or procure government contracts, even though their compensation was based on the amount of government contracts received by their principals. The court distinguished the Edell case from *Wolff* and *Leon Fine*, because the Edell partnership actively solicited and procured government contracts for its clients. The court noted that "the main reason for the companies' engaging Edell was that they expected him to obtain Government contracts for them." The court referenced correspondence demonstrating the Edell partnership solicited and procured government contracts for its clients. The court emphasized that even though the Edell partnership performed other valuable services, its actions in soliciting and procuring government contracts satisfied the definition of "subcontract." The court also found that the Edell partnership's compensation was, at least in part, contingent upon the amount of government contracts which the partnership procured for each of the eight corporations. The court also considered relevant factors under the statute, particularly regarding the reasonableness of costs, capital, and the value of the personal services rendered. "Under arrangements between petitioner and each of eight corporations, the compensation received by petitioner was contingent or computed, at least in part, upon the amount of Government contracts which petitioner procured for each of the eight corporations, during the years 1943-1945, inclusive. It follows that petitioner was a subcontractor within the meaning of section 403 (a) (5) (B) (i), and that in each year it received income which

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is subject to renegotiation.”

**Practical Implications**

This case clarifies the definition of “subcontract” under the Renegotiation Act and helps attorneys understand what activities are sufficient to trigger renegotiation. Legal practitioners involved in government contracts should carefully analyze the nature of services performed, focusing on whether the service provider played a role in soliciting or procuring government contracts, or if compensation is based on the procurement of such contracts. The court emphasized that the substance of the arrangement matters more than the form; a contract that avoids specific language about securing government contracts will still be considered a subcontract if the actions of the service provider meet the statutory definition. It is important to determine whether the compensation received was contingent on obtaining government contracts. This case sets a precedent for the application of the Renegotiation Act to service providers whose activities and compensation arrangements align with the described factors. Later cases can apply the principles and definitions outlined by this case. The case demonstrates how a factual analysis is crucial to determine whether a service provider is a subcontractor.

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