29 T.C. 789 (1958)

To qualify for relief under Section 722(c) of the 1939 Internal Revenue Code, a taxpayer must demonstrate that its excess profits credit based on invested capital is inadequate due to specific factors and establish a fair amount for constructive average base period net income.

Summary

Crestwood Publishing Co. sought relief from excess profits taxes under Section 722(c) of the 1939 Internal Revenue Code, claiming that its invested capital was an inadequate basis for calculating its excess profits credit. Crestwood argued it qualified for relief because its business relied heavily on intangible assets (owner expertise and distribution contracts), capital was not a significant income-producing factor, and its invested capital was abnormally low. The Tax Court held that Crestwood failed to meet the criteria for relief, as the asserted intangibles were not unique or critical, capital was essential for operations, and the low initial capital was not relevant to the statutory determination of invested capital. The court emphasized that mere operation or credit utilization did not automatically justify relief; the taxpayer needed to prove its excess profits credit based on invested capital was demonstrably inadequate and establish a fair and just amount representing normal earnings.

Facts

Crestwood Publishing Co. was formed in 1940 to publish

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