30 T.C. 198 (1958)

To qualify for excess profits tax relief under Section 722(b)(4) of the Internal Revenue Code, a taxpayer must demonstrate that they commenced business immediately before the base period or that the character of their business changed during the base period, resulting in an excessive and discriminatory tax.

Summary

Napco Industries, Inc., sought excess profits tax relief under Section 722(b)(4) of the Internal Revenue Code of 1939, arguing it commenced business immediately before the base period and changed the character of its business during the base period. The Tax Court denied relief, finding that Napco's business had not newly commenced immediately prior to the base period (as the brewery had existed since 1934) and the improvements to their product did not represent a substantial enough change in the character of the business to warrant relief. The court emphasized that mere product improvements, such as those resulting from brewery consultant recommendations, didn't qualify. The court held that Napco was not entitled to relief because they failed to meet the specific requirements of the statute.

Facts

Terre Haute Brewing Co., Inc. (later merged into Napco), began manufacturing and selling malt beverages in March 1934 after rehabilitating a property used as a brewery prior to prohibition. During the base period (1936-1940), the company experienced fluctuating sales and income, closing their St. Louis brewery in 1938. In 1938, the company engaged brewery consultants who recommended changes to the brewing process, which Napco implemented, leading to an improved beer. Subsequently, the company rebranded its beer as Champagne Velvet Gold Label, and sales improved. Napco sought relief under Section 722(b)(4), claiming it had commenced business shortly before the base period and changed the character of its business during that period.

Procedural History

Napco filed for excess profits tax relief, which was denied by the Commissioner. Napco appealed to the United States Tax Court. The Tax Court reviewed the facts, and the Commissioner waived the claim under section 722(c), and the court ultimately ruled in favor of the Commissioner, upholding the denial of tax relief. The decision of the Tax Court is the subject of this brief.

Issue(s)

1. Whether Napco Industries, Inc. commenced business immediately prior to the base period, as defined by the Internal Revenue Code.

2. Whether the changes made to Napco's beer production and marketing strategy

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constituted a change in the character of its business during the base period, entitling it to tax relief under Section 722(b)(4).

Holding

1. No, because Napco was established in 1934, which was before the base period.

2. No, because the improvements made to the beer production and marketing did not constitute a sufficient change in the character of the business to warrant relief under Section 722(b)(4).

Court’s Reasoning

The court first addressed whether Napco could demonstrate the relevant qualifying factors. They emphasized that the company’s business started in 1934, prior to the start of the base period, so the

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