Erving Paper Mills Corp. v. Commissioner, 72 T. C. 319 (1979)

Property qualifies for the investment credit if construction began before April 19, 1969, regardless of completion date or pre-termination status.

Summary

Erving Paper Mills Corp. sought an investment tax credit for a paper processing machine constructed before April 19, 1969, but placed in service in 1971. The issue was whether such property was eligible for the credit under Section 49 of the Internal Revenue Code, which had terminated the credit after April 18, 1969, except for 'pre-termination property. ' The Tax Court held that the machine qualified for the credit because its construction commenced before the cutoff date, without needing to meet pre-termination property criteria. This decision underscores the importance of the commencement date of construction in determining eligibility for the investment credit.

Facts

Erving Paper Mills Corp. adopted a plan before April 18, 1969, to expand its production capacity in Erving, Massachusetts, by constructing a paper processing machine and a facility to house it. Construction of both the machine and the structure began before April 19, 1969, and was completed in September 1971. The basis of the machine was $3,291,087. 92, and it was placed in service with a useful life of seven years or more.

Procedural History

Erving Paper Mills Corp. filed a motion for partial judgment on the pleadings in the U. S. Tax Court, challenging the Commissioner's determination of a $31,223. 29 deficiency in its 1971 federal income tax. The Commissioner had disallowed the investment credit claimed by Erving Paper Mills, asserting that the property did not qualify as 'pre-termination property' under Section 49(b).

Issue(s)

1. Whether property, the construction of which commenced prior to April 19, 1969, is ineligible for the investment credit because of Section 49, I. R. C. 1954.

Holding

1. No, because Section 49(a) does not apply to property the construction of which began before April 19, 1969, making such property eligible for the investment credit without regard to the pre-termination property provisions of Section 49(b).

Court's Reasoning

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The court’s decision hinged on the interpretation of Section 49(a), which denies the investment credit for property acquired or constructed after April 18, 1969, unless it qualifies as ‘pre-termination property’ under Section 49(b). The court found that the clear language of Section 49(a) exempted property from the credit denial if its construction began before the cutoff date. The legislative history supported this interpretation, indicating that Congress intended to allow the credit for property constructed before the termination date to prevent inequity for taxpayers who had made economic commitments based on the availability of the credit. The court also cited case law, including Walt Disney Productions v. United States and Hanna Barbera Productions, Inc. v. United States, to support its conclusion that property constructed before April 19, 1969, was eligible for the investment credit without needing to meet the criteria of ‘pre-termination property. ‘ The court emphasized that the statutory scheme and legislative intent were clear in distinguishing between property based on the start date of construction, rather than the completion or acquisition date.

Practical Implications

This ruling clarifies that for investment credit purposes, the critical factor is the commencement date of construction, not the completion or acquisition date. Legal practitioners should advise clients that if construction of property began before April 19, 1969, it remains eligible for the investment credit, regardless of when it was completed or placed in service. This decision has implications for businesses that made investment decisions prior to the cutoff date, as it reaffirms their eligibility for tax incentives. Subsequent cases have followed this precedent, reinforcing the importance of the construction start date in determining investment credit eligibility. Businesses and tax professionals must carefully document the start of construction to take advantage of this ruling, and it may influence future tax policy regarding incentives for economic investments.

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