

with the Commissioner, we think that, in the light of the procedure above outlined, his approval of the schedule of credits and refunds must be taken to be the final exercise of that discretion and the allowance of the credit. This construction of the act brings about uniformity in administration, as it makes the allowance of credits and refunds simultaneous.

It results that even though the second claim for refund filed by the respondent be treated not as an amendment of its original claim of 1923, but as a new and independent claim, it was filed within four years of the payment of the tax, since that payment must be taken to have occurred on the date of the allowance of the credit by the Commissioner's signature approving the schedule of refunds and credits. Such approval was given as respects the credit to respondent on September 6, 1923, which was within four years of the date of the filing of the second claim.

The views herein expressed make it unnecessary to decide whether the later claim may properly be considered an amendment of the original claim for refund.

The judgment of the Court of Claims is

*Affirmed.*

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UNITED STATES *v.* BOSTON BUICK COMPANY.  
SAME *v.* IRON CAP COPPER COMPANY.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE  
FIRST CIRCUIT.

Nos. 42 and 43. Argued January 8, 9, 1931.—Decided February 2,  
1931.

1. Interest on a credit allowed a taxpayer because of overpayment of income and excess profits taxes must be computed according to the statutory provision for interest in force at the time of such allowance. P. 478.
2. The allowance of credits in these cases was the Commissioner's approval of the schedule of refunds and credits which had been

forwarded to him by the Collector. *United States v. Swift & Co.*, ante, p. 468. P. 478.  
35 F. (2d) 560, affirmed.

CERTIORARI, 281 U. S. 709, to review affirmances of two recoveries by taxpayers, in the District Court (see 27 F. (2d) 395; 31 *id.* 628), in actions for interest upon overpayments of income and profits taxes. The overpayments had been applied as credits against taxes due for other years.

*Assistant Attorney General Rugg*, with whom *Solicitor General Thacher* and *Messrs. Claude R. Branch*, Special Assistant to the Attorney General, *Charles R. Pollard*, *Bradley B. Gilman*, and *Clarence M. Charest*, General Counsel Bureau of Internal Revenue, and *Ralph E. Smith* were on the brief, for the United States.

*Mr. Charles W. Mulcahy*, with whom *Mr. Robert N. Miller* was on the brief, for the Boston Buick Company.

*Mr. Burton E. Eames* for the Iron Cap Copper Company.

MR. JUSTICE ROBERTS delivered the opinion of the Court.

These cases involve the same question as *United States v. Swift & Co.*, ante, p. 468; namely, what constitutes the allowance of a credit to a taxpayer who has overpaid his income or profits taxes. The issue is made on facts somewhat different from those involved in that case. It is whether interest to be paid on the amounts credited to the taxpayers shall be calculated as provided by § 1324 of the Revenue Act of 1921 (42 Stat. 316) or by § 1019 of the Revenue Act of 1924 (43 Stat. 346). Interest runs from different periods under these acts. As the allowance made by the Act of 1924 is more favorable to the taxpayers in these cases, they claimed interest on their credits

under that act. The Commissioner awarded them interest under the Act of 1921. The date of the allowance of the credits becomes important because we have held that interest on refunds and credits must be computed according to the statutory provision in force at the time of their allowance. *United States v. Magnolia Petroleum Co.*, 276 U. S. 160; *Blair v. Birkenstock*, 271 U. S. 348.

Upon audit of respondents' returns for 1918 it was disclosed that their taxes had been overassessed for that year. In March, 1924, the Commissioner approved schedules which informed the Collector of the overassessments and instructed him to check the same against the taxpayers' accounts, determine whether to abate in whole or in part, determine any overpayment, and apportion the same as between credit and refund. In July, 1924, the Collector completed his work, as to both taxpayers' accounts, and executed and forwarded to the Commissioner schedules of refunds and credits attached to the schedules of overassessments. The Commissioner placed his certificate of approval on the schedules of refunds and credits on July 31 and August 7. The Revenue Act of 1924 became effective June 2, 1924. If the credits were allowed after the effective date of that statute the respondents are entitled to interest computed in accordance with § 1019 of that act; if before, they are entitled to interest computed as provided by § 1324 of the Revenue Act of 1921. The District Court held that the provisions of the 1924 act applied, and the Circuit Court of Appeals affirmed its judgments. On petition of the United States this court issued writs of certiorari in both cases.

In view of the decision in *United States v. Swift & Co.*, *supra*, we hold that the Commissioner's approval of the schedule of refunds and credits constituted the allowance, and that interest is to be computed as required by the Act of 1924.

The judgments are

*Affirmed.*