2 T.C. 948 (1943)

Legal fees for tax advice and return preparation are deductible under Section 23(a)(2) of the Internal Revenue Code only if proximately related to the production or collection of income, or the management, conservation, or maintenance of property held for the production of income.

Summary

Aldus Higgins sought to deduct legal fees paid for tax advice and return preparation as non-business expenses. The Tax Court disallowed the deduction, finding that Higgins failed to demonstrate the fees were directly related to producing or collecting income, or managing income-producing property. The court rejected a blanket rule that all tax advice expenses are automatically deductible, emphasizing the need to prove a proximate relationship between the expense and income-related activities. This case highlights that deductibility hinges on demonstrating a clear connection to income-generating activities.

Facts

Higgins paid $3,794.13 to a law firm for legal services. Of that amount, $2,544.13 was for managing and investing property, which the Commissioner allowed as a deduction. The remaining $1,250 was for general tax advice, including advice on tax consequences of gains/losses and return preparation. Higgins sought to deduct this $1,250 as well.

Procedural History

The Commissioner of Internal Revenue disallowed the $1,250 deduction. Higgins petitioned the Tax Court for review of the Commissioner's determination.

Issue(s)

1. Whether legal fees paid for general tax advice and income tax return preparation are deductible as non-trade or non-business expenses under Section 23(a)(2) of the Internal Revenue Code.

Holding

1. No, because Higgins failed to demonstrate that the fees were proximately related to the production or collection of income, or the management, conservation, or maintenance of property held for the production of income.

Court's Reasoning

The court stated that a fee is deductible depending on whether it was incurred "for the production or collection of income, or for the management, conservation, or

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maintenance of property held for the production of income.

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