5 T.C. 91 (1945)

Legal fees paid by an executor to defend their right to serve and receive executor's fees are deductible as either an ordinary and necessary business expense or as a nonbusiness expense paid for the production or collection of income.

Summary

Annie Laurie Crawford, coexecutor of her deceased husband's estate, was disqualified by the Orphans' Court. She incurred legal fees to appeal this decision to the Supreme Court of Pennsylvania, which reversed the lower court and reinstated her. The Tax Court addressed whether the attorney fees Crawford paid in 1940 to contest her disqualification were deductible from her gross income. The court held that the fees were deductible as either an ordinary and necessary business expense or as a nonbusiness expense incurred for the production or collection of income, directly related to earning executor's compensation.

Facts

George W. Crawford died in 1935, leaving a large estate with his wife, Annie Laurie Crawford, and the Union Trust Co. as coexecutors and trustees. The estate was primarily personal property, valued at over $29 million. Mrs. Crawford elected to take against the will, receiving half the estate outright, but continued as coexecutor and cotrustee for her daughter's trust. The Orphans' Court considered whether Mrs. Crawford's change of residence to Connecticut and election against the will disqualified her from acting as coexecutor. She retained legal counsel to represent her in these proceedings.

Procedural History

The Orphans' Court initially disqualified Mrs. Crawford as coexecutor and ordered her to repay previously received executor's compensation. Mrs. Crawford appealed to the Supreme Court of Pennsylvania, which reversed the Orphans' Court and reinstated her as coexecutor. She then deducted the legal fees incurred during this appeal on her federal income tax return. The Commissioner disallowed the deduction, leading to a deficiency assessment which Mrs. Crawford then challenged in the Tax Court.

Issue(s)

Whether attorney fees paid by a taxpayer to defend her position as coexecutor of an estate, after being disqualified by a lower court, are deductible as (1) an ordinary and necessary business expense, or (2) an ordinary and necessary nonbusiness expense paid for the production or collection of income under Section 23(a) of the Internal Revenue Code.

Holding

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Yes, because the attorney fees were directly related to the earning of executor's compensation; without the successful appeal, the taxpayer would have been barred from earning further compensation and may have been forced to return compensation already received.

Court's Reasoning

The court reasoned that even if serving as a coexecutor does not constitute a

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