***Howard E. Cammack et al. v. Commissioner, 5 T.C. 467 (1945)***

Amounts equivalent to dividends paid on stock borrowed to cover short sales, office expenses related to trading activities, and interest charges are deductible business expenses for a taxpayer actively engaged in the business of stock trading.

**Summary**

The Tax Court held that a taxpayer actively engaged in the business of stock trading could deduct amounts equivalent to dividends paid on stock borrowed for short sales, office expenses related to his trading activities, and interest charges on his brokerage accounts as ordinary and necessary business expenses. The court distinguished these expenses from capital expenditures and emphasized the taxpayer's active engagement in the business of stock trading as the basis for their deductibility. The decision underscores the importance of demonstrating active business status to claim deductions for trading-related expenses.

**Facts**

Howard E. Cammack was actively engaged in the business of trading securities. He maintained multiple brokerage accounts with P&W. Cammack incurred expenses related to dividend payments on short sales, office maintenance, and legal fees related to tax litigation stemming from his trading activities. He also incurred interest expenses on margin accounts used for his trading. P&W credited interest to Cammack's accounts with credit balances and charged interest to accounts with debit balances. An agreement was in place consolidating the five accounts to determine net debit or credit balances.

**Procedural History**

The Commissioner of Internal Revenue disallowed deductions claimed by Cammack for dividend equivalents, office expenses, legal fees, and interest expenses related to his stock trading activities. Cammack petitioned the Tax Court for review of the Commissioner's determination.

**Issue(s)**

1. Whether amounts equivalent to dividends paid on stock borrowed to make short sales are deductible as business expenses under Section 23(a)(1) of the Internal Revenue Code for a taxpayer engaged in the business of stock trading.
2. Whether office maintenance expenses and legal fees related to income tax litigation concerning the taxpayer's stock trading activities are deductible under Section 23(a)(1) or (2) of the Internal Revenue Code.
3. Whether interest charged to the taxpayer's brokerage account is deductible as a business expense in 1940.

**Holding**

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1. Yes, because amounts equivalent to dividends paid on stock borrowed to make short sales are deductible as business expenses for a taxpayer engaged in the business of stock trading, based on precedents like *Dart v. Commissioner* and *W. Hinckle Smith*.
2. Yes, because the office maintenance expenses and legal fees were directly related to and proximately resulted from the taxpayer's business of stock trading and are therefore deductible under Section 23(a).
3. Yes, because the interest charged to the taxpayer's account was effectively paid through concurrent interest credits, dividend credits, and proceeds from stock sales in other accounts, satisfying the requirements of G.C.M. 23111.

**Court's Reasoning**

The court relied on prior case law, particularly *Dart v. Commissioner* and *W. Hinckle Smith*, which established that dividend equivalents paid on short sales are deductible business expenses for active stock traders. The court emphasized Cammack's active engagement in stock trading, distinguishing the case from those involving passive investors. Regarding office expenses and legal fees, the court found a direct connection to Cammack's trading business. On the interest deduction issue, the court followed G.C.M. 23111, which provides that interest is considered paid when a broker collects dividends or interest for the customer's account or when cash is made available through the sale of securities. The court determined that the interest credits, dividend credits, and stock sales generated sufficient funds to cover the interest charges, thus allowing the deduction. The court noted, "As we interpret the above quotation, the ruling now is that interest is considered paid by a customer only when subsequent to, or concurrently with, the interest charges, the broker has collected dividends or interest for the customer's account or when cash has been made available either by sale of securities held by the broker or by the customer's deposit."

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