7 T.C. 960 (1946)

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Payments made by a taxpayer to their spouse for services rendered in managing rental properties and a partnership interest can be deductible as ordinary and necessary business expenses under Section 23(a)(1)(A) of the Internal Revenue Code if the activities constitute carrying on a business.

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Summary

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The Tax Court addressed whether a taxpayer could deduct salary payments to her husband for managing her rental properties and partnership interest. The taxpayer, without business experience, employed her husband to manage her properties and assist in her partnership business where her brother was the managing partner. The court held that the payments were deductible as ordinary and necessary business expenses under Section 23(a)(1)(A) of the Internal Revenue Code because the taxpayer's activities constituted carrying on a business. However, the deductions were allowed only in the year the payments were actually made, as the taxpayer was on a cash basis.

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Facts

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Claude Patterson Noble, the petitioner, was a woman without business training who owned rental properties and a 25.5% interest in a partnership, H.M. Patterson & Son. Her brother owned the remaining 74.5% and managed the partnership. Lacking business expertise, Noble employed her husband, Ben F. Noble, to manage her rental properties and assist in the partnership business. Ben F. Noble had prior business experience. A written contract formalized the agreement, stipulating a monthly payment of $300 ($3,600 annually) to Ben F. Noble.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Noble’s income tax for 1942 and 1943, disallowing deductions for the salary paid to her husband. Noble petitioned the Tax Court for review. The Tax Court considered whether the payments were deductible as business or non-business expenses and when the deductions could be taken.

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Issue(s)

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1. Whether the salary paid by the petitioner to her husband for managing her rental properties is deductible as a business expense under Section 23(a)(1)(A) of the Internal Revenue Code.

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2. Whether the salary paid by the petitioner to her husband for services rendered in connection with her partnership interest is deductible as a business expense under Section 23(a)(1)(A) of the Internal Revenue Code.

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3. Whether the petitioner, who reported income on a cash basis, could deduct payments made to her husband for services rendered in 1942 and 1943 in those respective years, even though the payments were made in the subsequent years.

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Holding

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1. Yes, because the ownership and operation of rental properties for income production constitutes

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