9 T.C. 763 (1947)

Section 24(c) of the Internal Revenue Code disallows deductions for unpaid expenses to certain related parties if not paid within a specific timeframe, and a son-in-law does not qualify as a family member under the statute's definition, while a son does.

Summary

Fervel and Sarah Topek accrued bonuses to their son and son-in-law in 1943 for services in their business but did not pay these bonuses until 1944 due to Salary Stabilization Unit approval requirements. The Commissioner disallowed the deduction of these bonuses as business expenses under Section 24(c) of the Internal Revenue Code. The Tax Court held that the bonus paid to the son-in-law was deductible because a son-in-law is not a family member as defined by Section 24(b)(2)(D), thus not meeting all conditions of Section 24(c). However, the bonus paid to the son was not deductible because he is considered a family member, and all other conditions of Section 24(c) were met. The court further held that the Price Control Act did not implicitly amend or repeal Section 24(c).

Facts

Fervel and Sarah Topek operated a wholesale produce business and employed their son, D.A. Topek, and their son-in-law, Max Rosen, in key positions. Their employment contracts included a weekly drawing account plus an additional bonus based on annual net profits.
In December 1943, the Topeks agreed to bonuses of $11,000 for their son and $8,500 for their son-in-law.
They applied to the Salary Stabilization Unit for permission to pay these bonuses on December 3, 1943.
The Dallas regional office partially approved the bonuses on February 1, 1944, allowing $6,587.98 for the son and $4,442.98 for the son-in-law.
The Topeks appealed this ruling, and on April 26, 1944, the Deputy Commissioner allowed the full bonus amounts.
The Topeks paid the remaining bonus amounts shortly thereafter and filed amended income tax returns for 1943, reflecting these additional payments. The son and son-in-law also filed amended returns.

Procedural History

The Commissioner determined a deficiency in the Topeks' income and victory tax for 1943 and disallowed the deduction of the additional bonus payments to the son and son-in-law, leading to a petition to the Tax Court.
The Tax Court consolidated the cases due to identical issues and sums involved.
The Commissioner disallowed the deduction under Section 24(c) of the Internal Revenue Code because the payments were not made within two and a half months

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after the close of the taxable year.

Issue(s)

1. Whether the bonus payments to the taxpayers' son and son-in-law are deductible as business expenses under Section 23(a) of the Internal Revenue Code, or whether their deduction is barred by Section 24(c).
2. Whether the provisions of the Price Control Act modified or implicitly amended Section 24(c) of the Internal Revenue Code.

Holding

1. No, for the son; Yes, for the son-in-law. The bonus payment to the son is not deductible because he is a lineal descendant and all conditions of Section 24(c) are met. The bonus payment to the son-in-law is deductible because a son-in-law is not considered a family member under Section 24(b)(2)(D), thus not satisfying all conditions of Section 24(c).
2. No, because the Price Control Act and Section 24(c) address different subjects and purposes, and there is no irreconcilable conflict between their provisions.

Court's Reasoning

The court focused on whether all three conditions of Section 24(c) were met to disallow the deduction. These conditions include: (1) the expenses are not paid within the taxable year or within two and a half months after its close; (2) the amount is not includible in the gross income of the payee for the same taxable year; and (3) the taxpayer and payee are persons between whom losses would be disallowed under Section 24(b).
The court determined that the first two conditions were met.
For the third condition, the court analyzed the definition of

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