*11 T.C. 383 (1948)*

A deduction is considered ‘abnormal’ for excess profits tax purposes if it is unusual in amount compared to the taxpayer’s historical pattern, and the taxpayer must prove that the abnormality is not linked to increased income or changes in business operations to warrant its disallowance.

**Summary**

George J. Meyer Malt & Grain Corp. challenged the Commissioner’s decision regarding excess profits tax for 1943 and 1944, focusing on the disallowance of abnormal bad debt deductions claimed for 1938 and 1940. The Tax Court addressed whether these deductions were indeed abnormal and, if so, whether the taxpayer met the burden of proving that they were not a consequence of increased income or changes in the business. The court ultimately ruled that the bad debt deductions for both years were abnormal in amount and should be disallowed, also addressing the abnormality of deductions for dues, subscriptions, and professional fees during the base period years.

**Facts**

The petitioner, George J. Meyer Malt & Grain Corp., manufactured and sold malt primarily to breweries. The company computed its excess profits credit using the growth formula and sought to disallow certain deductions from the base period years (specifically 1938 and 1940) claiming they were abnormal. Key facts included the amounts of bad debt deductions, dues and subscriptions, and legal/professional fees during the base period years (1934-1940), sales data, and details regarding specific debts, such as those of Poth Brewing Co. and Forest City Brewing Co. The company had taken bad debt deductions related to these breweries, including debts secured by mortgages.

**Procedural History**

The Commissioner determined deficiencies in the petitioner’s excess profits tax returns for 1943 and 1944. The petitioner challenged the Commissioner’s refusal to allow adjustments for abnormal deductions. The Commissioner, in turn, argued that if the 1940 deduction was disallowed, the 1938 deduction should also be disallowed. The case proceeded to the United States Tax Court for resolution.

**Issue(s)**

1. Whether the $65,000 bad debt deduction for indebtedness from Poth Brewing Co. in 1940 should be disallowed as improperly claimed.
2. Whether the bad debt deduction of $85,000 in 1940 for a customer’s debt secured by mortgages was abnormal as to class under Section 711(b)(1)(J) of the Internal Revenue Code.
3. Whether the $10,000 deduction in 1939 for a fee paid to tax counsel was

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abnormal as to class.
4. Whether the deductions for trade association dues were abnormal in amount and, if so, whether the taxpayer overcame the limitations imposed by Section 711(b)(1)(K)(ii).
5. Whether, alternatively, the petitioner is entitled to adjustments for abnormal bad debt deductions for 1940 and for abnormal accounting fees for 1939.
6. Whether, if an adjustment for abnormal bad debt deduction for 1940 is allowable, an adjustment for abnormal deduction of the same class should be made for 1938.

**Holding**

1. No, because the petitioner failed to prove the claim against Poth Brewing Co. was not worthless in 1940.
2. No, because the debts of Forest City arose in the course of trade just as did the taxpayer's other debts.
3. No, because the expenditure was for legal and professional services, a class of deduction that was normal for the taxpayer.
4. Yes, the trade association dues were abnormal in amount, but the computation of this disallowance will be made under Section 711(b)(1)(K)(iii).
5. Yes, because the taxpayer established that such excess is not a consequence of an increase in its gross income, a decrease in the amount of some other deduction, or of a change in its business processes.
6. Yes, because allowing the 1940 disallowance while retaining the 1938 deduction would mock the intent of Congress.

**Court's Reasoning**

The court relied heavily on the provisions of Section 711(b)(1)(J) and (K) of the Internal Revenue Code, which concern abnormal deductions. The court placed the burden on the taxpayer to demonstrate that the claimed deductions were both abnormal and not the result of increased income or changes in business operations. For the Poth Brewing Co. debt, the court found insufficient evidence to contradict the taxpayer's initial assessment of worthlessness. The court distinguished the Forest City Brewing Co. debt from cases where the origin and purpose of the debt were fundamentally different from the taxpayer's usual business. Regarding legal fees, the court reasoned that categorizing fees based on the specific area of tax law involved would create an unmanageable number of classifications. The court determined that the increased trade association dues were due to increased costs incurred by the association, not changes in the taxpayer's business. Finally, the court emphasized that permitting the taxpayer to selectively disallow deductions would undermine the intent of the excess profits tax law, which aimed to address wartime profits, stating that adjustments "*shall*" be made when statutory conditions are fulfilled.

**Practical Implications**

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This case clarifies the taxpayer’s burden of proof when claiming abnormal deductions for excess profits tax purposes. It emphasizes that a taxpayer must not only demonstrate that a deduction is abnormal in amount but also provide evidence that the abnormality is unrelated to changes in income or business operations. The case also illustrates the importance of consistent treatment of similar deductions across base period years. It informs how legal professionals should gather and present evidence when arguing for or against the disallowance of deductions, particularly when relying on the growth formula for calculating excess profits credits. Later cases would cite this decision to reinforce the principle that taxpayers cannot selectively disavow deductions to gain a tax advantage.

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