12 T.C. 1069 (1949)

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An individual acting as an estate administrator is not considered to be engaged in a trade or business for tax deduction purposes unless their activities are of sufficient scope and duration, akin to that of a professional trustee or executor.

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Summary

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The Estate of Hyman Y. Josephs sought to deduct attorney's fees and settlement costs incurred by Josephs while acting as an administrator of an estate. The Tax Court had initially allowed the deduction as a non-business expense, but the appellate court reversed this decision, remanding the case to determine whether Josephs's activities constituted a 'trade or business.' The Tax Court then concluded that Josephs's involvement was not extensive enough to be considered a trade or business, disallowing the deduction under Section 23(a)(1)(A) of the Internal Revenue Code.

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Facts

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Hyman Y. Josephs was primarily engaged in the scrap iron business from 1891 onwards. In 1930, he was unanimously chosen by the heirs of the Freimuth estate to act as one of three administrators. From 1930 to 1941, Josephs served as an administrator, during which time he provided financial advice, filed reports, and conferred with the heirs. In 1941, the estate incurred $1,500 in attorney's fees and $10,000 in settlement costs due to a lawsuit brought by dissatisfied heirs.

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Procedural History

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The Tax Court initially ruled in favor of the Estate of Josephs, allowing the deduction

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under Section 23(a)(2) as a non-trade or non-business expense. The Commissioner appealed, and the Eighth Circuit Court of Appeals reversed the Tax Court's decision. The appellate court remanded the case, directing the Tax Court to determine whether Josephs's activities as an administrator constituted a 'trade or business' under Section 23(a)(1)(A).

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Issue(s)

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Whether the activities of Hyman Y. Josephs, acting as an administrator of the Freimuth estate, were sufficient to constitute the carrying on of a trade or business within the meaning of Section 23(a)(1)(A) of the Internal Revenue Code, thereby allowing the deduction of related expenses as ordinary and necessary business expenses.

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Holding

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No, because Josephs's activities in the administration of the Freimuth estate were not extensive enough to be classified as carrying on a trade or business under Section 23(a)(1)(A) of the Internal Revenue Code.

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Court's Reasoning

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The court distinguished Josephs's situation from that of a corporate trustee or an individual regularly engaged in the business of serving as a trustee or executor, citing *John Abbott, 38 B.T.A. 1290*. Although acknowledging that an administrator's activities in a single estate could potentially constitute a trade or business, the court found that Josephs's involvement was limited. The court noted that Josephs was primarily engaged in the scrap iron business and that the actual management of the estate's business was mainly handled by another co-administrator, David Freimuth. The court emphasized that the record provided little detail about Josephs's activities, leading them to conclude that his role was more of a

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