13 T.C. 670 (1949)

Legal expenses incurred to secure taxable alimony are deductible as non-business expenses, but this deduction is limited to the portion of fees allocable to securing taxable income.

Summary

Barbara LeMond sought to deduct legal fees incurred in obtaining a financial settlement from her husband during their separation and divorce. The Tax Court held that these fees were deductible as non-business expenses to the extent they were related to securing income taxable as alimony. However, the Court limited the deduction, finding that a portion of the alimony received was not taxable due to the timing of payments and statutory limitations. Therefore, only the percentage of legal fees attributable to the taxable portion of the alimony settlement could be deducted.

Facts

Barbara LeMond and Alfred Bloomingdale separated in 1943, agreeing to a final separation. They retained attorneys to negotiate a financial settlement. A separation agreement was executed in July 1943, stipulating a lump-sum payment, monthly payments, and an option for LeMond to receive a larger sum in installments if a divorce was obtained. After obtaining a divorce in Nevada, LeMond elected to receive the installment payments. LeMond paid legal fees of $7,500 in 1943 and $3,000 in 1944 for securing the financial settlement. A portion of the alimony payments received in 1943 were not taxable, as they were received before the divorce decree or were considered a lump sum.

Procedural History

LeMond deducted the legal fees on her 1943 and 1944 tax returns. The Commissioner of Internal Revenue disallowed the deductions, arguing they were personal expenses. LeMond petitioned the Tax Court, contesting the Commissioner’s determination.

Issue(s)

Whether legal fees paid by LeMond in 1943 and 1944, to secure a financial settlement from her husband incident to their separation and divorce, are deductible as non-business expenses under Section 23(a)(2) of the Internal Revenue Code.

Holding

Yes, but only in part. The Tax Court held that a portion of the legal fees was deductible because they were incurred to produce or collect income taxable as alimony. However, the deduction was limited to the percentage of fees attributable to securing the portion of alimony includible in LeMond’s gross income.

Court's Reasoning

The court relied on its decision in *Elsie B. Gale, 13 T.C. 661*, which held that legal expenses paid to collect alimony includible in a wife's gross income under Section 22(k) are deductible as ordinary and necessary expenses under Section 23(a)(2). However, the court distinguished *LeMond* from *Gale* because LeMond received substantial alimony in 1943 that was not taxable under Section 22(k), including a lump-sum payment and certain monthly payments made before the divorce decree. The court reasoned that the legal fees should be allocated based on the proportion of taxable alimony to the total alimony received. Because approximately 80% of the total alimony was taxable, the court allowed a deduction for 80% of the legal fees claimed in each year. The court clarified that the legal expenses were related solely to the financial aspects of the separation, not to personal or marital difficulties, and thus were not non-deductible personal expenses.

Practical Implications

LeMond v. Commissioner provides a framework for determining the deductibility of legal fees incurred in divorce proceedings when alimony is involved. It clarifies that such fees are deductible to the extent they are incurred to generate taxable income. Attorneys must carefully allocate legal fees based on the specific services provided and their connection to taxable income. Taxpayers should maintain detailed records to support any deductions claimed for legal fees in alimony cases. This case demonstrates the importance of understanding the taxability of different types of alimony payments and the need for clear documentation when claiming related deductions. Subsequent cases have cited *LeMond* for the principle that deductions are allowed only to the extent expenses are connected to taxable income.

