14 T.C. 66 (1950)

Expenses incurred with the honest intention of advertising a business, even through unconventional means such as show animals, and reasonable entertainment expenses directly related to business promotion, are deductible as ordinary and necessary business expenses under Section 23(a) of the Internal Revenue Code.

Summary

Rodgers Dairy Co. and Brass Rail Restaurant Co. sought to deduct expenses related to show horses, wolfhounds, and automobile use as advertising and business expenses. The Commissioner disallowed these deductions, arguing they were personal expenses of the controlling stockholder, DeLucia. The Tax Court held that expenses incurred with the honest intent to advertise the business, and reasonable entertainment expenses are deductible. It also addressed the allocation of automobile expenses between business and personal use, and its tax implications for the officer using the vehicle.

Facts

Brass Rail and Rodgers Dairy, both controlled by E.A. DeLucia, operated restaurant chains. They claimed deductions for expenses related to show horses, Russian wolfhounds, and a company car used by DeLucia. The companies argued these were legitimate advertising and business expenses. Minutes from board meetings indicated an intention to use show horses for advertising. The horses were shown under the company names, and the company's colors were used in shows. The wolfhounds were kept near the Brass Rail offices and displayed to the public. Brass Rail also incurred expenses for a company car used primarily by DeLucia, and for entertaining suppliers.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in income and excess profits taxes for Brass Rail, Rodgers Dairy, and E.A. DeLucia. The taxpayers petitioned the Tax Court for review. The Tax Court addressed several issues related to the deductibility of business expenses.

Issue(s)

1. Whether Brass Rail and Rodgers Dairy are entitled to deduct expenses related to show horses and wolfhounds as ordinary and necessary business expenses for advertising.
2. Whether Brass Rail is entitled to deduct expenses related to the maintenance and operation of a company automobile.
3. Whether E.A. DeLucia is entitled to deduct wages and taxes paid to his chauffeur as business expenses.
4. Whether Brass Rail is entitled to deduct expenses related to liquor purchases

© 2025 SCOTUSreports.com. All rights reserved.

for entertaining suppliers.
5. Whether the Commissioner erred in including a portion of Brass Rail's automobile and wolfhound expenses in DeLucia's taxable income.

Holding

1. Yes, because the companies demonstrated an honest intention to use the animals for advertising, and the expenses were not unreasonable in relation to the business.
2. Yes, because the automobile was primarily used for business purposes, and the expenses were ordinary and necessary.
3. Yes, in part. DeLucia can deduct 90% of chauffeur expenses, as 10% of the automobile use was personal.
4. Yes, because these expenses were directly related to promoting the company's business by fostering relationships with suppliers.
5. No, in part. It was appropriate to include the equivalent of 10% of the cost of operating the automobile and 10% of the depreciation for 1941 in his income as additional compensation representing the approximate value of his personal use of the car.

Court's Reasoning

The Tax Court focused on whether the companies honestly intended to use the animals for advertising purposes. It cited *Aptos Land & Water Co.*, 46 B.T.A. 1232, emphasizing that reasonableness of the expenditure is a key factor. The court found that the companies displayed the animals under their names, used their colors, and advertised them as belonging to the businesses. Regarding the automobile, the court found that it was primarily used for business, allowing Brass Rail to deduct the expenses. However, because DeLucia used the car for personal reasons, a portion of the expenses and depreciation was considered additional compensation to him. The court cited *Cohan v. Commissioner*, 39 F.2d 540, for the principle of allocation when exact figures are unavailable. As for entertainment expenses, the court found that the liquor purchases were ordinary and necessary to the business, citing *I. Goldman*, 12 B.T.A. 874, and *F.L. Bateman*, 34 B.T.A. 351.

Practical Implications

This case provides guidance on the deductibility of advertising and entertainment expenses, particularly when the advertising methods are unconventional. It emphasizes the importance of demonstrating a clear business purpose and intent behind the expenditures. It also clarifies the tax treatment of company-provided vehicles, requiring allocation between business and personal use, with the personal use portion potentially being taxable to the employee as compensation. This ruling is relevant for businesses seeking to deduct promotional expenses and for employees using company assets for personal purposes. Later cases have cited this ruling regarding the importance of demonstrating intention and reasonableness when

© 2025 SCOTUSreports.com. All rights reserved.

seeking deductions for advertising and promotional activities.

© 2025 SCOTUSreports.com. All rights reserved.