14 T.C. 1089 (1950)

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Legal expenses incurred primarily to defend or perfect title to a trade name are capital expenditures and not deductible as ordinary business expenses.

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Summary

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Food Fair of Virginia sought to deduct legal fees incurred in a suit against a competitor, Big Bear, for using the “Food Fair” trade name. Food Fair argued the expenses were to protect its income by stopping Big Bear’s confusing advertising practices. The Tax Court disagreed, holding that the primary purpose of the lawsuit was to establish Food Fair’s exclusive right to use the trade name in Virginia. As such, the legal fees were capital expenditures to defend title to property, not deductible business expenses. The court emphasized that Food Fair’s claim of exclusive rights necessitated a determination of ownership, making the legal action a defense of title.

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Facts

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Food Fair of Virginia, Inc. began using the trade name “Food Fair” for its retail grocery business in Arlington County, Virginia, in January 1945. In 1946, Big Bear Food Stores of Virginia, Inc., a competitor in Alexandria, Virginia, began using the “Food Fair” name in its advertising and operations, causing customer confusion. Food Fair protested Big Bear’s use of the name and, after Big Bear’s initial withdrawal of a liquor license application under that name, Big Bear continued to prominently display the “Food Fair” name through various means, including posters and packaged goods.

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Procedural History

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Food Fair filed a bill of complaint in the Circuit Court of the City of Alexandria, Virginia, seeking to enjoin Big Bear from using the “Food Fair” trade name. An initial suit was dismissed for lack of proper parties. A subsequent suit against Big Bear was filed, and Big Bear answered, denying Food Fair’s exclusive right to the trade name. The suit was eventually dismissed by consent of the parties after Big Bear agreed to discontinue some of its contested practices. The Commissioner of Internal Revenue disallowed Food Fair’s deduction of the legal fees as a business expense, leading to this Tax Court case.

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Issue(s)

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Whether legal expenses incurred by Food Fair in its suit against Big Bear were deductible as ordinary and necessary business expenses, or whether they were capital expenditures incurred in defending or perfecting title to property (the trade name “Food Fair”).

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Holding

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No, because the primary purpose of the lawsuit was to defend or perfect Food Fair’s title to, or property right in, the trade name “Food Fair,” making the legal fees a non-deductible capital expenditure.

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Court’s Reasoning

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The court reasoned that Food Fair’s lawsuit against Big Bear stemmed directly from Big Bear’s use of the “Food Fair” trade name, which Food Fair claimed the exclusive right to use in Virginia. The court pointed to Food Fair’s complaint, which asserted that it

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