28 T.C. 591 (1957)

Expenses incurred for lobbying or influencing public opinion, such as payments to oppose potential legislation affecting a business, are not deductible as ordinary and necessary business expenses under the Internal Revenue Code.

Summary

In 1950, F. Strauss & Son, Inc., a wholesale liquor dealer, contributed to the Arkansas Legal Control Associates, Inc., a corporation formed by liquor wholesalers to campaign against a proposed statewide prohibition act. The company sought to deduct these contributions as a business expense. The Commissioner of Internal Revenue disallowed the deduction, and the U.S. Tax Court upheld the Commissioner's decision. The court reasoned that these expenses were akin to lobbying and influencing public opinion on legislation, which, under established precedent, did not constitute ordinary and necessary business expenses. The court distinguished this case from instances where expenses are incurred to defend against legal challenges or promote legitimate business activities that don't include influencing the outcome of elections.

Facts

F. Strauss & Son, Inc. was a wholesale liquor dealer in Arkansas. In 1950, a statewide prohibition act was proposed in Arkansas. Nine liquor wholesalers formed the Arkansas Legal Control Associates, Inc., a non-profit corporation, to persuade voters to oppose the act. The stated purpose of the corporation was to promote the interests of the alcohol beverage industry. F. Strauss & Son, Inc. paid $9,252.67 to the organization to fund advertising efforts, and the organization spent over $100,000 on advertising to defeat the proposed prohibition act. The prohibition act was defeated. F. Strauss & Son, Inc. attempted to deduct the payment to the organization as a business expense, which the Commissioner of Internal Revenue disallowed.

Procedural History

The Commissioner of Internal Revenue disallowed F. Strauss & Son, Inc.'s deduction of the $9,252.67 payment as a business expense. The company challenged this disallowance in the United States Tax Court.

Issue(s)

Whether the payment made by F. Strauss & Son, Inc. to the Arkansas Legal Control Associates, Inc. was deductible as an ordinary and necessary business expense under section 23(a)(1)(A) of the Internal Revenue Code of 1939.

Holding

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No, because payments made to influence voters on a statewide prohibition act are not deductible as ordinary and necessary business expenses.

Court's Reasoning

The court relied heavily on the precedent set by *Textile Mills Corp. v. Commissioner*, 314 U.S. 326 (1941), which held that amounts spent on publicity and propaganda to influence proposed legislation were not deductible as ordinary and necessary business expenses. The court distinguished this case from cases cited by the petitioner, such as *Heininger v. Commissioner*, 320 U.S. 467 (1943), and *Lilly v. Commissioner*, 343 U.S. 90 (1952), as those cases involved the deductibility of legal expenses and other expenses. The court determined that the expenditures were designed to influence voters to vote in a certain way on the proposed act, and therefore, not deductible as a business expense. The Court stated, "The principal issue in this case is whether amounts paid by petitioner, a wholesale liquor dealer, to a corporation organized by nine Arkansas liquor wholesalers for the purpose of persuading Arkansas voters by various advertising devices to vote against a proposed prohibition act, are deductible as ordinary and necessary business expenses within the meaning of section 23 (a) (1) (A), Internal Revenue Code of 1939."

Practical Implications

This case reinforces that businesses cannot deduct expenses related to lobbying or influencing the outcome of elections through public opinion campaigns. This principle affects how businesses account for expenses when they seek to influence legislation or public referendums. This case is still applicable to the current tax code and the rules for deducting business expenses. Businesses must be very cautious about deducting expenses connected to political activities. Legal professionals advising businesses must be aware of this principle when helping clients determine what constitutes a deductible business expense. This decision has practical implications for industries that are heavily regulated or subject to potential legislative changes, such as the alcohol and tobacco industries. Later cases consistently cite and apply this holding to disallow deductions for similar lobbying or political influence expenses.

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