30 T.C. 648 (1958)

The phrase “regularly carried on,” as used in the context of business income, does not exclude income from a temporary, albeit high-paying, employment; “regularly” implies consistency in the activity, not permanence.

Summary

The case involves a lawyer and economic advisor, Elmer E. Batzell, who accepted a temporary, high-salaried position with the Petroleum Administration for Defense. The issue was whether the salary Batzell received from this government employment constituted income from a trade or business “regularly carried on” by him, which would affect his net operating loss deduction. The Tax Court held that Batzell’s government employment did constitute a business “regularly carried on,” rejecting the argument that temporary employment automatically means the business is not “regular.” The court emphasized that “regularly” means steady or uniform in course, not necessarily permanent. The court found no evidence to suggest that the temporary nature of the employment negated the regularity of the business activity.

Facts

Elmer E. Batzell was a lawyer and economic advisor specializing in the oil industry. During WWII, he was an attorney for the Petroleum Administration for War. Following the outbreak of the Korean War, Batzell was offered and accepted a high-salaried position with the newly formed Petroleum Administration for Defense, with the understanding the employment would be for one year. He terminated his consulting work and a partnership to take the salaried position. Batzell resumed the practice of law after his government employment ended. The Commissioner determined a deficiency in Batzell’s income tax, leading to the litigation to determine whether the salary was from a business “regularly carried on” under the 1939 Internal Revenue Code, which affected Batzell’s net operating loss carryback.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Batzell’s income tax for 1951. Batzell challenged this determination in the United States Tax Court. The Tax Court heard the case and issued its opinion, deciding in favor of the Commissioner. The court agreed that the salary Batzell received from the Petroleum Administration for Defense was income derived from a business regularly carried on.

Issue(s)

Whether the salary received by Batzell from the Petroleum Administration for Defense constituted income from a trade or business “regularly carried on” by him, per I.R.C. § 122(d)(5) of the 1939 Internal Revenue Code.

Holding

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Yes, because the Tax Court held that Batzell's employment by the Federal Government constituted a trade or business "regularly carried on" by him within the meaning of section 122 (d) (5) of the Internal Revenue Code of 1939.

Court's Reasoning

The court addressed whether the salary was derived from a business "regularly carried on" as required by I.R.C. § 122 (d)(5). The court rejected the argument that the temporary nature of the government position necessarily meant the activity was not "regular." The court found no special or peculiar meaning attached to the word "regularly." The court turned to the dictionary to define "regularly" as "steady or uniform in course, practice, etc.; not characterized by variation from the normal or usual." The court emphasized that the term did not imply permanence. There was nothing in the code, its legislative history, or the dictionary to indicate that the one-year employment did not constitute a regularly carried on business.

Practical Implications

This case is important in interpreting the phrase "regularly carried on" in relation to business income, particularly in situations involving temporary employment. It clarifies that "regularly" refers to the nature of the activity, not its duration. Taxpayers and practitioners should consider whether the activity is steady and uniform, regardless of how long it lasts. This ruling can guide the classification of income from various sources, including consulting work, government employment, and other activities with a defined or limited time frame. Future cases may cite Batzell in defining "regularly carried on" for the purpose of income classification.

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