31 T.C. 952 (1959)

Expenditures made to obtain a television broadcasting license, including payments to competitors to withdraw their applications, are capital in nature and not deductible as ordinary and necessary business expenses; amortization of such expenses is also not permissible if the license is likely to be renewed.

Summary

KWTX Broadcasting Company sought to deduct expenses related to obtaining a television broadcasting license, including a payment made to a competitor to withdraw its application for the same license. The U.S. Tax Court ruled that these expenses were capital expenditures, not ordinary and necessary business expenses, and thus were not deductible in the year incurred. Furthermore, the court denied the company's claim for amortization of these expenses over the life of the license because renewal was highly probable, thereby making the license of indeterminate duration for practical purposes.

Facts

KWTX Broadcasting Company operated a radio station and applied for a permit to construct and operate a television station. Another company, Waco Television Corporation, also applied for the same license. After an examiner recommended granting KWTX's application, Waco Television appealed. To resolve the dispute, KWTX paid Waco Television $45,000 to withdraw its appeal and application. KWTX also incurred legal and travel expenses. KWTX deducted the $45,000 payment and the other expenses as ordinary business expenses on its 1954 tax return. The Commissioner of Internal Revenue disallowed the deductions, arguing they were capital expenditures. KWTX sought to amortize these expenditures over the period of its construction permit and license.

Procedural History

The Commissioner of Internal Revenue disallowed KWTX's deduction for the expenses incurred to obtain the television license. KWTX then brought suit in the United States Tax Court, challenging the Commissioner's determination. The Tax Court heard the case and ruled in favor of the Commissioner, upholding the disallowance of the deduction and the denial of amortization.

Issue(s)

1. Whether the $45,000 payment made by KWTX to Waco Television Corporation to induce the withdrawal of its application for a television license is deductible as an ordinary and necessary business expense under section 162 of the Internal Revenue Code.

2. Whether KWTX is entitled to amortize the legal fees, travel expenses, and the

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$45,000 payment over the term of its construction permit and television license.

Holding

1. No, because the payment was a capital expenditure made to obtain the license, not an ordinary business expense.

2. No, because the facts did not justify the amortization deduction, given the likelihood of license renewal.

Court's Reasoning

The court determined that the payment to the competitor was not an ordinary and necessary business expense under Internal Revenue Code Section 162 because it was a capital expenditure related to acquiring a license, which is an asset. The court distinguished the case from *All States Freight v. United States*, which involved expenses to defend an existing business right, while this case concerned the acquisition of a new right. The court reasoned that the $45,000 payment was akin to the cost of the permit and license itself, and therefore should be capitalized. Furthermore, the court stated that the expenditures related to obtaining the permit were capital in nature. The court also denied the amortization because the court found that a license renewal was probable, and that the license had an indeterminate duration, making amortization improper.

Practical Implications

This case establishes that expenses incurred in obtaining a broadcasting license are generally considered capital expenditures, not deductible as ordinary business expenses. This includes payments to competitors to resolve licensing disputes. Businesses seeking to obtain or renew licenses should capitalize these costs and cannot deduct them in the current year. The case underscores the importance of determining the likely duration of an asset. If an asset, such as a license, is likely to be renewed, its useful life may be considered indeterminate for tax purposes, and amortization may be disallowed. Attorneys advising clients on tax matters involving licensing expenses must consider these rulings, which can significantly impact the timing and amount of tax deductions.

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