33 T.C. 1003 (1960)

Expenses incurred to influence legislation, such as circulating a petition for a referendum, are not deductible as ordinary and necessary business expenses under section 162 of the Internal Revenue Code or as nonbusiness expenses under section 212(1) or (2).

Summary

The case concerns Alex H. Washburn, a newspaper publisher, who sought to deduct expenses related to circulating a petition to refer an Arkansas state legislature act (exempting livestock and poultry feeds from sales tax) to a popular vote. The IRS disallowed the deduction, and the Tax Court upheld the IRS's decision. The court found that these expenses were not "ordinary and necessary" business expenses under I.R.C. § 162, nor were they deductible as nonbusiness expenses under I.R.C. § 212(1) or (2). The court relied on the Supreme Court's decision in *Cammarano v. United States*, which barred deductions for lobbying expenses or efforts to influence legislation.

Facts

Alex H. Washburn, publisher and editor of the Hope Star newspaper, incurred $6,024.96 in expenses during 1955. These expenses were related to circulating a petition to refer an Arkansas state law exempting livestock and poultry feeds from sales tax to a public vote. Washburn believed that the law's passage would lead to an increase in the overall sales tax rate, potentially driving business away from his town and reducing his newspaper's advertising revenue and his personal income. The expenses included canvassing costs, hotel expenses, postage, legal services, and other related costs. Washburn claimed these expenses as a deduction on his federal income tax return, which the Commissioner disallowed.

Procedural History

Washburn initially filed a petition in the United States Tax Court, challenging the IRS's disallowance of the deduction. The Tax Court heard the case, considered the stipulated facts, and issued a decision in favor of the Commissioner. The court concluded that the expenditures were not deductible under either section 162 or section 212 of the Internal Revenue Code. The court's decision is the final determination in the case.

Issue(s)

1. Whether the expenses incurred by Washburn in circulating the petition were deductible as ordinary and necessary business expenses under I.R.C. § 162.

2. Whether the expenses incurred by Washburn in circulating the petition were deductible as nonbusiness expenses under I.R.C. § 212(1) or (2).

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Holding

1. No, because the expenses incurred to influence legislation were not considered "ordinary and necessary" business expenses.

2. No, because expenses incurred to influence legislation are not deductible as nonbusiness expenses under I.R.C. § 212(1) or (2).

Court's Reasoning

The court referenced *Cammarano v. United States*, which held that expenses related to influencing the public vote on initiative legislation are not deductible. The court found no logical distinction between an initiative and a referendum, and that the expenses in this case were for the "promotion or defeat of legislation," just like those in *Cammarano*. The court also reasoned that the potential benefit to Washburn was too remote and uncertain to justify the deduction under section 212. It concluded that, consistent with the treatment of business expenses related to influencing legislation, the expenses were also not deductible as nonbusiness expenses under section 212.

Practical Implications

This case clarifies that expenses for influencing legislative outcomes, whether through direct lobbying or public campaigns like referendums or initiatives, are generally not deductible as business or nonbusiness expenses for tax purposes. This principle is particularly relevant for businesses or individuals seeking to affect public policy decisions that may impact their operations or investments. This case reinforces the IRS's position on the non-deductibility of lobbying expenses and activities aimed at influencing legislation. Legal practitioners must advise clients that such expenses are not tax-deductible, and businesses should adjust their financial planning accordingly. This case also highlights the importance of the "ordinary and necessary" requirement for business expense deductions, and the close relationship between the regulations pertaining to sections 162 and 212.

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