Cremona v. Commissioner, 58 T. C. 219 (1972)

Employees can deduct job-counseling fees as ordinary and necessary business expenses even if no new job is secured.

Summary

Leonard Cremona, an administrator, paid $1,500 to a job-counseling firm to help find a better job but did not secure new employment. The IRS denied the deduction, arguing that fees are only deductible if a job is obtained. The Tax Court held that the fee was deductible under Section 162(a) as an ordinary and necessary business expense, extending prior rulings to cover seeking employment, not just securing it. This decision broadens the scope of deductible expenses for employees seeking to improve their job situation within their current trade or business.

Facts

Leonard Cremona, employed as an administrator at Isotopes, Inc. , paid $1,500 to Harvard Executive Research Center, Inc. (HERC) in 1968 for job-counseling services to find a better job in the same field. Despite HERC's efforts, Cremona did not receive any job offers and remained at his current position. The IRS disallowed the deduction of this fee, asserting that it was not deductible because no new job was secured as a result of the services.

Procedural History

The IRS determined a deficiency in Cremona's 1968 income tax due to the disallowed deduction. Cremona contested this in the U. S. Tax Court. The case was initially released as a Memorandum Opinion but was recalled for full court review due to its potential to extend existing case law. The Tax Court ultimately ruled in favor of Cremona, allowing the deduction.

Issue(s)

1. Whether fees paid to a job-counseling organization are deductible under Section 162(a) as ordinary and necessary business expenses when no new job is secured.

Holding

1. Yes, because the expenditure was incurred in good faith to improve job opportunities within Cremona's existing trade or business, and the failure to secure a new job does not negate the deductibility of the fee.

Court's Reasoning

The Tax Court distinguished this case from *Carter*, which involved a military serviceman seeking post-service employment, noting that Cremona was already in

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the trade or business of being an administrator. The court relied on prior cases (*Primuth*, *Motto*, and *Kenfield*) where fees were held deductible when related to seeking or securing new employment. The court emphasized that the deductibility of such fees should not hinge on whether a job is actually secured, rejecting the IRS's argument based on Revenue Ruling 71-308. The court concluded that Cremona's expenditure was an ordinary and necessary business expense under Section 162(a) because it was made in good faith to enhance his job prospects within his current occupation. Concurring opinions reinforced the majority's view, highlighting the court's rejection of the seeking-securing distinction and the importance of the taxpayer's motive in incurring the expense.

Practical Implications

This decision allows employees to deduct job-counseling fees even if they do not result in new employment, broadening the scope of deductible business expenses. Legal practitioners should advise clients that fees for services aimed at improving job opportunities within their current trade or business are deductible, regardless of tangible results. This ruling may encourage more employees to seek professional assistance in career advancement, potentially affecting how businesses approach employee retention and compensation. Subsequent cases have applied this principle, solidifying its impact on tax law regarding employment-related expenses.

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