Nichols v. Commissioner, 58 T. C. 244 (1972)

Filing fees paid to run for public office are not deductible as business expenses or as taxes under federal income tax law.

Summary

In Nichols v. Commissioner, the Tax Court held that a $1,800 filing fee paid by Horace E. Nichols to the Democratic Party of Georgia to run for a Supreme Court position was not deductible as a business expense under IRC sections 162 or 212, nor as a state tax under section 164. Nichols, appointed to fill a vacancy on the Georgia Supreme Court, sought to deduct the fee paid to appear on the election ballot. The court, relying on the precedent set in McDonald v. Commissioner, determined that such fees were not incurred in the trade or business of being a judge but rather in the attempt to become one, thus disallowing the deduction.

Facts

Horace E. Nichols was appointed as an associate justice of the Supreme Court of Georgia in 1966 to fill a vacancy. In May 1968, he paid a $1,800 filing fee to the Democratic Party of Georgia to run in the primary election for the unexpired portion of his term and a subsequent term. He was unopposed in both the primary and general elections. The fee was split, with 75% used for the 1968 primary election costs and 25% for the 1970 primary runoff. Nichols attempted to deduct this fee on his 1968 federal income tax return, which the IRS disallowed.

Procedural History

The IRS determined a deficiency in Nichols' 1968 federal income tax and disallowed the deduction of the filing fee. Nichols petitioned the Tax Court, which reviewed the case and upheld the IRS's decision, finding the filing fee not deductible under sections 162, 212, or 164 of the Internal Revenue Code.

Issue(s)

1. Whether the filing fee paid to the Democratic Party of Georgia to run for public office is deductible as an ordinary and necessary business expense under IRC sections 162 or 212.
2. Whether the filing fee is deductible as a state tax under IRC section 164.

Holding

1. No, because the filing fee was not an expense incurred in the trade or business of being a judge but rather in the attempt to become one, as per McDonald v. Commissioner.
2. No, because the filing fee did not fall within the categories of deductible taxes listed in section 164(a)(1) through (5) and did not meet the requirements of the

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catchall clause, which requires the tax to be paid in carrying on a trade or business or an activity described in section 212.

Court’s Reasoning

The court applied the precedent set in McDonald v. Commissioner, which ruled that expenses incurred in running for public office, including filing fees, are not deductible as business expenses. The court emphasized that these expenses are incurred in the attempt to become a judge, not in the practice of being a judge. Regarding the tax deduction under section 164, the court noted that the 1964 amendment to this section limited deductible state taxes to those paid in carrying on a trade or business or an activity described in section 212. Since the filing fee did not meet these criteria, it was not deductible as a tax. The court also considered public policy arguments but found that the Supreme Court’s decision in McDonald was controlling and did not support the deduction. The court rejected Nichols’ argument that filing fees should be treated differently from other campaign expenses, as both types of expenditures were addressed in McDonald without distinction.

Practical Implications

Nichols v. Commissioner clarifies that filing fees paid to run for public office are not deductible under sections 162, 212, or 164 of the IRC. This ruling impacts how candidates for public office approach their campaign finances, as they cannot claim these fees as business expenses or taxes on their federal income tax returns. The decision reinforces the distinction between expenses incurred in the practice of a profession and those incurred in the attempt to gain that position. Legal practitioners advising clients running for office must be aware of this ruling to properly guide them on the tax implications of campaign expenditures. Subsequent cases have followed this precedent, maintaining the non-deductibility of such fees.

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