Epp v. Commissioner, 78 T. C. 801 (1982)

Expenses for establishing a family estate trust are not deductible under IRC Section 212 as they are considered personal expenditures rather than costs for managing income-producing property or obtaining tax advice.

Summary

In Epp v. Commissioner, the Tax Court ruled that Susan H. Epp could not deduct the $2,000 she paid to the Institute of Individual Religious Studies for establishing a family estate trust. The court found that the payment was a nondeductible personal expense rather than an expense for managing income-producing property or obtaining tax advice under IRC Section 212. Epp's testimony about her reasons for creating the trust, such as protecting jointly owned properties and minimizing probate issues, was deemed vague and unconvincing. The court emphasized that expenses for personal and family affairs, like setting up trusts, do not qualify for deductions, and Epp failed to show how the payment specifically related to managing income-producing assets.

Facts

Susan H. Epp, a Canadian citizen residing in the U. S. , paid $2,000 to the Institute of Individual Religious Studies in 1976 for guidance and materials to establish a family estate trust. Epp, a registered nurse, jointly owned two parcels of real property with her sisters in Oregon. After meeting with the institute's representative, John O'Keefe, she created the Susan Epp Trust and transferred the properties into it. On her 1976 tax return, Epp claimed the payment as a deduction under IRC Section 212, asserting it was for conserving and maintaining assets. The Commissioner disallowed the deduction, arguing it was a personal or capital expenditure.

Procedural History

The Commissioner determined a deficiency in Epp's 1976 federal income tax and an addition to tax. The Tax Court, after the case was reassigned due to a judge's resignation, focused solely on the issue of the deductibility of the $2,000 payment. The case was severed for trial on this issue, with other adjustments to be addressed separately if necessary.

Issue(s)

1. Whether the $2,000 payment to the Institute of Individual Religious Studies for establishing a family estate trust is deductible under IRC Section 212(2) as an expense for the management, conservation, or maintenance of property held for the production of income?
2. Whether the payment is deductible under IRC Section 212(3) as an expense for tax advice?

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Holding

1. No, because the payment was deemed a nondeductible personal expenditure and did not specifically relate to managing or conserving income-producing property.
2. No, because the payment was not shown to be for legitimate tax advice, and Epp testified that tax considerations did not influence her decision to establish the trust.

Court's Reasoning

The court applied IRC Section 212, which allows deductions for ordinary and necessary expenses related to managing income-producing property or obtaining tax advice. However, it found that Epp's payment was for personal and family planning, which does not qualify under Section 212. The court noted that expenses for establishing trusts for family members are considered personal under IRC Section 262. Epp's testimony about protecting property and minimizing probate was deemed unconvincing and not directly related to managing income-producing assets. The court also highlighted that even if part of the payment was deductible, Epp failed to provide evidence for allocating any portion to a deductible purpose. The court referenced previous cases like *Mathews v. Commissioner* and *Cobb v. Commissioner* to support its conclusion that such expenses are personal and nondeductible.

Practical Implications

This decision clarifies that expenses for establishing family estate trusts are typically not deductible under IRC Section 212, as they are considered personal rather than related to income-producing property management or tax advice. Attorneys should advise clients that costs for personal estate planning, even if involving income-producing assets, are generally not deductible. This ruling may influence how taxpayers approach estate planning and the allocation of costs for such purposes. It also underscores the importance of maintaining clear records to support any claimed deductions, as the court will not make allocations without sufficient evidence. Subsequent cases have followed this precedent, further solidifying the non-deductibility of similar expenses.

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