***Fan v. Commissioner of Internal Revenue, 117 T. C. 32, 2001 U. S. Tax Ct. LEXIS 34, 117 T. C. No. 3 (United States Tax Court 2001)***

In Fan v. Commissioner, the U. S. Tax Court ruled that an intraoral camera system purchased by a dentist for his practice did not qualify as an eligible access expenditure under the Disabled Access Credit. The court found that the system, while beneficial for all patients, was not acquired specifically to comply with the Americans with Disabilities Act (ADA). This decision clarified the scope of the tax credit, limiting it to expenditures directly related to ADA compliance, and has implications for how small businesses can claim such credits for accessibility enhancements.

**Parties**

Stephen T. Fan and Landa C. Fan (Petitioners) v. Commissioner of Internal Revenue (Respondent)

**Facts**

Stephen T. Fan, a self-employed dentist, purchased an intraoral camera system for $8,995 in 1995 to use in his dental practice. The system, consisting of a video camera and a wall-mounted monitor, was intended to allow patients to see magnified images of their dental conditions, facilitating diagnosis and treatment discussions. While the system was useful for all patients, Fan also used it to communicate more effectively with his hearing-impaired patients, who previously communicated via handwritten notes. The system was not marketed specifically for disabled individuals, and Fan did not limit its use to hearing-impaired patients. Fan claimed a disabled access credit under section 44 of the Internal Revenue Code for the system's cost, asserting it was an eligible access expenditure to comply with the ADA.

**Procedural History**

The Commissioner of Internal Revenue disallowed the disabled access credit claimed by Fan for the years 1995 and 1996, treating the cost of the system as a deductible business expense instead. Fan and his wife, Landa C. Fan, filed a petition with the United States Tax Court to contest the Commissioner's determination. The case was assigned to Special Trial Judge Lewis R. Carluzzo, and the court reviewed the matter under a de novo standard, meaning it considered the case anew without deference to the Commissioner's decision.

**Issue(s)**

Whether the cost of an intraoral camera system purchased by a dentist for use in his practice constitutes an eligible access expenditure under section 44(c) of the Internal Revenue Code, specifically for the purpose of complying with the applicable requirements of the Americans with Disabilities Act (ADA).

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## Rule(s) of Law

Under section 44(c)(1) of the Internal Revenue Code, an eligible access expenditure must be “paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements under the Americans With Disabilities Act of 1990” (ADA). The ADA, as outlined in 42 U. S. C. sections 12181-12189, prohibits discrimination on the basis of disability in places of public accommodation, such as a dental office, and requires the provision of auxiliary aids and services to ensure effective communication with disabled individuals.

## Holding

The United States Tax Court held that the intraoral camera system purchased by Fan was not an eligible access expenditure under section 44(c) of the Internal Revenue Code. The court determined that the system was not acquired specifically to comply with the ADA, as Fan was already in compliance using handwritten notes with his hearing-impaired patients, and the system did not replace or serve as an effective alternative to those notes for communication purposes.

## Reasoning

The court’s reasoning focused on the statutory language and legislative intent of section 44, which aims to provide tax relief to small businesses for expenditures made to comply with the ADA. The court noted that Fan was already in compliance with the ADA’s communication requirements for hearing-impaired patients through the use of handwritten notes, which the ADA considers an acceptable auxiliary aid. The intraoral camera system, while beneficial for all patients, was not designed or marketed specifically for disabled individuals, nor did it eliminate the need for direct communication between the dentist and patient. The court emphasized that the system was not an effective method of making aurally delivered materials available to hearing-impaired individuals, as required by the ADA. The court also considered the legislative history of section 44, which indicates Congress’s intent to alleviate the financial burden of ADA compliance on small businesses, reinforcing the requirement that the expenditure must be directly related to ADA compliance to qualify for the credit.

## Disposition

The court entered a decision for the respondent, the Commissioner of Internal Revenue, sustaining the disallowance of the disabled access credit for the years 1995 and 1996.

## Significance/Impact

Fan v. Commissioner clarifies the scope of the disabled access credit under section 44 of the Internal Revenue Code, emphasizing that eligible access expenditures

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must be directly related to compliance with the ADA. This decision has implications for small businesses seeking to claim the credit, as it limits the types of expenditures that qualify. The ruling underscores the importance of the specific purpose behind an expenditure in determining its eligibility for the credit, potentially affecting how businesses approach accessibility enhancements and tax planning. Subsequent cases and IRS guidance have referenced Fan in interpreting the requirements for the disabled access credit, reinforcing its doctrinal importance in tax law related to disability access.

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