

Revenue Ruling 59-316

A taxpayer who attends a convention or meeting as an appointed or elected delegate does not, merely because of that status, become entitled to deduct as business expenses the expenses incurred in connection with his attendance at such convention. In order to be deductible by him, the expenses must be incurred in carrying on the taxpayer's own trade or business activities as distinguished from those of another taxpayer or entity.

Advice has been requested concerning the deductibility of nonreimbursed expenses incurred by an appointed delegate in attending a convention.

Section 162 (a) of the Internal Revenue Code of 1954 provides, in part, as follows:

(a) IN GENERAL.-There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including-

* * * (2) traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; * * *

In order to be deductible, therefore, the expenses must be incurred in carrying on the taxpayer's own trade or business activities as distinguished [*2] from those of another taxpayer or entity.

There is ample precedent for the position that a taxpayer is not permitted to deduct the business expenses of another taxpayer or entity. See *Pearl E. Deputy et al. v. Pierre S. DuPont*, 308 U.S. 488, 84 L. Ed. 416, 60 S. Ct. 363, 1940-1 C.B. 118, Ct. 10. 1435, C.B. 1940-1, 118, where the Supreme Court of the United States, relying on *Samuel J. Kornhauser v. United States*, 276 U.S. 145, 72 L. Ed. 505, 48 S. Ct. 219, 66 Ct. Cl. 763, 1928-2 C.B. 267, T.D. 4222, T.D. 4222, C.B. VII-2, 267 (1928), denied a deduction for expenses since they proximately result not from the taxpayer's business but from the business of the company involved.

In *Wade H. Ellis v. Commissioner*, 15 B.T.A. 1075 affirmed 50 Fed. (2d) 343, a lawyer was allowed deductions for expenses paid in attending a meeting of the American Bar Association but was denied deductions for expenses paid by him as a member, appointed by the American Bar Association, of a "special" committee in making a trip to Europe to make a study of and submit a report on criminal procedure and law enforcement since "the purpose of the trip to Europe was not to educate himself but secure information for the [*3] Bar Association."

An individual may plan to attend a convention or other meeting in his individual capacity with the expectation of advancing the interests of his business and, because of that anticipated attendance, may be appointed a delegate or be considered as a nominee for possible election as a delegate.

An individual who can bring his case within the provisions of section 162 (a) of the Code by making a factual showing that he attended the convention in connection with his own business interests and is, therefore, entitled to a business expense deduction is not deprived of the deduction in the event he should be elected or appointed a delegate and, thus, as an incident of such attendance, serves the organization electing or appointing him. However, no deduction will be allowed for expenses to the extent they are assumed and paid by a nonemployer organization which he represents.

The allowance of deductions for convention expenses as business expenses will depend upon whether the relationship between the taxpayer's trade or business and his attendance at the convention is such that by his attendance he is benefiting or advancing the interests of his trade or business.

One method [*4] of determining whether such a relationship exists is to compare the individual's duties and responsibilities of his own position with the purpose of the meeting as shown by the program or agenda. If personal and business purposes are both involved, a proper allocation must be made in accordance with section 1.162-2 (b) of the Income Tax Regulations.

As stated in the *Deputy v. DuPont* case, *supra*, citing *New Colonial Ice Co., Inc. v. Helvering*, 292 U.S. 345, Ct. D. 841, C.B. XIII-1, 194, (1934), the allowance of deductions from gross income "depends upon legislative grace; and only as there is clear provision therefor can any particular deduction be allowed."

Accordingly, it is held that a taxpayer who attends a convention or meeting as an appointed or elected delegate does not, merely because of that status, become entitled to deduct as business expenses the expenses incurred in connection with his attendance at such convention. In order to be deductible by him, the expenses must be incurred in carrying on the taxpayer's own trade or business activities as distinguished from those of another taxpayer or entity.