



Tax Reduction Letter

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Revenue Ruling 74-264¹

January, 1974

Section 162. Trade or Business Expenses

The taxpayer, a domestic corporation using the accrual method of accounting, is engaged in the wholesale liquor business. In the course of its business the taxpayer purchases whiskey warehouse certificates for whiskey stored in bonded warehouses. Title to the whiskey rests in the taxpayer as certificate holder. During the period that the whiskey is stored, often a period of years, charges for storage, moving, taxes, etc., accrue against the whiskey and are assessed against the certificates. The certificates are unregistered and the warehouses do not know the identity of the holders. As a matter of practice, such charges are not paid by certificate holders until the whiskey is withdrawn. In the instant case, the taxpayer sometimes withdraws the whiskey and pays the charges accrued against the certificates. In other instances, the taxpayer sells the certificates in which case the charges assessed against the certificates are not paid by the taxpayer as they will be paid by whomever is the holder of the certificates when the whiskey is withdrawn.

Held, when the taxpayer withdraws the whiskey from the storage warehouse and the charges assessed against the warehouse certificates are paid by the taxpayer they are added to the basis of the whiskey. Such charges are not deductible as ordinary business expenses. See Rev. Rul. 70-356, 1970-2 C.B. 68 which holds similarly, in the case of an individual taxpayer, that payments for insurance and storage costs are not deductible under section 212 of the Internal Revenue Code of 1954, but must be capitalized under sections 263 and 1012.

Held further, when the taxpayer sells the whiskey warehouse certificates such charges that are not paid by or collectible from the taxpayer are not added to the basis of the certificates in computing the gain or loss on their sale, and are not deductible expenses of the taxpayer.

I.T. 3240, 1938-2 C.B. 140, is superseded, since the position set forth therein is restated under the current statute and regulations in this Revenue Ruling.

¹ Prepared pursuant to Rev. Proc. 67-6, 1967-1 C.B. 576.