

### Revenue Ruling 74-78

Educational expenses; dentist; postgraduate orthodontic study. Expenditures incurred in taking postgraduate studies in orthodontics by a dentist engaged in general practice who returned to dental school on a full-time basis while continuing his practice on a part-time basis and, after completing his training, limited his practice to orthodontic patients are deductible under section 162 of the Code.

Advice has been requested whether, under the circumstances described below, expenditures incurred by a dentist in taking postgraduate studies in orthodontics are deductible for Federal income tax purposes.

The taxpayer, a dentist engaged in general dental practice, returned to dental school for postgraduate study in orthodontics. He attended dental school on a full-time basis continuing his dental practice on a part-time basis. Upon completion of his postgraduate training he became an orthodontist and limited his practice to orthodontic patients.

Section 162 of the Internal Revenue Code of 1954 provides for the deduction of all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 1.162-5 of the Income Tax Regulations provides, in part, that expenditures made by a taxpayer for his education may be deductible as ordinary and necessary business expenses even though the education may lead to a degree if the education (1) maintains or improves skills required by the taxpayer in his employment or other trade or business, or (2) meets the express requirements of the taxpayer's employer, or the requirements of applicable law or regulations imposed as a condition to the retention of an established employment relationship, status, or rate of compensation. Expenses incurred for education which fall within either of the foregoing tests are deductible provided the education is not part of a program of study being pursued by the taxpayer leading to his qualification in a new trade or business or is not required of him in order to meet the minimum educational requirements for qualification in his employment or other trade or business.

As an example of a change in duty that is not a new trade or business, section 1.162-5 (3) (ii), Example (4), of the regulations provides, "C, while engaged in the private practice of psychiatry, undertakes a program of study and training at an accredited psychoanalytic institute which will lead to qualifying him to practice psychoanalysis. C's expenditures for such study and training are deductible because the study and training maintains or improves skills required by him in his trade or business and does not qualify him for a new trade or business."

In the instant case the expenditures by the taxpayer for postgraduate studies in orthodontics were not incurred in connection with qualifying him for a new trade or business but were expenditures

in connection with improving his skills as a dentist. Accordingly, such expenditures are deductible as ordinary and necessary expenditures under section 162 of the Code.