

Revenue Ruling 73-393

July 1973

Wages paid and meals and lodging furnished child employed by father. Reasonable wages paid by a father to his child for services rendered as a bona fide employee in his trade or business are deductible business expenses, even though the child uses the wages for part of his own support. However, the value of meals and lodging furnished by a father to his unemancipated minor child who is his bona fide employee is not deductible as wages by the father or includible in the gross income of the child; I.T. 3812 and Rev. Rul. 59-110 superseded.

The purpose of this Revenue Ruling is to update and restate, under the current statute and regulations, the position set forth in I.T. 3812, 1946-2 C.B. 29, as modified by Rev. Rul. 59-110, 1959-1 C.B. 45.

The questions presented are: (1) whether reasonable wages paid by a father to his child as his bona fide employee are deductible as ordinary and necessary expenses where the child uses the money for part of his own support, and (2) whether the value of meals and lodging furnished by a father to his unemancipated minor child who is his bona fide employee is includible in the gross income of the child and deductible as wages by the father.

Section 162 of the Internal Revenue Code of 1954 provides, in part, that 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 a reasonable allowance for salaries or other compensation for personal services actually rendered.

Rev. Rul. 72-23, 1972-1 C.B. 43, holds that reasonable wages paid by a father to his unemancipated minor child for personal services rendered as a bona fide employee in the conduct of a trade or business are deductible as ordinary and necessary expenses under section 162 of the Code.

Where the facts show that actual services are rendered by a taxpayer's child as a bona fide employee in the operation of the taxpayer's business, and that the compensation paid for such services is reasonable and constitutes an ordinary and necessary expense of carrying on such business, such wage payments are deductible as a business expense for Federal income tax purposes. To hold otherwise would be tantamount to penalizing the father for employing his own child, inasmuch as a deduction would be allowable if he employed someone else's child under the same circumstances.

Section 262 of the Code provides that no deduction shall be allowed for personal, living, or family expenses except as otherwise expressly provided.

A father is legally liable for the support and maintenance of his minor children, and the cost of meals and lodging which he furnishes them constitute a personal expense. Hence, the cost of meals and lodging furnished by a father to his unemancipated minor child constitute a personal expense of the father even though an employer-employee relationship exists between them. However, for wages paid to the child for services actually performed, the fact that there may be a legal obligation to support the child is not determinative of the deductibility of such wages as a business expense. Similarly, the use to which the child puts the wages does not affect their deductibility as an ordinary and necessary business expense. These circumstances merely subject the relationship to closer scrutiny to determine if there is in fact a bona fide employer-employee relationship.

Accordingly, it is held that reasonable wages paid by a father to his child for services rendered as an employee in his trade or business are deductible as ordinary and necessary business expenses for Federal income tax purposes, even though the child uses the wages for part of his support. However, the value of meals and lodging furnished by a father to his unemancipated minor child is not includible in the gross income of the child nor deductible as wages by the father, even though a bona fide employer-employee relationship exists between them.

I.T. 3812 and Revenue Ruling 59-110 are hereby superseded.