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T.C. Memo. 2015-149

JASON R. BECK, Petitioner, v. COMMISSIONER OF INTERNAL REVENUE, Respondent.

United States Tax Court.

Filed August 10, 2015.

*Attorney(s) appearing for the Case**Jason R. Beck, pro se.**Carolyn A. Schenck and Vanessa M. Hoppe, for respondent.*

To all those who seek state and local government cannabis licensing; let it not be said you were not warned. What follows are excerpts from this case and serve to point out the obvious and inherent legal issues that exist between state and local government licensing schemes, i.e. Prop 64, and subjective federal enforcement of the Controlled Substance Act. [See Full Case Documents Here](#)

MEMORANDUM OPINION

GOEKE, Judge.

Respondent determined a \$1,047,743 deficiency in Jason R. Beck's Federal income tax for 2007 and a \$209,549 accuracy-related penalty under section 6662(a).¹ The deficiency resulted from respondent's disallowance of expense deductions claimed on petitioner's Schedule C, Profit or Loss From Business, for a "Health Care" business for the 2007 tax year.² The expenses reported on petitioner's Schedule C relate to the dispensing of medical marijuana. Specifically, expense deductions claimed for Schedule C "other expenses", "rent/lease other business property", "cost of goods sold", and "advertising" were disallowed. Therefore, the issues presented for our decision are:

- (1) whether petitioner is entitled to deduct Schedule C expenses totaling \$194,094 for his medical marijuana dispensaries for the taxable year 2007. We hold that he is not;
- (2) whether petitioner is entitled to Schedule C cost of goods sold (COGS) of \$600,000 for items seized during the Drug Enforcement Administration's (DEA) raid of petitioner's medical marijuana dispensary in West Hollywood, California, for the taxable year 2007. We hold that he is not;³
- (3) whether petitioner is entitled to a section 165 loss deduction of \$600,000 for items seized during the DEA's raid of petitioner's medical marijuana dispensary in West Hollywood, California, for taxable year 2007. We hold that he is not;
- (4) whether petitioner is liable for self-employment tax of \$68,949 for taxable year 2007.⁴ We hold that he is; and
- (5) whether petitioner is liable for the accuracy-related penalty pursuant to section 6662(a) for taxable year 2007. We hold that he is.

III. DEA Raid of the West Hollywood Dispensary

On January 11, 2007, the DEA was authorized to conduct a search of petitioner's West Hollywood dispensary. In the affidavit attached to the Federal search warrant application, the DEA special agent described the items to be seized as evidence, fruits, and instrumentalities of violations of several Federal drug statutes related to possession with the intent to distribute a controlled substance, marijuana. The Central District of California authorized the DEA to seize numerous items, including controlled substances such as marijuana and edibles. On January 17, 2007, DEA special agents entered petitioner's West Hollywood dispensary and conducted a search of the premises. The DEA seized items including controlled substances, food items suspected to contain marijuana, and marijuana plants. The DEA also seized \$1,470.71 and \$11,082.

After the DEA raid, petitioner's West Hollywood dispensary was closed from January 17 through 23, 2007. After execution of the Federal search warrant, the DEA and the Los Angeles Police Department were authorized by the Los Angeles Superior Court to execute a State search warrant at Bank of America for accounts in the name of "Jason Robert Beck". Pursuant to the State search warrant, funds totaling \$2,805 were seized. These funds were believed to be proceeds of marijuana trafficking.

Discussion

California law allows petitioner to dispense medical marijuana to customers through his AHHS dispensaries. However, Federal law prohibits taxpayers from deducting any expense of a trade or business that consists of the trafficking of a controlled substance such as marijuana. See sec. 280E. Respondent disallowed deductions claimed on petitioner's Schedule C related to the operation of his AHHS dispensaries for the 2007 tax year. Petitioner disputes the disallowance and alleges: "[T]he disallowance by the IRS of certain cost of goods for the wholesale expense of cannabis is improper" and the "IRS is not entitled to any tax revenue per its own code, for Medical Marijuana during 2007." Petitioner also states that the "IRS cannot accept tax revenue on this type of business due to its claim that product i[s] illegal." We are asked to decide whether petitioner may deduct certain Schedule C business expenses related to the operation of his AHHS dispensaries. We are also asked to decide whether petitioner is entitled to Schedule C COGS or a section 165 loss deduction for items seized during a DEA raid of petitioner's dispensary and whether petitioner is liable for an accuracy-related penalty.