

TaxNewsFlash

United States



No. 2022-133
April 26, 2022

Eighth Circuit: Expert witness testimony excluded and deductions for management fees denied; Tax Court affirmed

The U.S. Court of Appeals for the Eighth Circuit today affirmed the Tax Court's decision granting the IRS's motion *in limine* to exclude the taxpayer's proffered expert witness testimony, and upholding the IRS' denial of deductions claimed by the taxpayer for management fees paid to its shareholders.

The case is: *Aspro, Inc. v. Commissioner*, No. 21-1996 (8th Cir. April 26, 2022). Read the Eighth Circuit's [decision](#) [PDF 72 KB]

Summary

The taxpayer, an asphalt-paving company, claimed tax deductions on its income tax returns for 2012 through 2014 for management fees paid to its shareholders. The IRS denied these deductions on the ground that the taxpayer failed to establish that it had incurred or paid the management fees for ordinary and necessary business purposes.

At the resulting Tax Court proceeding, each party proffered expert witnesses. The Tax Court excluded the testimony of the taxpayer's experts and upheld the IRS's decision denying the taxpayer's claimed deductions on the ground that the fees were not paid as compensation for services, but were instead disguised distributions of corporate earnings.

The taxpayer appealed, and the Eighth Circuit today affirmed the Tax Court's decision.

The Eighth Circuit found that the Tax Court did not abuse its discretion in excluding the testimony of the taxpayer's expert witnesses because such testimony "would not help the trier of fact understand the evidence or determine a fact in issue." The Eighth Circuit agreed with the Tax Court's determination that the taxpayer's expert witness reports were not helpful or informative because they did not apply scientific principles and methods.

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