

Can You Deduct Your Law School Tuition?

By Robert W. Wood

Most lawyers do not try to deduct their law school tuition or expenses. That is good, since the normal Internal Revenue Service rule is that educational expenses that qualify you for a new career are not tax deductible. But that does not prevent people from trying, as a recent Tax Court case demonstrates.

Most of the case law about attempts to deduct graduate degrees seems to involve MBAs. Obviously, an MBA is a little less specific in the new career department than getting a law, medical or dental degree. We'll come back to MBA degrees, in case you are thinking about that as a potential tax-deductible boondoggle.

But before we turn to what you *shouldn't* deduct, let's underscore what is above reproach on your tax return. You do *not* need to worry about continuing education expenses. They maintain your skills, they do not qualify you for a new career, so they are fair game.

The recent case that might make anyone steer clear of trying to deduct law school concerned Emmanuel Santos, who was in the tax business. See *Santos v. Commissioner*, T.C. Memo. 2016-100. He had an undergraduate degree in accounting, and worked as an enrolled agent preparing tax returns. An enrolled agent is not a CPA, but is someone who registers with the IRS as a tax preparer.

Santos' own tax problems started when he decided to beef up his education. First, he went back to school and (in 1996) earned a master's degree in taxation. That was only a year after he started work, so we don't know if he wrote off his master's degree.

Armed with a masters in tax, he expanded his work, and even did some accounting and financial planning. Undaunted, he then went on to law school, passed the bar, and started a law firm focusing on tax planning. Santos was also admitted to practice before the Tax Court.

He would make use of the Tax Court admission soon. On his tax return for 2010, he reported the income from his tax preparation business on Schedule C, and claimed \$22,000 of law school tuition as a business expense. The IRS disagreed, and Santos went to Tax Court to represent himself.

The general rule is that education expenses are deductible if they maintain or improve skills required in your business or employment. They can also be deductible if your employer (or law) requires you to incur the education expense to keep your job or to keep your current status with your employer. Conversely, you get no deduction if the education:

- Is needed to meet the minimum requirements for your present or intended employment or business;
- Is undertaken to fulfill general education goals or for other personal reasons; or
- Is part of a program that qualifies you for a new trade or business.

There are few cases about law school, and they are not pretty. For example, in *O'Donnell v. Commissioner*, 62 T.C. 781 (1974), the Tax Court concluded that a CPA could not deduct his law school tuition. The CPA lost even though he said he got his law degree to improve his accounting and tax skills, and had no intention of ever practicing law.

The court said that really wasn't the issue. A law degree — assuming bar passage — gave him the ability to do that if he had he wanted to. And that should tell you Santos also would fail.

In fact, the tide was already sufficiently against Santos in Tax Court that he went so far as to argue that the IRS regulations were invalid. That, as you can imagine, is usually a last ditch argument, and it sure was here. Santos lost his first big tax case and had an unhappy client.

The lesson is that you can't expense education that qualifies you for a new career. For a professional degree, it is hard to get past this rule. And for that reason, going to law school, medical school or nursing school is almost never tax deductible. With an MBA, it depends, but even there, it is usually it is also not deductible.

For example, take Adam Hart who was engaged in pharmaceutical sales. See *Hart v. Commissioner*, T.C. Memo. 2013-289. He could not deduct his MBA because he was not firmly established in a trade or business *before* he enrolled in the MBA program. He might have handled it better tax-wise.

Hart graduated from college in 2007, and in 2009 he enrolled in an MBA program. His employment was spotty, but none of his employers *required* him to attend MBA courses. (Yes, some employers might *require* that!) Hart deducted \$17,138 for his MBA education, which the IRS disallowed. Because the Tax Court found he was not carrying on a trade or business, it didn't even have to consider whether the MBA qualified him for a *new* trade or business.

But do MBA tax deductions ever succeed? Sometimes, they do. A good example is *Singleton-Clarke v. Commissioner*, T.C. Summ. Op. 2009-182. Lori Singleton-Clarke had a nursing degree and worked as a nurse or medical administrator for 24 years. Already working in a managerial job, she boosted her skills with an online MBA. She deducted it, the IRS disagreed and she went to Tax Court.

The IRS argued that Lori's MBA qualified her for a *new* job — in fact, she got one! But the Tax Court believed her when she said she got the MBA to become more effective in her *present* duties. Besides, she said, she switched jobs only to work closer to home. She even showed she would have gotten the new job anyway — with or without the MBA!

With degrees that don't signal new careers, your own facts count. Recall that Stringer Bell, a drug dealer in HBO's celebrated series "The Wire," went to business school to beef up his skills as a drug kingpin. We don't know if he deducted the cost of his education, but it isn't a silly thought.

After all, an MBA does not necessarily qualify you for a new career, so whether you can deduct it depends on your situation. A law degree? Probably best to not try that one.



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