

Tax deductions you might overlook

By Robert W. Wood

As tax day approaches, you may be searching high and low for deductions. No one wants to be challenged, which encourages us to keep to the straight and narrow. If you are more adventurous, though, it is comforting to find that some taxpayers have been challenged by the Internal Revenue Service, went to court, and won. Some unusual tax deductions can pass muster.

Swimming pool: The tax rules for medical expenses are amazingly liberal. There is a high percentage threshold for deducting them, so you may not get much of a benefit unless your medical expenses are high. But with big expenses — like a swimming pool — it can pay.

Hebert Cherry had emphysema and installed a swimming pool after his doctor ordered an exercise regimen. He swam twice a day and improved his breathing capacity. In *Cherry v. Commissioner*, T.C. Memo. 1983-470, the Tax Court ruled he could deduct the cost of the pool (to the extent exceeding the amount it added to the value of the property) as a medical expense. Even the cost of heating the pool, pool chemicals, and insurance were deductible.

Payments to your significant other: Douglas Bruce hired his live-in girlfriend to manage his rental properties. Her duties included finding furniture, overseeing repairs and also running his personal household. The IRS thought any pay to her was not a legitimate deduction. But he went to Tax Court and won. Still, the court disallowed the cost of her housekeeping chores as nondeductible personal services. See *Bruce v. Commissioner*, T.C. Memo 1983-121.

Drunk driving expenses: Justin Rohrs drank too much at a party but at least had the good sense to arrange a ride home. A few hours later, he thought he was OK to drive. Unfortunately, he drove off the road and was arrested for driving under the influence. His car was damaged but his insurance company refused coverage since alcohol and the police were involved. So Rohrs paid for the repairs and deducted them as a casualty loss.

The IRS said no to the deductions, but not the Tax Court. The court commented that it wouldn't have allowed his casualty loss argument had he driven straight home from the party and crashed the car. But his reasonable actions gave rise to his reasonable deduction. See *Rohrs v. Commissioner*, T.C. Summ. Op. 2009-190.

Babysitting fees: Babysitters are personal expenses, but occasionally can be something else. June Kingsley paid her sitter so she could be out of the house doing volunteer work for charity. Clearly, the money for the sitter did not go to the charity, and the IRS said there was no deduction. But in *Kingsley v. Commissioner*, T.C. Summ. Op. 1978-74, the Tax Court held the sitter's fees qualified as charitable contributions since they enabled Kingsley's work.

But beware — the IRS position is that “you cannot deduct payments for child care expenses as a charitable contribution, even if they are necessary so you can do volunteer work for a qualified organization.” See IRS Pub. 526, Charitable Contributions, Table 2.

Home landscaping: Home office deductions are notoriously scrutinized so it might surprise you to find that someone deducted not only a home office but home landscaping too. In *Langer v. Commissioner*, T.C. Memo. 2008-255, a sole proprietor regularly met clients in his home office, and he kept up the place to make it suitable for that use. When the IRS denied his deductions he prevailed in Tax Court, deducting a percentage coinciding with the portion of the home he used for business. The court even allowed him to deduct a portion of the costs of lawn care and driveway repairs.

Pet food: Last year an Oakland cat lady got national press for beating the IRS in a cat fight. See *Van Dusen v. Commissioner*, 136 T.C. No. 25 (2011). Her case supports claiming vet bills and cat food as charitable contribution deductions. Sadly, she later faced animal cruelty charges, but even with that ending, hers is not the only successful cat tax case.

In *Seawright v. Commissioner*, 117 T.C. No. 24 (2001), a married couple owning a junkyard put out cat food to attract wild cats. Why, you might ask? The feral cats dealt with snakes and rats, making a safer junkyard for customers. That made cat food a business expense. The IRS thought this was ridiculous, but the junkyard owners won.

Pet moving expenses: If you are changing jobs and meet several tests, you can deduct your moving expenses. See IRS Tax Topic 455, available at <http://www.irs.gov/taxtopics/tc455.html>. You can even deduct the costs of moving your pet. See IRS Pub. 521, Moving Expenses. What's more, this above-the-line deduction is not subject to alternative minimum tax.

Body oil: Corey Wheir, a professional bodybuilder, spent heavily on body oil to make his muscles glisten during competitions. When he deducted the oil on his taxes, the IRS said no. The Tax Court, however, ruled his bodybuilding was a for-profit endeavor and the oil greased the way for more wins. See *Wheir v. Commissioner*, T.C. Summ. Op. 2004-117. However, the court said no to Wheir's deductions for buffalo meat and special vitamins. They may have enhanced his strength and muscle development, but they were not deductible.

Breast augmentation: Medical expenses come in all shapes and sizes, but cosmetic surgery costs are usually not deductible. However, exotic dancer “Chesty Love” tested this rule. Trying for bigger tips, she shelled out for breast implants, bloating her bra size to 56-FF. When she wrote off the bill, the IRS said it was nondeductible cosmetic surgery. But the Tax Court thought her business justification was real. See *Hess v. Commissioner*, T.C. Summ. Op. 1994-79. It allowed tax benefits but required her to claim the implants as depreciable assets, a type of stage prop.

Do these taxpayer victories make you feel more adventurous on your own taxes? Perhaps, but for every taxpayer win, you'll find more losers so be careful.

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