

Actions on Decisions, In re: H. H. MINK & SON BAG CO., INC., ET AL, File No: AOD/AOD Number not available., (Nov. 16, 1970), AOD NUMBER, Internal Revenue Service, (Nov. 16, 1970)

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In re: H. H. MINK & SON BAG CO., INC., ET AL

File No: AOD/AOD Number not available. November 16, 1970

Decision: Court not available., Dkt. Nos.: 2930-67; 2931-67;, T.C. Memo. 1970-177

Internal Control No.: CC:BUF-TC

JW

Uniform Issue List Information:

Uniform Issue List Nos: 0061.25-02

0162.03-01

0162.15-02

0061.17-07

0061.34-06

0162.03-03

0162.08-16

0316.16-01

Tax, Years and Amounts

[Chart data intentionally removed.]

The IRS disallowed personal deductions. The method of disallowance was to increase the entity net income - in this fact set they "added income" vs "reduced expense"

ISSUES

1. Whether partnership consisting of two individual petitioners and corporate petitioner made cash purchases of bags from Bleichfeld Bag Co., Inc. (All dockets) 0061.25-02, 0162.03-01, 0162.15-02
2. Whether cash withdrawals from corporate petitioner constituted dividend income to Hymen and Mervyn Mink. (All dockets) 0061.17-07
3. Whether Hymen Mink received additional compensation because of the personal use of an auto owned by corporate petitioner. Whether distributable partnership income was properly increased because of the partial disallowance of the deduction for auto expenses. (All dockets) 0061.25-02, 0061.34-06, 0162.03-03, 0162.08-16, 0316.16-01

DISCUSSION

1., 2., 3. Until July 1, 1962, Hymen Mink and his son, Mervyn, were equal partners in a bag business. On that date the corporate petitioner was formed by them. During the years 1962 and 1963, the partnership and the corporation wrote checks payable to 'cash', 'petty cash', 'Hymen Mink' or 'Mervyn Mink'. The cash disbursements journal and check stubs showed that such amounts were used to purchase onion and cabbage bage from Bleichfeld Beg. Co., Inc., an unrelated corporation. Hymen and Mervyn both testified. Also a truck driver who had worked for them during the years in issue testified that he picked up bags at Bleichfeld's plant. Respondent called as his witness the president of Bleichfeld. The Court determined that the monies were in fact used to purchase bags from Bleichfeld and that none of it was used by Hymen and Mervyn for their personal benefit. In the statutory notices the Commissioner disallowed \$870 of the auto expense claimed by the partnership. The Commissioner also determined that Hymen received additional compensation of \$870 and \$1,740.00 from the corporation during the years 1962 and 1963 because of the personal use of an auto. The Court determined that Hymen used the cars mainly for business. Consequently, it held that the amounts of the

adjustments should have been \$348, \$348, and \$696, respectively. All of the issues are factual and there is substantial evidence in the record to support the Court's findings.

RECOMMENDATION

1., 2., & 3. Acquiescence.

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