



Appeals of Allyn W. Johnson-i. et al,

The question presented is whether appellant Allyn W. Johnson (hereinafter "appellant") is entitled to deduct the costs associated with his competitive pistol shooting activities.

Appellant is a member of the California Highway Patrol (hereinafter "CHP"). His duties include **maintaining** proficiency in shooting a revolver'. Firearm training is required and, "**may** include participation by patrol members in shooting competition." (Veh. Code, § 2263.) Members are required to participate in a monthly supervised revolver shoot to ensure that they meet minimum qualifications.

The CHP provides part of the funds for a pistol team, selected from CHP members, which represents the department at four in-state pistol matches each year. It is unclear whether appellant is on this pistol team. Competition in other matches is voluntary, on a member's own time and at his or her own expense.

In each of the years 1970, 1971, 1972, and 1973, appellant participated in a number of shooting competitions, both in and out of the state. On his California personal income tax returns for each of those years, he deducted entrance fees, tolls, food and lodging, 'airline fares, and automobile expenses for those competitions. Respondent disallowed the deductions, contending they were **not ordinary** and necessary business expenses. Proposed assessments were issued, appellant protested, and the assessments were affirmed. Appellant then filed this timely appeal.

Appellant contends that the shooting match expenses were incurred in order to maintain and improve a job-required skill and, as such, were ordinary and necessary business expenses, deductible under the regulations regarding educational expenses.

Revenue and **Taxation** Code section 17202, subdivision (a), allows **as** a deduction all "ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business . . . " Ordinary and necessary expenses are generally deductible **if** directly connected with **or pertaining to** the taxpayer's trade or business. (Cal. Admin. Code, tit. 18, reg. 17202(a) (Repealer filed Feb. 21, 1979,

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Register 79, No. 7).) Personal expenses are not deductible. (Rev. & Tax. Code, § 17282.)

The regulations under section 17202, upon which appellant relies, provide further:

Expenditures made by a taxpayer for his education are deductible if they are for education (including research activities) undertaken primarily for the purpose of

(A) Maintaining or improving skills required by the taxpayer in his **employment** or other trade or business, or

(B) Meeting the express requirements of a taxpayer's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the taxpayer of his salary, status or employment. ... (Emphasis added.) (Cal. Admin. Code, tit. 18, reg. 17202(e), subd. (1) (Repealer filed Feb. 21, 1979, Register 79, No. 7).)

To be deductible under the regulation, the expenditures must be made for education. Although "education," as used in regulation 17202(e), is not limited to formal instruction in a school, college or university, we believe participation in shooting matches cannot be considered education, except in the broadest sense of the word. Education is the process by which skill or knowledge is acquired. Competition is not education: it is the application of skills which have already been acquired. Appellant has not presented any evidence of training, instruction, or even, critique of shooting skills at the matches which might indicate that education were involved.

Even assuming, arguendo, that **participation** in competitive shooting matches could be considered education within the meaning of the regulation, appellant does not meet either of the deductibility criteria of the regulation set forth above. Specifically, appellant has not shown that the expenses in question were incurred primarily to maintain or improve his shooting skills or to meet express requirements imposed

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as a condition of his continued salary, status, or employment. Since deductions are a matter of legislative grace, the taxpayer must prove that he is entitled to the deductions claimed. (New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440 [78 L.Ed. 13481 (1934).]) Although shooting in competition may contribute to maintaining or improving skills, the obvious personal nature of participation in shooting matches requires more than mere assertions to establish that such participation was primarily for the purpose of maintaining or improving skills. A permissive statement that firearm training "may include" shooting competition does not constitute an express requirement upon which appellant's continued salary, status, or employment was conditioned. Therefore, the expenses incurred by appellant in connection with competitive shooting matches are nondeductible personal expenses.

For the reasons stated above, we sustain **respondent's action.**

