



Lilly v. CIR, 343 U.S. 90, 97 n.9 (1952)

The taxpayers operated an optical business. Pursuant to agreements reflecting an established and widespread practice in that industry, they paid to the respective doctors, who prescribed the eyeglasses which they sold, one-third of the retail sales price received for the glasses. At issue was whether such payments were deductible by the taxpayers as ordinary and necessary business expenses. The IRS Commissioner disallowed the deductions. The tax court and the court of appeals agreed, ruling that the payments to the doctors were contrary to public policy. Reversing the lower courts, the Supreme Court held that the payments were deductible as ordinary and necessary business expenses. The payments were necessary to allow the taxpayers to establish their business, and they were ordinary in that they reflected a nationwide practice in the optical industry.

The Court Cited

The present trend may lead to the complete abolition of the practice. If so, its abolition will have been accomplished largely by the direct action of those qualified to pass judgment on its justification. This gradually increasing opposition to the practice bears witness to the widespread existence of the practice in such recent times as 1943 and 1944. See Resolution of Section on Ophthalmology of the American Medical Association adopted in June, 1924, but not then presented to the A. M. A. House of Delegates, quoted in 117 A. M. A. J. 498 (1941); Address of Chairman Albert C. Snell, M. D., before the Section on Ophthalmology, 117 A. M. A. J. 497-499 (1941); Principles of Medical Ethics of the American Medical Association (1943 and 1949); editorials in 131 A. M. A. J. 1128 (1946); 136 A. M. A. J. 176-177 (1948).