Library

GENERAL ELECTRIC (P.I) INC.,
Petitioner,

July 14, 1963

- versus - C.T.A. CASE NO. 1117

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

not appealed

x - - - - - - - - - - - - - - - x

DECISION

This is a claim for refund of the amount of ₱9,628.00 representing overpaid income tax for the year 1958.

Petitioner General Electric (P.I.) Inc., a foreign corporation organized under the laws of the State of Delaware, U.S.A., and duly licensed to do business in the Philippines, filed its income tax return for the year 1958 on an accrual method of accounting (Exh. B, BIR rec. p. 16), declaring a net income of ₱587,760.00 on which it paid an income tax in equal installments of ₱78,286.50 on May 4 and August 11, 1959, respectively. It claimed deductions for incentive compensations and overseas travelling expenses in the respective amounts of ₱45,000.00 and ₱39,000.00.

Petitioner has adopted and consistently followed a policy of giving extra allowances, denominated as incentive compensations, to its employees and officers for efficient service rendered during the year. In 1958, the following amounts were deposited to the personal accounts of petitioner's employees as incentive compensations:

J. E. Boots	₱18,000.00
W. A. Powers	10,900.00
J. H. Schlobohm	7,400.00
H. R. Moffett	7,400.00
R. Espinosa	4,200.00
L. Niguidula	4,200.00
D. Vytingco	3,300.00
M. P. Marfil	3,500.00
R. A. Reyes	6,700.00
J. J. Vergara	4,400.00
T o t a l	₱70,000.00

(Exh. F. p. 25, Petitioner's Exhs.)

Similarly, petitioner company defrayed the travelling expenses of an official who was transfered to the Philippines; of another official who took a vacation leave to the United States; and of some of its officials who were sent abroad pursuant to its policy which, as quoted from a communication of its counsel to respondent, follows:

> "The policy of the company is to send each year some of its responsible officers to the United States to get new ideas which can be used in the furtherance of the business of the company. In fact, the present stature of the firm as a going concern can largely be attributed to the result of the added knowledge contributed by its officers who went to the United States solely for the purpose of obtaining an up-to-date knowledge and ideas from parent and affiliated corporations in the field of business the company is engaged in x x x."
> (Exh. 3, BIR rec. p. 35)

The travelling expenses defrayed in 1958 amounted to ₱48,385.54, which amount is itemized as follows:

A. D. Bentley	₱ 9,078.51
J. E. Boots	4,451.81
M. P. Marfil	4,366.71
W. A. Powers	13,534.77
R. A. Reyes	6,010.74
J. H. Schlobohm	10,943.00
T o t a l	₱48,385.54

(Exhs. H-1 to H-6)

Mr. A. D. Bentley, a manufacturing specialist, was brought to the Philippines to help in the planning and implementation of petitioner's manufacturing program. Mr. J. E. Boots, petitioner's general manager, took a vacation leave to the United States after three years stint in the Philippines. Mr. M. P. Marfil, a key apparatus sales engineer, was sent to the United States for educational and training purposes and to follow up specific jobs and projects for petitioner's Philippine business operation. Mr. W. A. Powers, a manager (Finance), was sent to the United States to attend seminars and company business conferences, at the same time for a vacation. Mr. R. A. Reyes, manager of the Apparatus Department, was sent to Brazil to represent the company in a conference of managers of International General Electric. Mr. J. H. Schlobohm, petitioner's vice-president, had an orientation trip to the various products department of petitioner's head office in the United States. He also participated in study groups and observed the operation of latest apparatus equipment.

Subsequently, petitioner filed an amended income tax return for 1958, claiming expense deductions of ₱70,000.00, as incentive compensations, and ₱48,385.54, as overseas travelling expenses. It also filed a claim for refund of the amount of ₱9,628.00, as overpaid income tax, computed as follows:

Net income per original return ..		₱587,760.00
Less understated deductions:		
Incentive compensation	₱25,000.00	
Overseas travel expenses	9,385.54	34,385.54
Net income per amended return ...		553,374.46
Tax due thereon		₱146,945.00
Tax already paid		156,573.00
Amount refundable		9,628.00

Without waiting for respondent's decision on its claim for refund, petitioner instituted the instant appeal in order to preserve its right under Section 306 of the National Internal Revenue Code.

The question raised for our consideration is whether or not petitioner is entitled to the refund of ₱9,628.00, alleged overpaid income tax for the year 1958. This question turns upon the legality of petitioner's claim for deduction of the amounts of ₱70,000.00 and ₱48,559.14, as incentive compensations and overseas travelling expenses, respectively.

Section 30(a)(1) of the National Internal Revenue Code, upon which petitioner justifies its stand, provides:

> "SEC. 30. Deductions from gross income. - In computing net income there shall be allowed as deductions -
>
> "(a) Expenses:
>
> "(1) In general. - All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; travelling expenses while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for the purposes of the trade or business, of property to which the taxpayer has not taken or is not tak-

ing title or in which he has no equity." (emphasis supplied).

To be deductible under the above-quoted provision, business expenses must be (1) ordinary and necessary; (2) paid or incurred within the taxable year; and (3) paid or incurred in carrying on a trade or business (Collector of Internal Revenue vs. Phil. Education Co., G.R. No. L-8505, May 30, 1956; 54 OG 2499).

We believe that all the claims for deduction now in controversy meet the above requisites, and therefore should be allowed.

An expense may be ordinary when it is not unusual in the experience of the group or community of which the taxpayer is a part. To be ordinary it is not required that the expenditure be habitual or normal in the sense that the taxpayer either makes or is required to make them often. An expense is necessary if it is appropriate and helpful in developing and maintaining the taxpayer's business (Mertens, Law of Federal Income Taxation, Section 25.09).

To our mind it is not unusual for petitioner to grant additional compensation to its officers and employees, as an incentive to efficient service; to send them to the different manufacturing plants of its parent corporation for the purpose of acquainting them with the products they are dealing with; and, to send them abroad for vacations after years of service. Needless to say, these business practices obtain in most corporations whose operations are as world-wide as that of petitioner. And the grant of other compensations, in the form of bonuses, to deserving employees is sanctioned by law (Sec. 30(a)(1) of the Tax Code) and is deductible from gross income (See Alhambra Cigar & Cigarette Manufacturing Co., vs. Collector of Internal Revenue, G. R. No. L-12026, May 29, 1959; Kuenzle & Streiff, Inc. vs. Collector of Internal Revenue, G. R. No. L-12010 & L-12113, October 20, 1959).

As regards the necessity of sending responsible employees and officers abroad for training, it is the petitioner itself that can best determine the same, for normally, a taxpayer would not incur an expenditure unless required or justified by the needs of the business (Lilly vs. Commissioner, 343, U. S. 90; 96 L. ed. 769). Thus, for being ordinary and necessary, expenses incurred by employees of a corporation for the purpose of attending a refresher course in new processing procedures connected with the taxpayer's business were held by the United States Tax Court as deductible from gross income (Pacific Grape Products Co. vs. Commissioner of Internal Revenue, 17 TC 1097). For the same reason, expenses incurred by an officer of a corporation for the purpose of attending a convention related to its business were allowed as deductions (Portland Damascus Milk Co. vs. Commissioner of Internal Revenue 22 BTA 1236). Furthermore, travelling expenses incurred during the business trips of an officer of a corporation for the purpose of contacting other business establishments which have business relations with the taxpayer are allowable deductions as ordinary and necessary expenses incurred in running the business (See Edgar A. Basse vs. Commissioner of Internal Revenue, 10 TC 328). Finally, travelling expenses incurred in the transfer of assignment of a company's employee or official from one place to another and those defrayed in going to and from the place of vacation are also allowed as expense deductions.

Inasmuch as petitioner actually incurred and paid in 1958 the amounts of ₱70,000.00, as incentive compensation, and ₱48,385.54 as overseas travelling expenses, it should be allowed to deduct the same from its gross income for the said year (See Whitney Coal Mining Co., 4 BTA 310; Verndale Garage, Inc. vs. Commissioner of Internal Revenue, 15 BTA 57).

IN VIEW OF THE FOREGOING CONSIDERATIONS, the Commissioner of Internal Revenue is hereby ordered to refund to petitioner General Electric (P.I.) Inc. the sum of ₱9,628.00 as overpaid income tax for the year 1958. Without special pronouncement as to costs.

SO ORDERED.

Manila, July 14, 1963.

AUGUSTO M. LUCIANO
Associate Judge

I concur:

ROMAN M. UMALI
Associate Judge