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THE TAX LAWYER

TAXES | 5/08/2013

# Mother's Day? Son Claims \$1.2M Tax Write-Off For Helping Mom

How much would you pay to have your child take care of you when you're old and infirm? What if your child gave up practicing as a lawyer—a tax lawyer no less—to care for you? Perhaps plenty, but probably not \$1.2 million.

That's one lesson from [Estate of Olivo v. Commissioner](#). The court considered whether mom's estate could deduct \$1,240,000 for son's services before mom died. Tax lawyer Anthony Olivo worked in law firms from 1976 to 1988, then opened his own practice.

Yet by 1994, he was devoting so much time to his parents and their health problems that it was hard to maintain his practice. He lived with his parents and gave them round-the-clock care. That left little time to practice law, so from 1994 through 2003, he earned almost nothing from his practice.

So when they died he figured the estate should pay him all those lost wages. Hey, it's deductible, he said. The court had to decide whether the estate could deduct the \$1,240,000. On top of that was the \$44,200 administrator's



commission Anthony received, not to mention \$55,000 in accountant's and attorney's fees.

The court was careful to say that Anthony rendered extraordinary care. Hey, this was a doting son. His efforts were commendable. However, mom's estate couldn't prove that Anthony was entitled to any pay or how much his services were worth.

There was no contract, no invoice, and no evidence the family agreed to pay him anything. Sure, Anthony gave round-the-clock care. The family would have hired round-the-clock nurses if he hadn't been there.

But he was, and the fact that a nurse would have been paid didn't mean pay to Anthony was deductible. Anthony even considered billing the estate for his legal services.

After all, apart from his personal care and for administering the estate, he performed legal work too. He filed the estate tax return, handled an IRS audit and the estate's Tax Court petition.

But here again, Anthony was out of luck. He didn't keep time records, prepare invoices, or establish the value of what he did. He merely estimated his hours at a \$150 hourly rate. That kind of loosey-goosey estimate wasn't enough for a deduction.

The biggest lesson? Contracts, invoices, and good record-keeping are as important with family or related parties as anywhere else. In fact, perhaps there's a bigger reason for being scrupulous with family and related parties: to save yourself headaches with the IRS. Happy Mother's Day, Mom.

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