2 T.C. 305 (1943)

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Expenses for maintaining property, including depreciation, are deductible for income tax purposes if the property is held for the production of income, even if it is not currently producing income, provided the taxpayer has abandoned the property as a personal residence and taken affirmative steps to rent or sell it.

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Summary

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Mary Laughlin Robinson abandoned her former home and sought to deduct expenses related to its upkeep and depreciation. The Tax Court initially denied the deduction, but the case was remanded to consider amendments to the Internal Revenue Code. The court then held that because Robinson had abandoned the property as a personal residence and actively sought to rent or sell it, the expenses and depreciation were deductible as the property was now being "held for the production of income," regardless of whether it was currently generating income. This case clarifies the conditions under which expenses can be deducted for property no longer used as a personal residence.

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Facts

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In 1931, Robinson inherited a residential property and moved into it, abandoning her previous home in Pittsburgh. In 1932, she listed the Pittsburgh property for rent or sale with two real estate firms. Despite diligent efforts by these firms, the property was never rented or sold. From 1934 through the tax years 1936 and 1937, the garage (separate from the house) was rented to the caretaker for $25/month, which was reported as income. Robinson paid the caretaker $840 annually. Robinson sought to deduct these payments and depreciation on the house.

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Procedural History

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The Commissioner of Internal Revenue disallowed Robinson's deductions. The Tax Court initially upheld the Commissioner's decision, denying the deduction. The case was appealed and affirmed, but remanded to consider the applicability of amendments to Section 23 of the Internal Revenue Code as amended by Section 121 of the Revenue Act of 1942. The Tax Court then reconsidered the case in light of the amended statute.

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Issue(s)

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Whether expenses for services of a caretaker and depreciation on a property, formerly used as the taxpayer's residence but abandoned and listed for rent or sale, are deductible under Section 23(a) of the Revenue Act of 1936, as amended by Section 121 of the Revenue Act of 1942, as expenses related to property "held for the production of income," even if the property is not currently producing income.

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Holding

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Yes, because the amended statute allows deduction of expenses for the

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