6 T.C. 138 (1946)

The fair rental value of employer-provided housing is excludable from an employee's gross income to the extent the housing is furnished for the convenience of the employer, even if it also benefits the employee.

Summary

Olin O. Ellis, president and stockholder of Guilford Realty Co., received rent-free housing in one of Guilford's apartment buildings. The IRS included the full rental value of the apartment in Ellis's gross income. The Tax Court held that a portion of the rental value was excludable from Ellis's income because the housing was partly for the convenience of the employer, as Ellis served as a night manager. The court overruled its prior decision in *Ralph Kitchen*, which required housing to be furnished "solely" for the employer's convenience to be excludable.

Facts

Olin O. Ellis was the president, chairman of the board, and a stockholder of Guilford Realty Co., which owned and operated several apartment buildings. Ellis also served as president of two subsidiaries of Guilford. He received a salary from each of the three companies. Ellis also received rent-free an apartment in the Cambridge Arms, one of Guilford's largest buildings, with a fair rental value of $1,800 per year. Prior to October 1940, the Cambridge Arms had a manager who lived on-site. After the manager moved, Ellis assumed the duties of night manager, responding to tenant requests from 5:30 p.m. to 8:00 a.m. Guilford required its apartment building managers to live on the premises, and other large apartment houses in Baltimore followed the same practice. The Tax Court found the apartment was furnished partly because Guilford wanted Ellis to live on the premises and partly to compensate him for his services.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Ellis's income tax, including the full rental value of the apartment in his gross income. Ellis petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether the rental value of an apartment furnished to an employee is includable in the employee's gross income when the apartment is furnished partly for the convenience of the employer and partly as compensation to the employee.

Holding

No, because the regulations exclude the value of living quarters furnished to employees for the convenience of the employer. The court determined that $1,000 of the rental value was for the employer’s convenience and should be excluded from gross income.

Court’s Reasoning

The court referenced Treasury Regulations providing an exclusion from taxable income for "living quarters… furnished to employees for the convenience of the employer." While Ellis’s occupancy was partly for the employer’s convenience, it was also partly to compensate him for his work. The court found it impossible to conclude the occupancy was “solely” for the employer’s convenience. Distinguishing this case from situations where the employer and employee deal at arm’s length, the court noted Ellis’s multiple roles with Guilford Realty Co. influenced the arrangement. The court limited the excludable amount to the rental value of the living quarters furnished to Ellis’s predecessor ($1,000), which represented the value attributable to the employer’s convenience. The court explicitly overruled its prior decision in *Ralph Kitchen*, which required services to be furnished "solely" for the employer’s convenience to qualify for exclusion, noting that this requirement was not found in the regulations.

Practical Implications

Ellis v. Commissioner clarifies that employer-provided housing need not be exclusively for the employer’s benefit to be excludable from the employee’s gross income. The decision allows for a partial exclusion when the housing serves both the employer’s convenience and as employee compensation. Attorneys should analyze the facts of each case to determine the extent to which the housing benefits the employer. Later cases and IRS guidance will provide further clarity on how to allocate the value of housing when it serves multiple purposes. This case also underscores the importance of examining the underlying regulations and not relying solely on prior case law that may not accurately reflect the current legal standards.

