6 T.C. 851 (1946)

A taxpayer's "home" for purposes of deducting traveling expenses under Section 23 of the Internal Revenue Code is the location of their primary place of business or employment, not necessarily their personal residence.

Summary

Arnold Bark, a resident of Pittsburgh, claimed deductions for meals and lodging in Philadelphia, where he worked on a project for Midvale Co. He argued these were deductible traveling expenses while away from home. The Tax Court disallowed the deductions, finding Philadelphia to be his tax home because his employment there, initially temporary, became indeterminate. The court reasoned that the expenses were not incurred while away from his place of business, employment, or post/station, thus they were personal expenses, not deductible business expenses.

Facts

Bark resided in Pittsburgh with his family and accepted employment with Midvale Co. in Philadelphia to supervise the installation of a forging press. The initial agreement was for approximately three months. His post of duty was Philadelphia. Midvale later engaged Bark on additional projects, extending his employment. Bark visited his family in Pittsburgh frequently. He deducted expenses for railroad fare (allowed by the IRS), hotel rooms, and meals while in Philadelphia.

Procedural History

The Commissioner of Internal Revenue disallowed deductions for Bark's hotel and meal expenses in Philadelphia, determining they were personal expenses, not business-related traveling expenses. Bark petitioned the Tax Court for redetermination of the deficiency.

Issue(s)

Whether the expenses for hotel rooms and meals incurred by the petitioner in Philadelphia are deductible as "traveling expenses" under Section 23 of the Internal Revenue Code.

Holding

No, because the expenses were not incurred while away from his "home" for tax purposes, which the court determined to be Philadelphia, his primary place of employment.

Court's Reasoning

The Tax Court relied on section 23, Internal Revenue Code, allowing deductions for

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traveling expenses (including meals and lodging) while away from home in the pursuit of a trade or business. It also cited Section 24, Internal Revenue Code, which disallows deductions for personal, living, or family expenses. The court distinguished this case from Harry F. Schurer, 3 T. C. 544, noting that Bark's employment, initially temporary, had become of indeterminate duration. The court emphasized that Bark's post of duty was Philadelphia, and his trips to Pittsburgh were for personal reasons. Retaining a residence in Pittsburgh was a matter of personal choice. Therefore, the expenses in Philadelphia were not deductible traveling expenses. The court also cited Commissioner v. Flowers, <span normalizedcite="326 U.S. 465“>326 U.S. 465 to reinforce that business travel expenses must be directly related to the pursuit of business.

Practical Implications

This case illustrates that the "tax home" is generally the taxpayer's principal place of business or employment, which significantly impacts the deductibility of travel expenses. Taxpayers accepting assignments or employment in a location different from their residence must consider whether the assignment is temporary or indefinite. If the employment becomes indefinite, the IRS is likely to consider that location the taxpayer's "tax home," and related living expenses will be deemed nondeductible personal expenses. Later cases cite Bark to determine whether expenses are incurred "away from home."

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