10 T.C. 476 (1948)

To qualify for income averaging under Section 107 of the Internal Revenue Code, at least 80% of the total compensation for personal services must be received in one taxable year; income from a single employment contract cannot be artificially split to meet this threshold.

Summary

Harry Boverman, an assistant manager at Metropolitan Life Insurance Co., sought to allocate commissions received in 1942 from insurance policies sold in 1941 to prior years under Section 107 of the Internal Revenue Code. The Tax Court held that Section 107 was inapplicable because Boverman did not receive at least 80% of his total compensation for those services in one taxable year. The court also determined the deductible amount of Boverman's business expenses, disallowing expenses that violated his employment contract or lacked substantiation. This case clarifies the requirements for income averaging and the deductibility of business expenses.

Facts

Harry Boverman worked as an assistant manager for Metropolitan Life Insurance Co. from 1935 to 1945. He received a salary, commissions on policies he sold, and overwriting commissions on policies sold by agents he supervised. In 1941, he sold $900,000 worth of insurance policies to three brothers, receiving $10,638.28 in commissions in 1942. He also received renewal commissions in subsequent years. Boverman claimed deductions for entertainment, fares, telephone, and other expenses related to his work. However, his employment contract prohibited offering prizes or awards. Boverman kept a diary of his expenses, but the entries were often approximations.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Boverman's income tax for 1943 and adjusted his 1942 income due to the Current Tax Payment Act of 1943. The Commissioner disallowed a portion of Boverman's claimed business and medical expenses. Boverman petitioned the Tax Court, contesting the Commissioner's determination.

Issue(s)

1. Whether Section 107 of the Internal Revenue Code applies to commissions received by Boverman in 1942 for insurance policies sold in 1941, allowing him to allocate the income to prior years.
2. What amount of business expenses incurred by Boverman are deductible for the tax years 1942 and 1943?

Holding

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1. No, because Boverman did not receive at least 80% of his total compensation for the personal services related to the insurance policies in one taxable year.
2. Boverman can deduct $1,000 in business expenses for 1942 and $1,200 for 1943 because he did incur deductible expenses, but he did not adequately substantiate his claims.

Court’s Reasoning

The court reasoned that Section 107 requires at least 80% of the total compensation for personal services to be received in one taxable year. Boverman’s total compensation from the Cohen policies was $16,065.66 over several years, with only $10,638.28 received in 1942. The court rejected Boverman’s attempt to separate

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