12 T.C. 656 (1949)

Living expenses incurred at a taxpayer's principal place of employment are generally not deductible as traveling expenses, even if the taxpayer maintains a residence elsewhere.

Summary

Robert F. Green, a flight instructor in Uvalde, Texas, sought to deduct expenses for meals and lodging incurred in Texas, arguing his tax home was in Iowa, where he maintained a family residence and was involved in other businesses. The Tax Court disallowed the deduction, holding that Uvalde was Green's principal place of employment since he spent the majority of his time there. The court reasoned that expenses at Green's primary place of business were not deductible traveling expenses, even though he also had business interests elsewhere and maintained a family home in Iowa.

Facts

Robert F. Green lived in Sutherland, Iowa, and was a partner in Sutherland Creamery Co. and a vice president of Security State Bank. In November 1943, Green and another partner took jobs as flight instructors at Hangar Six, Inc., in Uvalde, Texas. Green spent approximately 330 days in Uvalde and 35 days in Sutherland during 1944. He maintained a residence in Sutherland, where his wife and children lived, and retained his affiliations with local organizations. Green received income from Hangar Six, the creamery, and the bank.

Procedural History

The Commissioner of Internal Revenue disallowed Green's claimed deductions for living expenses incurred in Uvalde. Green petitioned the Tax Court for review of the Commissioner's determination.

Issue(s)

Whether expenses for meals and lodging incurred at the taxpayer's post of duty are deductible as traveling expenses when the taxpayer maintains a residence elsewhere and derives income from other businesses at that location.

Holding

No, because the expenses were incurred at the taxpayer's principal place of employment, not while "away from home" in the context of deductible traveling expenses.

Court's Reasoning

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The Tax Court relied on *Ney v. United States*, which held that living expenses at a taxpayer's principal place of employment are not deductible. The court emphasized that Green spent the majority of his time in Uvalde and considered it his "main employment." The court stated that Green was free to devote only his leisure time to his other activities in Iowa. The court distinguished between transportation costs, which the Commissioner allowed as a deduction for travel between Uvalde and Sutherland, and living expenses incurred at Green's primary work location. Expenses for transportation between Green's lodging and the flying field were also disallowed, citing established precedent that commuting expenses are not deductible. The court concluded that the expenses were personal living expenses incurred at his primary place of business.

Practical Implications

Green v. Commissioner reinforces the principle that a taxpayer's "tax home" is typically their principal place of business, regardless of where they maintain a personal residence. This case serves as a reminder that deductions for "traveling expenses" under Section 162(a)(2) of the Internal Revenue Code are generally limited to expenses incurred while temporarily away from one's tax home in pursuit of a trade or business. It is also important to consider the frequency and duration of work at each location to determine the primary place of business.

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