20 T.C. 285 (1953)

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When a husband and wife are each employed in different cities for an indefinite period, neither can deduct living expenses (food and lodging) incurred at their respective places of employment as business-related “traveling expenses” under Section 23(a)(1)(A) of the Internal Revenue Code; such expenses are considered personal and nondeductible.

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Summary

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Arthur Hammond, an attorney working in Baton Rouge, and his wife, a radio commentator in New Orleans, both claimed deductions for living expenses in their respective work locations. The Tax Court disallowed these deductions, holding that because their employment in separate cities was indefinite, their living expenses were personal and not deductible as business-related traveling expenses. This decision reinforces the principle established in Commissioner v. Flowers that living expenses at a taxpayer’s primary place of employment are generally not deductible, even if they maintain a residence elsewhere.

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Facts

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Arthur Hammond, an attorney, was employed as general counsel for the Louisiana State Department of Highways in Baton Rouge from 1940-1948. His wife, Hilda Phelps Hammond, worked as a radio commentator, lecturer, and writer in New Orleans. They maintained a matrimonial domicile in New Orleans and had two children living there during the tax years in question (1944-1947). Hammond spent five days a week in Baton Rouge for his job. The couple filed separate tax returns, each reporting half of their combined income and deducting half of Hammond’s Baton Rouge expenses.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in Arthur Hammond's income taxes for the years 1944-1947, disallowing deductions claimed as traveling expenses. Hammond petitioned the Tax Court for review. The proceedings for Hammond and his wife were consolidated for hearing and opinion.

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Issue(s)

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Whether the expenses incurred by Arthur Hammond for food and lodging in Baton Rouge, his principal place of employment, are deductible as "traveling expenses while away from home in the pursuit of a trade or business" under Section 23(a)(1)(A) of the Internal Revenue Code.

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Holding

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No, because the expenses for meals and lodging at the taxpayer's place of principal employment are considered personal and living expenses, which are expressly nondeductible under Section 24(a)(1) of the Internal Revenue Code, even if the taxpayer maintains a permanent residence elsewhere.

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Court's Reasoning

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The Tax Court relied heavily on the Supreme Court's decision in *Commissioner v. Flowers*, which established that expenses for meals and lodging at the taxpayer's principal place of employment are personal and nondeductible. The court stated that "The fact that petitioner chose to maintain a permanent residence at a place away from the city where he was regularly employed does not serve to permit the deduction of his living expenses at his place of employment." The court distinguished *Wallace v. Commissioner*, where a motion picture actress's expenses in Hollywood were deductible because her engagements there were "casual, professional, and temporary," unlike Hammond's indefinite employment in Baton

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Rouge. The court also rejected the argument that Mrs. Hammond's expenses in New Orleans should be deductible, finding the *Flowers* principle equally applicable to her situation. The court emphasized that the community property laws of Louisiana do not change the fundamental principle that personal living expenses at one's primary place of employment are not deductible.

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Practical Implications

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This case clarifies that taxpayers cannot deduct living expenses at their principal place of employment, even if they maintain a residence elsewhere. It highlights the importance of distinguishing between temporary work assignments and indefinite employment when determining the deductibility of travel expenses. Taxpayers with long-term work arrangements in a different location from their residence should expect that expenses for food and lodging at the work location will be treated as non-deductible personal expenses. This ruling reinforces the IRS's scrutiny of travel expense deductions, particularly in situations where taxpayers maintain multiple residences or work locations. Later cases cite Hammond to reinforce the principle that the

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