28 T.C. 994 (1957)

Payments from an employer, even if designated as expense allowances, are considered gross income under federal tax law if they are not tied to actual expenses, and if they lack any restrictions on their use.

Summary

In *Geer v. Commissioner*, the U.S. Tax Court addressed whether certain payments received by a state judge were taxable income. The judge received reimbursement for travel, meals, and lodging, including a mileage allowance for his car. He included these amounts in his income and deducted them as expenses. He also received a "contingent expense allowance" in addition to his salary. The court held that the judge failed to prove that the mileage allowance did not include depreciation and disallowed the additional deduction. The court also ruled that the contingent expense allowance, unrelated to actual expenses and paid unconditionally, was gross income under the Internal Revenue Code.

Facts

Walter I. Geer, a Georgia Superior Court judge, received a fixed salary and reimbursement for expenses incurred while performing his judicial duties outside his county of residence. The reimbursement covered travel, meals, and lodging based on actual expenditures. For private vehicle use, he received a mileage allowance. Geer reported the reimbursement as income and deducted the same amount as expenses. Additionally, the state provided a "contingent expense allowance" of $200 per month, irrespective of actual expenses, in addition to his salary.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Geer's income tax for 1951 and 1952. The judge challenged the disallowance of depreciation deductions related to his car and the inclusion of the "contingent expense allowance" in gross income. The case proceeded to the United States Tax Court.

Issue(s)

1. Whether the Commissioner erred in disallowing claimed depreciation deductions for the judge's automobile.

2. Whether the Commissioner erred in determining that the "contingent expense allowance" was includible in gross income.

Holding

1. No, because Geer failed to show that the mileage allowance did not account for

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automobile depreciation, and he did not prove the actual amount of deductible expenses.

2. Yes, because the “contingent expense allowance” constituted gross income under the Internal Revenue Code.

Court’s Reasoning

Regarding the depreciation deductions, the court held that the mileage allowance could have included an amount for depreciation. Since Geer did not demonstrate that the reimbursement, including the mileage allowance, failed to account for his car’s depreciation, he could not claim a separate deduction. The court emphasized the taxpayer’s burden to prove that expenses exceeded reimbursement. Further, the court found that Geer offered no evidence of an excess of expenses over reimbursement or a basis for apportioning automobile depreciation between personal and official use.

Regarding the “contingent expense allowance,” the court found that the State of Georgia could not alter the federal definition of income by how it designated payments. The allowance, being a regular, fixed payment unrelated to actual expenses, without restrictions on its use, and not requiring an accounting, was deemed compensation for services and therefore taxable gross income. The court cited Section 22 (a) of the Internal Revenue Code of 1939, which defines gross income broadly and includes compensation for services, regardless of the form it takes or how the state labels it. The court stated, “*125 The contents of the package do not change because a different label has been affixed.”

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