Olkjer v. Commissioner, 32 T.C. 464 (1959)

Meals and lodging provided by an employer are excludable from an employee's gross income if furnished for the convenience of the employer, and the employee is required to accept such lodging on the business premises as a condition of employment.

Summary

The Tax Court considered whether an engineer working in Greenland for a construction company could exclude from his gross income the value of meals and lodging provided by his employer. The court held that the meals and lodging were provided for the convenience of the employer, despite the employee being charged for these services, and thus were excludable from his gross income under Section 119 of the 1954 Internal Revenue Code. The decision emphasized that the nature of the remote work location necessitated employer-provided facilities, making them essential for the job's completion and therefore primarily for the employer's convenience.

Facts

William I. Olkjer, a construction engineer, worked for North Atlantic Constructors at Thule, Greenland. The terms of his employment were governed by a written agreement. The agreement stipulated that the employer would provide meals, lodging, and other services, with the employee charged $5.75 per day, deducted from wages. No other meal and lodging facilities were available at the remote jobsite. The government subsidized the costs of providing these services beyond the daily charge to the employees. Olkjer claimed deductions on his income tax returns for the amounts deducted from his wages for these facilities during 1954 and 1955, which the IRS disallowed.

Procedural History

The case was brought before the Tax Court to challenge the IRS's disallowance of the deduction claimed by Olkjer for the value of meals and lodging furnished by his employer. The case was fully stipulated and decided by the Tax Court.

Issue(s)

1. Whether the meals and lodging furnished to the petitioner were for the convenience of the employer under section 119 of the Internal Revenue Code of 1954.

2. If the meals and lodging were for the convenience of the employer, what portion of the $5.75 per day charge could be excluded, given the inclusion of other facilities such as laundry and medical services.

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Holding

1. Yes, the meals and lodging were furnished for the convenience of the employer because they were indispensable for the work to be accomplished.

2. The court allowed the exclusion of 80% of the amounts deducted from the petitioner's wages for meals and lodging.

Court's Reasoning

The Tax Court focused on the "convenience of the employer" test under Section 119 of the 1954 Internal Revenue Code. The court found that the employer was vitally interested in ensuring the employee's ability to perform his duties, which in the remote location of Greenland, necessitated providing meals and lodging. The court noted that the employer, consistent with the conditions encountered, had agreed to provide board, lodging, and medical services at the job site. The court found the provision of meals and lodging was not a matter of choice, but an integral and necessary element of the job due to the remote location and the lack of alternative facilities. The court stated, "Food and lodging were necessary in order to have petitioner on the job at all, and in this respect were more than a mere convenience of the employer." The fact that the employee was charged for these services did not negate the finding that the meals and lodging were primarily for the convenience of the employer. The court noted that while the employee may have benefited, the statute's test prioritized the employer's convenience. Regarding the second issue, because the contract included other services and the record did not specify the exact cost of the meals and lodging, the court applied the *Cohan* rule to estimate the excludable value, allowing 80% of the amount deducted.

Practical Implications

This case provides a practical guide to interpreting the "convenience of the employer" rule in cases where employers provide meals and lodging. The court emphasizes that the nature of the work location and the necessity of the employer-provided facilities are key factors. The case signals that if the employer's ability to conduct business depends on providing such amenities in a remote area, such benefits are more likely to be excluded from the employee's gross income, even if the employee is charged for them. It is important to note that the IRS eventually adopted the holding in this case (TIR-158). In similar scenarios, attorneys should focus on demonstrating that the lodging is essential for the employee to perform their job, that no other options are available, and that the provision of meals and lodging benefits the employer's business more than the employee. The case highlights the need to document the essential nature of the facilities. Further, cases involving on-site lodging will likely hinge on whether the lodging is a requirement of employment or a mere perk.

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