George I. Stone, et ux. v. Commissioner, 32 T.C. 1021 (1959)

The value of meals and lodging furnished by an employer to an employee is excludable from the employee's gross income if it is provided for the convenience of the employer, meaning it is required for the employee to properly perform their duties.

Summary

In *Stone v. Commissioner*, the Tax Court addressed whether the value of board and lodging furnished to supervisory employees at a remote construction site in Alaska was includible in their gross income. The court held that the value of the meals and lodging was excludable because they were provided for the convenience of the employer, as it was necessary for the employees to be at the site at all times to perform their duties. The court emphasized that the remote location, the around-the-clock operation, and the lack of alternative accommodations meant the employer-provided housing was essential, not merely compensatory. The Commissioner's argument, based on the employer's bookkeeping and tax withholding practices, was rejected because it did not change the underlying facts that the lodging was essential for the job.

Facts

- George I. and Myrtle Y. Stone were employed as supervisory personnel on a tunnel construction project in Alaska, approximately 40 miles from Anchorage.
- The project operated 24/7.
- Due to the remote location and harsh weather, the employer provided a camp with board and lodging for all employees, including supervisors.
- The Stones lived at the camp, although there was no express requirement for them to do so. However, no other accommodations were available, so they were compelled to accept the quarters and meals to carry out their duties.
- George Stone was the equipment superintendent and Myrtle Stone was the stewardess in charge of the camp dining room.
- The employer made book entries reflecting a charge for board and lodging but then entered a counter-credit of an equal amount.
- The employer withheld income taxes based on the salary and the initially credited amounts for board and room.
- The Stones reported the full amount on their W-2 forms and then subtracted the value of the board and room credits, claiming it as an expense away from home. The Commissioner disallowed the deduction but did not determine whether those amounts could be excluded from income as "living quarters or meals furnished to employees for the convenience of the employer."

Procedural History

The Commissioner determined a deficiency in the Stones' income tax. The Stones

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challenged the deficiency in the Tax Court, arguing that the value of the board and lodging should be excluded from their income as furnished for the convenience of the employer. The Tax Court sided with the Stones.

Issue(s)

1. Whether the value of the board and lodging furnished to the Stones by their employer should be excluded from their gross income as being furnished for the convenience of the employer.

Holding

1. Yes, because the meals and lodging were furnished for the convenience of the employer.

Court's Reasoning

The court relied on Treasury Regulations 118, section 39.22(a)-3 of the Internal Revenue Code of 1939, which stated that the value of meals and lodging provided to employees need not be included in gross income if furnished "for the convenience of the employer." The court noted that whether the meals and lodging were furnished "for the convenience of the employer" was a question of fact to be resolved based on the surrounding circumstances. The Court recognized a long-standing principle that "Treasury regulations and interpretations long continued without substantial change, applying to unamended or substantially reenacted statutes, are deemed to have received Congressional approval and have the effect of law."

The court found that the remote location, the 24-hour operation of the project, and the lack of alternative accommodations made the employer-provided lodging and meals essential for the Stones to perform their duties. The court emphasized the practical necessity of the arrangement, as no other accommodations were available. The court also rejected the Commissioner's arguments based on the employer's bookkeeping practices and tax withholding methods. The court stated, "Bookkeeping entries even of a taxpayer himself, though of some evidentiary value, are not conclusive and decision must rest on the actual facts."

The court distinguished that the fact that the employees also benefited from the lodging and meals was not controlling. As the court noted, the Treasury Regulations did not exclude the value of such food and lodging, based on the idea that because the employee was also benefited by the arrangements, they should be deprived of the benefits of the "convenience of the employer" rule.

Practical Implications

This case establishes a practical test for determining when the value of employer-provided meals and lodging may be excluded from an employee's gross income. The key factors are:

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- The location of the work.
- Whether the nature of the job required the employee to be available at all times.
- The lack of alternative accommodations.

Employers and employees in similar situations, especially in remote locations or those with 24/7 operations, should consider this ruling when structuring compensation packages and determining tax liabilities. The decision also suggests that the form of financial accounting used by employers does not control whether the "convenience of the employer" exception applies.

Later cases, such as *Olkjer v. Commissioner*, further clarified the application of the "convenience of the employer" rule, emphasizing that the determination is highly fact-specific.

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