33 T.C. 58 (1959)

A taxpayer is not entitled to a sick pay exclusion under section 105(d) of the Internal Revenue Code for wages received during a vacation period when they were not expected to work, even if they voluntarily performed work during a portion of the vacation and became ill.

Summary

In *Weinroth v. Commissioner*, the U.S. Tax Court addressed whether a school teacher could exclude wages received during a summer vacation when they were incapacitated due to illness under section 105(d) of the Internal Revenue Code. The teacher voluntarily agreed to work on tasks during his vacation but became ill. The court held that the sick pay exclusion did not apply because the teacher was not "absent from work" during a period when they were not expected to work. This case clarifies the application of the sick pay exclusion, particularly in the context of vacation periods, highlighting the requirement for the employee to be absent from a time they would otherwise be expected to work due to illness.

Facts

Edward I. Weinroth, a high school teacher in New York City, was employed by the Board of Education. His employment was subject to the New York State Education Law, which defined the school year. The school year ran from July 1st to June 30th. The Board of Education bylaws granted teachers specific vacation and holiday periods, including the interval between June 30th and the second Monday in September. In June 1955, Weinroth's principal asked him to revise lesson plans and review textbooks during the summer. Weinroth agreed to perform these tasks. He began the tasks on July 1, 1955, but ceased work on July 3 due to a back condition. He was hospitalized from July 5 to July 19, 1955, and remained incapacitated through July and August 1955. Classes resumed on September 12, 1955, and Weinroth returned to his teaching duties. The Board of Education bylaws provided for 10 days of sick leave with pay, but Weinroth was not charged with any sick leave during his illness. He received his regular salary during his illness. Weinroth excluded a portion of his income as "sick pay" on his tax return, which the IRS disallowed.

Procedural History

The Commissioner of Internal Revenue determined a tax deficiency, disallowing Weinroth's "sick pay" exclusion. Weinroth petitioned the U.S. Tax Court to challenge the deficiency determination.

Issue(s)

Whether Weinroth was "absent from work" during his summer vacation due to illness, thereby entitling him to exclude a portion of his salary as "sick pay" under

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Section 105(d) of the Internal Revenue Code.

Holding

No, because Weinroth was not "absent from work" during a period when he was not expected to work, he was not entitled to the sick pay exclusion.

Court's Reasoning

The Tax Court focused on the interpretation of Section 105(d) of the Internal Revenue Code and its related regulations, which allowed for the exclusion of wages received during a period of absence from work due to personal injury or sickness. The court cited the Commissioner's regulations, which stated that section 105(d) applies only to periods during which the employee would be at work but for the illness or injury. The regulations specifically stated that an employee is not absent from work if he is not expected to work and that an employee who becomes sick during their paid vacation is not entitled to the exclusion. The court emphasized that Weinroth's illness occurred during his summer vacation, when he was not required to perform any work duties, and that the work he had volunteered to do was not mandated or expected by the Board. The court found it significant that Weinroth was not charged with any sick leave during this time and that he would have received his full salary even if he had not done anything during his vacation. The court stated, "he cannot qualify for an exclusion under section 105(d) because he cannot be 'absent from work' in a period which is not a working period for him."

Practical Implications

Weinroth v. Commissioner provides guidance on interpreting the scope of the sick pay exclusion under Section 105(d) of the Internal Revenue Code. This case is frequently cited in tax disputes, particularly those involving employment contracts and situations where the period of illness coincides with a vacation or other non-working period. It is important to distinguish between cases where the employee is genuinely "absent from work" due to illness during a normal work period and those where the illness occurs during a scheduled vacation. The court's emphasis on the employer's expectations, the employee's contractual obligations, and the application of the employer's sick leave policy are critical in analyzing similar cases. This case highlights the importance of analyzing the specific terms of employment agreements and whether the employee was, in fact, required to perform work during the period of illness. Also, it is essential for tax practitioners to be aware of the relevant IRS regulations and revenue rulings to advise clients effectively. The court also noted that although the employee volunteered to work, the voluntary nature of the work and the lack of requirement from the employer meant he was not "at work" during the period of his illness.

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