Michael A. Tougher, Jr. , and Amelia L. Tougher, Petitioners v. Commissioner of Internal Revenue, Respondent, 51 T. C. 737 (1969), 1969 U. S. Tax Ct. LEXIS 195

The purchase of groceries from an employer's commissary does not qualify as "meals" under Section 119 of the Internal Revenue Code for exclusion from gross income.

Summary

Michael Tougher, an FAA employee on Wake Island, sought to exclude from his gross income the cost of groceries purchased at an FAA commissary, arguing they were "meals" under Section 119. The Tax Court held that groceries do not constitute "meals" within the meaning of the statute, which is intended for meals furnished in kind for the employer's convenience. The decision clarified that Section 119 applies to meals provided directly by the employer, not to groceries purchased by the employee, even if from an employer-operated store. This ruling emphasizes the distinction between meals provided in kind and groceries purchased for home consumption, affecting how similar claims are treated under tax law.

Facts

Michael Tougher was employed by the Federal Aviation Agency (FAA) on Wake Island, living with his family in FAA-provided housing. He purchased groceries, primarily for family consumption, from the FAA commissary, paying in cash on a monthly basis. Tougher and his wife sought to exclude these grocery expenditures from his gross income under Section 119 of the Internal Revenue Code, claiming they were equivalent to meals furnished by his employer for its convenience.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Tougher's income tax for the years 1963 and 1964, disallowing the deduction of grocery purchases as meals. Tougher petitioned the United States Tax Court, which heard the case and issued a decision on February 6, 1969, ruling in favor of the Commissioner.

Issue(s)

1. Whether the cost of groceries purchased from an FAA commissary by an employee can be excluded from gross income under Section 119 of the Internal Revenue Code as "meals" furnished by the employer for its convenience.

Holding

1. No, because the purchase of groceries from a commissary does not constitute "meals" within the ordinary meaning of the term as used in Section 119. The statute is intended to apply to meals furnished in kind by the employer, not to groceries

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purchased by the employee.

Court’s Reasoning

The court reasoned that Section 119 was designed to exclude from gross income the value of meals and lodging furnished in kind by an employer for its convenience, not to allow deductions for personal expenditures such as groceries. The court emphasized that the term “meals” in the statute refers to food prepared for consumption at specific occasions like breakfast, lunch, or dinner, not to raw groceries. The court also noted that the legislative history of Section 119 indicates its purpose was to address the tax treatment of meals and lodging provided directly by the employer, not to cover cash purchases of groceries. Furthermore, the court distinguished this case from prior rulings where meals were provided in kind, and it clarified that even if groceries could be considered meals, the statute does not apply to purchases made with cash, as was the case here.

Practical Implications

This decision clarifies that employees cannot exclude the cost of groceries purchased from an employer-operated store from their gross income under Section 119. It underscores the distinction between meals furnished in kind and groceries bought for home use, affecting how similar claims are treated in tax law. Employers and employees must understand that only meals provided directly by the employer, and not groceries, qualify for exclusion under this section. This ruling may influence how employers structure benefits and how employees report income, particularly in remote or isolated work locations where employer-operated commissaries are common. Subsequent cases have referenced Tougher in distinguishing between meals and groceries for tax purposes.

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