***Bunevith v. Commissioner, 52 T. C. 837 (1969); 1969 U. S. Tax Ct. LEXIS 74***

Excess travel expenses resulting from an employee's personal choice to live far from their work assignment area are not deductible as business expenses.

**Summary**

Joseph Bunevith, a field agent for the Massachusetts Office of School Lunch Programs, sought to deduct excess automobile mileage from his home in Worcester to his assigned northeastern territory. The IRS disallowed these expenses, arguing they were personal, not business-related. The Tax Court upheld this decision, ruling that Bunevith's choice to live in Worcester, rather than closer to his work area, made the excess mileage a personal expense. This case clarifies that travel expenses incurred due to personal living choices are not deductible under IRC Section 162.

**Facts**

Joseph J. Bunevith worked as a field agent for the Massachusetts Office of School Lunch Programs, assigned to the northeastern part of the state. Despite this, he resided in Worcester, which was not in his assigned territory. His job required daily travel to various towns within his territory for audits, and occasionally outside it. Bunevith was reimbursed for mileage based on the shorter distance between Boston and the work location or Worcester and the work location. In 1965, his total round-trip mileage from Worcester was significantly higher than from Boston, resulting in over 9,000 excess miles. Bunevith sought to deduct these excess miles as business expenses on his tax return.

**Procedural History**

The IRS issued a notice of deficiency disallowing Bunevith's deduction for excess mileage. Bunevith petitioned the United States Tax Court, which heard the case and issued a decision on August 19, 1969, upholding the IRS's disallowance of the deduction.

**Issue(s)**

1. Whether the excess mileage expenses incurred by Bunevith due to his residence in Worcester, rather than within his assigned territory, are deductible as business expenses under IRC Section 162.

**Holding**

1. No, because the excess mileage was a result of Bunevith's personal decision to live in Worcester, and thus these expenses were personal rather than business-related.

**Court's Reasoning**

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The court applied the principle from Commissioner v. Flowers, which states that commuting expenses are personal and not deductible. The court noted that Bunevith's choice to live in Worcester, far from his assigned territory, was for personal reasons and not necessitated by his job. The court emphasized that the excess mileage was unnecessary for the conduct of his business, as he could have reduced his travel by living closer to his work area. The court also referenced other cases, such as Carragan v. Commissioner, to support the view that travel expenses stemming from a taxpayer's refusal to move closer to their job are not deductible. The court concluded that Bunevith's excess travel expenses were akin to commuting expenses and thus not deductible under IRC Section 162(a).

**Practical Implications**

This decision clarifies that employees cannot deduct excess travel expenses resulting from personal choices about where to live. It impacts how taxpayers should analyze similar cases, emphasizing that the necessity of travel for business purposes must be directly related to the job's requirements, not the employee's living arrangements. Legal practitioners should advise clients to consider the proximity of their residence to their work when claiming travel expense deductions. This ruling may influence business decisions regarding employee assignments and reimbursement policies, as companies might need to adjust their compensation packages to cover such expenses if they wish to retain employees living far from their work areas. Subsequent cases have followed this principle, further solidifying the rule that personal commuting expenses are not deductible, even for employees with extensive travel within their job duties.

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