Peurifoy v. Commissioner, 37 T. C. 377 (1961)

Expenses incurred while working away from home are not deductible if the employment is for an indefinite or substantial period of time.

Summary

In Peurifoy v. Commissioner, the Tax Court ruled that a taxpayer's living expenses in Seattle were not deductible because his employment there was indefinite rather than temporary. The taxpayer, who was assigned to Boeing in Seattle for an indefinite period, sought to deduct his living expenses under Section 162(a)(2). The court, applying the temporary-indefinite test and the Harvey test from the Ninth Circuit, determined that the taxpayer's assignment was not temporary, and thus, his expenses were not deductible. This decision underscores the importance of the duration and foreseeability of employment when determining the deductibility of living expenses.

Facts

The petitioner, assigned to work at Boeing in Seattle starting June 10, 1966, received a living allowance of $10 per day from GAC during the first six months of 1967, totaling $1,830. He included this amount in his reported income and sought to deduct it under Section 162(a)(2) as a business expense. The petitioner argued that his home was in Akron, Ohio, while the Commissioner contended that his home was in Seattle or Renton, Washington, where he was working.

Procedural History

The case was brought before the United States Tax Court, where the petitioner sought to deduct his living expenses. The Tax Court, applying its own temporary-indefinite test and the Ninth Circuit's Harvey test, determined that the petitioner's assignment to Boeing was indefinite and substantial, not temporary, and thus denied the deduction.

Issue(s)

1. Whether the petitioner's employment at Boeing was considered "temporary" under Section 162(a)(2) for the purpose of deducting living expenses?

Holding

1. No, because the petitioner's assignment to Boeing was for an indefinite and substantial period, not temporary, under both the temporary-indefinite test and the Harvey test.

Court's Reasoning

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The court applied the temporary-indefinite test, which distinguishes between temporary and indefinite employment periods. Employment is deemed indefinite if its termination cannot be foreseen within a fixed or reasonably short period. The court also considered the Ninth Circuit's Harvey test, which states that an employee might change their tax home if there is a reasonable probability that they will be employed for a long period at the new station. In this case, the court found that the petitioner's assignment to Boeing was indefinite and substantial, not temporary, as he knew there was a reasonable probability of long-term employment. The court cited John J. Harvey and Ronald D. Kroll to support its position. The court concluded that the petitioner's living expenses were not deductible because he was not away from home in the context of Section 162(a)(2).

Practical Implications

This decision impacts how taxpayers and their advisors should approach the deductibility of living expenses when employment is for an indefinite or substantial period. It clarifies that only temporary assignments qualify for such deductions, emphasizing the need to evaluate the foreseeability and duration of employment. Practitioners must carefully assess whether a client's work assignment is temporary or indefinite to determine the deductibility of living expenses. This ruling may influence business practices, particularly in industries with frequent relocations, encouraging employers to clearly define the expected duration of assignments. Subsequent cases like Doyle v. Commissioner have affirmed this approach, reinforcing the importance of this distinction in tax law.

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