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

Travel expenses are not deductible when an employee's work assignment is indefinite rather than temporary.

Summary

In Peurifoy v. Commissioner, the Tax Court denied a taxpayer's deduction for living expenses incurred during a work assignment at Boeing, ruling that the assignment was indefinite rather than temporary. The taxpayer, employed by GAC, was assigned to Boeing for an unspecified duration, which the court deemed as not being "away from home" for tax purposes. This case clarified that for travel expenses to be deductible, the assignment must be temporary, not indefinite, impacting how taxpayers and tax professionals assess the deductibility of such expenses.

Facts

During the first six months of 1967, the petitioner received a living allowance from GAC while working at Boeing. The total allowance was $1,830, which he included in his reported income. The taxpayer claimed this as a deductible expense under section 162(a)(2), arguing his "home" for tax purposes was in Akron, Ohio, while working in Seattle or Renton, Washington.

Procedural History

The case was initially heard by the Tax Court, which denied the deduction. The court's decision was based on the determination that the taxpayer's assignment at Boeing was indefinite, not temporary. There is no mention of further appeals in the provided text.

Issue(s)

1. Whether the taxpayer's work assignment at Boeing was "temporary" or "indefinite" under section 162(a)(2).
2. Whether the taxpayer's living expenses at Boeing were deductible as expenses incurred "away from home. "

Holding

1. No, because the assignment to Boeing was deemed indefinite rather than temporary.
2. No, because the expenses were not incurred "away from home" as the assignment was not temporary.

Court's Reasoning

The court applied the temporary-indefinite test, which distinguishes between

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temporary assignments (deductible) and indefinite or substantial assignments (not deductible). The court found the taxpayer's assignment at Boeing to be indefinite, as its termination could not be foreseen within a fixed or reasonably short period. The court also considered the Harvey test from the Ninth Circuit, which similarly concluded that an indefinite assignment does not qualify as "away from home" if there is a reasonable probability of long-term employment. The court quoted the Ninth Circuit's opinion, emphasizing that if an employee knows there is a reasonable probability of a long-term stay, it is unreasonable to expect them not to move their permanent residence, thus not qualifying for the deduction. The court held that the taxpayer's circumstances at Boeing did not meet the criteria for a temporary assignment, hence the expenses were not deductible.

Practical Implications

This decision affects how taxpayers and tax professionals evaluate the deductibility of travel expenses. It establishes that for expenses to be deductible under section 162(a)(2), the work assignment must be temporary, not indefinite. Taxpayers must carefully assess the nature of their work assignments to determine if they qualify for such deductions. This ruling has influenced subsequent cases, such as Doyle v. Commissioner, reinforcing the temporary-indefinite distinction. For legal practitioners, understanding this case is crucial for advising clients on tax planning related to travel and living expenses during work assignments.

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