Hartung v. Commissioner, 55 T. C. 1 (1970)

Moving expenses are personal family expenses and remain deductible under Section 217 even if the subsequent income earned is tax-exempt under Section 911.

Summary

Jon Hartung moved from the U. S. to Australia in 1964, incurring $1,677 in unreimbursed moving expenses. He claimed these expenses as a deduction on his 1964 tax return. The Commissioner disallowed the deduction, arguing the expenses were allocable to tax-exempt income earned in Australia. The U. S. Tax Court ruled in favor of Hartung, holding that moving expenses are personal and not allocable to income, thus remaining deductible under Section 217 despite the tax-exempt status of subsequent income under Section 911.

Facts

Jon Hartung, a chemical engineer, resided in the U. S. until October 23, 1964. He then terminated his employment and prepared to move to Australia. Hartung and his wife entered Australia on December 1, 1964, as immigrants. He secured employment there on January 25, 1965, and worked until March 1, 1966. All his Australian income was exempt from U. S. taxation under Section 911. Hartung incurred $1,677 in unreimbursed moving expenses and claimed this as a deduction on his 1964 U. S. tax return. The Commissioner disallowed the deduction, asserting it was allocable to tax-exempt income.

Procedural History

Hartung filed a petition with the U. S. Tax Court challenging the Commissioner's disallowance of his moving expense deduction. The case was heard by the Tax Court, which rendered a decision in favor of Hartung.

Issue(s)

1. Whether moving expenses, deductible under Section 217, must be disallowed because they are allocable to income exempt from taxation under Section 911.

Holding

1. No, because moving expenses are personal family expenses and thus not allocable to or chargeable against tax-exempt income earned subsequent to the move.

Court's Reasoning

The court held that moving expenses, although deductible under Section 217, remain personal family expenses. The court cited the legislative history of Section 217, which indicates that moving expenses are treated similarly to business

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expenses for the purpose of calculating adjusted gross income but are not actually business expenses. The court also referenced Section 1. 911-1(a)(3) of the Income Tax Regulations, which states that personal expenses are not allocable to exempt income. The majority opinion distinguished this case from *Carstairs v. United States*, where state income taxes were held allocable to tax-exempt income, noting that moving expenses are not within the scope of business expenses as interpreted in *Carstairs*. The court rejected the Commissioner's argument that moving expenses should be treated as allocable to tax-exempt income, emphasizing the personal nature of these expenses. The dissent argued that moving expenses are related to the income earned at the new employment location and should be disallowed under Section 911, but the majority's interpretation prevailed.

Practical Implications

This decision clarifies that moving expenses remain deductible under Section 217 even if the taxpayer's subsequent income is exempt under Section 911. Practitioners should advise clients that personal expenses, including moving expenses, are not allocable to tax-exempt income, ensuring proper deductions are claimed. This ruling may affect how taxpayers and tax professionals approach the calculation of deductions when dealing with foreign income exclusions. Subsequent cases, such as *Peck v. Commissioner*, have followed this precedent, reinforcing the principle that personal expenses are not allocable to exempt income. Businesses and individuals planning international moves should consider this ruling when calculating potential tax deductions.

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