Turner v. Commissioner, 56 T. C. 27 (1971)

Commuting expenses are not deductible as business expenses, even for temporary employees.

Summary

William B. Turner, a consultant engineer working through job shops, sought to deduct his commuting expenses from his Brooklyn residence to his temporary job sites in Syosset, NY, and Norwalk, CT. The Tax Court held that these expenses were non-deductible personal commuting costs, not business expenses, under IRC sections 162(a) and 162(a)(2). The court clarified that the temporary nature of employment does not convert commuting into a deductible business expense. Additionally, a travel allowance received by Turner was deemed taxable income.

Facts

William B. Turner, a consultant engineer, worked through job shops (Lehigh Design Co. and Volt Technical Services) that placed him with Kollsman Instrument Corp. in Syosset, NY, and later with Norden Division of United Aircraft Corp. in Norwalk, CT. In 1966, he drove daily from Brooklyn, NY, to these job sites, claiming his travel as a deductible business expense. Turner also received a travel allowance of $330 from Norden Division, which he did not report as income.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Turner's 1966 federal income tax, disallowing his claimed deduction for commuting expenses. Turner petitioned the Tax Court, which ruled against him, holding that his commuting costs were non-deductible and that the travel allowance was taxable income.

Issue(s)

1. Whether Turner, as a temporary corporate employee, could deduct his daily commuting expenses under IRC sections 162(a) or 162(a)(2).
2. Whether the travel allowance received by Turner was includable in his gross income.

Holding

1. No, because commuting expenses are considered personal, living, or family expenses under IRC section 262, regardless of the temporary nature of the employment or the distance traveled.
2. Yes, because the travel allowance was not reimbursement for expenses accounted to his employer and thus must be included in gross income under IRC section 61.

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Court’s Reasoning

The court emphasized the distinction between deductible transportation expenses and non-deductible commuting expenses. It relied on the Supreme Court’s decision in *United States v. Correll*, which established that travel expenses under IRC section 162(a)(2) require an overnight stay, a criterion Turner did not meet. The court rejected Turner’s argument that his job shops were his principal places of business, as he worked directly for the client contractors. The court also dismissed the argument that temporary employment should allow commuting deductions, citing that such expenses are personal under IRC section 262. Judge Quealy dissented, arguing that the IRS had previously allowed deductions for similar situations and that the court should not impose a greater burden than disallowing the IRS’s deficiency determination.

Practical Implications

This decision clarifies that commuting expenses are not deductible, even for temporary workers. Legal practitioners should advise clients that the temporary nature of employment does not alter the non-deductible status of commuting costs. This ruling impacts how businesses structure temporary employment arrangements and compensation, particularly regarding travel allowances, which must be reported as income if not specifically reimbursing accountable expenses. Subsequent cases like *Sanders v. Commissioner* have reinforced this principle, affecting how similar cases are analyzed and reinforcing the tax treatment of commuting expenses across various employment contexts.

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