Ghastin v. Commissioner, 59 T. C. 273 (1972)

Cash subsistence allowances paid to employees are not excludable from gross income under Section 119 of the Internal Revenue Code because they are not considered ‘meals’ furnished in kind by the employer.

Summary

In Ghastin v. Commissioner, the court addressed whether a cash subsistence allowance paid to Michigan State Police troopers could be excluded from their gross income under Section 119 of the Internal Revenue Code. The court held that the allowance did not qualify as ‘meals’ furnished in kind by the employer, and thus was not excludable. The troopers received a fixed allowance for meals, which was not conditioned on actual meal expenses and could be used for meals eaten at home or in patrol areas. The court reasoned that the allowance was a form of additional compensation rather than meals furnished for the employer’s convenience, and therefore did not meet the statutory requirements for exclusion from gross income.

Facts

Burl J. Ghastin, a Michigan State Police trooper, received a cash subsistence allowance in 1966 and 1967. The allowance was initially a flat rate of $60 per month and later changed to an hourly rate based on time worked. Troopers were on duty during meal times, but could eat at home if their home was in their patrol area, or at restaurants near their patrol routes. The allowance was not contingent on actual meal expenses, and troopers did not have to account for how the money was spent. The subsistence allowance was included in the computation of state retirement benefits and decreased as troopers were promoted.

Procedural History

Ghastin and his wife filed joint federal income tax returns for 1966 and 1967, initially including the subsistence allowance in their gross income. They later filed amended returns excluding the allowance and received refunds. The Commissioner of Internal Revenue determined deficiencies in their taxes, asserting that the allowance was not excludable under Section 119. The Tax Court reviewed the case and issued its decision in 1972.

Issue(s)

1. Whether the cash subsistence allowance paid to Michigan State Police troopers qualifies as ‘meals’ furnished by the employer under Section 119 of the Internal Revenue Code.
2. Whether the cash subsistence allowance was furnished for the convenience of the employer under Section 119.

Holding

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1. No, because the court determined that the term ‘meals’ in Section 119 refers to meals furnished in kind by the employer, not cash allowances.
2. No, because the allowance was not provided for a substantial noncompensatory business reason of the employer, but rather as a form of additional compensation.

Court’s Reasoning

The court relied on the clear language and legislative history of Section 119, which specifies that only meals furnished in kind by the employer are excludable from gross income. The court cited Wilson v. United States, which held that cash allowances for meals do not qualify under the statute. The court also noted that the subsistence allowance did not meet the requirement of being furnished for the convenience of the employer, as it was not contingent on actual meal expenses and served as additional compensation. The court distinguished this case from others where troopers were required to eat in public view for law enforcement purposes, emphasizing that Ghastin could eat at home or in his patrol car. The court also referenced IRS regulations stating that meals must be furnished for a substantial noncompensatory business reason to be excludable.

Practical Implications

This decision clarifies that cash subsistence allowances provided to employees, even if intended to cover meal costs, are not excludable from gross income under Section 119. Employers and employees must recognize that such allowances are taxable income unless meals are provided in kind on the employer’s business premises. This ruling impacts the tax treatment of allowances for law enforcement officers and other employees who receive similar payments. It also influences how employers structure compensation packages, potentially leading to increased taxable income for employees and affecting their overall compensation strategy. Subsequent cases have followed this interpretation, solidifying the principle that cash allowances for meals do not qualify for exclusion under Section 119.

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