Laverty v. Commissioner, 61 T. C. 160 (1973)

Payments received as salary and not as compensation for loss due to injury or absence from work are not excludable from gross income under sections 105(c), 105(d), or 106 of the Internal Revenue Code.

Summary

Robert E. Laverty, a vice president at Thriftimart, Inc. , sought to exclude a portion of his salary from gross income under sections 105(c), 105(d), and 106 of the Internal Revenue Code, claiming it was compensation for permanent injuries sustained in an airplane crash. The Tax Court held that Laverty's full salary, which he continued to receive despite needing time for physical therapy, was taxable compensation for services rendered, not payments for his injuries or absences. The court ruled that neither section 105(c), which covers payments for permanent loss or disfigurement, nor section 105(d), which pertains to wage continuation during absence due to injury or sickness, applied because Laverty was not absent from work and the payments were not computed with reference to his injury.

Facts

Robert E. Laverty was a vice president and director at Thriftimart, Inc. , a grocery chain. In 1957, while traveling on business, he was severely injured in an airplane crash, resulting in permanent partial disability and loss of sight in one eye. After recovering, Laverty resumed work, engaging in a daily regimen of physical activity prescribed by his doctor to manage his injuries. Despite these activities taking up part of his workday, he received his full salary and was later promoted to president. Laverty claimed a portion of his salary should be excluded from his gross income under sections 105(c), 105(d), and 106 of the Internal Revenue Code, asserting it was compensation for his injuries and the time spent on physical therapy.

Procedural History

The Commissioner of Internal Revenue disallowed Laverty's claimed exclusions, leading to a deficiency determination. Laverty and his wife filed a petition with the U. S. Tax Court, which consolidated two related dockets. The Tax Court, after reassignment from Judge Austin Hoyt to Judge Theodore Tannenwald, Jr. , heard the case and issued its decision on November 6, 1973.

Issue(s)

1. Whether payments received by Robert E. Laverty from Thriftimart, Inc. , are excludable from his gross income under section 105(c) of the Internal Revenue Code as payments for permanent loss or loss of use of a member or function of the body or permanent disfigurement.
2. Whether payments received by Robert E. Laverty from Thriftimart, Inc. , are excludable from his gross income under section 105(d) of the Internal Revenue Code

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as payments in lieu of wages for absence from work due to personal injuries or sickness.
3. Whether payments received by Robert E. Laverty from Thriftimart, Inc. , are excludable from his gross income under section 106 of the Internal Revenue Code as contributions by an employer to an accident or health plan.

Holding

1. No, because the payments were not computed with reference to the nature of Laverty's injuries but were simply compensation for services rendered.
2. No, because Laverty was not absent from work within the meaning of section 105(d), and the payments were not in lieu of wages for such absence.
3. No, because section 106 applies only to contributions to accident or health plans, not direct payments to employees like those received by Laverty.

Court's Reasoning

The court applied sections 105(c), 105(d), and 106 of the Internal Revenue Code, focusing on the nature and purpose of the payments Laverty received. For section 105(c), the court found that the payments did not constitute compensation for Laverty's permanent injuries because they were not calculated based on the nature of his injuries but were instead his full salary for services rendered. The court noted that Laverty's effectiveness was not impaired and his salary was not reduced, indicating the payments were not related to his injuries. Under section 105(d), the court determined that Laverty was not absent from work, as he continued to perform substantial services for Thriftimart, including working outside normal business hours. The court also clarified that section 106 does not apply to direct salary payments but to contributions to accident or health plans. The court's decision was influenced by the policy that salary payments for services rendered should be taxable, regardless of the employee's health condition or time spent on personal activities like physical therapy.

Practical Implications

This decision clarifies that salary payments, even to employees with permanent injuries, are taxable as compensation for services rendered unless they are specifically designated as payments for absence due to injury or sickness. Legal practitioners should advise clients that attempting to exclude portions of salary as compensation for injuries or time spent on related activities is unlikely to succeed unless the payments are clearly structured as part of an accident or health plan. Businesses must carefully document and structure any payments intended to be excludable under sections 105(c) or 105(d) to meet the statutory requirements. Subsequent cases, such as Sidman v. United States, have reinforced this principle, emphasizing the importance of distinguishing between salary and payments for injury-related absences.

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