***Scheide v. Commissioner, 65 T. C. 455 (1975)***

A taxpayer lacks standing to challenge alleged government violations of international law as a defense for nonpayment of taxes.

**Summary**

In Scheide v. Commissioner, the petitioner sought a “war crimes deduction” on her 1972 federal income tax return, claiming that payment of such taxes would make her complicit in alleged war crimes by the U. S. in Indo-China. The U. S. Tax Court denied the deduction, holding that the petitioner lacked standing to challenge these alleged violations under the criteria established in Flast v. Cohen. The court reasoned that the petitioner failed to show a personal stake in the controversy and was not in danger of becoming an accomplice to war crimes merely by paying taxes. This decision reaffirms the principle that general taxpayers cannot use tax disputes to litigate broader governmental policy issues.

**Facts**

In 1972, Lorna H. Scheide claimed a “war crimes deduction” of $16,344 on her federal income tax return, arguing that one-third of her taxes would fund U. S. involvement in Indo-China, allegedly constituting war crimes. The IRS disallowed the deduction, leading to a deficiency determination of $9,381. 62. Scheide filed a petition with the Tax Court seeking redetermination of the deficiency, asserting that payment of the disputed taxes would make her complicit in war crimes under Nuremberg Principle No. 7.

**Procedural History**

The Commissioner moved for partial summary judgment before the U. S. Tax Court on the issue of the “war crimes deduction. ” The court held a hearing on the motion and considered memorandums from both parties. The Tax Court granted the Commissioner’s motion, affirming the disallowance of the deduction and holding that Scheide lacked standing to raise the issue of alleged international law violations.

**Issue(s)**

1. Whether the petitioner has standing to challenge the alleged violations of international law by the United States as a defense for nonpayment of taxes.

**Holding**

1. No, because the petitioner fails to meet the requirements of Flast v. Cohen for taxpayer standing, and she has neither suffered an injury nor is she in danger of doing so as a consequence of such alleged violations.

 

## Court’s Reasoning

The court applied the standing test from Flast v. Cohen, which requires a taxpayer to challenge a congressional enactment under the taxing and spending clause and show that it exceeds specific constitutional limitations on that power. Scheide’s challenge did not meet these requirements because the U. S. involvement in Vietnam was authorized under different constitutional provisions, and she failed to show that it violated specific limitations on the taxing and spending power. The court also rejected Scheide’s claim that paying taxes would make her a war criminal, citing John David Egnal and Nuremberg precedents to conclude that mere tax payment does not constitute complicity in war crimes. The court emphasized that standing requires a personal stake in the controversy, which Scheide lacked. The court’s decision was influenced by policy considerations against allowing general taxpayers to litigate broader governmental policy issues through tax disputes.

## Practical Implications

This decision limits the ability of taxpayers to use tax disputes as a platform for challenging government actions on international law grounds. It clarifies that taxpayers must show a direct injury or imminent danger of injury to have standing in such cases, which is unlikely in most tax disputes. The ruling reinforces the separation between tax law and broader policy issues, requiring taxpayers to pursue other legal avenues for such challenges. This case has been cited in later decisions to deny similar claims of standing, shaping the practice of tax law by emphasizing the narrow scope of issues that can be litigated in tax court. Practitioners should advise clients against using tax filings to protest government actions unrelated to the tax code itself.

 