***Turner v. Commissioner, 68 T. C. 48 (1977)***

For an employee to exclude the cost of lodging from income under section 119, the lodging must be furnished by the employer.

**Summary**

George Turner, employed as a welder, was required to live in a house provided by his employer, American Forest Products Corp. , for its convenience. Turner incurred costs for utilities, carpeting, and a heater, which he sought to exclude from his income under section 119 of the Internal Revenue Code. The Tax Court held that these costs were not excludable because they were not furnished by the employer. The decision emphasized that section 119 requires the employer to provide the lodging, and since Turner had to pay for utilities and other items himself, they did not qualify for exclusion.

**Facts**

George A. Turner worked as a welder for American Forest Products Corp. from June 1969 through 1972. He was required to live in a house provided by his employer within the Sequoia National Forest, as he needed to be available 24 hours a day. The employer deducted $306 as rent from Turner's salary in 1972. Turner had to purchase utilities, carpeting, and a heater for the house because these were not provided by the employer, despite his requests. He paid $283. 89 for gas, $209. 88 for electricity, $266. 16 for carpeting, and $262. 58 for a heater, without any reimbursement from the employer.

**Procedural History**

Turner and his wife filed a joint Federal income tax return for 1972, claiming a deduction for these expenses. The Commissioner of Internal Revenue disallowed $1,022. 51 of these expenditures, allowing only the $306 rental payment. In an amended answer, the Commissioner argued that the disallowed expenditures were not excludable or deductible under section 119. The case proceeded to the United States Tax Court, which ruled in favor of the Commissioner.

**Issue(s)**

1. Whether the costs paid by Turner for utilities, carpeting, and a heater are excludable from income under section 119 of the Internal Revenue Code.

**Holding**

1. No, because these costs were not furnished by the employer, as required by section 119.

**Court's Reasoning**

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The court applied section 119, which excludes the value of lodging furnished by an employer for the employer's convenience. The key legal rule was that the lodging must be "furnished" by the employer. The court found that the employer did not provide the utilities, carpeting, or heater; Turner had to purchase these items himself and was not reimbursed. The court rejected the argument that these items were "furnished" in substance because there was no reimbursement. The court also noted that these costs are typically personal expenses, not deductible under the tax laws, unless furnished by the employer under section 119. The court cited Revenue Ruling 68-579, which states that utilities or other commodities necessary for habitable lodging are considered "lodging" but must still be furnished by the employer. The court's decision aligned with prior cases like Inman v. Commissioner, which held that utilities purchased by the taxpayer were not "furnished" by the employer and thus not excludable under section 119.

**Practical Implications**

This decision clarifies that for employees to exclude lodging costs under section 119, the employer must directly provide or pay for those costs. Employers and employees should ensure that all aspects of lodging, including utilities and furnishings, are explicitly provided by the employer if they wish to claim exclusions under section 119. This ruling impacts how tax professionals advise clients on housing arrangements and related tax exclusions. It may also influence how companies structure their employee housing policies to ensure compliance with tax laws. Subsequent cases have applied this principle, emphasizing the need for clear employer provision of lodging benefits.

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