Brewin v. Commissioner, 72 T. C. 1055 (1979)

The venue for Tax Court appeals is determined by the taxpayer's domicile, and home leave expenses for Foreign Service officers are generally not deductible as business expenses.

Summary

In Brewin v. Commissioner, the U. S. Tax Court determined that the venue for appeal of a tax case lies in the circuit where the taxpayer is domiciled, not where they spend home leave. The case involved Roger C. Brewin, a Foreign Service officer, who sought to deduct expenses incurred during a mandatory home leave. The court found that Brewin's domicile was Washington, D. C. , not Arizona where he spent his leave, and denied the deduction, ruling that the expenses were primarily personal in nature despite the compulsory nature of the leave.

Facts

Roger C. Brewin and Mary T. Brewin, a married couple, filed a federal income tax return for 1971. Roger was a Foreign Service officer required to take home leave in the U. S. after serving abroad. In 1971, he and his family spent their home leave in Arizona, where they visited family, took sightseeing trips, and participated in recreational activities. Brewin claimed deductions for room, food, and transportation expenses, including a loss from selling a motor vehicle. The Commissioner of Internal Revenue denied these deductions, leading to the dispute.

Procedural History

The Commissioner issued a statutory notice of deficiency to the Brewins in January 1974. The Brewins filed a timely petition with the U. S. Tax Court in March 1974. The Tax Court heard the case and issued its decision in September 1979, ruling in favor of the Commissioner on both the venue for appeal and the deductibility of home leave expenses.

Issue(s)

1. Whether the venue for appeal of this case lies in the Ninth Circuit based on the Brewins' ties to Arizona, or in the District of Columbia Circuit based on their domicile?
2. Whether expenses incurred during the Brewins' home leave in 1971 are deductible under Section 162 of the Internal Revenue Code as ordinary and necessary business expenses?

Holding

1. No, because the Brewins' domicile was Washington, D. C. , not Arizona, so the venue for appeal lies in the District of Columbia Circuit.

© 2025 SCOTUSreports.com. All rights reserved.

2. No, because the home leave expenses were primarily personal in nature and lacked the necessary business connection to be deductible under Section 162.

Court’s Reasoning

The Tax Court determined that for purposes of Section 7482 of the Internal Revenue Code, venue for appeal is based on the taxpayer’s domicile, defined as physical residence conjoined with intent to remain there. The Brewins had established domicile in Washington, D. C. , where they owned a home and maintained a checking account. Their ties to Arizona, where they spent home leave, were not sufficient to establish domicile there. Regarding the deductibility of home leave expenses, the court applied the criteria of Section 162, requiring expenses to be ordinary and necessary, incurred while away from home, and in the pursuit of a trade or business. The court found that while the expenses were ordinary and necessary due to the compulsory nature of the leave, they lacked the required business connection. The Brewins’ activities during the leave were primarily personal, outweighing minimal business activities such as press interviews. The court cited its consistent stance in cases like Stratton v. Commissioner and Hitchcock v. Commissioner, where home leave expenses were deemed nondeductible due to their personal nature.

Practical Implications

This decision clarifies that for Tax Court appeals, venue is determined by the taxpayer’s domicile, not temporary residences like those used for home leave. Taxpayers, especially those in the Foreign Service, must be aware that expenses incurred during mandatory home leave are not automatically deductible as business expenses. The ruling emphasizes the need for a clear business connection to justify such deductions, impacting how Foreign Service officers and similar professionals manage their tax liabilities. Subsequent cases like Teil v. Commissioner reinforced this stance, indicating a consistent approach by the Tax Court. Legal practitioners should advise clients on the importance of maintaining clear records of domicile and ensuring any claimed deductions are directly related to business activities during home leave.

© 2025 SCOTUSreports.com. All rights reserved.