Mary K. Minnies Muse v. Commissioner of Internal Revenue, 76 T. C. 574 (1981)

An employee on leave without pay is not considered a full-time employee for the purpose of deducting moving expenses.

Summary

Mary K. Minnies Muse, a GAO employee, moved from Honolulu to Washington, D. C. , and claimed a deduction for moving expenses. Less than 39 weeks later, she took leave without pay to study at Baylor University in Texas. The U. S. Tax Court ruled that she was not entitled to the deduction because she did not meet the 39-week full-time employment requirement in the Washington area as required by Section 217(c)(2) of the Internal Revenue Code. The court also held that her subsequent transfer to Texas was not for the benefit of her employer, thus not qualifying for an exception under Section 217(d)(1).

Facts

Mary K. Minnies Muse was employed by the General Accounting Office (GAO) and was transferred from Honolulu, Hawaii, to Washington, D. C. , in September 1975. She claimed moving expense deductions for both 1975 and 1976. In May 1976, Muse requested and was granted a year-long leave without pay to pursue a master's degree at Baylor University in Texas. She moved to Harker Heights, Texas, and continued her leave until January 1977, when she was reassigned to Dallas at her request. While on leave, she was considered a career status employee by GAO, but not on the active rolls.

Procedural History

The Commissioner of Internal Revenue denied Muse's moving expense deduction and issued a notice of deficiency. Muse filed a petition with the U. S. Tax Court, which held a trial based on stipulated facts. The Tax Court upheld the Commissioner's determination and entered a decision for the respondent.

Issue(s)

1. Whether a transfer initiated by an employee to pursue education on leave without pay qualifies as a "transfer for the benefit of an employer" under Section 217(d)(1) of the Internal Revenue Code.
2. Whether an employee on leave without pay remains a "full-time employee" in the general location of their principal place of work under Section 217(c)(2) of the Internal Revenue Code.

Holding

1. No, because the transfer was initiated by the employee and not beyond her

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control, it does not qualify as a transfer for the benefit of the employer under Section 217(d)(1).
2. No, because the employee was not physically present and working in the Washington area for 39 weeks, she did not meet the full-time employment requirement under Section 217(c)(2).

Court's Reasoning

The court applied Section 217(c)(2), which requires a taxpayer to be a full-time employee in the general location of their new principal place of work for at least 39 weeks following the move. The court interpreted "full-time employee" to mean physically present and working, not merely on leave without pay. Muse's leave was neither involuntary nor a customary practice, thus not meeting the regulation's intent. The court also interpreted Section 217(d)(1), finding that a transfer "for the benefit of an employer" must be initiated by the employer, not the employee. Muse's transfer to Texas was at her request, not for the employer's benefit. The court cited legislative history and regulations to support its interpretation, emphasizing that the purpose of the 39-week requirement is to prevent deductions for temporary job moves. The court concluded that Muse did not meet the statutory requirements for the moving expense deduction.

Practical Implications

This decision clarifies that employees on leave without pay are not considered full-time employees for the purpose of moving expense deductions. It also establishes that a transfer initiated by an employee does not qualify as a transfer for the employer's benefit. Legal practitioners should advise clients that to claim moving expense deductions, they must remain full-time employees in the new location for 39 weeks post-move. This ruling impacts how employers structure leaves and how employees plan their educational pursuits. Subsequent cases like Nico v. Commissioner have applied this ruling to similar situations. Employers and employees should consider the tax implications of leave without pay when planning career moves and further education.

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