Fogg v. Commissioner, 89 T. C. 310 (1987)

Military officers can deduct moving expenses for personal effects like sailboats and entertainment costs related to official duties if they are ordinary and necessary.

Summary

John R. Fogg and Patricia L. Massey Fogg, a Marine Corps officer and his wife, sought to deduct various expenses related to his military service. They claimed deductions for moving their sailboat, entertainment costs associated with a change-of-command ceremony, and other miscellaneous expenses. The court allowed the deduction for the sailboat as a personal effect and the entertainment expenses as necessary for Fogg's role as a commanding officer, but denied miscellaneous expenses like club dues and calling cards due to insufficient proof of their business necessity.

Facts

John R. Fogg, a Lieutenant Colonel in the U. S. Marine Corps, claimed deductions on his 1982 and 1983 tax returns for moving expenses related to relocating a 36-foot sailboat from Florida to South Carolina, entertainment costs for a change-of-command ceremony, and other miscellaneous expenses. The sailboat was used recreationally and as temporary housing during the move. The change-of-command ceremony and related receptions were customary for Marine Corps officers, though not mandated by specific orders. The miscellaneous expenses included dues to the Blue Angels Association, the Officers' Club, and contributions to a Squadron Officers Fund.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Fogg's taxes for 1982 and 1983. Fogg and his wife petitioned the U. S. Tax Court, which assigned the case to a Special Trial Judge. The court reviewed the case based on a stipulation of facts and subsequently adopted the opinion of the Special Trial Judge.

Issue(s)

1. Whether the expenses incurred in moving a sailboat qualify as moving expenses under section 217 of the Internal Revenue Code?
2. Whether entertainment expenses incurred in connection with a change-of-command ceremony are deductible under section 162 of the Internal Revenue Code?
3. Whether miscellaneous expenses such as dues, stationery, and calling cards are deductible under section 162 of the Internal Revenue Code?

Holding

1. Yes, because the sailboat was considered a personal effect intimately associated

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with the taxpayers' lifestyle, thus qualifying as a deductible moving expense under section 217.
2. Yes, because the entertainment expenses were ordinary and necessary for the performance of Fogg's duties as a commanding officer, thus deductible under section 162.
3. No, because the taxpayers failed to establish that the miscellaneous expenses were directly related to Fogg's business as a military officer.

Court's Reasoning

The court found that the sailboat was a personal effect under section 217, as it was intimately associated with the Foggs' lifestyle, distinguishing it from the yacht in Aksomitas v. Commissioner, which had little association with the taxpayer. For the entertainment expenses, the court applied the test from United States v. Gilmore, focusing on the origin and character of the expenses, concluding that they were directly related to Fogg's business as a military officer and necessary for his duties. The court rejected the Commissioner's argument that the expenses needed to be reimbursed by the employer to be deductible, noting that Marine Corps customs and traditions required such expenditures. Regarding the miscellaneous expenses, the court found that the taxpayers did not provide sufficient evidence to establish a direct business connection, thus disallowing these deductions.

Practical Implications

This decision clarifies that military personnel can deduct moving expenses for personal effects like boats if they are intimately associated with their lifestyle. It also establishes that entertainment expenses related to official military ceremonies can be deductible if they are required by custom and tradition and directly related to the officer's duties. However, it underscores the need for taxpayers to provide clear evidence of the business purpose of miscellaneous expenses. Future cases involving military personnel may reference this ruling when assessing the deductibility of similar expenses. Legal practitioners advising military clients should be aware of these nuances when preparing tax returns and defending deductions in audits or court.

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