Johnson v. Commissioner, 115 T. C. 210 (2000)

An employee may use the incidental expense portion of per diem rates to deduct incidental travel expenses incurred while working away from home, even if meals and lodging are provided by the employer.

Summary

Marin Johnson, a merchant seaman, claimed deductions for incidental travel expenses incurred while working on a vessel. He used the full per diem rates for meals and incidental expenses (M&IE) to calculate these deductions, despite his employer providing meals and lodging. The Tax Court ruled that Johnson's tax home was his residence, and he could deduct his incidental expenses using the incidental portion of the M&IE rates. The decision clarified that the full M&IE rates could not be used when only incidental expenses were incurred, but actual expenses could be deducted if substantiated.

Facts

Marin Johnson, a merchant seaman, captained the M/V American Falcon, which transported military equipment worldwide. He worked away from his residence in Freeland, Washington, for 173 days in 1994 and 205 days in 1996. Crowley American Transport, Inc. , his employer, provided him with lodging and meals while he worked on the vessel. Johnson paid for incidental expenses such as hygiene products, laundry, and transportation from the vessel to service providers. He claimed deductions of $3,784 for 1994 and $3,654 for 1996 using the full M&IE rates for each location he traveled to, without receipts to substantiate the actual costs.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Johnson's taxes for 1994 and 1996, disallowing the claimed deductions for incidental travel expenses. Johnson petitioned the United States Tax Court to challenge the deficiencies. The Tax Court held that Johnson's tax home was his residence in Freeland, Washington, and he was entitled to deduct his incidental travel expenses using the incidental portion of the M&IE rates, but not the full M&IE rates.

Issue(s)

1. Whether Johnson's tax home was the situs of his residence in Freeland, Washington?
2. Whether Johnson's testimony alone was sufficient to support a finding that he paid incidental travel expenses while employed away from his tax home?
3. Whether Johnson's use of the full M&IE rates to calculate his incidental travel expenses was proper?

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Holding

1. Yes, because Johnson maintained a permanent residence in Freeland, Washington, where he lived with his family, and he incurred substantial living expenses there.
2. Yes, because Johnson's credible testimony was sufficient to establish that he incurred incidental expenses while working away from his tax home.
3. No, because the revenue procedures allow the use of the M&IE rates only for the incidental expense portion when meals are provided by the employer.

Court's Reasoning

The Tax Court determined that Johnson's tax home was his residence in Freeland, Washington, as he maintained a permanent residence there and incurred substantial living expenses. The court rejected the Commissioner's argument that Johnson was an itinerant without a tax home, noting that Johnson's work schedule was fixed and he returned to his residence during vacations. The court found Johnson's testimony credible in establishing that he incurred incidental expenses while working away from home. However, the court held that Johnson could not use the full M&IE rates to calculate his deductions, as the revenue procedures and federal travel regulations specify that only the incidental expense portion of the M&IE rates should be used when meals and lodging are provided by the employer. The court emphasized that taxpayers could deduct actual incidental expenses if properly substantiated.

Practical Implications

This decision clarifies that employees who receive meals and lodging from their employers while working away from home can still deduct incidental expenses using the incidental portion of the M&IE rates. Taxpayers must ensure they use the correct portion of the M&IE rates and substantiate actual expenses if they exceed the incidental rates. Legal practitioners should advise clients to keep detailed records of incidental expenses and understand the limitations on using M&IE rates. The ruling may impact how businesses structure compensation packages for employees who travel frequently, as it affects the deductibility of incidental expenses. Subsequent cases have referenced this decision when addressing tax home and travel expense deductions.

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