Beech Trucking Co. v. Comm'r, 118 T. C. 428 (2002)

In Beech Trucking Co. v. Comm'r, the U. S. Tax Court ruled that a trucking company must apply the 50% deduction limitation of Section 274(n) to the full amount of per diem allowances paid to its drivers. The court determined that these allowances, calculated based on miles driven, were for meal and incidental expenses (M&IE) and not lodging, thus subjecting them to the statutory limitation. This ruling impacts how businesses classify per diem payments for tax purposes, emphasizing the importance of the method used to calculate such allowances.

Parties

Beech Trucking Company, Inc. (Petitioner), represented by Arthur Beech as the tax matters person, brought this case against the Commissioner of Internal Revenue (Respondent). Throughout the litigation, Beech Trucking maintained its position as the petitioner.

Facts

Beech Trucking, an S corporation, operated as an irregular-route, common carrier in the midwestern and southern United States. It leased its drivers from an affiliated company, Arkansas Trucking Service (ATS), which was owned by Ed Harvey, a shareholder of Beech Trucking. The drivers' compensation included a per diem allowance of 6. 5 cents per mile dispatched, which was part of their total pay rate of 24 to 26 cents per mile. This per diem was intended to cover travel expenses, including meals and incidental expenses. The drivers were not required to substantiate their expenses to receive the per diem, which was administered by ATS but reimbursed by Beech Trucking. The per diem payments totaled $839,169 in 1995 and $956,261 in 1996.

Procedural History

The Commissioner of Internal Revenue began examining Beech Trucking's tax returns for 1995 and 1996 in May and September of 1997, respectively. Following the examination, the Commissioner issued a Notice of Final S Corporation Administrative Adjustment (FSAA) on July 23, 1999, adjusting Beech Trucking's ordinary income by $251,885 for 1995 and $286,878 for 1996, asserting that the per diem payments were fully subject to the 50% limitation under Section 274(n). Beech Trucking contested this determination before the U. S. Tax Court, where the case was adjudicated.

Issue(s)

Whether the 50% limitation of Section 274(n) applies to the full amount of per diem allowances paid by Beech Trucking to its drivers, who were leased from ATS?

Rule(s) of Law

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Section 274(n) of the Internal Revenue Code generally limits deductions for food or beverage expenses to 50% of the amount that would otherwise be allowable. Revenue Procedures 94-77 and 96-28 provide methods for deemed substantiation of travel expenses. Under these procedures, if a per diem allowance is computed on a basis similar to the employee's compensation (e. g. , miles traveled), it is treated as covering only meal and incidental expenses (M&IE), not lodging. Consequently, such per diem allowances are subject to the Section 274(n) limitation.

Holding

The Tax Court held that the per diem allowances paid by Beech Trucking were subject to the 50% limitation of Section 274(n) because they were deemed to cover only meal and incidental expenses (M&IE) and not lodging expenses, based on the method of calculation (miles traveled).

Reasoning

The court reasoned that the per diem allowances, calculated based on miles driven, were treated as covering only M&IE under the Revenue Procedures, specifically section 4. 02. This section stipulates that if a per diem is calculated similarly to an employee's compensation, it is considered to cover M&IE only. Consequently, under section 6. 05 of the Revenue Procedures, the full amount of the per diem was subject to the 50% limitation of Section 274(n). The court also determined that Beech Trucking, not ATS, was the common law employer of the drivers, based on factors including control over the drivers' work, the provision of tools and facilities, and the permanency of the relationship. Furthermore, the court rejected Beech Trucking's arguments that the Revenue Procedures were invalid or that Section 274(n) did not apply because ATS was the employer. The court noted that Beech Trucking had elected to use the deemed substantiation methods provided by the Revenue Procedures and could not selectively apply their benefits without adhering to their conditions.

Disposition

The Tax Court sustained the Commissioner's determinations, and a decision was entered for the respondent.

Significance/Impact

The Beech Trucking decision clarifies the tax treatment of per diem allowances under Section 274(n) when calculated based on factors related to compensation, such as miles traveled. It reinforces the application of the Revenue Procedures in determining the nature of expenses covered by per diem allowances and their deductibility. The ruling has implications for businesses that provide per diem payments, emphasizing the need to carefully consider the method of calculating such allowances to avoid unintended tax consequences. The decision also highlights

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the importance of determining the common law employer in three-party employment arrangements for tax purposes.

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