Liljeberg et al. v. Commissioner, 148 T. C. No. 6 (2017)

In a landmark decision, the U. S. Tax Court ruled that nonresident aliens participating in the Summer Work Travel Program (SWTP) cannot deduct travel and living expenses under IRC sec. 162(a)(2) due to not being 'away from home' in the pursuit of a trade or business. The court upheld the Commissioner's denial of deductions for airfare, meals, and entertainment, but allowed deductions for program and visa fees, and conditionally for health insurance under IRC sec. 213(a). This ruling clarifies the tax treatment for foreign students working temporarily in the U. S. and impacts future claims for deductions by nonresident aliens.

Parties

Richard Liljeberg, Anna V. Zolotareva, and Enda Conway, nonresident alien petitioners, filed their cases in the United States Tax Court against the Commissioner of Internal Revenue, the respondent. The cases were consolidated under docket numbers 20796-14, 22042-14, and 23061-14.

Facts

In 2012, petitioners, who were full-time students at foreign universities, participated in the U. S. Department of State's Summer Work Travel Program (SWTP). This program allowed them to come to the United States for no more than four months during the summer to engage in cultural exchange, domestic travel, and temporary or seasonal work. Petitioners sought to deduct expenses related to their participation in the SWTP, including airfare, program and visa fees, travel health insurance, and meals and entertainment. The Commissioner denied these deductions, although he later conceded the deductibility of program and visa fees. Petitioners conceded that fees paid by Zolotareva in 2011 were not deductible for 2012.

Procedural History

The Commissioner issued notices of deficiency to petitioners for the 2012 tax year, denying their claimed deductions for travel and living expenses. Petitioners filed petitions with the U. S. Tax Court, which consolidated their cases for trial, briefing, and opinion. The cases were submitted fully stipulated for decision without trial under Tax Court Rule 122. The standard of review applied was de novo, given the absence of trial.

Issue(s)

Whether nonresident aliens participating in the Summer Work Travel Program (SWTP) may deduct expenses for airfare, meals, and entertainment under IRC sec. 162(a)(2), given that they were not 'away from home' in the pursuit of a trade or business?

© 2025 SCOTUSreports.com. All rights reserved.

Whether expenses for travel health insurance paid by SWTP participants are deductible under IRC sec. 162(a)(2) or IRC sec. 213(a)?

Rule(s) of Law

IRC sec. 162(a)(2) allows deductions for traveling expenses, including meals and lodging, while 'away from home' in the pursuit of a trade or business. For such expenses to be deductible, they must be ordinary and necessary, incurred while away from home, and in the pursuit of a trade or business.

IRC sec. 213(a) permits deductions for medical expenses, including amounts paid for health insurance, to the extent such expenses exceed 10% of a taxpayer's adjusted gross income and are not compensated for by insurance or otherwise.

IRC sec. 871(b)(1) subjects nonresident aliens engaged in trade or business within the United States to taxation on income effectively connected with that trade or business.

Holding

The U. S. Tax Court held that petitioners could not deduct their expenses for airfare, meals, and entertainment under IRC sec. 162(a)(2) because they were not 'away from home' in the pursuit of a trade or business. The court followed the precedent set in Hantzis v. Commissioner, 638 F. 2d 248 (1st Cir. 1981), emphasizing that petitioners lacked a business connection to their home countries during their participation in the SWTP.

Further, the court held that petitioners could not deduct their expenses for travel health insurance under IRC sec. 162(a)(2) but could deduct these expenses under IRC sec. 213(a) to the extent they satisfied its requirements.

Reasoning

The court's reasoning centered on the interpretation of 'away from home' under IRC sec. 162(a)(2). It emphasized that for expenses to be deductible, the taxpayer must have a business justification for maintaining a residence away from the principal place of employment. Petitioners, being full-time students without business ties to their home countries during their U. S. employment, did not meet this criterion. The court distinguished between temporary employment and the necessity of maintaining a separate residence, citing Hantzis to support its conclusion that petitioners were not 'away from home'.

Regarding health insurance, the court reasoned that such expenses are primarily personal and thus not deductible under IRC sec. 162(a)(2). It followed established precedent that health insurance expenses, even if required by an employer or law, are deductible only under IRC sec. 213(a).

© 2025 SCOTUSreports.com. All rights reserved.

The court also considered the policy implications of allowing deductions for nonresident aliens that might not be available to domestic taxpayers, reinforcing its decision to deny the claimed deductions under IRC sec. 162(a)(2).

Disposition

The court's decision will be entered under Tax Court Rule 155, allowing for the computation of the amount of the deficiencies in accordance with the court's findings.

Significance/Impact

This case sets a significant precedent for the tax treatment of expenses incurred by nonresident aliens participating in cultural exchange programs like the SWTP. It clarifies that such participants cannot deduct travel and living expenses under IRC sec. 162(a)(2) due to the lack of a business connection to their home countries during their U. S. employment. The ruling may influence future tax planning for nonresident aliens and could impact how the IRS and courts view similar cases involving temporary employment and the deductibility of expenses.

The decision also reinforces the distinction between business and personal expenses, particularly regarding health insurance, which remains deductible only under IRC sec. 213(a). This aspect of the ruling underscores the personal nature of health insurance and could affect how taxpayers approach deductions for such expenses.

© 2025 SCOTUSreports.com. All rights reserved.