

Internal Revenue Service

Revenue Ruling

Rev. Rul. 67-438

1967-2 C.B. 82

IRS Headnote

A naval officer who is assigned to permanent duty aboard a ship which has regular eating and living facilities, such as an aircraft carrier, battleship, cruiser, destroyer, submarine, or supply ship, has his `home' for traveling expense purposes aboard the ship to which he is assigned.

I.T. 1497, C.B. I-2, 89 (1922), and Revenue Ruling 55-571, C.B. 1955-2, 44, modified.

Full Text

Rev. Rul. 67-438 /1/

The Internal Revenue Service has reconsidered that part of Revenue Ruling 55-571, C.B. 1955-2, 44, which provides, in effect, that a naval officer on permanent duty afloat has his `home' for traveling expense purposes at the home port of his ship rather than aboard the moving vessel.

Section 162(a)(2) of the Internal Revenue Code of 1954 allows the deduction of amounts expended for meals and lodging, as traveling expenses, only while the taxpayer is traveling `away from home in the pursuit of a trade or business.'

The general rule is that a taxpayer's `home' for traveling expense purposes is located at his principal place of business or regular post of duty. Rev. Rul. 54-497, C.B. 1954-2, 75, and Rev. Rul. 60-189, C.B. 1960-1, 60.

I.T. 1497, C.B. I-2, 89 (1922) provides, in pertinent part, that a naval officer on permanent duty afloat does not have his home on board the ship. Revenue Ruling 55-571, C.B. 1955-2, 44, which modified I.T. 1497, provides that the home port of the ship to which a naval officer is assigned for permanent duty afloat is his `home' for traveling expense purposes, the rationale being that the home port is his principal post of duty.

The home port concept was the result of analogizing the home port of a Navy ship to the home terminal of a train, long-line truck or bus, or of an airplane. The home terminal of the crews of these latter vehicles has been determined to be their `home' for traveling expense purposes. See Rev. Rul. 54-497, C.B. 1954-2, 75, 77; Rev. Rul. 55-236, C.B. 1955-1, 274.

It is true that naval officers assigned to permanent duty afloat usually perform their occupational duties while in moving vehicles as do the crews of trains, long-line trucks and buses, and airplanes. The latter vehicles, however, unlike certain types of Navy ships such as aircraft carriers, battleships, cruisers, destroyers, submarines, or supply ships, do not provide regular eating and living facilities for crew members. By contrast, such a Navy ship combines the place where a naval officer performs his occupational duties with many of the common attributes of a home in the ordinary sense.

In *Commissioner v. Howe A. Stidger, et ux.*, 386 U.S. 287 (1967), Ct. D. 1914, C.B. 1967-1, 32, a Marine Corps officer assigned to duty in El Toro, California, was reassigned to permanent duty at Iwakuni, Japan. The Supreme Court of the United States held that the taxpayer's `home' for traveling expense purposes was at Iwakuni, Japan, since that was his regular post of duty. The fact that his family was not permitted to accompany him to his new duty post was deemed to be immaterial.

Upon reconsideration of Revenue Ruling 55-571, the Service recognizes that the status for traveling expense purposes of a naval officer on permanent duty aboard a ship which, in addition to being the place where he performs his occupational duties, also has regular eating and living facilities, is more closely analogous to the status of a military officer assigned to permanent duty at a land base overseas whose family is not permitted to accompany him, than to the status of members of the crews of a train, long-line truck or bus, or an airplane. Therefore, such a ship is the naval officer's regular post of duty much like the land base is the regular post of duty of an officer in any of the military services who is permanently assigned to such a base. Accordingly, a naval officer who is assigned to permanent duty aboard a ship which has regular eating and living facilities, such as an aircraft carrier, battleship, cruiser, destroyer, submarine, or supply ship, has his `home' for traveling expense purposes aboard the ship to which he is assigned.

In view of the foregoing, I.T. 1497 is modified to the extent it implies that a naval officer on permanent duty afloat does not establish his `home' on board a Navy ship which has regular eating and living facilities. Furthermore, Revenue Ruling 55-571 is modified to remove there from the part which provides, in effect, that the `home' of a naval officer on permanent duty aboard a ship which has regular eating and living facilities is located at the home port of his ship. Pursuant to the authority contained in section 7805(b) of the Code, this Revenue Ruling will not be applied to taxable years ending prior to January 1, 1968.

/1/ Also released as Technical Information Release 943, dated November 9, 1967.