Are Travel Expenses to a Temporary Job Relocation Site Deductible?



Moving expenses associated with a work-related move are deductible to the employee (and employers may reimburse the employee for those expenses without source deduction) as long as the move is an "eligible relocation," i.e., one in which employees switch their "ordinary residence" from one place to another. Since the *Income Tax Act* doesn't define "ordinary residence," courts must interpret the term case by case. Generally, courts look for some degree of permanence and severing of ties with the original location. So things get sticky when relocating employees return to their original home after a short stint—either because the work was temporary or the position didn't work out. Here are 2 cases illustrating the different approaches courts use to decide if a temporary move is an "eligible relocation."

TEMPORARY MOVE IS NOT ELIGIBLE RELOCATION

FACTS

A New Brunswick resident takes a 10-week job in Yellowknife. His wife and daughter stay behind in the family's Moncton home. The employee also maintains his New Brunswick bank account, medical insurance and driver's licence. He pays his own air fare from Moncton to Edmonton and his living costs for staying in Edmonton for a day while he awaits his flight to Yellowknife. The employer pays all of his travel and living expenses thereafter, including meals provided at the employer work camp in Yellowknife where he lives.

DECISION

The Federal Tax Court rules that that the move wasn't an "eligible relocation" and the employee couldn't deduct his travel expenses to Edmonton as moving expenses.

EXPLANATION

The employee didn't "ordinarily reside" in Yellowknife during his stay, according to the court, citing a venerable case from 1946 (called *Thomson v. M.N.R.*, [1946] S.C.R., 209 1946-01-24) ruling that a residence requires some degree of permanency to be considered "ordinary." The relocation in this case wasn't permanent, the court concluded. The employee didn't sever any of his connections with Moncton. Consequently, the court ruled that his costs were travelling expenses related to

employment at a new work site rather than moving expenses.

LaPierre v. The Queen, 2009 TCC 595 (CanLII)

TEMPORARY MOVE IS ELIGBLE RELOCATION

FACTS

An employee relocates from New Brunswick to take a temporary job in Alberta where he lives in accommodations his employer provides. The employee keeps his house in New Brunswick, where his wife lives, as well as his New Brunswick driver's licence and medical coverage. But he does open a bank account in Alberta. He moves back to New Brunswick in 4 months after the job ends.

DECISION

The Federal Tax Court rules that that the move was an "eligible relocation" and the employee could deduct his travel expenses to Edmonton and back as moving expenses.

EXPLANATION

Although the facts in this case are almost identical to those in *LaPierre*, the difference in the court's approach to "ordinary residence" led to a totally different outcome . In the court's view, "ordinary residence" refers to a person's "settled, ordinary routine of life" in a specific place. The fact that the employee didn't sever all ties with New Brunswick, which proved to be the employee's undoing in *LaPierre*, wasn't decisive in this case because the court considered a second factor: the length of the relocation. The longer the employee stays at a new location the greater the evidence that he had a "settled, ordinary routine of life" at that location. In this case, the relocation lasted 4 months. That was simply too long an absence for the employee to be considered still ordinarily resident in New Brunswick, the court concluded.

Persaud v. The Queen, 2007 TCC 474 (CanLII), 2007-08-15