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# Closing the Door on the Home Office Debate: A Case Commentary on Soliman v. Commissioner

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# CLOSING THE DOOR ON THE HOME OFFICE DEBATE: A CASE COMMENTARY ON *SOLIMAN V. COMMISSIONER*, 113 S. CT. 701 (1993)*

Petitioner, the Commissioner of Internal Revenue, disallowed deductions which Respondent, a self-employed taxpayer, took for expenses incurred at his home office.[1] Respondent appealed the order and the United States Tax Court reversed.[2] The Tax Court allowed the deduction and held that Respondent's home office qualified under section 280A(c)(1) as the "principal place of business,"[3] even though Respondent spent more time at other business locations.[4] The Tax Court reasoned that the home office was the only available location where Respondent could perform the essential administrative functions of his business and that Respondent spent substantial amounts of time in the home office.[5] The United States Court of Appeals for the Fourth Circuit affirmed, adopting the Tax Court's interpretation of the principal place of business requirement.[6] After granting certiorari,[7] the United States Supreme Court reversed and HELD, Respondent was not entitled to the deduction because his home office did not constitute the principal place of business when compared to the more important functions performed and relative time spent at other work locations.[8]

The legitimacy of home office deductions has been a source of controversy in tax law for nearly two decades.[9] Congress, the Internal Revenue Service, and the judicial system have each attempted to set standards for residential offices in order to delineate acceptable business expenses from nondeductible personal ones.[10] Since Congress added section 280A to the

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1. Commissioner v. Soliman, 113 S. Ct. 701, 704 (1993).

2. Soliman v. Commissioner, 94 T.C. 20, 21 (1990), *aff'd*, 935 F.2d 52 (4th Cir. 1991), *rev'd*, 113 S. Ct. 701 (1993).

3. *Soliman*, 94 T.C. at 25.

4. *Id.* at 26.

5. *Soliman*, 935 F.2d at 55. The inquiry proposed by the Tax Court has been coined the "facts and circumstances" test. *Id.*

6. *Id.*

7. Commissioner v. Soliman, 112 S. Ct. 1472 (1992).

8. *Soliman*, 113 S. Ct. at 701, 708 (1993).

9. *See generally* Michael M. Megaard & Susan L. Megaard, *Supreme Court Narrows Home Office Deductions in Soliman*, 78 J. TAX'N 132 (1993) (examining the evolution of the home office deduction leading up to and beyond the *Soliman* case).

10. *See generally* Jay R. Mohlman, Weissman v. Commissioners: *The Home Office Deduction—Alive and Kicking*, 12 J. CONTEMP. L. 191 (1986) (discussing the enactment of § 280A as part of the Tax Re-

Internal Revenue Code in 1976, taxpayers have generally been unable to deduct expenses attributable to "the use of a dwelling unit used by the taxpayer . . . as a residence."[11] However, Congress promulgated several limited exceptions to this general rule, including deductions for home offices which qualify as a taxpayer's "principal place of business."[12] To interpret the scope of this statutory exception, courts have proposed various standards. These standards range from strict objective determinations, which supposedly promote greater administrative efficiency and result in less litigation, to multi-factor subjective determinations, which result in more allowances and less restrictions on taxpayers.[13] Courts have attempted to balance these competing interests when formulating standards defining section 280A(c)(1)(a).[14]

Before Congress enacted section 280A, cases such as *Newi v. Commissioner of Internal Revenue*[15] reflected the liberal attitude of the courts toward residential office deductions.[16] The *Newi* case ushered in an era of generous home office deductions strongly favored by taxpayers and based on a subjective standard which remained for nearly a decade.[17] Affirming the Tax Court opinion, the Second Circuit in *Newi* upheld a taxpayer's deduction for a den in his home which he used exclusively to watch the television advertisements of competing networks.[18] Although the taxpayer's employer

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form Act of 1976 in order to lay a foundation for his analysis of the *Weissman* case).

11. I.R.C. § 280A(a) (1992).

12. I.R.C. § 280A(c) (1992). The Code stipulates in § 280A(c)(1) that:

> Subsection (a) shall not apply to an item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis—
>
> (a) [as] the principal place of business for any trade or business of the taxpayer,
>
> (b) as a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer . . . ,
>
> (c) in the case of a separate structure which is not attached to the dwelling unit, . . . .

*Id.* § 280A(c)(1).

13. *See* Megaard & Megaard, *supra* note 9, at 132-35; *see also* Robert T. Kelly, Jr., *Home Office Deductions Restricted by Supreme Court*, 21 TAX'N FOR LAW. 324-25 (1993) (briefly describing the legal background leading up to the Soliman case); Mohlman, *supra* note 10, at 191-94.

14. *Cf.* Mohlman, *supra* note 10, at 193 (explaining the additional roles of the IRS, which "pushed for a narrow interpretation of the section," and taxpayers who "sought a broad interpretation of any activity where business was conducted").

15. 432 F.2d 998 (2d Cir. 1970).

16. *But see* Bodzin v. Commissioner, 60 T.C. 820 (1973), *rev'd*, 509 F.2d 679 (4th Cir. 1975). *Bodzin* indicates the limits of home office deductions under the pre-1976 standards. The *Bodzin* court denied the home office deduction of an IRS attorney who used a study to do additional work on evenings and weekends although his employer did not require the work and provided an office nearby. The *Bodzin* court distinguished this case from *Newi* because the taxpayer only used the home office several times a week, and an available office was located close enough so that taxpayer would not have missed vital work time. *Id.* at 680-81.

17. *See* James A. Fellows, *Current Status of Home Office Deductions Needs Clarification*, 72 J. TAX'N 332 (1990) (depicting the subjective standard as one which also left the IRS and taxpayers "with little or no certainty about the validity of the deduction until litigation ensued").

18. *Newi*, 432 F.2d at 999-1000.

provided him with available space and equipment to monitor the advertisements, the taxpayer instead chose to view them at home.[19] Because section 162(a) of the Internal Revenue Code required that deductions must be "ordinary and necessary," the Second Circuit affirmed the Tax Court's interpretation of this standard as minimally requiring "appropriate and helpful" expenditures.[20]

As a result of the courts' broad interpretation of the home office requirement,[21] the IRS persuaded Congress to codify more stringent and specific restrictions in order to alleviate some of its administrative burdens and protracted taxpayer litigation.[22] Congress responded by adopting section 280A in the Tax Reform Act of 1976.[23] Ironically, this legislative attempt to create a workable home office standard resulted in even more judicial uncertainty and taxpayer confusion.[24] Because neither the legislative history nor the statute itself defined the principal place of business,[25] the Tax Court first attempted to grapple with this ambiguity in *Baie v. Commissioner of Internal Revenue*.[26]

In *Baie*, the Tax Court had to determine whether a self-employed hot dog stand owner could deduct the expenses from her kitchen and spare bedroom, which she used to prepare food and handle bookkeeping, as her principal place of business under the new statute.[27] The *Baie* court determined that neither the legislative history of section 280A(c) nor the Commissioner's regulations enunciated the desired scope of the home office deduction.[28] Consequently, the Tax Court proposed a new standard for determining the

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19. *Id.* The Commissioner argued that the taxpayer's employer did not require him to keep a home office, but rather had provided him with an available office space in the evenings. *Id.* The court rejected this contention because of the difficulty in reaching the office during the important viewing hours. *Id.* at 1000. Under the current statute, any taxpayer not self-employed and deducting residential office space must fulfill the additional "convenience of the employer" requirement. *See* J. Martin Burke & Michael K. Friel, *The Home Office Deduction: Redefining the Principal Place of Business*, 14 REV. TAX'N INDIVIDUALS 373 (1990).

20. *Newi*, 432 F.2d at 1000 (citing the Tax Court opinion which determined that taxpayer's deduction need only be "appropriate and helpful" and not necessarily required by the employer); *see also* Anderson v. Commissioner, 33 T.C.M. (CCH) 234 (1974), *aff'd per curiam*, 527 F.2d 198 (9th Cir. 1975) (holding that an investor could deduct home office expenditures based on the appropriate and helpful standard).

21. BORIS BITTKER & LAURENCE LOKKEN, FEDERAL TAXATION OF INCOME, ESTATES AND GIFTS § 22.6.1, at 67 (2d ed. 1989) (describing the Tax Court's appropriate and helpful standard as "generous" compared to the IRS interpretation of the pre-1976 statute).

22. *See* S. REP. NO. 938, 94th Cong., 2d Sess., 1976-3 C.B. (Vol. 3) at 182. In its report, the committee noted that "'the appropriate and helpful test' increases the inherent administrative problems because both business and personal uses of the residence are involved." *Id.* at 185.

23. I.R.C. § 280A (1992); *see supra* note 12.

24. Burke & Friel, *supra* note 19, at 374 (explaining that "the definitive rules that Congress sought to provide have turned out to contain a substantial amount of ambiguity").

25. *Id.*

26. 74 T.C. 105 (1980).

27. *Id.* at 106-07.

28. *Id.* at 107.

principal place of business: the "focal point" of the taxpayer's business.[29] According to the court, Congress intended that the principal place of business be objectively determined as the "focal point" or business location where sales or final product packaging occurs.[30] Applying the focal-point test, the *Baie* court concluded that because the taxpayer generated her income from products sold at her hot dog stand, the stand and not her residential space constituted the principal place of business.[31]

Initially, the *Baie* focal-point test provided a workable solution to the ambiguity created by the enactment of section 80A(c).[32] Adopted widely by the Tax Courts, the *Baie* test proved easy to apply and resulted in a significant decrease in home office deductions as desired by the IRS.[33] However, as taxpayers appealed their cases to the next judicial level, appellate courts gradually showed a willingness to modify the *Baie* approach in favor of a more subjective inquiry. In particular, three appellate cases from two circuits cast doubt on the Tax Court's strict adherence to the focal-point test in their determination of home office disallowances.[34]

The most recent of these cases, *Meiers v. Commissioner of Internal Revenue*[35] based its standard and reasoning on ideas developed in two prior cases, *Drucker v. Commissioner of Internal Revenue*[36] and *Weissman v. Commissioner of Internal Revenue*.[37] The Seventh Circuit in *Meiers* reversed the Tax Court's finding based on a strict application of the focal-point test and allowed a home office deduction to a taxpayer who managed a self-service laundromat.[38] Although the taxpayer only spent two hours a day in her home office, she used the space solely for work-related duties like bookkeep-

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29. *Id.*

30. *Id.* at 107-08.

31. *Id.*

32. *See, e.g.*, Jackson v. Commissioner, 76 T.C. 696 (1981); Hauser v. Commissioner, 45 T.C.M. (CCH) 215 (1982); Storzer v. Commissioner, 44 T.C.M. (CCH) 100 (1982).

33. Meiers v. Commissioner, 782 F.2d 75, 79 (7th Cir. 1986), *rev'g* 49 T.C.M. (CCH) 136.

34. Commissioner v. Soliman, 113 S. Ct. 701, 705 (1993). These cases are: Drucker v. Commissioner, 79 T.C. 605 (1982), *rev'd*, 715 F.2d 67 (2d Cir. 1983); Weissman v. Commissioner, 47 T.C.M. (CCH) 520, *rev'd*, 751 F.2d 512 (2d Cir. 1984); Meiers v. Commissioner, 49 T.C.M. (CCH) 136, *rev'd*, 782 F.2d 75 (7th Cir. 1986).

35. 782 F.2d 75 (7th Cir. 1986).

36. 715 F.2d 67 (2d Cir. 1983). The *Drucker* case initiated the shift away from the focal-point test toward a more subjective inquiry. The court allowed deductions taken by three musicians for their home practice studios because their employer did not provide a place for them to practice and a majority of their time was spent practicing, not performing. The court considered this a rare exception to the focal-point test because the "employee's principal place of business is not that of his employer." *Id.* at 69.

37. 751 F.2d 512 (2d Cir. 1984). The *Weissman* majority created a substantial exception to the types of cases where the focal-point approach should apply. The court rejected the Tax Court's application of the focal-point analysis in cases where a taxpayer's occupation involves "two very distinct, yet related activities. . . ." *Id.* at 514. The chief concern of the court centered on the risk that the focal-point analysis created in "shifting attention to the place where a taxpayer's work is more visible, instead of where the dominant portion of the work is accomplished" *Id.*

38. *Meiers*, 782 F.2d at 79.

ing; furthermore, she spent twice as much time there as she did in the laundromat, where the business income was generated.[39] Echoing a previous opinion by the Second Circuit, the *Meiers* court strongly questioned the utility of the focal-point analysis.[40] In particular, the majority criticized the focal-point test's overly simplistic reliance on the situs of business transactions and services as an absolute indicator of a taxpayer's principal place of business.[41] Attempting to better carry out the purposes of Congress, the *Meiers* court proposed a more subjective "facts and circumstances" standard to define the scope of the section 280A(c) exception.[42] Specifically, the *Meiers* majority focused on several overriding factors: the length of time the taxpayer spent in the home office, the importance of business functions performed at each location, expenditures and the necessity of maintaining the residential office.[43] Because the subjective analysis enabled the court to focus on details like the relative time spent at each location, the court held that the home office was the principal place of business and accordingly upheld the deduction.[44] The ramifications of this decision, coupled with the two previous appellate opinions, were apparent at the Tax Court and appellate court levels; judicial vacillation over the different interpretations of the statute ensued.[45]

The instant case presented the U.S. Supreme Court with the opportunity to address both the mounting judicial criticism directed at the *Baie* analysis and the confusion generated by the appellate courts' reinterpretations of section 280A(c)(1).[46] To clarify the Code's ambiguous language, the Court set out to articulate a definitive mode of analysis for determining if a home office qualified for the "principal place of business" deduction.[47] Reversing both the Tax Court and the Second Circuit, the Court held that the residential office where a self-employed doctor spent two to three hours a day contact-

39. *Id.* at 76.

40. *Id.* at 79; *see Weissmann*, 751 F.2d at 514.

41. *Meiers*, 782 F.2d at 79.

42. *Id.* (arguing that although the focal-point test was quite easy to apply and more objective than the pre-1976 standard, it did not regard the approach as "fair to taxpayers" or reflective of the "apparent intent of Congress").

43. *Id.*

44. *Id.*

45. *See generally* Pomarantz v. Commissioner, 867 F.2d 495 (9th Cir. 1988). A poignant example of the resulting split of authority, the *Pomarantz* majority relied on dual subjective/objective standards in their determination of whether the respondent's residential office qualified as his principal place of business. Without favoring either a "facts and circumstances" or a "focal point" analysis, both the tax and appellate court held that under either standard, the home office did not qualify as the principal place of business. *Id.* at 497-98; *see also* Megaard & Megaard, *supra* note 9, at 133-34 (citing several other cases which adopted both the "facts and circumstances" and the "focal-point" analyses into their opinions including Kisicki v. Commissioner, 871 F.2d 1088 (6th Cir. 1989) and Cadwallader v. Commissioner, 919 F.2d 1273 (7th Cir. 1990)).

46. *Soliman*, 113 S. Ct. at 705. "We granted certiorari to resolve the conflict." *Id.*

47. *Id.* at 706.

ing patients and updating files did not constitute his "principal place of business" when compared to the three hospitals where he spent the majority of his time and contact with clients.[48] The Court based its holding on the legislative history and statutory language of section 280A(c) which indicated that Congress intended to narrow the scope of deductions established by the *Newi* standard as well as suggest a comparative method of analysis.[49]

In its determination of the proper analysis dictated by section 280A(c), the Court refused to wholly sanction any of the tests previously relied upon by the Tax or Appellate courts. Rather, the instant Court synthesized various factors from the *Baie* and *Meiers* opinions in its formulation of the proper home office inquiry.[50] These factors comprise what the majority opinion determined to be the two fundamental considerations when assessing various places of business: the "relative nature of functions performed" and the "time spent at each location".[51]

The "relative importance of functions" consideration suggested by the Court mirrors the focal-point inquiry adopted in *Baie*: the place where goods and services are transacted along with other income generating tasks "must be given great weight" in determining the principal place of business.[52] The second consideration, a comparison of the time spent at each location, was previously used in the *Meiers* analysis.[53] The availability of alternative office space outside the home and the necessity of performing administrative tasks, two factors considered germane by the court of appeals, were rejected by the instant Court.[54] The majority concluded that, in the event the dual analysis did not result in a clear answer, the taxpayer's home office would not become the principal place of business by default.[55]

Essentially, the majority adopted a subjective standard, the core of which still remains the *Baie* focal-point test. Commentators describe the instant case's effect on taxpayers as "narrowing a window of opportunity that had been opened by recent decisions."[56] The concurring opinion of Justices

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48. *Id.* at 708.

49. *Id.* at 705-06. The Court undermined the lower court's approach by likening it to the "appropriate and helpful" test rejected by Congress and by distinguishing it from the most recent court of appeals cases, all of which comparatively assessed each of the business locations. *Id.* at 706. The majority proposed a common sense approach to statutory interpretation: the word "principal" in § 280A(c) suggested that a comparison of all business locations was a necessary component when determining whether the home office qualified for the deduction. The Court based this plain meaning interpretation on a previous decision involving a revenue statute. *Id.; see* Malat v. Riddel, 383 U.S. 569, 571 (1966) (per curiam).

50. *Soliman*, 133 S. Ct. at 706-07.

51. *Id.* at 706.

52. *Id.*; *see Baie*, 74 T.C. at 105.

53. *Soliman*, 113 S. Ct. at 707; *see Meiers*, 782 F.2d at 79.

54. *Soliman*, 113 S. Ct. at 707.

55. *Id.*

56. Kelly, *supra* note 13, at 324; *see also* Sandra K. Miller, *Nobody Home: U.S. Supreme Court Tightens Rules for Home Office Deduction*, NAT'L PUB. ACCT., Apr. 1993, at 20 (describing the *Soliman*

Thomas and Scalia raises the concern that while the Court granted certiorari to "clarify a recurring question of tax law," the "issue is no clearer today" as a result of the majority opinion.[57] Justice Stevens, voicing the sole dissent, fears that the instant case will ultimately "breed uncertainty in the law, frustrate a primary purpose of the statute, and unfairly penalize deserving taxpayers."[58] Although the legal community has raised different objections regarding the decision, there appears to be no disagreement concerning the impact of the decision: many taxpayers who regularly and exclusively use their home offices will no longer be able to file for a deduction.[59]

Because of its widespread and tangible impact on taxpayers, one predominant concern with the instant Court's decision has been to determine whether Congress intended such a narrow interpretation and its inevitable result. According to the Senate reports on the 1976 Tax Reform Act, one of the chief concerns necessitating the statutory change was that "nondeductible personal, living and family expenses might be converted into deductible business expenses" under the judicial interpretation of the pre-1976 statute.[60] In his dissent, Justice Stevens argues that Congress' only intent in the adoption of section 280A "was to prevent home offices not genuinely necessary."[61] Similarly, the Tax Court, in its rejection of the *Soliman*-like standard, reasoned that the 1976 statutory amendment "was not enacted to compel a taxpayer to rent office space rather than work out of a home office."[62] Nevertheless, because the only clear indication from the committee record was an intent to narrow the scope of the *Newi* standard, any interpretation more stringent would be consistent with the legislative history.

Although the majority argues that its interpretation of section 280A most accurately reflects the amendment's legislative background, the Court's reliance on established rules of statutory interpretation appears to rest on more convincing grounds. Because legal precedent dictates that judges must interpret the language of statutes in their "ordinary, everyday senses," the Court concludes that its comparative analysis is compelled by the "principal place of business" requirement.[63] However, the majority's plain meaning interpre-

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test as "narrow" and the impact of the decision as "dramatic").

57. *Soliman*, 113 S. Ct. at 711 (Thomas, J., concurring).

58. *Id.* at 715 (Stevens, J., dissenting).

59. *See* Megaard & Megaard, *supra* note 9, at 142. The Megaards conclude that the *Soliman* decision will be "bad news for many," though some taxpayers will still qualify for the deduction. However, the Megaards also point out that because the inquiry is still a subjective one, there will be uncertainty until the courts have the opportunity to apply the new standard. *Id.*; Miller, *supra* note 56, at 20 (arguing that the decision will "have the practical effect of denying the home office deduction to large numbers of self-employed taxpayers and employees").

60. S. REP. NO. 938, 94th Cong., 2d Sess., 1976-3 C.B. (Vol. 3) at 182.

61. *Soliman*, 113 S. Ct. at 715 (Stevens, J., dissenting) (arguing that the majority's opinion discourages sound tax policy by penalizing taxpayers for saving money with home offices).

62. *Soliman*, 94 T.C. at 25.

63. *Soliman*, 113 S. Ct. at 705-06 (quoting Malat v. Riddell, 383 U.S. 569, 571-72 (1966), where the

tation overlooks the interplay of the statute's other two subsections.[64] By relying on the focal-point analysis as a determinative factor in its inquiry, the majority effectively renders meaningless the "office for meeting clients" exception in subsection 2 of section 280A(c).[65] Writing for the majority, Justice Kennedy unconvincingly refutes this argument by second-guessing congressional intent; the focus on contact with customers used for both the sections merely indicates the importance of this factor to any business.[66]

Aside from concerns regarding the majority's reasoning, the potential ramifications of the instant opinion warrant close examination. Just as the enactment of section 280A was intended to lay down "definitive rules" and eventually caused more confusion,[67] so too the standard articulated by the Court has caused confusion as to the dynamics of its two primary considerations. This uncertainty leaves lawyers, taxpayers and even concurring justices wondering about the status of future as well as pre-*Soliman* cases.[68] Specifically, the majority's standard becomes difficult to apply in a situation where a self-employed taxpayer spends substantially more time at home but primarily generates income at another location.[69] Applying the *Soliman* decision to the facts of *Meiers*, it would appear that the courts would currently disallow the taxpayer's deduction. Although the taxpayer spent twice as much time at the home office, the focal point and income generating tasks were clearly situated at the laundromat, thus de-emphasizing the importance of the time factor.[70]

The most unsettling aspect of the instant Court's decision, however, is its impact on similar cases: those involving self-employed taxpayers whose home offices are essential to their businesses, used for substantial periods of time, and the only location available. Compared to cases where employers have provided available though inadequate office space,[71] the inequity of

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Court interpreted the word "primarily" in the Revenue Code). *See supra* note 49 and accompanying text.

64. *See supra* note 12. Justice Stevens argues that Congress included § 280A(c)1(a) to describe business locations where a taxpayer does not normally meet with clients or customers. *Soliman*, 113 S. Ct. at 714 (Stevens, J., dissenting).

65. *Soliman*, 113 S. Ct. at 715 (Stevens, J., dissenting). This is the exception for home offices where taxpayers regularly meet their clients or patients. Because the focal-point analysis regards the place where clients purchase goods or services as indicative of the PPB, those in the legal arena question why Congress have would have overlapped these two requirements. *Id.; see supra* note 10.

66. *Soliman*, 113 S. Ct. at 707.

67. *See* Fellows, *supra* note 17, at 332; *see also* Burke & Friel, *supra* note 19, at 374.

68. *See Soliman*, 113 S. Ct. at 711 (Thomas, J., concurring).

69. *Id.* The *Soliman* opinion would probably disallow the example previously deemed deductible by the IRS in its Proposed Regulations. In this example, "if an outside salesperson has no office space except at home and spends a substantial amount of time on paperwork at home, the office in the home may qualify as the salesperson's principal place of business." Proposed Income Tax Regs., 45 Fed. Reg. 52399 (1980), *as amended*, 48 Fed. Reg. 33320.

70. *See Soliman*, 113 S. Ct. at 707 (noting that the time factor becomes particularly important when the first part of the inquiry, a comparison of the functions performed at each location, yields no clear answer).

71. *See, e.g.*, Weissman v. Commissioner, 751 F.2d 512 (2d Cir. 1984) (allowing the deduction of a

disallowing a self-employed taxpayer's home office deduction is more apparent.[72] The decision forces these taxpayers to either rent office space outside their homes or relinquish their deductions.[73] In essence the court penalizes taxpayers for what was previously a legitimate business decision.[74]

Because the majority would not deviate from the plain meaning of the statute, it was unwilling to consider an alternative standard that would produce more consistent results, better suited to the commercial realities of self-employed taxpayers. Such an alternative would allow deductions by independent contractors and self-employed taxpayers for their administrative headquarters, as long as substantial and essential business functions occurred there.[75] Because the types of taxpayers qualifying under this standard are limited, the potential for opening up the floodgates to unwarranted deductions would be minimized.[76] Most importantly, this alternative standard reaches a compromise between the burden on the IRS to decipher legitimate from illegitimate deductions on the one hand, and the rights of taxpayers to establish the most productive arrangement for their businesses on the other.

Because Congress' wording of the statute constrained the Soliman court's interpretation, it is appropriate that the taxpayer's only recourse would be through legislative, not judicial, means. Although the instant decision retreated from the more generous standard developed in opinions such as *Meiers*, it also left behind the strictly objective focal-point analysis proposed by *Baie*. Confined by the acceptable parameters of judicial function, the decision attempted to balance the interests of government and taxpayer. Its standard, however, shortchanges taxpayers in a way that even Congress would not have predicted.

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college professor even though the university provided him with an office); Cadwallader v. Commissioner, 919 F.2d 1273 (7th Cir. 1990) (disallowing a doctor's home office whose contractor provided a work space at the hospital for him).

72. *Soliman*, 113 S. Ct. at 715 (Stevens, J., dissenting) ("[N]othing in the history of this statute provides an acceptable explanation for disallowing a deduction for the expense of maintaining an office that is used exclusively for business purposes").

73. I.R.C. § 280 (1992); *see supra* note 12. If a taxpayer cannot fulfill the principal place of business requirement, the only alternatives to keeping the deduction are to rent an office outside the home or restructure one's business so as to meet clients regularly in one's home office. *Id.*

74. *See* Burke & Friel, *supra* note 19, at 379; *see also Meiers*, 782 F.2d at 79 (concluding that the taxpayer made a legitimate business decision not to have an office at the laundromat).

75. This alternative has been suggested by Justice Stevens. *Soliman*, 113 S. Ct. at 715 (Stevens, J., dissenting); *see also Soliman*, 94 T.C. at 23 (noting "that where a taxpayer's occupation requires essential organizational and management activities that are distinct from those that generate income, the place where the business is managed can be the principal place of business"); Burke & Friel, *supra* note 19, at 378-79.

76. *Soliman*, 113 S. Ct. at 715 (Stevens, J., dissenting) (this standard is "true to the statute and practically incapable of abuse").