miscellaneous itemized deductions for 1996, claiming on that return that he was entitled to deduct $7,811 of that amount after taking into account the 2-percent floor of section 67. Petitioner has no receipts to support the claimed deduction of $3,654. Petitioner used the per diem substantiation method of the applicable revenue procedures and ascertained the amount of that deduction by using the full M&IE rate for each city to which he traveled. The $3,654 deduction related solely to the incidental expenses which petitioner paid during 1996 while working on the Falcon.

Respondent determined that petitioner was not entitled to deduct the $3,784 and $3,654 amounts claimed for 1994 and 1996, respectively.

OPINION

We must decide whether petitioner may deduct the cost of the incidental travel items which he purchased during the subject years while working away from his personal residence. Petitioner argues he may. Petitioner asserts that he incurred the costs while working away from home on business. Petitioner asserts that the applicable revenue procedures mentioned herein dispense with the need to substantiate the amounts of those costs in order to deduct them. Respondent argues that petitioner may not deduct those costs. ***Respondent asserts primarily that petitioner had no tax home.*** Respondent asserts secondly that petitioner did not

expenses paid by an employee for travel while away from home after March 31, 1996). Each of these revenue procedures clarified that the use of the M&IE rates was not mandatory and that a taxpayer could deduct actual allowable expenses if he or she had adequate records or other supporting documentation. See, e.g., Rev. Proc. 96-28, sec. 1, 1996-1 C.B. at 686; Rev. Proc. 94-77, sec. 1, 1994-2 C.B. at 825.

Respondent argues primarily that these revenue procedures have no applicability to this case because, respondent asserts, petitioner's employment on the Falcon was not away from home. Respondent characterizes petitioner as an itinerant, meaning that he had no tax home. Respondent asserts that a taxpayer may have a tax home only if he or she incurs duplicative living expenses. Respondent asserts that petitioner is without a tax home because he did not incur duplicative living expenses since his employer furnished him with meals and lodging without charge. Respondent asserts that petitioner's claimed incidental expenses were not duplicative of any expense that he actually incurred as to his personal residence. Respondent relies primarily on Henderson v. Commissioner, 143 F.3d 497 (9th Cir.1998),affg. T.C. Memo. 1995-559, and Rev. Rul. 73-529, 1973-2 C.B. 37.

We disagree with respondent's assertion that petitioner had no tax home. This Court's jurisprudence holds that an individual's tax home is generally the location of his or her

principal place of employment. See Daly v. Commissioner, 72 T.C. 190 (1979); Kroll v. Commissioner, 49 T.C. 557, 561-562 (1968); cf. Commissioner v. Flowers, 326 U.S. 812 (1946). ***If an individual does not have a principal place of employment, we generally deem the situs of the individual's permanent residence to be his or her tax home.*** See Rambo v. Commissioner, 69 T.C. 920 (1978); Dean v. Commissioner, 54 T.C. 663 (1970); Leach v. Commissioner, 12 T.C. 20 (1949). We consider a person who has neither a permanent residence nor a principal place of employment to be an itinerant without a tax home. See Wirth v. Commissioner, 61 T.C. 855, 859 (1974); Hicks v. Commissioner, 47 T.C. 71 (1966).

Petitioner had no principal place of employment. He did, however, have a permanent residence; to wit, his personal residence. We believe that petitioner's tax home was the situs of his personal residence in Freeland, where he resided with his wife and their daughter. See Leach v. Commissioner, supra. [5] Unlike the taxpayer in Henderson v. Commissioner, supra, who

[5] In Leach v. Commissioner, 12 T.C. 20 (1949), we held that the taxpayer's tax home was the situs of his personal residence, and we let him deduct the costs which he paid to lodge near some of his work sites. The taxpayer had no principal place of employment and resided in his personal residence with his wife and child. He worked away from that residence for 49 weeks of the year and could not move his wife and child to the area of any of his work sites mainly because he was at each of the sites for a short and indefinite period.

lived with his parents practically without charge in the situs that he argued was his tax home, petitioner was primarily responsible for maintaining financially his personal residence, he had an ownership interest in his personal residence, and he contributed to his household there in a valuable and indispensable way. Petitioner also spent a substantial part of each year at his personal residence. Whereas the taxpayer in Henderson v. Commissioner, supra, worked for his employer away from his claimed tax home approximately 85 percent of the year, petitioner was required by his employer to be away from his personal residence only 47.4 percent of 1994 and only 56.4 percent of 1996.

Petitioner also had a legitimate reason for maintaining his personal residence in Freeland while traveling throughout the world with and for his employer. First, petitioner's family did not travel with him while he worked; thus, petitioner was required to maintain a family residence somewhere. We refuse to second guess petitioner's decision to maintain his family residence in Freeland, instead of moving his family to the location of his Florida employer or to one of the many cities to which he traveled. Cf. Leach v. Commissioner, supra. To have a tax home for purposes of section 162(a), a taxpayer need not

had to pay for those living quarters and his meals there as well as the cost of his personal residence and the meals which his family consumed at the personal residence. ***According to respondent, an employee such as petitioner can never have a tax home because he continually travels to different cities during his employment. We disagree that such continual travel, in and of itself, serves to disqualify a taxpayer from having a tax home for purposes of section 162(a). Regardless of where a taxpayer performs most of his or her work, the fact that he or she maintains financially a fixed personal residence generally means that he or she has a tax home someplace.*** See James v. United States, 308 F.2d 204 (9th Cir. 1962) (a taxpayer's permanent residence is his or her tax home if the taxpayer has no principal place of employment, is currently working away from that residence, and incurs substantial continuing living expenses at the residence); see also Leach v. Commissioner, 12 T.C. 20 (1949)***. Because petitioner incurred throughout the subject years substantial living expenses in maintaining his personal residence, his personal residence was his tax home for purposes of section 162(a).*** Cf. Ireland v. Commissioner, T.C. Memo. 1979-386.

Respondent's reliance on Rev. Rul. 73- 529, 1973-2 C.B. 37, is misplaced. In addition to the fact that revenue rulings are not binding on this Court, see Sklar, Greenstein & Scheer, P.C.