5 T.C. 33 (1945)

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A U.S. citizen maintaining a bona fide foreign residence is not automatically disqualified from a tax exemption under Section 116(a) of the Revenue Act of 1938 solely because they spend more than 183 days in the United States during the taxable year; the primary consideration is whether they maintain a true residence outside the U.S.

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Summary

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J.W. Swent, an American citizen working in Mexico for many years, claimed a tax exemption under Section 116(a) of the Revenue Act of 1938 for income earned abroad. The Commissioner of Internal Revenue challenged the exemption because Swent spent more than 183 days in the U.S. during the tax year. The Tax Court ruled in favor of Swent, holding that his established bona fide residence in Mexico was not nullified by temporary stays in the U.S., primarily for health reasons. The court emphasized that the focus should be on the taxpayer's intent to maintain a foreign residence, not solely on the amount of time spent in the U.S.

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Facts

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J.W. Swent, a U.S. citizen, had lived and worked in Tayoltita, Durango, Mexico, since 1918 as the manager of a mining company. His family resided with him in Mexico. He registered as a resident of Tayoltita with the Mexican government and declared his residence as Tayoltita on his U.S. passport applications. During 1940, Swent and his wife spent 241 days in the U.S., primarily for health reasons due to the hot climate in Tayoltita, staying in a rented apartment in San Francisco. Despite his absences, Swent continued to receive his full salary from the mining company, and the company continued operations under his assistant manager.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Swent's income tax for 1940, arguing he was not a bona fide nonresident of the U.S. for more than six months. Swent petitioned the Tax Court for a redetermination. The Tax Court ruled in favor of Swent, allowing the exclusion under Section 116(a) of the Revenue Act of 1938.

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Issue(s)

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Whether a U.S. citizen, who otherwise qualifies as a bona fide nonresident of the United States, is disqualified from the tax exemption provided by Section 116(a) of the Revenue Act of 1938 solely because they were physically present in the United States for more than six months during the taxable year.

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Holding

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No, because the critical factor is whether the taxpayer maintains a bona fide residence in a foreign country, and temporary absences in the U.S. for reasons such as health or business do not automatically negate that status.

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Court's Reasoning

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The Tax Court disagreed with the Commissioner's reliance on a strict, arithmetic interpretation of the

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