покидає США, коли він перебуває на борту судна, що належить уряду іншої країни в гавані Нью-Йорка?, 9 T.C. 96 (1947)

An individual is not considered outside the United States for tax exemption purposes under Section 116 of the Internal Revenue Code until the vessel on which they are traveling has departed U.S. territorial waters.

Summary

The Tax Court addressed whether an American citizen was "outside the United States" for income tax purposes when he boarded a British vessel in New York Harbor that did not set sail until the following day. The petitioner argued that his presence on the foreign vessel, regardless of its location, constituted being outside the United States. The court ruled that physical departure from U.S. territory is required to meet the "outside the United States" threshold for the purposes of claiming the tax exemption under Section 116. The court upheld the tax deficiency assessed against the petitioner.

Facts

The petitioner, an American citizen, was employed by Lockheed and received income for services performed overseas. To claim a tax exemption, he needed to demonstrate he was outside the United States for more than six months in 1942. On June 30, 1942, the petitioner boarded a British vessel (H.M.S. Maloja) in New York Harbor, bound for the British Isles. Although aboard the vessel, he was not allowed to communicate with anyone outside of it for security reasons. The vessel did not sail until the morning of July 1, 1942.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the petitioner's income tax for 1942 and 1943. The petitioner contested the deficiency, arguing he was entitled to an exemption under Section 116 of the Internal Revenue Code for income earned while outside the United States. The Tax Court heard the case to determine whether the petitioner met the requirements for the exemption.

Issue(s)

Whether an American citizen is considered "outside the United States" for the purposes of Section 116 of the Internal Revenue Code when they are aboard a vessel belonging to a foreign government that is tied to a pier in New York Harbor.

Holding

No, because for the purposes of Section 116(a) of the Internal Revenue Code, the petitioner was not "outside the United States" as long as the ship remained at its pier in New York Harbor.

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Court’s Reasoning

The court reasoned that physical presence within the United States, even aboard a foreign vessel, does not constitute being “outside the United States” for the purposes of the tax exemption. The court acknowledged that international maritime law might address jurisdiction over crimes committed on foreign vessels, but it found that such law was not applicable to determining residency or presence for tax purposes under Section 116. The court emphasized the lack of legal precedent supporting the petitioner’s argument that simply boarding a foreign vessel within U.S. territory equates to being outside the United States. The court stated, “While it may be true that for certain purposes British sovereignty extended over the vessel H. M. S. Maloja while she was anchored in New York Harbor, nevertheless for purposes of section 116 (a), supra, petitioner was not ‘outside the United States’ as long as the ship remained at its pier in New York Harbor.”

Practical Implications

This case clarifies the interpretation of “outside the United States” for tax purposes, establishing that physical departure from U.S. territory is required to meet the exemption requirements under Section 116 of the Internal Revenue Code. This ruling has implications for individuals seeking to claim tax exemptions based on foreign residency or presence. It emphasizes the importance of establishing actual physical absence from the United States to qualify for such exemptions. Later cases would likely distinguish this ruling based on factual differences regarding the individual’s physical location and the specific requirements of the tax code at the time.

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