7 T.C. 1136 (1946)

For tax exemption purposes, a U.S. citizen is not considered a bona fide nonresident of the United States while aboard a foreign vessel docked in a U.S. harbor, and temporary presence in a foreign country for war-related work does not automatically establish 'bona fide residence' there.

Summary

J. Gerber Hoofnel, a U.S. citizen, sought to exclude income earned overseas in 1942 and 1943 from his U.S. taxable income, claiming he was a bona fide nonresident/resident of a foreign country. In 1942, he boarded a British vessel in New York harbor on June 30, which sailed on July 1. He worked in the British Isles until 1944. The Tax Court held that Hoofnel was not a bona fide nonresident for more than six months in 1942 because he was still within the U.S. until July 1. The court further held that he was not a bona fide resident of a foreign country in 1943 because his presence was temporary and related to war work.

Facts

- Hoofnel was a U.S. citizen employed by Lockheed Overseas Corporation.
- In February 1942, Hoofnel signed an employment contract to work at an aircraft depot in the British Isles. He indicated a willingness to work overseas for more than two years.
- On June 30, 1942, Hoofnel boarded a British vessel, the H.M.S. Maloja, in New York Harbor, bound for the British Isles. The ship sailed on July 1, 1942.
- He worked in England and Northern Ireland until July 13, 1944, and then returned to the United States.
- Hoofnel did not apply for citizenship in Northern Ireland or become a British subject. He intended to return to the United States after his employment terminated.

Procedural History

- The Commissioner of Internal Revenue determined a deficiency in Hoofnel's income tax for 1943, including an unforgiven tax liability for 1942.
- Hoofnel contested the determination, arguing that his overseas earnings were exempt under Section 116 of the Internal Revenue Code.
- The Tax Court reviewed the Commissioner's determination.

Issue(s)

1. Whether Hoofnel was a bona fide nonresident of the United States for more than six months in 1942, thus exempting his overseas income from U.S. taxation under the then-existing version of Section 116 of the Internal Revenue Code.
2. Whether Hoofnel was a bona fide resident of a foreign country during the

© 2025 SCOTUSreports.com. All rights reserved.

entire taxable year of 1943, thus exempting his overseas income from U.S. taxation under Section 116 of the Internal Revenue Code, as amended by the Revenue Act of 1942.

Holding

1. No, because being aboard a foreign vessel docked in a U.S. harbor does not constitute being "outside the United States" for the purposes of the tax code.
2. No, because Hoofnel's presence in Northern Ireland was temporary and related to war work, not indicative of a bona fide residence.

Court's Reasoning

- For the 1942 income, the court emphasized that physical absence from the United States for more than six months was required for the exemption. Since Hoofnel was in New York Harbor until July 1, he did not meet this requirement. 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."
- For the 1943 income, the court relied on the amended Section 116 and the precedent set in Michael Downs, 7 T.C. 1053 (1946), which involved similar facts. Hoofnel's intention was to remain in Ireland only for the duration of the war or his employment, indicating a lack of intent to establish a bona fide residence. His failure to pay taxes in the UK further supported this conclusion.
- The court considered Hoofnel's employment contract, which specified a defined period of employment related to the war effort, as evidence against the establishment of a bona fide foreign residence.

Practical Implications

- This case clarifies the requirements for establishing bona fide nonresidence or residence in a foreign country for U.S. tax purposes.
- It emphasizes that physical presence outside the U.S. is a key factor in determining nonresidence for the six-month rule and that temporary presence for specific work assignments does not automatically qualify as bona fide residence.
- The case highlights the importance of intent to establish residency, as evidenced by actions such as seeking citizenship, paying foreign taxes, and demonstrating a long-term commitment to living in the foreign country.
- Later cases have cited Hoofnel for its interpretation of Section 116 and its emphasis on the temporary nature of an individual's presence in a foreign country as it relates to determining resident status. The case also shows that factors such as being reimbursed for foreign taxes do not demonstrate intent to establish residency, but rather the opposite.

© 2025 SCOTUSreports.com. All rights reserved.