9 T.C. 1126 (1947)

A U.S. citizen who is physically absent from the United States for more than six months of a taxable year, while employed abroad, qualifies as a bona fide nonresident for purposes of excluding foreign-earned income from U.S. taxation under Section 116(a) of the Internal Revenue Code, even if some of that time is spent outside their country of employment.

Summary

Paul Fichter, a U.S. citizen, worked in Japan for an American company for many years. In 1941, due to increasing international tensions, he traveled to the U.S. for consultations and later returned to Japan before ultimately leaving again and settling in the U.S. The IRS determined that his income earned in Japan was taxable because he wasn't a bona fide nonresident for more than six months of the year. The Tax Court disagreed, holding that since Fichter was physically outside the U.S. for more than six months, he qualified for the foreign-earned income exclusion under Section 116(a), even considering time spent in Canada.

Facts

From 1919 until August 1941, Paul Fichter managed the Osaka, Japan branch of Anderson, Clayton & Co. He was a U.S. citizen but resided in Japan for 22 years. In early 1941, he traveled to the U.S. for business consultations regarding the deteriorating situation in Japan. He also visited his children in Canada. He returned to Japan but, due to worsening conditions, left permanently on August 1, 1941, arriving back in the U.S. on August 28, 1941. His wife and children resided in Canada. In 1941, Fichter was physically absent from the U.S., being in Japan, on the high seas, and in Canada, for more than six months.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Fichter's 1941 income tax. The Commissioner argued that Fichter's income earned in Japan was taxable because he wasn't a bona fide nonresident of the United States for more than six months during that year. Fichter petitioned the Tax Court for a redetermination.

Issue(s)

Whether Paul Fichter, a U.S. citizen working abroad, was a bona fide nonresident of the United States for more than six months during the 1941 taxable year, thus entitling him to exclude his foreign-earned income from U.S. taxation under Section 116(a) of the Internal Revenue Code.

Holding

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Yes, because Fichter was physically absent from the United States for more than six months during 1941, satisfying the statutory requirement for the foreign-earned income exclusion, even considering his time spent in Canada visiting his family.

Court's Reasoning

The court focused on the plain language of Section 116(a), which requires the taxpayer to be a "bona fide non-resident of the United States for more than six months during the taxable year." The court noted the purpose of the statute: "to increase and encourage our foreign trade by exempting from tax the income derived from export sales by American citizens engaged in that trade and forced to be absent on account thereof from the United States for considerable periods of time." Fichter had worked for a U.S. company in Japan for many years. The court distinguished this case from prior cases like *Estate of W. M. L. Fiske* and *J. W. Swent*, where the taxpayers spent a significant portion of the year within the United States. Here, Fichter was physically absent from the U.S. for 206.5 days. The court rejected the Commissioner's argument that only time spent on business in Japan should count towards the six-month requirement, holding that Fichter's time in Canada visiting his family did not negate his status as a bona fide nonresident, especially since he returned to Japan to continue his work before ultimately returning to the U.S.

Practical Implications

This case clarifies the interpretation of "bona fide nonresident" under Section 116(a) of the Internal Revenue Code. It emphasizes that physical presence outside the United States for more than six months is a key factor. The case suggests that brief visits to the U.S. for business or personal reasons (like visiting family in a third country) do not necessarily disqualify a taxpayer from claiming the foreign-earned income exclusion, as long as they maintain a foreign residence and are predominantly working abroad. This ruling offers guidance for taxpayers working overseas and helps them plan their time to qualify for tax benefits. Later cases may distinguish *Fichter* based on the specific facts and circumstances of the taxpayer's ties to the U.S. and the nature of their foreign employment.

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