10 T.C. 208 (1948)

A resident alien taxpayer is entitled to a war loss deduction under Section 127 of the Internal Revenue Code for property located in enemy-controlled territory at the time the United States declared war, regardless of the alien's citizenship.

Summary

David Schnur, a resident alien in the U.S. and citizen of Spain, sought a war loss deduction under Section 127 of the Internal Revenue Code for German bonds and French real estate located in German-occupied territories when the U.S. declared war on Germany in 1941. The Tax Court held that Schnur was entitled to the deduction. The court reasoned that the Code taxes resident aliens and citizens alike, and Section 127 was intended to provide relief to all taxpayers who suffered losses due to the war, irrespective of their citizenship. This case clarifies that resident aliens are treated similarly to citizens for war loss deduction purposes.

Facts

Prior to 1934, Schnur was a citizen of Germany, then Spain until 1946 when he became a U.S. citizen. In 1941, Schnur resided in the U.S. He owned German municipal and corporate bonds held by a stockbroker in Amsterdam, Holland. He also owned real property in German-occupied France, consisting of a farm and town house. On December 11, 1941, the U.S. declared war on Germany. Schnur filed income tax returns for 1941 but did not claim a war loss deduction. He later filed amended claims seeking a refund based on war losses exceeding $100,000.

Procedural History

The Commissioner of Internal Revenue denied Schnur's claim for a war loss deduction. Schnur petitioned the Tax Court for a redetermination of his tax liability, claiming an overpayment of income taxes for 1941. The Tax Court reviewed the case, considering the facts, relevant tax code sections, and arguments presented by both Schnur and the Commissioner.

Issue(s)

Whether a resident alien, who is a citizen of a neutral country, is entitled to a war loss deduction under Section 127 of the Internal Revenue Code for property located in enemy-controlled territory when the United States declared war.

Holding

Yes, because Section 127 of the Internal Revenue Code does not distinguish between citizens and resident aliens, and the intent of the statute was to provide relief to all U.S. taxpayers who suffered war losses, irrespective of their citizenship.

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Court’s Reasoning

The Tax Court reasoned that the Internal Revenue Code imposes taxes on the net income of “every individual,” making no distinction between citizens and resident aliens. The court emphasized that resident aliens are generally taxed the same as U.S. citizens. Section 127, enacted as part of the Revenue Act of 1942, was intended to provide practical rules for the treatment of property destroyed or seized in the course of military operations, or located in enemy countries. The court cited its prior decisions in *Eric H. Heckett* and *Eugene Houdry*, emphasizing that citizenship is immaterial when determining eligibility for war loss deductions. The court stated, “The controlling factors are whether the individual is a taxpayer, and whether he in fact sustained war losses within the meaning of Section 127, Internal Revenue Code.” The court also noted that respondent’s own regulations state that all public bonds of a country at war with the United States are considered to be within the provisions of Section 127(a)(2). The court found that Schnur owned German bonds with a cost basis exceeding $76,000 and real property in occupied France, establishing a war loss deduction of at least $100,000.

Practical Implications

This decision clarifies that resident aliens are entitled to the same tax benefits as U.S. citizens regarding war loss deductions under Section 127 of the Internal Revenue Code. It reinforces the principle that resident aliens are generally treated as citizens for income tax purposes, ensuring that they receive equitable treatment under the law. This case informs legal practice by providing a clear precedent for analyzing similar cases involving resident aliens and war loss claims. It also serves as a reminder that tax laws should be interpreted to provide consistent and fair treatment to all taxpayers, regardless of citizenship, unless explicitly stated otherwise in the statute.

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