10 T.C. 1225 (1948)

A person’s domicile, and therefore their residency for estate tax purposes, is determined by their intent as demonstrated by their actions and the totality of circumstances, not solely by physical presence in a particular location.

Summary

The Tax Court addressed whether Anthony Fokker, a Dutch citizen, was a resident of the United States at the time of his death for estate tax purposes. The court considered his ties to the U.S. including property ownership, business interests, and statements of intent, weighed against his connections to Switzerland and Holland. The court held that Fokker was a U.S. resident based on his continued maintenance of a home in the U.S., his business activities, and his repeated assertions of residency to immigration authorities, and valued certain Dutch assets at a blocked rate.

Facts

Anthony Fokker, a Dutch citizen and aviation pioneer, maintained a home in the United States from 1927 until his death in 1939. He also purchased a chalet in St. Moritz, Switzerland, in 1934, which he used for business and personal purposes. Fokker filed a declaration of intent to become a U.S. citizen in 1926, but he never finalized the process. He frequently traveled between the U.S., Europe, and maintained significant business interests and investments in the U.S.

Procedural History

The Commissioner of Internal Revenue determined an estate tax deficiency based on the assessment that Fokker was a U.S. resident. The executor of Fokker’s estate contested the deficiency, arguing that Fokker was not a U.S. resident at the time of his death, thus impacting the taxability of his foreign assets. The case was brought before the United States Tax Court.

Issue(s)

1. Whether Anthony Fokker was a resident (domiciled) in the United States at the time of his death for estate tax purposes.

2. What was the proper valuation of Fokker’s assets in Dutch guilders given currency restrictions at the optional valuation date?

Holding

1. Yes, because Fokker maintained a continuous presence and demonstrated an intent to remain in the United States, as evidenced by his property ownership, business activities, and repeated statements to immigration officials, despite owning

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property and spending time abroad.

2. The Dutch guilder assets should be valued at $0.05 per guilder, because this reflected the blocked rate in New York on the optional valuation date due to the German occupation of the Netherlands and currency restrictions.

Court’s Reasoning

The court reasoned that domicile requires both residence and the intention to remain indefinitely. While Fokker spent time in Switzerland and maintained a chalet there, his actions indicated a primary intent to remain in the U.S. The court emphasized that Fokker consistently represented himself as a U.S. resident to immigration authorities to facilitate reentry into the country. The court stated, “[H]e repeatedly, and without exception, stated under oath to immigration officials that his residence was in New York or New Jersey, in order to secure permits to reenter this country.” Furthermore, Fokker maintained a fully staffed home in the U.S. and conducted significant business activities there.

Regarding the valuation of the Dutch guilder assets, the court recognized that due to the German occupation of the Netherlands and currency restrictions, there was no free market for guilders on the optional valuation date. The court relied on the principle established in *Morris Marks Landau, 7 T.C. 12*, stating that the value should be determined by what could be realized in the United States, which was the blocked rate of $0.05 per guilder.

Practical Implications

The Fokker case provides a comprehensive analysis of the factors considered when determining residency for estate tax purposes. It highlights the importance of examining a person’s entire course of conduct and statements of intent, rather than focusing solely on their physical presence in a particular location. Attorneys should advise clients with multinational connections to carefully document their intentions regarding domicile. The case also illustrates how currency restrictions and political instability can impact the valuation of foreign assets for estate tax purposes, requiring valuation at the blocked rate if that is all that could be realized in the U.S. This case remains relevant for understanding how to determine residency when a person has significant contacts with multiple countries.

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