11 T.C. 116 (1948)

A member of the armed forces generally retains their pre-service domicile unless there is clear and convincing evidence of intent to establish a new domicile, and actions consistent with that intent.

Summary

The Tax Court addressed whether a serviceman stationed in Texas could claim Texas as his domicile for community property tax benefits, despite maintaining significant business ties in Florida. The court held that the serviceman failed to prove a clear intent to change his domicile from Florida to Texas, particularly given his military service and continued business interests in Florida. Therefore, he could not file his tax return on a community income basis.

Facts

Robert Pentland, Jr., a Florida resident, entered military service in April 1942. He was initially stationed in Washington, D.C., and later transferred to an air base near Fort Worth, Texas, in early 1943. In Fort Worth, he opened a bank account, rented a house where his wife and daughter joined him, and bought oil properties. He also voted in local elections. Despite these activities, Pentland maintained business interests in Florida, including a senior partnership in an accounting firm and a significant stock ownership in a grocery store chain, both of which continued to pay him while he was in the service. Upon his discharge in 1944, he returned to Florida and claimed travel expenses back to Florida from the government.

Procedural History

The Commissioner of Internal Revenue determined that Pentland was not entitled to file his 1943 income tax return on a community income basis. Pentland challenged this determination in the United States Tax Court.

Issue(s)

Whether Robert Pentland, Jr., while serving in the military and stationed in Texas, established a legal domicile in Texas, thereby entitling him to report his income on a community property basis.

Holding

No, because Pentland’s actions were consistent with temporary residence due to military duty, and he did not provide clear and convincing evidence of a bona fide intention to abandon his Florida domicile and establish a new one in Texas.

Court’s Reasoning

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The court reasoned that a domicile, once established, is presumed to continue until a new one is acquired. For military personnel, establishing a new domicile requires clear and convincing evidence due to the involuntary nature of their service assignments. The court found that while Pentland engaged in activities suggesting a Texas residence (e.g., opening bank accounts, renting a home, voting), these actions were consistent with a temporary stay. Crucially, his primary income sources remained in Florida, and these businesses continued to pay him not solely for services rendered but also in recognition of his military service. The court noted, “The intention to establish a new domicile must be bona fide and not merely claimed.” The court also pointed out that Pentland claimed travel expenses back to Florida upon discharge, indicating his understanding of Florida as his permanent residence. The court concluded that weighing all the circumstances, Pentland never abandoned his legal domicile in Florida or established a new one in Texas.

Practical Implications

This case clarifies the high standard of proof required for military personnel to establish a new domicile for tax purposes. It highlights that actions typically indicative of residency (e.g., opening bank accounts, registering to vote) are less persuasive when undertaken in the context of military service. Attorneys advising military clients on domicile issues should emphasize the need for unequivocal evidence demonstrating intent to abandon a former domicile and establish a new one, focusing on factors such as the location of primary business interests, permanent family ties, and declarations of intent made to relevant parties. Later cases may distinguish Pentland based on stronger evidence of intent or factual differences that demonstrate a clearer severance of ties with the original domicile.

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