11 T.C. 122 (1948)

An alien whose stay in the United States is limited to a definite period by immigration laws, serving their country during wartime under direct orders, is considered a nonresident alien for tax purposes, absent exceptional circumstances indicating permanent residency.

Summary

The case addresses whether Rolf Jamvold, a Norwegian citizen, was a nonresident alien in 1943 under Section 212(a) of the Internal Revenue Code. Jamvold was in the U.S. due to his service to the Norwegian government during World War II, though he married an American woman and lived with her for part of the year. The Tax Court held that Jamvold was a nonresident alien, emphasizing the temporary nature of his stay due to his war-related service and the limitations imposed by immigration laws. This decision hinges on the principle that wartime service limits the ability to form permanent attachments necessary for establishing residency.

Facts

Rolf Jamvold, a Norwegian citizen, was in the United States in 1943. He was serving the Norwegian government as part of the war effort. During this time, he married an American woman and resided with her in the U.S. for a portion of the year. His presence in the U.S. was subject to immigration laws which limited the duration of his stay.

Procedural History

The Commissioner of Internal Revenue determined that Jamvold was not a nonresident alien and therefore subject to different tax treatment. Jamvold challenged this determination in the Tax Court. The Tax Court reviewed the facts and circumstances to determine Jamvold’s residency status.

Issue(s)

Whether Rolf Jamvold was a nonresident alien within the meaning of Section 212(a) of the Internal Revenue Code during the 1943 tax year, considering his service to the Norwegian government during World War II and his marriage to an American citizen.

Holding

Yes, because Jamvold’s presence in the United States was primarily due to his war-related service to Norway and was limited by immigration laws, preventing him from forming the intent to establish permanent residency, despite his marriage to an American citizen.

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Court’s Reasoning

The court reasoned that individuals serving their countries during wartime, especially under direct orders, are unlikely to form the permanent attachments necessary to establish residency in a foreign country. The court distinguished this case from others where aliens were engaged in their usual peacetime vocations. The court also considered Regulation 111, section 29.211-2, which states that “An alien whose stay in the United States is limited to a definite period by the immigration laws is not a resident of the United States within the meaning of this section, in the absence of exceptional circumstances.” The court found no such exceptional circumstances that would indicate Jamvold intended to establish residency, emphasizing the temporary nature of his stay dictated by his service to the Norwegian government. The court cited *Florence Constantinescu, 11 T. C. 36*, noting similarities in that both taxpayers’ stays were temporary and subject to external control (government orders).

Practical Implications

This case provides guidance on determining the residency status of aliens for tax purposes, particularly those present in the U.S. due to temporary assignments or wartime service. It emphasizes that immigration law limitations and the nature of the alien’s activities (e.g., serving their country during wartime) are crucial factors. Legal professionals should consider this case when advising aliens on their tax obligations, especially those whose presence in the U.S. is tied to specific, temporary conditions. Subsequent cases would need to distinguish facts indicating a clearer intent to establish long term residency in the US, overriding the initial temporary purpose of their stay. The case highlights the importance of examining the substance and purpose behind an individual’s presence in the United States, rather than merely focusing on their physical presence or marital status.

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