11 T.C. 122 (1948)

An alien's presence in the U.S. for war-related activities under the orders of their home government indicates a temporary stay, supporting a finding of nonresident alien status for tax purposes, even if married to a U.S. resident.

Summary

The Tax Court addressed whether Rolf Jamvold, a Norwegian citizen, was a nonresident alien for U.S. tax purposes in 1943. Jamvold was in the U.S. due to his service under the Norwegian government during World War II, although he married an American woman during that year. The court held that Jamvold was a nonresident alien because his presence in the U.S. was temporary and directly related to his war duties, overriding the implications of his marriage to a U.S. resident. The court emphasized the temporary nature of his stay dictated by the war effort.

Facts

Rolf Jamvold, a Norwegian citizen, was in the United States in 1943 under orders from the Norwegian government related to World War II. During that year, he married an American woman and resided with her in her home for part of the year. His presence in the U.S. was directly connected to his service to Norway, which was considered a war activity vital to the United Nations war effort. His stay in the United States was limited by immigration laws.

Procedural History

The Commissioner of Internal Revenue determined that Jamvold was not a nonresident alien and thus subject to U.S. income tax. Jamvold petitioned the Tax Court for a redetermination, arguing that he should be considered a nonresident alien for tax purposes. The Tax Court reviewed the facts and relevant regulations to determine his 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 tax year 1943, considering his presence in the U.S. due to war-related activities under the orders of the Norwegian government and his marriage to a U.S. citizen.

Holding

Yes, because Jamvold's presence in the U.S. was temporary and directly related to his war duties under the Norwegian government, and this temporary status was not overridden by his marriage to a U.S. resident.

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Court’s Reasoning

The court reasoned that Jamvold’s primary purpose for being in the U.S. was to serve under the Norwegian government in support of the war effort, which was a temporary situation. The court distinguished this case from situations where aliens had more permanent ties to the U.S., such as in *John Henry Chapman, 9 T.C. 619*, where the alien contemplated an extensive stay and had lived in the country for over five years. The court also cited Regulations 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 that the “exceptional circumstances” in this case (marriage to a U.S. citizen) were outweighed by the temporary nature of his presence due to his service to Norway. The court found *Florence Constantinescu, 11 T.C. 36* to be comparable, noting that like Constantinescu, Jamvold’s stay was dictated by a foreign government, indicating its temporary nature. Ultimately, the court determined that individuals engaged in war activities under their governments’ orders cannot easily form a permanent attachment to the foreign country they are stationed in.

Practical Implications

This case clarifies how to determine the residency status of aliens present in the U.S. for specific, temporary purposes, especially during wartime. It emphasizes that the intent and circumstances surrounding the alien’s presence are critical. Marriage to a U.S. citizen is not necessarily determinative. This decision impacts the analysis of similar cases by highlighting that the temporary nature of an alien’s stay, dictated by external factors such as government orders, weighs heavily against establishing residency for tax purposes. Later cases may distinguish *Jamvold* by focusing on stronger evidence of an alien’s intent to establish a permanent residence in the U.S., regardless of their initial purpose for entering the country. Legal practitioners should carefully examine the specific circumstances of an alien’s presence and the extent to which their stay is controlled by external factors to accurately determine their residency status for tax purposes.

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