***Cruise v. Commissioner, 12 T.C. 1059 (1949)***

A taxpayer's self-serving declaration of intent to remain in a foreign country after temporary employment ends is insufficient to establish bona fide foreign residence for income tax exemption purposes under Section 116(a) of the Internal Revenue Code.

**Summary**

The Tax Court held that the petitioner, who worked for the Red Cross in England during World War II, was not a bona fide resident of a foreign country. Therefore, his salary was not exempt from U.S. income tax under Section 116(a) of the Internal Revenue Code. The court found the petitioner's testimony about his intention to remain in England after his Red Cross employment ended unconvincing, noting his actions did not align with a genuine intention to establish residency. The court distinguished the case from others where taxpayers had demonstrated more concrete steps toward establishing foreign residency.

**Facts**

The petitioner, Cruise, worked for the American Red Cross in England during World War II. He claimed his salary was exempt from U.S. income tax because he was a bona fide resident of a foreign country. He testified that he intended to remain in England should his employment with the Red Cross terminate. However, the record showed no actions taken by Cruise to establish residency beyond his employment. He had no passport beyond the one for his employment, never applied for another job in England, and returned to the United States shortly after his Red Cross service ended due to illness.

**Procedural History**

The Commissioner of Internal Revenue determined that Cruise's salary was not exempt from income tax. Cruise petitioned the Tax Court for a redetermination. The Tax Court upheld the Commissioner's determination.

**Issue(s)**

Whether the petitioner, an American Red Cross worker in England during World War II, established a bona fide foreign residence, thereby exempting his salary from U.S. income tax under Section 116(a) of the Internal Revenue Code.

**Holding**

No, because the petitioner's self-serving declaration of intent to remain in England was unsupported by objective evidence of actions consistent with establishing a permanent residence, such as seeking other employment or taking steps to remain after his Red Cross assignment concluded.

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## Court’s Reasoning

The court found the petitioner’s testimony regarding his intention to remain in England unconvincing. The court emphasized the lack of objective evidence supporting his claim, such as applying for a passport beyond the one for his Red Cross assignment or seeking other employment. The court stated, “Something more is required than a mere statement that a taxpayer intended to remain in a foreign country and therefore became a resident of that country. Otherwise, income taxes properly due from many taxpayers could be easily avoided.” The court distinguished this case from others where taxpayers demonstrated actions indicative of establishing a foreign residence. The court categorized Cruise with other civilian workers who accepted temporary employment abroad for the war effort and returned to the United States afterward.

## Practical Implications

This case clarifies that a taxpayer must provide more than just a self-serving declaration of intent to establish bona fide foreign residence for tax exemption purposes. Taxpayers must demonstrate concrete actions that align with establishing residency, such as seeking long-term employment, obtaining necessary travel documents, and integrating into the local community. This ruling informs how similar cases should be analyzed, emphasizing the importance of objective evidence to support claims of foreign residency. The decision highlights the need for tax advisors to counsel clients on documenting their intent and actions when claiming foreign residency for tax benefits. Later cases have cited Cruise for the proposition that mere intent is insufficient and that objective actions are necessary to prove bona fide foreign residence.

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