Cruise v. Commissioner, 12 T.C. 1064 (1949)

To qualify for foreign earned income exclusion under Section 116(a) of the Internal Revenue Code, a taxpayer must demonstrate bona fide foreign residence, which requires more than a temporary presence for employment purposes and necessitates demonstrating an intention to establish residency apart from the specific job assignment.

Summary

The petitioner, Mr. Cruise, sought to exclude his salary earned while working for the American Red Cross in England from his U.S. income tax, claiming bona fide foreign residence under Section 116(a) of the Internal Revenue Code. The Tax Court denied his claim, finding that despite his testimony of intent to remain in England, his actions and circumstances indicated he was in England temporarily for war-related employment and lacked the requisite intent to establish bona fide foreign residence. The court emphasized that temporary wartime employment abroad, even for a non-governmental organization, does not automatically equate to bona fide foreign residence for tax exemption purposes.

Facts

1. In September 1942, Mr. Cruise, a single man, was employed by the American Red Cross and sent to England for war-related work.

2. His employment was for the duration of the war.

3. Mr. Cruise testified he intended to remain in England if he found suitable opportunities after his Red Cross employment.

4. He did not obtain a passport and never applied for one.

5. He did not seek other employment in England during or after his Red Cross service.

6. In November 1945, he returned to the United States due to illness.

7. Three months after returning to the U.S., he began a lecture tour, suggesting his illness was due to overwork and resolved with rest in the U.S.

Procedural History

1. The Commissioner of Internal Revenue assessed a deficiency in Mr. Cruise’s income tax.

2. Mr. Cruise petitioned the Tax Court to contest the deficiency, arguing his Red Cross salary was exempt under Section 116(a) due to bona fide foreign residence.

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3. The Tax Court heard the case and issued a decision in favor of the Commissioner.

Issue(s)

1. Whether Mr. Cruise, by virtue of his employment with the American Red Cross in England from 1942 to 1945, established bona fide residence in a foreign country for the purposes of Section 116(a) of the Internal Revenue Code, thereby exempting his foreign-earned income from U.S. income tax?

Holding

1. No, because Mr. Cruise's actions and the circumstances of his employment indicated a temporary presence in England for a specific wartime purpose, lacking the intent to establish bona fide foreign residence apart from his Red Cross employment.

Court's Reasoning

The Tax Court reasoned that Mr. Cruise's self-serving declaration of intent to remain in England was unconvincing and appeared to be an afterthought. The court emphasized the lack of objective actions supporting his claim of foreign residence. The court noted:

"Petitioner's testimony with respect to his intention to remain in England after the termination of his employment with the Red Cross is not-convincing. This self-serving declaration made in 1949 appears to be an afterthought, for as far as the record discloses he never gave expression to such an intention either before he sailed or while he was in England. 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 highlighted his failure to obtain a passport, seek other employment in England, or demonstrate any concrete steps to establish a life independent of his Red Cross assignment. The court categorized him with other civilian workers in foreign countries for the war effort, who were deemed not to be bona fide residents. The court distinguished this case from those where taxpayers had demonstrated more substantial ties to a foreign country beyond temporary wartime employment.

Practical Implications

This case clarifies that claiming bona fide foreign residence for tax exemption requires more than mere presence in a foreign country for employment. Taxpayers must demonstrate a genuine intention to establish residency, evidenced by concrete actions and circumstances beyond the scope of their temporary employment. Factors such as seeking local employment, establishing community ties, obtaining local documentation (like passports or visas), and the duration and nature of the

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foreign stay are critical in determining bona fide residence. This ruling emphasizes that wartime or temporary work assignments abroad, even for humanitarian organizations, are scrutinized to ensure taxpayers are genuinely establishing foreign residences and not merely seeking tax advantages while maintaining primary ties to the U.S.

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