13 T.C. 909 (1949)

To qualify for a tax exemption based on foreign residency, a U.S. citizen must demonstrate a bona fide residency in a foreign country for the entire taxable year, indicating more than a temporary presence or sojourn.

Summary

Carl Thorsell, a U.S. citizen, worked in the Bahamas for 19 months for his U.S. employer. He sought to exclude his foreign-earned income from U.S. taxation under Section 116(a)(1) of the Internal Revenue Code, arguing he was a bona fide resident of a foreign country. The Tax Court held that Thorsell was not a bona fide resident of the Bahamas because his stay was temporary and for a specific, limited purpose. His family remained in the U.S., and he maintained significant ties to his home in Connecticut. The court emphasized the necessity of demonstrating more than a transient or temporary presence to establish bona fide foreign residency for tax exemption purposes.

Facts

Thorsell was employed by Travelers Insurance Co. and assigned to Nassau, Bahamas, to handle workmen's compensation claims related to a U.S. contractor building airfields. Although the project was initially estimated to last 3-6 months, Thorsell stayed for 19 months (June 1942 – January 1944). He lived in hotels, with expenses paid by his employer. Thorsell's family remained in Connecticut. He maintained his voting registration, bank accounts, and church membership in Connecticut.

Procedural History

Thorsell filed his 1943 U.S. income tax return, excluding income earned in the Bahamas, claiming a foreign residency exemption. The Commissioner of Internal Revenue determined a deficiency, arguing Thorsell was not a bona fide resident of a foreign country. The Tax Court upheld the Commissioner's determination.

Issue(s)

Whether Carl Thorsell was a bona fide resident of a foreign country (Nassau, Bahamas) during the entire taxable year of 1943, as required to exclude foreign-earned income from U.S. gross income under Section 116(a)(1) of the Internal Revenue Code.

Holding

No, because Thorsell's presence in the Bahamas was temporary and for a specific, limited purpose, and he maintained significant ties to his home in the United States, indicating he was a sojourner rather than a bona fide resident.

© 2025 SCOTUSreports.com. All rights reserved.

Court’s Reasoning

The court applied Section 116(a)(1) of the Internal Revenue Code, as amended in 1942, which requires a taxpayer to be a bona fide resident of a foreign country for the entire taxable year to exclude foreign-earned income. Citing previous cases like *Arthur J. H. Johnson, 7 T.C. 1040*, the court emphasized that the taxpayer’s intent and the nature of their stay are critical. The court adopted the Commissioner’s regulation that used similar criteria for determining residency for aliens within the US to determine if a citizen is a bona fide resident in a foreign country. Referencing Regulations 111, secs. 29.116-1 and 29.211-2, it stated that an alien is a resident of the United States if they are not a “mere transient or sojourner” and this “is determined by his intentions with regard to the length and nature of his stay.” The court noted Thorsell’s intent to return to the U.S. upon completion of the project, his family’s continued residence in Connecticut, and his ongoing ties to his community. These factors indicated that Thorsell’s stay in the Bahamas was temporary and did not establish bona fide residency. The court stated,

© 2025 SCOTUSreports.com. All rights reserved.