15 T.C. 810 (1950)

A U.S. citizen working abroad can qualify as a bona fide resident of a foreign country for income tax exclusion purposes under Section 116(a) of the Internal Revenue Code, even with visits to the U.S., if their purpose for being in the foreign country necessitates an extended stay and establishing a temporary home there.

Summary

The case addresses whether an American citizen, Fuller, was a bona fide resident of Great Britain during 1943-1946, allowing him to exclude income earned there from his U.S. gross income. Fuller worked as a managing director for Paramount subsidiaries in the UK. The Tax Court held that Fuller was indeed a bona fide resident of Great Britain during those years. His employment required a prolonged stay and he established a residence there, despite periodic visits to the U.S. The court emphasized that these visits didn't negate his foreign residency, as they were related to family and business, and his primary employment was in Great Britain.

Facts

Fuller moved to Great Britain in 1938 to become the managing director of Paramount subsidiaries, a permanent position requiring residence in the UK.
He relocated his family, personal belongings, and furniture to London, leasing an apartment for five years.
Before leaving the U.S., Fuller relinquished his California apartment and club memberships.
In England, he joined local clubs and established charge accounts.
During 1943-1946, Fuller made trips to the U.S., primarily to see his family who had returned for safety during the war, and to confer with his employer.
Fuller did not pay income taxes in Great Britain during these years.

Procedural History

The Commissioner of Internal Revenue determined that Fuller's income earned in Great Britain was not excludible from his U.S. gross income because he was not a bona fide resident of Great Britain during the entire taxable year.
Fuller petitioned the Tax Court for a redetermination.

Issue(s)

Whether Fuller was a bona fide resident of Great Britain during the tax years 1943, 1944, 1945, and 1946, thereby entitling him to exclude income earned in Great Britain from his U.S. gross income under Section 116(a) of the Internal Revenue Code.

Holding

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Yes, because Fuller's employment necessitated an extended stay in Great Britain, he established a residence there, and his visits to the U.S. were not sufficient to negate his status as a bona fide resident of Great Britain during the tax years in question.

Court's Reasoning

The court applied the same criteria used to determine residency for aliens in the U.S. to determine Fuller's residency in Great Britain.
The court emphasized that Fuller's position with Paramount was permanent and required his presence in the UK. He established a home there, demonstrating an intent to stay for an extended period.
The court cited Senate Finance Committee reports stating that "vacation or business trips to the United States during the taxable year will not necessarily deprive a taxpayer, otherwise qualified, of the exemption provided by this section."
The court noted that the payment of taxes to a foreign government was not a condition precedent to the exclusion under Section 116(a).
The court distinguished Fuller from a "transient or sojourner," emphasizing that his purpose for being in Great Britain required an extended stay.

Practical Implications

This case clarifies the factors considered when determining bona fide foreign residency for U.S. citizens working abroad seeking to exclude foreign-earned income.
It confirms that temporary returns to the U.S. for business or personal reasons do not automatically disqualify a taxpayer from claiming foreign residency.
The ruling emphasizes the importance of demonstrating an intent to establish a home and reside in the foreign country for an extended period.
Later cases have cited Fuller to support the proposition that the determination of bona fide foreign residency is a fact-dependent inquiry focusing on the taxpayer's intentions and the nature of their stay in the foreign country. This case serves as a reminder that tax regulations should not be interpreted to penalize those whose personal circumstances (e.g., family in the US due to war) necessitate occasional returns to the US, provided they maintain a primary residence and employment abroad.

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