16 T.C. 248 (1951)

A U.S. citizen working abroad is not a “bona fide resident” of a foreign country for income tax exclusion purposes if their intent is to remain abroad only for the duration of a specific project, maintains a home in the U.S. for their family, and intends to return to the U.S. upon completion of the project.

Summary

C. Francis Weeks, a U.S. citizen, worked as an engineer in Iran for an indefinite period under a contract that could be terminated at will. His employer provided room, board, and transportation. Weeks intended to stay in Iran only for the project’s duration and maintained a home for his family in the U.S. The Tax Court held that Weeks was not a bona fide resident of Iran and therefore could not exclude his foreign earned income from his U.S. gross income under Section 116(a) of the Internal Revenue Code. The court also addressed the includability of life insurance premiums paid by Weeks’s employer in his gross income.

Facts

E.B. Badger & Sons Company (Badger Company) contracted with Anglo-Iranian Oil Company to build petroleum refineries in Iran. Weeks, an engineer, executed an employment contract with M.W. Kellogg Company (working for Badger) to work in Iran for an indefinite period, subject to termination at any time. The employer provided transportation, room, board, and medical service. Badger Company also agreed to provide Weeks with life insurance. Weeks left the U.S. on April 24, 1942, and arrived in Iran on June 2, 1942. Weeks maintained a home for his wife and children in Massachusetts.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Weeks’s income tax for 1944. The Commissioner then amended the answer to request an increase in the deficiency. The Tax Court addressed whether Weeks was a bona fide resident of Iran and whether certain insurance premiums were includable in his gross income.

Issue(s)

1. Whether Weeks was a bona fide resident of Iran during the entire year of 1944, thereby exempting his foreign-earned income from U.S. income tax under Section 116(a) of the Internal Revenue Code.
2. If Weeks was not a bona fide resident of Iran, whether the “dividends” applied against life insurance premiums paid by his employer on a policy on his life should be included in his gross income.

Holding

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1. No, because Weeks intended to remain in Iran only for the duration of the construction project, maintained a home for his family in the U.S., and intended to return to the U.S. upon completion of the project.
2. No, because the "dividends" constituted a reduction of the payment required for the insurance coverage, and only the net amount of the premium paid by the employer is includible in Weeks's income.

Court's Reasoning

The court reasoned that the criteria for determining whether a U.S. citizen is a bona fide resident of a foreign country are the same as those used to determine whether an alien is a resident of the U.S. Relevant factors include the taxpayer's intentions regarding the length and nature of their stay. The court emphasized that Weeks's intention was to remain in Iran only as long as required to construct the refineries. His family remained in the U.S., and he intended to return to them upon completing his work. The court relied on precedent such as *Downs v. Commissioner*, 166 F.2d 504, to support its conclusion that Weeks was not a bona fide resident of Iran. Regarding the insurance premiums, the court noted that amounts received as a return of premiums or "dividends" of a mutual insurance company credited against the current premium are not subject to tax, citing Regulations 111, section 29.22(a)-12 and *Penn Mutual Life Insurance Co. v. Lederer*, 252 U.S. 523.

Practical Implications

This case provides guidance on determining "bona fide residency" for U.S. citizens working abroad, emphasizing the importance of intent, the nature of the stay, and the maintenance of ties to the U.S. It clarifies that merely working on a project in a foreign country for an indefinite period is not sufficient to establish residency if the taxpayer's intent is temporary. Legal professionals should consider factors such as the taxpayer's intent, family ties, and the nature of their employment contract. Subsequent cases have cited *Weeks* to distinguish between temporary assignments and establishing a true residence in a foreign country. This ruling also confirms that only the net premium paid by an employer for life insurance is includible in an employee's income when dividends reduce the gross premium amount.

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