Estate of Nienhuys v. Commissioner, 17 T.C. 1149 (1952)

Domicile, once established, is presumed to continue unless a new domicile is acquired through physical presence in a new location coupled with the intent to remain there indefinitely (*facto et animo*).

Summary

The Tax Court determined that the decedent, a Dutch citizen who resided in the U.S. due to the Nazi occupation of the Netherlands, was not domiciled in the U.S. at the time of his death. While he had a physical presence in the U.S., he lacked the intent to remain permanently, as evidenced by his business interests in Holland, his desire to return, and his temporary living arrangements in the U.S. The court also addressed the valuation of stock and property located outside the U.S., considering the impact of Dutch foreign exchange controls. The court also considered valuation date of property outside of the United States and the value of life insurance policies.

Facts

The decedent was born in the Netherlands and remained a Dutch citizen throughout his life. In 1940, he traveled to the U.S. on business but was unable to return to Holland due to the German invasion. He resided in the U.S. until his death nearly six years later. He maintained business interests in Holland and expressed a desire to return when possible. He lived in relatively small apartments and his family remained in Holland. He filed US income tax returns as a resident and indicated “permanently” on a visa form regarding his intention to remain in the US. The estate tax return reported the shares at a value of $126,040. The respondent determined a value of $189,257.28, and alleged the shares had a value of $312,360.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the decedent’s estate tax, arguing that the decedent was domiciled in the U.S. at the time of his death and disputing the valuation of certain assets. The estate petitioned the Tax Court for a redetermination. The Commissioner amended his response, increasing the deficiency claimed.

Issue(s)

1. Whether the decedent was domiciled in the United States at the time of his death for estate tax purposes.
2. What was the fair market value of the H. Duys & Co., Inc. stock?
3. What was the value of the property located outside the United States?

Holding

1. No, because while the decedent resided in the U.S., he did not intend to

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remain permanently, maintaining his domicile in the Netherlands.
2. The value was $172.68 per share.
3. The guilder value should be converted into United States dollars at the rate of $0.10 per guilder.

Court’s Reasoning

The court applied the principle that a domicile, once acquired, is presumed to continue until a new one is established. Establishing a new domicile requires both physical presence in the new location (*factum*) and the intention to remain there (*animus*). While the decedent had resided in the U.S. for several years, the evidence showed he did not intend to make it his permanent home. His business interests, family ties, and expressed desire to return to Holland demonstrated a lack of *animus manendi* (intention to remain). The court discounted the visa form and resident income tax returns, noting that “residence” has a different meaning for income tax purposes and the visa form statement was made during a time when the future was uncertain. Regarding the valuation of the stock, the court considered various factors, including the company’s financial performance and the minority interest of the shares. In determining the value of property outside of the United States, the court took into account that the “estate tax, like its companion gift tax, is based on the value of property measured in terms of United States dollars.”

Practical Implications

This case provides a clear illustration of how domicile is determined for estate tax purposes, emphasizing the importance of intent. It highlights that temporary residence, even for an extended period, does not necessarily establish domicile if the individual intends to return to their original home. The case also demonstrates how courts consider foreign exchange restrictions when valuing assets located abroad for U.S. estate tax purposes. Attorneys should gather comprehensive evidence of a decedent’s intent, including business interests, family connections, living arrangements, and expressions of future plans, to accurately determine domicile. Furthermore, the case emphasizes the need to consider practical limitations such as foreign exchange controls when valuing foreign assets.

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