18 T.C. 544 (1952)

U.S. Treasury bonds issued after March 1, 1941, are not includible in the gross estate of a non-resident alien who died before October 20, 1951; bank deposits in a U.S. bank, to which a non-resident alien acquired legal right as the sole heir of another non-resident alien, are deemed property not within the United States and excludible from the decedent's gross estate.

Summary

The Tax Court addressed whether U.S. Treasury bonds and bank deposits held in a New York bank were includible in the gross estate of Mertyn Bradford-Martin, a non-resident alien. Mertyn inherited these assets from his brother Benjamin, also a non-resident alien. The court held that, under the Revenue Act of 1951, the U.S. Treasury bonds issued after March 1, 1941, were not includible because Mertyn died before October 20, 1951, the date of the Act's enactment. The court also found that the bank deposits were not considered property within the U.S. under Section 863(b) of the Internal Revenue Code, and thus were excludible from Mertyn's gross estate.

Facts

Mertyn and Benjamin Bradford-Martin were brothers and non-resident aliens domiciled in the Island of Jersey. Benjamin died in 1946, and Mertyn died in 1947. Both were British subjects and not engaged in business within the United States at the time of their deaths. Benjamin owned U.S. Treasury bonds (issued December 1, 1944) and cash deposits in a New York bank. Benjamin's will bequeathed his residuary estate to Mertyn, making Mertyn the sole heir to the assets located in New York. At the time of Mertyn's death, Benjamin's estate, including the bonds and cash, was still being administered in New York.

Procedural History

The administratrix of Mertyn's estate filed an estate tax return that did not include the value of Benjamin's assets held in New York. The Commissioner of Internal Revenue determined that the bonds and cash should have been included, resulting in a deficiency. Mertyn's estate petitioned the Tax Court, arguing that the Commissioner's determination was in error.

Issue(s)

1. Whether United States Treasury bonds issued after March 1, 1941, are includible in the gross estate of a non-resident alien who died before October 20, 1951, under Section 861 of the Internal Revenue Code?

2. Whether bank deposits in a New York bank, to which a non-resident alien acquired legal right as the sole heir of another non-resident alien, are deemed

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property within the United States under Section 863(b) of the Internal Revenue Code?

Holding

1. No, because Section 604(a) of the Revenue Act of 1951, which added subsection (c) to Section 861 of the Code, provides that such bonds are only includible if the decedent died after the enactment of the Revenue Act of 1951.

2. No, because under Section 863(b) and the precedent established in *Estate of Anna Floto De Eissengarthen*, such bank deposits are deemed property not within the United States.

Court's Reasoning

Regarding the U.S. Treasury bonds, the court relied on the newly enacted Section 604(a) of the Revenue Act of 1951, which clarified the treatment of U.S. bonds in the estates of non-resident aliens. The court noted that the amendment applied to decedents dying after February 10, 1939, but explicitly stated that bonds issued on or after March 1, 1941, were includible only if the decedent died after October 20, 1951. Since Mertyn died before this date, the bonds were not includible. Regarding the bank deposits, the court cited *Estate of Anna Floto De Eissengarthen*, which held that bank deposits belonging to a non-resident alien's estate are not considered property within the United States when the decedent acquired the right to the deposits as the sole heir of another non-resident alien. The court also noted that Mertyn was the sole heir to Benjamin's estate under the law of the Island of Jersey.

Practical Implications

This case clarifies the estate tax treatment of U.S. Treasury bonds and bank deposits held by non-resident aliens. The key takeaway is that the date of death is crucial for determining the includibility of U.S. bonds issued after March 1, 1941. This decision provides a clear rule for estate planning for non-resident aliens holding U.S. assets. This case also highlights the importance of domicile and inheritance laws in determining the taxability of assets held in U.S. banks by non-resident aliens. Later cases would need to consider this ruling in conjunction with any subsequent amendments to the Internal Revenue Code regarding the estate taxation of non-resident aliens.

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