20 T.C. 446 (1953)

A taxpayer cannot claim a dependent tax credit for alien children residing in a foreign country that is not contiguous to the United States, even if the taxpayer provides over half of their support.

Summary

Pedro Sarmiento, a naturalized U.S. citizen, sought dependent tax credits for his five children residing in the Philippines. The Commissioner of Internal Revenue disallowed the credits, arguing that the children were citizens or subjects of a foreign country not contiguous to the U.S. except for one child who was born after the father became a U.S. citizen. The Tax Court upheld the Commissioner's decision regarding the four children who were born before Pedro's naturalization, emphasizing that they were citizens of a foreign country (the Philippines) and did not reside in the United States, Canada, or Mexico during the tax year in question. The court recognized the harshness of the result but emphasized adherence to the statutory requirements.

Facts

Pedro Sarmiento was born in the Philippines in 1906 and served in the U.S. Army as part of the Philippine Scouts. He later became a naturalized U.S. citizen in 1946. His wife, Crescenciana, was also born in the Philippines but never became a U.S. citizen. The couple had five children, all born in the Philippines. In 1949, Pedro was stationed in the Philippines until August, when he was transferred to Kentucky. Crescenciana and the children remained in the Philippines for the entire year. Pedro contributed over half of the children's support in 1949.

Procedural History

The Sarmientos filed a joint tax return for 1949, claiming dependent credits for all five children. The Commissioner disallowed the credits for all but one child, resulting in a tax deficiency. The Tax Court upheld the Commissioner's determination regarding the four children in question.

Issue(s)

Whether the taxpayer, a naturalized U.S. citizen, is entitled to dependent tax credits for his four children who are citizens or subjects of a foreign country (the Philippines) and resided there for the entire tax year in question.

Holding

No, because Section 25(b)(3) of the Internal Revenue Code does not include as a dependent any individual who is a citizen or subject of a foreign country unless such individual is a resident of the United States or of a country contiguous to the United

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States.

Court’s Reasoning

The court relied on Section 25(b)(3) of the Internal Revenue Code and Section 29.25-3(d)(5) of Regulations 111, which stipulate that a citizen or subject of a foreign country can only be claimed as a dependent if they are a resident of the United States, Canada, or Mexico during the tax year. The court noted that the four children in question were born in the Philippines before Pedro became a U.S. citizen. They resided in the Philippines for the entire year 1949. Therefore, they were considered citizens or subjects of the Philippines, a foreign country not contiguous to the United States. The court stated, “The term ‘dependent’ does not include any individual who is a citizen or subject of a foreign country unless such individual is a resident of the United States or of a country contiguous to the United States.” Although the court acknowledged the seemingly harsh outcome, citing legislative history from *Isak S. Gitter, 13 T.C. 520, 526-7* for the provision’s purpose, it emphasized that the law’s requirements were clear and controlling.

Practical Implications

This case clarifies the residency requirements for claiming dependent tax credits for individuals who are citizens or subjects of a foreign country. It emphasizes that simply providing financial support is insufficient; the dependent must reside in the U.S. or a contiguous country (Canada or Mexico) during the tax year. This decision highlights the importance of understanding the specific requirements outlined in the Internal Revenue Code and related regulations when claiming dependent exemptions, especially in cases involving international elements. Later cases would likely cite this ruling to deny dependent credits in similar factual scenarios, reinforcing the strict interpretation of the residency requirement.

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