22 T.C. 585 (1954)

To qualify for the foreign earned income exclusion under the Internal Revenue Code, a taxpayer's foreign residence must be continuous for at least two years before changing their residence to the United States; a break in the foreign residence, even if temporary, disqualifies the taxpayer.

Summary

In *White v. Commissioner*, the U.S. Tax Court addressed whether a taxpayer, a U.S. citizen working as a foreign correspondent, qualified for the foreign earned income exclusion. The court examined the taxpayer's history of foreign residences, interrupted by a period in the U.S. for medical treatment. The court held that a break in foreign residence, even if caused by circumstances like medical necessity, disqualified the taxpayer from the tax exclusion. The decision clarified the requirement for continuous foreign residence under the Internal Revenue Code and highlighted the importance of intent when determining residency.

Facts

Leigh White, a U.S. citizen, worked as a foreign newspaper correspondent. In 1937, he left the U.S. to work in Spain, and subsequently resided in various European countries. During World War II, while in Greece, he was injured and returned to the U.S. for medical treatment from October 1941 to August 1944. After recovering, White worked in Moscow and then Rome. In May 1946, he returned to the U.S. due to changes in his employment. He sought to exclude income earned abroad from his 1946 income tax.

Procedural History

The Commissioner of Internal Revenue determined a tax deficiency for White's 1946 income, disallowing the foreign earned income exclusion. White petitioned the U.S. Tax Court, challenging the Commissioner's decision on the grounds that he was a bona fide resident of a foreign country for the required period. The Tax Court reviewed the facts, the relevant statutes, and regulations, and ruled in favor of the Commissioner.

Issue(s)

1. Whether the taxpayer was a bona fide resident of a foreign country or countries for a period of at least two years before changing his residence to the United States, as required by the Internal Revenue Code to qualify for the foreign earned income exclusion.

Holding

1. No, because the taxpayer's period of foreign residence was interrupted when he

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returned to the United States for medical treatment, thus failing to meet the continuous residency requirement.

Court’s Reasoning

The court’s reasoning centered on interpreting the requirements of Section 116(a)(2) of the Internal Revenue Code, which addresses earned income from sources outside the United States. The court emphasized that the taxpayer must be a bona fide resident of a foreign country for at least two years immediately before changing residence to the United States. The court referenced regulations defining

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