23 T.C. 599 (1955)

A taxpayer is considered a bona fide resident of a foreign country for tax purposes if they intend to make a career of foreign employment, even if their living conditions are controlled by the employer and they return to the U.S. for temporary leave.

Summary

The United States Tax Court considered whether Leonard Larsen, a U.S. citizen working in Saudi Arabia, was a bona fide resident of a foreign country during 1949, thus qualifying for a tax exemption under Section 116(a) of the Internal Revenue Code of 1939. Larsen worked for Bechtel, living in company-controlled communities with limited social integration. He returned to the U.S. for a vacation in November 1949, after which he resumed his employment in Saudi Arabia. The court held that Larsen was a bona fide resident, emphasizing his intention to pursue a career in foreign employment through a series of employment contracts, despite the temporary nature of his vacation in the U.S. and the restrictive conditions of his work environment.

Facts

Leonard Larsen, a U.S. citizen, enlisted in the U.S. Army in 1939 and served overseas. After his military service, he sought employment abroad. In May 1948, he began working for International Bechtel, Inc., in Saudi Arabia. His work involved materials and supplies, similar to his Army work. He signed a contract with International Bechtel, which was renewable. He was provided with transportation, food, and lodging by his employer and could not participate in local politics. His wife was in the U.S. He had no specific plan to remain for a fixed period, intending to stay as long as needed. In November 1949, he returned to the U.S. for vacation, terminating his contract to get travel pay, but with an understanding that he would return to the same job. He left most of his belongings in Dhahran. He resumed his employment in January 1950 after vacation, and continued foreign assignments through 1954.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Larsen’s 1949 income tax return. The sole issue was whether Larsen was a bona fide resident of a foreign country during 1949, under Section 116(a) of the Internal Revenue Code. The case was brought before the United States Tax Court for a decision.

Issue(s)

Whether Leonard Larsen was a bona fide resident of Saudi Arabia throughout 1949 within the meaning of Section 116(a) of the Internal Revenue Code of 1939.

Holding

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Yes, because the court found that Larsen intended to make a career of foreign employment, and his temporary vacation in the U.S. did not interrupt his residency in Saudi Arabia.

Court's Reasoning

The court acknowledged that the determination of bona fide residence is a question of fact and that similar cases often depend on their specific facts. The court analyzed Larsen's circumstances in the context of existing case law. The court distinguished this case from those where the taxpayer had only short-term or temporary contracts. The court emphasized that Larsen's employment in Saudi Arabia was part of a series of contracts, indicating a career focus on foreign employment. The court also found that the brief vacation in the U.S. in late 1949 was intended to be a vacation, and Larsen's subsequent return to Saudi Arabia, with all arrangements for his return in place, supported the finding of continuous foreign residency, which was not interrupted by his temporary absence. The court referenced the holding in *David E. Rose*, 16 T.C. 232, 237, that a temporary absence from a foreign country does not interrupt the period of foreign residence.

Practical Implications

This case clarifies the factors considered when determining whether a U.S. citizen qualifies for the foreign earned income exclusion. It demonstrates that the court will consider the totality of circumstances, especially the taxpayer's intentions and the continuity of employment. Attorneys advising clients on potential foreign income tax exclusions should evaluate the duration and nature of the employment, the frequency of returns to the U.S., and the intent of the taxpayer, which is a primary factor in making this determination. This decision is relevant to cases involving individuals working on overseas projects, even if living conditions are restricted. Subsequent cases have followed this holding, providing a framework for analyzing whether employment is temporary or indicative of a bona fide foreign residence. A significant factor is whether the taxpayer intends to make a career of foreign employment, even with temporary returns to the United States.

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