***Stokby v. Commissioner*, 26 T.C. 493 (1956)**

A taxpayer's intention to reside in a foreign country, assessed through various factors like social integration and duration of stay, determines whether they qualify as a bona fide foreign resident for tax exemption purposes.

Summary

The case concerns a US citizen, Stokby, who worked for UNRRA in Germany after WWII and sought to exclude her foreign-earned income from US taxation. The IRS initially refunded her taxes but later issued a deficiency notice. The Tax Court addressed two issues: whether the Commissioner could determine a deficiency after a refund, and whether Stokby was a bona fide foreign resident. The court held that the Commissioner could assess a deficiency and, more importantly, that Stokby was indeed a bona fide foreign resident, based on her indefinite intentions for residing abroad, her marriage to a person with European background, and her establishment of a home, thus entitling her to the tax exemption on her foreign income.

Facts

Stokby, a U.S. citizen, worked for the United Nations Relief and Rehabilitation Administration (UNRRA) in Germany in 1947. She filed for a tax refund on her 1947 income, claiming foreign residency and exclusion of foreign-earned income. The refund was granted. Later, the IRS issued a notice of deficiency. Stokby married a European man and established a home. She maintained indefinite plans for remaining abroad.

Procedural History

Stokby sought a refund from the IRS for taxes paid on her 1947 income, which was granted. The Commissioner then determined a tax deficiency, which Stokby challenged in the United States Tax Court. The Tax Court was tasked with determining the validity of the Commissioner's action and the taxpayer's claim of foreign residency.

Issue(s)

1. Whether the Commissioner may determine a deficiency in the amount of refunded taxes that had originally been collected by withholding.

2. Whether the petitioner was a bona fide resident of a foreign country for the year 1947 so as to claim the benefit of section 116(a)(1) of the Internal Revenue Code of 1939.

Holding

1. Yes, because the Internal Revenue Code of 1939 allows the Commissioner to

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determine a deficiency even after a refund has been granted.

2. Yes, because the petitioner established a bona fide foreign residency during 1947, based on her indefinite intentions for residing abroad and integration into German society.

Court’s Reasoning

The court first established that the Commissioner’s action was permissible under the Internal Revenue Code. The court cited prior cases holding that refunds made under the

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