29 T.C. 515 (1957)

When a taxpayer temporarily rents out their primary residence but intends to return, it can still qualify as their "principal residence" for nonrecognition of gain under I.R.C. § 112(n) (now § 1034), based on the facts and circumstances, despite being rented.

Summary

In *Trisko v. Commissioner*, the U.S. Tax Court addressed whether a taxpayer who rented out their home due to a temporary work assignment could still claim nonrecognition of gain on the sale of that home, provided they purchased a new residence within the statutory timeframe. The court ruled in favor of the taxpayer, holding that despite the rental, the home qualified as the taxpayer's principal residence because the rental was temporary, and the taxpayer intended to return. This decision provides a crucial interpretation of what constitutes a "principal residence" under tax law, emphasizing intent and circumstances over strict occupancy.

Facts

Ralph and Mildred Trisko built a home in Bethesda, Maryland, and lived there from 1941 to 1948. In 1948, Ralph accepted a temporary position with the U.S. State Department in Europe. The Triskos leased their home for one year and then on a month-to-month basis. Ralph intended to return to the home, and the rental was primarily for its care and maintenance. In 1951, the Triskos returned to the U.S. and Ralph accepted a new position in Washington, D.C. They attempted to reoccupy their Bethesda home, but the tenants' circumstances and rent control regulations made immediate repossession unfeasible. They purchased a new home, and to fund the purchase, they sold their Bethesda home. The Commissioner of Internal Revenue determined that the gain from the sale was taxable, arguing the Bethesda home was not the Triskos' principal residence at the time of sale.

Procedural History

The case was brought before the United States Tax Court to determine whether the gain from the sale of the Triskos' former residence was subject to taxation. The Tax Court reviewed the facts and circumstances to determine whether the Triskos qualified for nonrecognition of gain under I.R.C. § 112(n).

Issue(s)

1. Whether the taxpayers' former residence, which was rented out at the time of sale, qualified as their "principal residence" under I.R.C. § 112(n).

Holding

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1. Yes, because despite being rented, the former residence still qualified as the taxpayers' principal residence under the relevant statute, based on the facts and circumstances, including the intent to return.

Court's Reasoning

The court recognized that the purpose of I.R.C. § 112(n) (now § 1034) was to provide relief for taxpayers who sell their homes to purchase new ones. The court examined the facts and circumstances to determine if the Triskos were within the scope of the statute. The court noted that the rental was temporary due to Ralph's assignment, the Triskos intended to return to their home, and the primary reason for renting was to maintain the home. The court cited the committee reports, which stated that whether a property is used as a principal residence

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