McCurnin v. Commissioner, 30 T.C. 143 (1958)

To be considered a bona fide resident of a foreign country for tax purposes, a taxpayer must demonstrate an intention to establish residency there, considering factors such as the nature of their stay, integration with the local community, and limitations on their residency.

Summary
Joseph A. McCurnin, a U.S. citizen, worked in Iran for approximately 22 months as a supervising brick mason. He lived in employer-provided barracks, his wife and children remained in the U.S., and his stay was initially limited by a visa and then a residence permit. McCurnin claimed a tax exemption as a bona fide resident of Iran under Section 116(a) of the 1939 Internal Revenue Code. The Tax Court ruled against McCurnin, finding he failed to establish bona fide residency due to the temporary nature of his stay, his lack of integration with Iranian society, and the continued presence of his family in the United States.

Facts
McCurnin, a U.S. citizen, was employed by the Foster-Wheeler Corporation to work in Iran on construction projects, beginning in April 1949. He signed a contract for an indefinite period but subject to termination at any time. His wife and children remained in Louisiana. McCurnin's visa was initially valid for a short period, and his residence permit had a limited term. He lived in barracks with other American employees, ate in a dining hall serving American food, and made limited efforts to integrate with Iranian society. He returned to the United States in April 1951. Throughout his time in Iran, he maintained his Louisiana address.

Procedural History
The Commissioner of Internal Revenue determined a deficiency in McCurnin's income tax for 1950, disallowing his claim for a tax exemption. McCurnin petitioned the United States Tax Court. The Tax Court issued its decision, finding that McCurnin was not a bona fide resident of Iran. The decision was entered under Rule 50.

Issue(s)
Whether McCurnin was a bona fide resident of Iran during 1950, as defined by Section 116(a) of the 1939 Internal Revenue Code, and therefore eligible for the tax exemption.

Holding
No, because McCurnin did not establish that he was a bona fide resident of Iran during 1950.

Court's Reasoning
The court emphasized that the determination of bona fide residency is primarily

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a question of fact, similar to determining residency for an alien in the United States. The court considered factors indicative of intention to establish residency, including social contact with natives, language proficiency, the presence of family, and the establishment of a home. The court found that McCurnin's stay in Iran was temporary, evidenced by the short duration of his visa and residence permit. His family remained in the United States, and he lived in segregated housing, with little interaction with the local population. The court quoted the decision in Lois Kaiser Stierhout, 24 T.C. 483, 487, citing that "Many small facets of the taxpayer's mode of living abroad are examined to help in the determination of his intention. Such items as the degree of social contact with the natives, the facility in language, the presence of family, the establishment of a home, are all important indicia of intention to establish a residence." The court distinguished this case from Swenson v. Thomas, 164 F.2d 783, where the taxpayer's stay was indefinite and he did not leave his family behind.

Practical Implications
This case provides guidance on determining residency for tax purposes, especially for individuals working abroad. It underscores that merely working in a foreign country is insufficient to establish bona fide residency. Taxpayers must demonstrate intent to establish a home and integrate with the local community. Factors such as the duration of the stay, the presence of family, the ability to obtain long-term residency permits, and social integration are crucial. The case highlights that tax professionals should carefully examine a taxpayer's circumstances to determine whether the facts support the claim of bona fide residency. The temporary nature of the work assignment, the conditions of the employment contract, and the taxpayer's connection with the United States are all very important considerations. This case remains relevant for analyzing similar situations, particularly where taxpayers seek to exclude foreign earned income. It supports an argument that the absence of integration into local life and a limited stay will weigh against a claim of bona fide residency. Subsequent cases continue to cite this decision when evaluating whether a taxpayer has established a sufficient connection with a foreign country to be considered a bona fide resident for tax purposes.

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