31 T.C. 1031 (1959)

A non-resident alien's presence in the U.S. under a visa limited to a definite period by immigration laws generally precludes them from being considered a U.S. resident for tax purposes, absent exceptional circumstances, thus disqualifying them from filing a joint tax return.

Summary

The Tax Court held that Jacques de la Begassiere, a French citizen married to a U.S. citizen, was a non-resident alien for the tax year 1951 and thus ineligible to file a joint return with his wife. Despite intending to reside in the U.S. eventually, Jacques's repeated entries on temporary visas, without applying for permanent residency until late 1951, and his minimal physical presence in the U.S. before August 1951, led the court to conclude he did not meet the residency requirements for tax purposes during the entire tax year. This case clarifies that immigration status significantly influences tax residency for aliens, particularly concerning joint filing eligibility.

Facts

1. Joyce de la Begassiere (Petitioner), a U.S. citizen, married Jacques de la Begassiere (Husband), a French citizen, on October 1, 1949.
2. Husband first arrived in the U.S. on April 29, 1949, on a nonimmigrant visa limited to 12 months, intending to marry Petitioner.
3. Husband obtained visa extensions but did not apply for a permanent visa until May 1951, receiving it on August 1, 1951.
4. From October 1949 to August 1951, the couple primarily resided in Cuba, with brief visits to the U.S.
5. For 1949 and 1950, Petitioner filed individual tax returns as a U.S. citizen residing in Cuba, noting her husband as a non-resident alien.
6. For 1951, Petitioner and Husband filed a joint return, which the Commissioner disallowed, arguing Husband was a non-resident alien for part of the year.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Petitioner's 1951 income tax due to the disallowance of the joint return. Petitioner contested this determination in the United States Tax Court.

Issue(s)

1. Whether the Commissioner erred in holding that Jacques de la Begassiere was not entitled to file a joint return with Joyce de la Begassiere for the year 1951 under Section 51(b)(2) of the Internal Revenue Code of 1939 because he was a non-resident alien during part of such taxable year.

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Holding

1. No. The Commissioner did not err. The Tax Court held that Jacques de la Begassiere was a non-resident alien for the entire taxable year of 1951 because his presence in the U.S. was consistently limited by temporary visas under immigration laws until August 1951, and no exceptional circumstances justified treating him as a resident alien before that time.

Court's Reasoning

The court relied on Treasury Regulations § 29.211-2, which defines a non-resident alien and states, "An alien whose stay in the United States is limited to a definite period by the immigration laws is not a resident of the United States within the meaning of this section, in the absence of exceptional circumstances." The court found that Husband's stay in the U.S. was indeed limited by immigration laws due to his temporary visas. The court rejected Husband's claim that he considered himself a resident, stating his failure to apply for a permanent visa earlier was due to indifference, not exceptional circumstances. The court referenced dictionary definitions of "resident," emphasizing the need for "more or less permanence of abode" and "settled abode for a time." The court noted Husband lacked any fixed abode in the U.S. before August 1951 and spent most of the relevant period outside the U.S., primarily in Cuba. The court dismissed the Petitioner's argument that intent to reside in the U.S. was sufficient, asserting that "a nonresident alien cannot establish a residence in the United States by intent alone since there must be an act or fact of being present, of dwelling, of making one's home in the United States for some time in order to become a resident of the United States." Judge Kern dissented, arguing the majority overemphasized "permanence of abode" and that Husband's intent to reside in the U.S. from 1949, coupled with his physical presence, should qualify him as a resident, especially considering the couple's unique circumstances and focus on lifestyle over mundane affairs.

Practical Implications

This case underscores the importance of immigration status in determining tax residency for aliens. It establishes that merely intending to reside in the U.S. is insufficient; an alien's visa status and the actual nature of their physical presence are critical factors. Legal professionals should advise clients that non-resident alien status for tax purposes is presumed when an individual is in the U.S. on a temporary visa. To claim residency for tax purposes and file jointly, aliens must demonstrate either a permanent visa status or exceptional circumstances overcoming the limitations of their temporary visa. This ruling impacts tax planning for married couples where one spouse is a non-U.S. citizen, particularly regarding eligibility for joint filing and related tax benefits. Later cases would likely distinguish "exceptional circumstances" based on facts demonstrating involuntary delays or external impediments to obtaining permanent residency, rather than mere indifference or convenience.

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