***Lopez v. Commissioner, 61 T. C. 65 (1973)***

Foreign community property laws do not apply to a U. S. citizen married abroad to a foreign national unless explicitly stated otherwise by the foreign law.

**Summary**

In Lopez v. Commissioner, the petitioner argued that under Spanish community property law, he was only required to report half of his income for U. S. tax purposes because his wife, a Spanish national, owned the other half. The Tax Court rejected this claim, holding that Article 1325 of the Spanish Civil Code excluded the application of Spanish community property laws to the petitioner, a U. S. citizen married in a foreign country. The court determined that without a specific property agreement, the law of the husband's country (U. S. law) governed, and thus, the entire income was taxable to the petitioner. This decision clarifies the application of foreign community property laws to U. S. citizens in international marriages.

**Facts**

The petitioner, a U. S. citizen, married his Spanish wife outside of Spain without entering into a prenuptial or postnuptial property agreement. He claimed that under Spanish law, his wife owned half of their marital income, and thus, he should only report half of his earnings for U. S. tax purposes. The IRS contested this, arguing that Spanish community property laws did not apply to the petitioner due to his U. S. citizenship and the location of the marriage.

**Procedural History**

The case originated with the IRS's challenge to the petitioner's tax returns. The petitioner appealed to the U. S. Tax Court, which held a trial and issued a decision based on the applicability of Spanish law to the petitioner's income.

**Issue(s)**

1. Whether Article 1325 of the Spanish Civil Code applies to exclude Spanish community property laws from governing the petitioner's income, given his U. S. citizenship and the location of the marriage?

**Holding**

1. Yes, because Article 1325 of the Spanish Civil Code explicitly states that when a Spaniard marries a foreigner abroad without a property agreement, the community property laws of Spain do not apply, and the law of the husband's country governs.

**Court's Reasoning**

The Tax Court applied Article 1325 of the Spanish Civil Code, which states that in

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marriages contracted abroad between a Spaniard and a foreigner without a property agreement, the community property laws of Spain do not apply if the husband is a foreigner. The court interpreted “the husband’s country” as referring to the country of the husband’s citizenship, in this case, the United States. The court rejected the petitioner’s argument that only the substantive property law of the domicile should be considered, emphasizing that Article 1325, as a conflict of laws rule, was controlling. The court also noted the lack of authoritative Spanish law supporting the petitioner’s position and cited U. S. cases affirming that tax liability follows ownership under local law.

**Practical Implications**

This decision impacts how U. S. citizens married abroad to foreign nationals should report their income for U. S. tax purposes. It clarifies that without a specific property agreement, the community property laws of the foreign spouse’s country may not apply if the husband is a U. S. citizen. Legal practitioners must carefully review the applicable foreign laws and any marital agreements when advising clients on international tax matters. The ruling underscores the importance of understanding conflict of laws principles in tax planning for international marriages. Subsequent cases involving similar issues would likely reference Lopez v. Commissioner to determine the applicability of foreign community property laws to U. S. citizens.

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