Solano v. Commissioner, 62 T. C. 562 (1974)

A U. S. citizen married to a nonresident alien cannot exclude the portion of foreign-earned income attributed to them under community property law without making an election under Section 981.

Summary

Helen Robinson Solano, a U. S. citizen residing in Spain, sought to exclude half of her nonresident alien husband's income earned as a bullfighter, which was attributed to her under Spanish community property law. The issue was whether she could exclude this income under Section 911 or Section 872 of the Internal Revenue Code. The Tax Court held that without electing under Section 981, Solano could not exclude her husband's income. The court reasoned that Section 911 was intended to benefit U. S. citizens working abroad, not to extend to income earned by nonresident aliens. This decision underscores the importance of making an election under Section 981 for U. S. citizens married to nonresident aliens in community property jurisdictions to avoid taxation on their spouse's income.

Facts

Helen Robinson Solano, a U. S. citizen, and her husband, Ramon Solano, a Spanish citizen and bullfighter, resided in Spain, a community property jurisdiction. In 1969, Solano received a salary from the U. S. Air Force and excluded half of it as attributable to her husband under Spanish law. She also claimed an exclusion for half of her husband's income under Sections 911 and 872 of the Internal Revenue Code. The Commissioner of Internal Revenue disallowed the exclusion for her husband's income, leading to the dispute.

Procedural History

The Commissioner determined a deficiency in Solano's federal income tax for 1969, disallowing the exclusion of her husband's income. Solano petitioned the U. S. Tax Court to challenge this determination. The Tax Court, after reviewing the stipulated facts and applicable law, decided in favor of the Commissioner.

Issue(s)

1. Whether Helen Robinson Solano can exclude from her taxable income the portion of her husband's income attributed to her under Spanish community property law under Section 911 of the Internal Revenue Code.
2. Whether Solano can exclude this income under Section 872 of the Internal Revenue Code.

Holding

1. No, because Section 911 applies only to income earned by U. S. citizens, not to

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income earned by nonresident aliens and attributed to them under community property law.
2. No, because Section 872 applies to nonresident aliens and does not extend to U. S. citizens to exclude income attributed to them by community property law.

Court’s Reasoning

The court’s reasoning focused on the legislative intent and application of Sections 911, 872, and 981 of the Internal Revenue Code. Section 911 was designed to encourage U. S. trade abroad by exempting income earned by U. S. citizens working abroad, not to extend to income earned by nonresident aliens. The court cited the legislative history of Section 911, which emphasized its purpose to benefit U. S. citizens. Section 872 applies to nonresident aliens and does not extend to U. S. citizens to exclude income attributed to them by community property law. The court highlighted that Congress enacted Section 981 to allow U. S. citizens married to nonresident aliens in community property jurisdictions to elect to treat the nonresident alien’s income as earned by them, thereby avoiding taxation. Solano did not make this election, and thus, her husband’s income remained taxable to her. The court also referenced prior cases like *Katrushka J. Parsons* and the legislative response to it, which further supported its interpretation.

Practical Implications

This decision has significant implications for U. S. citizens married to nonresident aliens residing in community property jurisdictions. It clarifies that without an election under Section 981, a U. S. citizen cannot exclude foreign-earned income attributed to them under community property law. Practically, this means that such citizens must carefully consider their tax strategy, potentially electing under Section 981 to avoid taxation on their spouse’s income. The decision also underscores the complexities of applying U. S. tax laws to income subject to community property laws, particularly involving nonresident aliens. Subsequent cases have followed this ruling, reinforcing the necessity of the Section 981 election for similar situations. This case serves as a reminder for practitioners to advise clients on the potential tax consequences of community property laws in international contexts.

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