Reese v. Commissioner, 64 T. C. 1024 (1975)

Foreign community property laws in effect at the time of marriage govern the taxability of income for U. S. citizens married to non-citizens.

Summary

In Reese v. Commissioner, the U. S. Tax Court ruled that John N. Reese, an American citizen living in Brazil, could exclude half of his income earned in 1969-1971 from U. S. tax under section 911, as it was community property under Brazilian law at the time of his 1945 marriage. The court determined that subsequent changes to Brazilian law in 1962 did not retroactively alter the community property rights acquired at marriage, allowing Reese to attribute half his income to his Brazilian wife. The decision emphasized the principle of irretroactivity of foreign law in determining U. S. tax obligations and clarified how community property rights established under foreign law can affect U. S. tax exclusions.

Facts

John N. Reese, a U. S. citizen, married Ruth Doris Reese, a Brazilian citizen, in Sao Paulo, Brazil, in 1945. From 1967, they resided in Brazil, with Reese earning income as the managing director of Companhia Goodyear. He reported only half of his income on his U. S. tax returns, claiming the other half as community property of his wife under Brazilian law. In 1973, the IRS issued a deficiency notice, arguing that post-1962 Brazilian law excluded such income from community property. Reese sought summary judgment, asserting his rights under Brazilian law at the time of marriage.

Procedural History

Reese filed a petition with the U. S. Tax Court in 1973 challenging the IRS's deficiency notice. Both parties filed motions for summary judgment in 1974 and 1975. The court held a hearing on these motions in March 1975 and considered Brazilian law evidence. The Tax Court granted Reese's motion for summary judgment, allowing him to exclude half his income from U. S. tax.

Issue(s)

1. Whether Reese may exclude from his reported income half the compensation he received from Companhia Goodyear in 1969, 1970, and 1971 as community property under Brazilian law at the time of his marriage.
2. Whether the 1962 amendment to the Brazilian Civil Code retroactively altered the community property rights established at Reese's marriage in 1945.

Holding

1. Yes, because under the Brazilian community property law in effect at the time of

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Reese’s marriage, half of his earned income was attributable to his wife.
2. No, because the principle of irretroactivity in Brazilian law meant the 1962 amendment did not affect marriages predating it, including Reese’s.

Court’s Reasoning

The court applied the principle that foreign law at the time of marriage governs community property rights, emphasizing the Brazilian law’s irrepealability (Art. 230, Brazilian Civil Code). The 1962 amendment to the Brazilian Civil Code did not retroactively apply to marriages like Reese’s, as established by the principle of irretroactivity. The court relied on the settled nature of Brazilian law, as evidenced by judicial opinions and expert testimony, and dismissed the IRS’s argument that a declaratory judgment action by Reese was collusive. The court found no genuine issue of material fact regarding the content of Brazilian law, treating it as a question of law suitable for summary judgment. The ruling underscored that U. S. tax law recognizes community property rights obtained under foreign law, citing Helvering v. Stuart and Helen Robinson Solano.

Practical Implications

This decision informs how U. S. tax practitioners should analyze cases involving foreign community property law, particularly in determining the taxability of income for U. S. citizens married to non-citizens. It establishes that rights acquired under foreign law at the time of marriage are protected against retroactive changes in that law, affecting how income exclusions under U. S. tax law are calculated. The ruling may impact how multinational couples structure their finances to optimize tax outcomes and could influence the IRS’s approach to assessing income from foreign sources. Subsequent cases like Solano have applied this principle, solidifying its impact on tax law regarding foreign community property.

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