Cini v. Commissioner, 67 T. C. 857 (1977)

Bonuses paid to an employee for services performed partly within and partly outside the U. S. are allocated on a time basis to determine U. S. source income.

Summary

Antoine L. Cini, a U. S. citizen employed by J-M Europe Corp. , received bonuses based on the earnings of foreign subsidiaries and export earnings of the parent company. The issue was whether these bonuses should be entirely exempt from U. S. tax as foreign source income. The Tax Court held that since Cini's services were performed partly within the U. S. , the bonuses should be allocated on a time basis, with a portion considered U. S. source income, affirming the Commissioner's method of allocation.

Facts

Antoine L. Cini, a U. S. citizen residing in France, was employed by J-M Europe Corp. , a Delaware subsidiary of Johns-Manville Corp. His role as Vice-President of Foreign Operations involved overseeing European subsidiaries and required travel, including time spent in the U. S. for executive meetings. Cini received a basic salary and bonuses, calculated based on the earnings of foreign subsidiaries and the parent's export earnings. In 1970, he worked 240 days, 97 in the U. S. , and in 1972, 240 days, 45 in the U. S. The Commissioner allocated Cini's total compensation, including bonuses, on a time basis to determine U. S. source income.

Procedural History

The Commissioner determined deficiencies in Cini's income tax for 1970 and 1972, attributing part of his income to U. S. sources. Cini challenged this allocation, arguing that his bonuses were entirely foreign source income. The case was submitted to the U. S. Tax Court, which upheld the Commissioner's allocation method.

Issue(s)

1. Whether bonuses received by Antoine L. Cini, based on the earnings of foreign subsidiaries and export earnings, should be considered entirely as foreign source income exempt from U. S. tax.

Holding

1. No, because the bonuses were compensation for services performed partly within the U. S. , and thus should be allocated on a time basis to determine U. S. source income.

Court's Reasoning

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The court applied Section 861(a)(3) of the Internal Revenue Code, which considers compensation for services performed in the U. S. as U. S. source income. The court rejected Cini's argument that the bonuses were solely for foreign services, noting that his role required services in the U. S. The court affirmed the Commissioner's use of a time-based allocation method as outlined in Section 1. 861-4(a)(1) and (b)(1)(i) of the Income Tax Regulations, which is appropriate when services are performed partly within and partly outside the U. S. The court distinguished this case from *Benjamin E. Levy*, where director's fees might be exempt if entirely for services outside the U. S. , but found no evidence that Cini's bonuses were for services performed wholly outside the U. S.

Practical Implications

This decision clarifies that compensation, including bonuses, must be allocated based on where services are performed, even if the compensation is tied to foreign earnings. Practitioners should ensure accurate record-keeping of time spent in different jurisdictions for clients with international employment. This ruling impacts how multinational companies structure compensation for executives with global responsibilities, potentially affecting tax planning strategies. Subsequent cases like *Sochurek v. Commissioner* have further refined the allocation rules for foreign-earned income, but *Cini* remains significant for its clear application of the time-based allocation method.

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