Craig v. Commissioner, 73 T. C. 1034 (1980)

A taxpayer's foreign residence is considered abandoned when they sever all community ties, take all possessions, and leave with the definite intention of not returning.

Summary

In Craig v. Commissioner, the Tax Court determined that Raymond Craig abandoned his Swiss residence on May 12, 1974, when he and his family severed all ties with Switzerland and moved to the U. S. with no intention of returning. The key issue was the date of abandonment for calculating the foreign earned income exclusion under IRC § 911. The court held that despite Craig's earlier move to the U. S. , his Swiss residence continued until he fully relinquished all ties. This ruling impacts how taxpayers calculate their foreign income exclusion based on the duration of their foreign residence.

Facts

Raymond Craig, a U. S. citizen, was assigned to Switzerland by his employer, DuPont, in 1968. He and his family lived there until 1974, maintaining a home, memberships in clubs, and bank accounts. In January 1974, Craig returned to the U. S. to work for DuPont, initially living in a hotel with minimal possessions. On May 12, 1974, he returned to Switzerland, terminated all ties, and moved his family and possessions to the U. S. permanently.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the Craigs' 1974 federal income tax, contesting the date of abandonment of their Swiss residence for the purpose of calculating the foreign earned income exclusion. The Tax Court, in its decision dated March 6, 1980, ruled in favor of the Craigs, allowing them to exclude $8,973 of foreign earned income from their 1974 gross income.

Issue(s)

1. Whether Raymond Craig abandoned his Swiss residence on January 27, 1974, February 1, 1974, or May 12, 1974, for the purpose of calculating the foreign earned income exclusion under IRC § 911.

Holding

1. No, because Raymond Craig did not abandon his Swiss residence until May 12, 1974, when he and his family severed all ties with Switzerland and moved to the U. S. with no intention of returning.

Court's Reasoning

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The court applied the principles from IRC § 911 and related regulations, focusing on when a taxpayer's foreign residence is considered abandoned. It relied on the precedent from Goldring v. Commissioner, which established that abandonment occurs when a taxpayer takes all possessions and leaves with no intent to return. The court rejected the Commissioner's argument that Craig's residence changed when he arrived in the U. S. or started working for DuPont, citing that a taxpayer can have multiple residences. The court found that Craig's actions on May 12, 1974, such as terminating leases, memberships, and bank accounts, and moving all possessions, constituted abandonment. The court quoted from the regulations that an intention to change residence does not alone change status, emphasizing the need for actual departure and severance of ties. The court also noted that Craig's absence from Switzerland for only three months did not indicate abandonment.

Practical Implications

This decision clarifies that for tax purposes, the abandonment of a foreign residence occurs when a taxpayer fully severs all ties with the foreign country, not merely upon arrival in the U. S. or starting new employment. This ruling affects how taxpayers calculate their foreign earned income exclusion, requiring them to accurately determine the duration of their foreign residence. Legal practitioners must advise clients on the necessity of documenting the severance of all ties to support claims of abandonment. The case has implications for expatriates and multinational companies in managing tax liabilities. Subsequent cases have followed this precedent, reinforcing the requirement for clear evidence of intent and action in abandoning a foreign residence.

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