Schoneberger v. Commissioner, 74 T. C. 1016 (1980)

To qualify for the foreign earned income exclusion under section 911(a)(1), a taxpayer must provide strong proof of bona fide residency in a foreign country.

Summary

Bert J. Schoneberger, a TWA pilot based in New York but spending significant time in France, sought to exclude his foreign earned income under section 911(a)(1). The Tax Court held that Schoneberger must provide 'strong proof' of bona fide residency to satisfy the Commissioner. From the evidence, the court determined that Schoneberger was a bona fide resident of France starting April 15, 1975, through 1976, but not before. The decision hinged on the court's analysis of Schoneberger's ties to France, including his residence, financial accounts, and social integration, against the backdrop of his U. S. employment and connections.

Facts

Bert J. Schoneberger, a U. S. citizen and TWA pilot based at JFK Airport, began spending time in France from April 1974. Initially, he stayed with a French family and traveled in France. From December 1974 to April 1975, he rented a house in Morzine, France. In March 1975, he signed a one-year lease for an apartment in Paris, starting April 15, 1975, and purchased furniture for it. Schoneberger did not maintain a residence in the U. S. during this period. He opened bank accounts and acquired French credit cards in April 1975. He studied French, socialized with both American and French individuals, and considered purchasing property in Paris.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Schoneberger's 1975 Federal income tax, asserting he was not a bona fide resident of France under section 911(a)(1). Schoneberger petitioned the U. S. Tax Court, which reviewed the case and applied the 'strong proof' standard to his claim of foreign residency.

Issue(s)

1. Whether a taxpayer must provide 'strong proof' of bona fide residency in a foreign country to qualify for the earned income exclusion under section 911(a)(1).
2. Whether Schoneberger was a bona fide resident of France during the taxable year 1975, or an uninterrupted period including 1976.

Holding

1. Yes, because the statute requires that the residency be established to the satisfaction of the Secretary or his delegate, which implies a 'strong proof' standard.
2. Yes, because Schoneberger provided strong proof of his bona fide residency in France from April 15, 1975, through 1976, but not before, due to the lack of

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sufficient evidence of intent and ties to France prior to that date.

Court's Reasoning

The court applied the 'strong proof' standard required by section 911(a)(1), considering the legislative intent to tighten the requirements for the earned income exclusion. It analyzed Schoneberger's ties to France, including his long-term lease, purchase of furniture, financial accounts, social integration, and lack of a U. S. residence. The court distinguished between Schoneberger's earlier stays in France, which suggested tourism or vacationing, and his actions after April 15, 1975, which indicated a more permanent intent to reside there. The court also noted that Schoneberger's job as an international pilot allowed him flexibility in choosing his residence and did not preclude him from being a bona fide resident of France. The court rejected the Commissioner's argument that Schoneberger's lack of a French visa or payment of French income taxes was determinative, given his job-related travel and lack of tax evasion motive.

Practical Implications

This decision clarifies that taxpayers claiming the foreign earned income exclusion must provide strong evidence of their intent to establish a bona fide residence in a foreign country. For similar cases, attorneys should focus on documenting clients' ties to the foreign country, including housing, financial accounts, social integration, and lack of a U. S. residence. The ruling may encourage taxpayers to maintain detailed records of their foreign activities and ties. Businesses with employees working abroad should be aware of the need for employees to establish a clear intent and evidence of foreign residency to qualify for the exclusion. Subsequent cases, such as Sochurek v. Commissioner, have applied and distinguished this ruling, emphasizing the importance of individual facts in determining bona fide residency.

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