Angerhofer v. Commissioner, 87 T. C. 814 (1986)

Under German law, the earnings of a nonresident alien husband employed in the U. S. are not community property, and thus he must report the full amount as taxable income.

Summary

Petitioners, German citizens employed by IBM in the U. S. , argued that under German law, their wives had a present vested interest in half their earnings, allowing income splitting for U. S. tax purposes. The U. S. Tax Court held that under Germany's zugewinngemeinschaft (community of accrued gains) regime, spouses maintain separate property with equalization only upon marriage termination. Since the equalization claim was not transferable prior to termination, the wives did not have a present vested interest, and the husbands were taxable on the full amount of their U. S. earnings.

Facts

Petitioners Otto Angerhofer, Karl-Eduard Biedermann, Werner Ewert, and Helmut Wenzel were German citizens and domiciliaries temporarily employed by IBM in New York. Their wives, Monika Angerhofer, Hedda Ewert, and Annemarie Wenzel, did not work in the U. S. The couples filed separate nonresident alien returns, each reporting half of the husband's U. S. earnings as community income under German law. The Commissioner disallowed the claimed community property benefits, asserting the wives did not have a present vested interest in the earnings.

Procedural History

The petitioners filed separate petitions with the U. S. Tax Court challenging the Commissioner's deficiency notices. The cases were consolidated for trial, briefing, and opinion. The primary issue of whether the husbands' U. S. earnings were community property under German law was tried, while secondary issues were severed and to be resolved without trial.

Issue(s)

1. Whether under German law, the wives of the petitioners had a present vested interest in half of their husbands' U. S. earnings, allowing for income splitting on U. S. tax returns.

Holding

1. No, because under the German zugewinngemeinschaft regime, the wives did not have a present vested interest in their husbands' earnings. The regime provides for separate property during marriage, with equalization of gains only upon termination, and the equalization claim is not transferable prior to termination.

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Court’s Reasoning

The court applied German law as stipulated by the parties and interpreted by expert witnesses. Under zugewinngemeinschaft, the default German marital regime, spouses maintain separate property, with equalization of accrued gains only upon termination of the marriage. The equalization claim does not arise until termination and cannot be transferred or used as collateral beforehand. The court found this regime lacked the key feature of a true community property system – the automatic passage of a spouse’s share to his or her heirs upon death. The court also noted that under German tax law, spouses filing separate returns report only their own earnings, further indicating the lack of a present vested interest in the other’s income. The court distinguished this from true community property regimes like gutergemeinschaft, where spouses jointly own property acquired during marriage.

Practical Implications

This decision clarifies that nonresident aliens from Germany cannot split income earned in the U. S. for tax purposes under the zugewinngemeinschaft regime. Practitioners must carefully analyze foreign marital property laws when advising nonresident alien clients on U. S. tax obligations. The ruling may impact tax planning for international employees, as it eliminates a potential tax benefit for those from countries with similar marital property regimes. Subsequent legislation in 1984 further codified this result by treating income earned by one nonresident alien spouse as solely that spouse’s income for U. S. tax purposes, regardless of foreign community property laws.

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