Ying v. Commissioner, 99 T. C. 273 (1992)

Employees of international organizations may waive tax exemptions by filing Form I-508A, except for Filipino citizens who remain eligible for the exemption under IRC section 893.

Summary

In Ying v. Commissioner, the Tax Court addressed whether employees of international organizations, Edward and Felilu Ying, could exclude their wages from the United Nations and UNICEF from U. S. income tax under IRC section 893 after waiving certain rights by filing Form I-508A. The court held that Edward, a Jamaican citizen, lost his exemption by filing the waiver, while Felilu, a Filipino citizen, did not. This decision was based on the interpretation of the Immigration and Nationality Act and IRC section 893, highlighting that Filipino citizens are uniquely treated under the tax code, even if they become U. S. citizens.

Facts

Edward and Felilu Ying were employed by the United Nations and UNICEF, respectively, and were not U. S. citizens during the taxable years in issue. Both obtained permanent resident status in the U. S. and filed Form I-508A, waiving rights and immunities associated with their employment. Edward was a citizen of Jamaica, and Felilu was a citizen of the Philippines. They sought to exclude their wages from U. S. income tax under IRC section 893, which exempts wages of non-U. S. citizens employed by international organizations from U. S. tax.

Procedural History

The Yings filed a motion for summary judgment arguing their wages were exempt under IRC section 893. The Commissioner filed a cross-motion asserting the wages were taxable due to the waiver. The Tax Court partially granted the Yings' motion, ruling that Felilu's wages were exempt but Edward's were not.

Issue(s)

1. Whether Edward Ying, a Jamaican citizen who filed Form I-508A, is eligible for the tax exemption under IRC section 893.
2. Whether Felilu Ying, a Filipino citizen who filed Form I-508A, is eligible for the tax exemption under IRC section 893.

Holding

1. No, because Edward Ying, by filing Form I-508A, waived his eligibility for the tax exemption under IRC section 893, as the waiver applies to rights not available to U. S. citizens.
2. Yes, because Felilu Ying, as a Filipino citizen, remains eligible for the tax

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exemption under IRC section 893 despite filing Form I-508A, as the exemption is available to Filipino citizens even if they are also U. S. citizens.

Court’s Reasoning

The court analyzed IRC section 893, which exempts wages of non-U. S. citizen employees of international organizations from U. S. tax, except for those who waive such rights under the Immigration and Nationality Act. The court found that the waiver, Form I-508A, applies to rights and privileges inconsistent with U. S. citizenship responsibilities. Since U. S. citizens are generally not eligible for the exemption under section 893, Edward Ying, by filing the waiver, lost his exemption. However, the court noted an exception for Filipino citizens under section 893, which allows them the exemption even if they become U. S. citizens. Therefore, Felilu Ying did not lose her exemption by filing the waiver. The court invalidated parts of the regulations under section 893 to the extent they conflicted with this interpretation. The decision was supported by legislative history and the Attorney General’s opinion on the matter.

Practical Implications

This decision clarifies that employees of international organizations must carefully consider the implications of filing Form I-508A, as it may waive their tax exemptions under IRC section 893, except for Filipino citizens. Legal practitioners advising such employees should note the unique treatment of Filipino citizens and ensure clients understand the tax consequences of obtaining permanent resident status. Businesses employing international organization staff should be aware of the tax implications for their employees, particularly those from the Philippines. Subsequent cases involving similar waivers will need to consider this ruling, and it may influence how tax exemptions are applied to other nationalities under different treaties or statutes.

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