42 B.T.A. 316 (1940)

A grantor is taxable on trust income if the trust was set up to provide for the support, maintenance, and welfare of the grantor's minor children, regardless of whether the income was actually used for that purpose in the tax year.

Summary

The petitioner, Whiteley, established a trust for the benefit of her minor children. The Commissioner of Internal Revenue determined that the trust income was taxable to Whiteley under Section 167 of the Internal Revenue Code. Whiteley argued that because she personally provided for her children's support with her own funds and none of the trust income was actually used for their support during the tax year, the trust income should not be attributed to her. The Board of Tax Appeals upheld the Commissioner's determination, relying on the Supreme Court's decision in *Helvering v. Stuart*, which held that the mere possibility of trust income being used to discharge a grantor's parental obligation is sufficient for the entire income to be attributed to the grantor.

Facts

- Whiteley established a trust.
- The trust was intended to provide for the support, maintenance, and welfare of her minor children.
- Whiteley admitted she had a duty to support her children.
- Whiteley used her individual funds to provide for her children's support.
- None of the trust income was actually used to provide for the children during the tax year in question.

Procedural History

The Commissioner of Internal Revenue determined that the trust income was taxable to Whiteley. Whiteley appealed to the Board of Tax Appeals, contesting only this specific item in the Commissioner's determination.

Issue(s)

Whether the income from a trust established by a grantor for the support of her minor children is taxable to the grantor, even if the income was not actually used for their support during the tax year.

Holding

Yes, because the possibility of the trust income being used to relieve the grantor of her parental obligation is sufficient to attribute the entire trust income to her under Section 167 of the Internal Revenue Code, as interpreted by *Helvering v. Stuart*.

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Court’s Reasoning

The Board of Tax Appeals based its decision squarely on the Supreme Court’s ruling in *Helvering v. Stuart, 317 U.S. 154 (1942)*. The Board emphasized that the Supreme Court had rejected the view that only the amount of trust income actually used to discharge a parental obligation should be attributed to the grantor. Instead, the Supreme Court established a broader rule: “The possibility of the use of the income to relieve the grantor, pro tanto, of his parental obligation is sufficient to bring the entire income of these trusts for minors within the rule of attribution laid down in Douglas v. Willcuts.” Because the trust was set up to benefit Whiteley’s minor children whom she was legally obligated to support, the potential for the trust to relieve her of this obligation, even if unrealized in practice, triggered the tax consequences under Section 167.

Practical Implications

This case, and especially its reliance on *Helvering v. Stuart*, demonstrates that the grantor of a trust for minor children may be taxed on the trust’s income, even if that income isn’t directly used for the children’s support during the tax year. The key is the purpose of the trust and the legal obligation of the grantor to support the beneficiaries. Attorneys advising clients on establishing trusts for their children need to carefully consider the tax implications, particularly if the grantor has a legal duty of support. Later cases have distinguished this ruling based on the specific terms of the trust and the extent of the grantor’s control over the trust assets and income. The grantor’s lack of control and the independent discretion of the trustee are factors that can mitigate the tax consequences. This case reinforces the importance of properly structuring trusts to avoid unintended tax liabilities.

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