1 T.C. 928 (1943)

Trust income is taxable to the grantor if it may be used to discharge the grantor's legal obligation, such as the support of minor children, regardless of whether the income is actually used for that purpose.

Summary

Frances Jones Clow established trusts for her minor children, with income usable at the trustees' discretion for their care, support, and education. The IRS determined that the trust income was taxable to Clow, the grantor, because it could be used to fulfill her legal obligation to support her children. Clow argued that her husband was financially able to support the children, thus relieving her obligation. The Tax Court held that under Illinois law, both parents have an equal obligation to support their children, making the trust income taxable to Clow, irrespective of whether it was actually used for their support.

Facts

In December 1935, Frances Jones Clow created three irrevocable trusts, one for each of her three minor children. Clow and her husband were named as trustees. The trust agreements stated that income would be spent for the care and education of the children as the trustees deemed appropriate. The formal trust instruments executed in March 1938, reiterated that trust income could be used for the care, support, and education of the beneficiaries at the trustees' discretion. Throughout the taxable years (1938 and 1939), none of the trust income was actually used for the support, maintenance, or education of the children, as Clow's husband was financially capable of providing for them.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Clow's income tax for 1938 and 1939, including the trust income in her taxable income. Clow challenged this determination in the United States Tax Court.

Issue(s)

Whether the income of trusts established by a mother for her minor children is taxable to her as the grantor, under Section 167(a)(1) and (a)(2) of the Revenue Act of 1938, if the trust income may be used for the children's support, even if it is not actually so used and the father is financially able to support them.

Holding

Yes, because under Illinois law, both parents have an equal obligation to support their minor children, and the possibility that the trust income could be used to relieve the grantor of this obligation is sufficient to make the income taxable to her,

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regardless of whether the income was actually used for that purpose.

Court’s Reasoning

The court relied on Section 167(a)(1) and (a)(2) of the Revenue Act of 1938, which states that if trust income may be distributed to the grantor or used to discharge the grantor’s legal obligation, then such income is included in the grantor’s taxable income. The court cited *Helvering v. Stuart*, stating,

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