1 T.C. 1019 (1943)

The grantor of a trust may be taxed on the trust's income if they retain substantial control over the trust assets and the beneficiaries are members of their immediate family, even in a community property state where the grantor's spouse also contributed property to the trust.

Summary

The Losh case addresses whether trust income should be taxed to the grantors (husband and wife) when they retain significant control over the trust and its beneficiaries are their children. The Tax Court held that the trust income was taxable to the grantors. Even though the wife contributed community property to the trust, her legal control over it did not change significantly because her husband already managed the community property. The court applied the Clifford doctrine, finding that the grantors retained sufficient control, making the trust a mere reallocation of income within the family.

Facts

The petitioners, husband and wife Losh, created a trust for the benefit of their sons. The trust was funded with the husband's separate property and the wife's interest in their community property partnership. The husband acted as both trustee and managing partner, retaining broad discretion over the distribution of income and principal for the sons' "comfort, education, training, care, support, and welfare." The trust was intended to be short-term. The Loshes reported all income on a community basis.

Procedural History

The Commissioner of Internal Revenue determined that the income from the trust was taxable to the Loshes, the grantors, rather than to the trust or the beneficiaries. The Loshes petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether the income from a trust is taxable to the grantors when they retain substantial control over the trust assets and the beneficiaries are their children, even when the trust includes community property contributed by the grantor's spouse.

Holding

Yes, because the grantors retained substantial control over the trust, and the wife's contribution of community property did not alter her effective control, given the husband's pre-existing management rights over community property under New Mexico law.

© 2025 SCOTUSreports.com. All rights reserved.

Court’s Reasoning

The Tax Court applied the principles of *Helvering v. Clifford*, which holds that a grantor is taxable on trust income if they retain substantial control over the trust and the beneficiaries are members of their intimate family group. The court noted that the husband retained complete control over the principal and income, both as trustee and managing partner, and the beneficiaries were his sons. The court emphasized that the wife’s contribution of community property didn’t change the outcome. Under New Mexico law, the husband had broad management powers over community property. The court cited New Mexico statutes and cases, including *Beals v. Ares*, to show that the husband’s control over community property was significant. The court reasoned that “when the wife permitted the husband to become trustee of the transferred community property she gave up no control or dominion that she had had previously, but placed petitioner in essentially the same relation to the property as trustee as he had formerly been in as manager of the community.” The court also held that because the wife’s share of community income is liable for the support of the children, any trust established to discharge that obligation also inured to her benefit.

Practical Implications

The Losh case clarifies the application of the Clifford doctrine in community property states. It highlights that even when a spouse contributes community property to a trust, the grantor’s retained control can still trigger taxation of the trust income to the grantor. Attorneys drafting trusts in community property states must consider the grantor’s existing management powers over community property. The decision suggests that simply including community property in a trust does not automatically shield the grantors from taxation under the Clifford doctrine. This case informs how the IRS and courts analyze trust arrangements within family contexts in community property jurisdictions, emphasizing the importance of genuinely relinquishing control to avoid grantor trust status. It also reinforces the concept that obligations legally assigned to both parents may result in trust benefits inuring to both.

© 2025 SCOTUSreports.com. All rights reserved.