Weil v. Commissioner, 43 B.T.A. 639 (1941)

A grantor is not taxable on trust income under Section 22(a) merely because they are the trustee with broad management powers, provided they have relinquished substantial control over the trust income and beneficial ownership of the corpus; furthermore, the potential for future premium payments on life insurance policies the grantor might add to the trust does not automatically render all trust income taxable to the grantor under Section 167(a)(3).

Summary

The petitioner, Weil, created a trust with his wife and son as beneficiaries, naming himself as trustee. The trust income was to be accumulated until Weil's death. The Commissioner argued the entire trust income was taxable to Weil under sections 22(a), 166, or 167, because of the control he retained and the potential for trust income to pay premiums on life insurance policies on his life. The Board of Tax Appeals held that only the income actually used to pay life insurance premiums was taxable to Weil. Weil retained no power to change beneficiaries, the trust was irrevocable, and the possibility of reverter was too remote to warrant taxation under section 22(a). The potential for future policy additions did not expand taxability under section 167(a)(3) beyond premiums actually paid during the tax year.

Facts

Weil created an irrevocable trust with his wife and son as beneficiaries. Weil was the trustee and retained broad management powers. The trust income was to be accumulated until Weil's death, at which point it would be distributed to the beneficiaries. The trust corpus included life insurance policies on Weil's life. The trust instrument allowed Weil to add other insurance policies to the trust, with premiums paid from trust income. Weil, as an individual, also owned another life insurance policy on which he paid the premiums personally.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Weil's income tax, arguing the entire income of the trust was taxable to him. Weil petitioned the Board of Tax Appeals for a redetermination of the deficiency. The Commissioner based the deficiency on sections 22(a), 166, and 167 of the Revenue Act of 1938 and the Internal Revenue Code.

Issue(s)

1. Whether the entire income of the Blanch Weil trust is taxable to the petitioner under section 22(a) due to the control retained by the petitioner as trustee, considering the beneficiaries are his wife and son and the trust income is accumulated until his death.

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2. Whether the entire income of the trust is taxable to the petitioner under section 167(a)(3) because the trust instrument allows for the addition of other insurance policies, the premiums of which would be paid out of the trust income.

Holding

1. No, because the petitioner had relinquished substantial control over the trust income, had no power to change beneficiaries, and the possibility of reverter was too remote to warrant taxation under section 22(a).

2. No, because the potential for future premium payments on life insurance policies that the grantor might add to the trust does not automatically render all trust income taxable to the grantor under Section 167(a)(3); the taxability under 167(a)(3) is limited to the premiums on policies actually existing during the tax year and payable by the trust.

Court’s Reasoning

Regarding Section 22(a), the court distinguished this case from *Helvering v. Clifford*, noting that in *Clifford* the income was reallocated within a family group on a temporary basis, whereas in this case the income was accumulated until the grantor’s death. The court stated,

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