Hash v. Commissioner, 7 T.C. 955 (1946)

A grantor is treated as the owner of a trust for income tax purposes if they retain substantial control over the trust property or income, even if legal title is transferred to the trust.

Summary

The Tax Court held that the settlors of certain trusts were taxable on the income from those trusts under Section 22(a) of the Internal Revenue Code, as interpreted by *Helvering v. Clifford*. The settlors, who were partners in two businesses, created trusts for their minor daughters, naming themselves as trustees and retaining significant control over the trust assets through partnership agreements. The court found that the settlors retained a "bundle of rights" in the trust corpora, making them the substantial owners for tax purposes, despite having transferred legal title to the trusts.

Facts

G. Lester Hash and Rose Mary Hash owned partnership interests in a furniture business and a small loan business. They established separate trusts for their two minor daughters, intending to provide for their economic security. The trusts were funded with partnership interests. Simultaneously with the creation of the trusts, partnership agreements were executed. Rose Mary Hash made her husband, G. Lester Hash, a trustee and possible sole beneficiary of the trusts she created in consideration of his similar action in those he created (cross-trusts). F.W. Mann, the second trustee, was the intimate friend and personal attorney of both petitioners.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the petitioners' income tax. The Tax Court reviewed the Commissioner's determination to decide whether the income from the trusts was taxable to the settlors.

Issue(s)

Whether the petitioners retained sufficient control over the property transferred to the trusts, through the trusts and related partnership agreements, to be considered the substantial owners of the trust property and therefore taxable on the trust income under Section 22(a) of the Internal Revenue Code.

Holding

Yes, because the petitioners retained substantial control over the trust corpora and income by virtue of their powers as trustees and their positions within the partnerships, effectively making them the real beneficiaries of the trusts. This control meant that the transactions worked no substantial change in the economic

© 2025 SCOTUSreports.com. All rights reserved.

status of the settlors.

Court’s Reasoning

The court applied the principles established in *Helvering v. Clifford*, finding that the settlors retained a “bundle of rights” that rendered them the substantial owners of the trust property. The court emphasized that the trusts were part of a single transaction with the partnership agreements, which collectively allowed the settlors to maintain control over the trust assets. The settlors were essentially the sole trustees, given the limited role of the second trustee. The partnership agreements restricted the beneficiaries’ access to income, requiring the settlors’ consent for withdrawals. The trustees could also invest trust assets in companies where the grantor was a majority stockholder and officer. The court noted that the transfers to the trusts were practically limited to legal title. Petitioners retained substantially the same control over the income as well as the corpora of the trusts as they had theretofore. They were, for present purposes, the real beneficiaries of the trusts.

Practical Implications

Hash v. Commissioner illustrates the application of the grantor trust rules, specifically focusing on the degree of control retained by the grantor. It emphasizes that the IRS and courts will look beyond the mere transfer of legal title to determine the true economic substance of a transaction. Attorneys must advise clients that creating trusts is not a foolproof method of shifting income if the grantor retains significant control over the assets. This case is particularly relevant when trusts are intertwined with partnership agreements or other business arrangements that allow the grantor to indirectly control trust assets. Subsequent cases have cited *Hash* to emphasize the importance of analyzing the totality of the circumstances when determining whether a grantor has retained sufficient control to be taxed on trust income.

© 2025 SCOTUSreports.com. All rights reserved.