4 T.C. 1045 (1945)

An assignment of income-producing property, rather than a mere assignment of income, shifts the tax burden to the assignee, provided the assignment is bona fide and the assignor relinquishes control.

Summary

Daniel J. Fry attempted to assign income from his farm properties to his children, but continued to manage the farms and control the income. The Tax Court held that the income was still taxable to Fry because the assignments were not bona fide transfers of property and he maintained control over the assets. This case illustrates the principle that one cannot avoid tax liability by merely assigning income derived from property while retaining control over that property.

Facts

Fry owned and operated two farms in Washington. In early 1941, he executed documents purporting to assign his interest in these farms to his daughter and son. Despite these assignments, Fry continued to manage the farms, make financial decisions, and deposit income into his personal bank account. The children received only small amounts for personal use. The assignments themselves lacked necessary consents and were not publicly recorded.

Procedural History

The Commissioner of Internal Revenue determined that the income from the farms was taxable to Fry, resulting in a tax deficiency. Fry challenged the Commissioner's determination in the Tax Court.

Issue(s)

Whether the assignments of the farm properties to Fry's children were sufficient to shift the tax burden on the income generated by those properties from Fry to his children.

Holding

No, because Fry did not effectively relinquish control over the properties and the assignments lacked several characteristics of a bona fide transfer. The income from the farm properties was properly included in Fry's gross income.

Court's Reasoning

The court applied the principle established in *Lucas v. Earl*, that income is taxed to the one who earns it, and that anticipatory assignments cannot deflect this tax liability. While assigning income-producing property can shift the tax burden (citing

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Blair v. Commissioner), the court found Fry's assignments deficient. The court noted that the assignments lacked necessary consents, were not recorded, and the children did not exercise control over the farms. Fry's continued management and control of the farms, coupled with the lack of a bona fide transfer, indicated that the assignments were merely an attempt to reallocate income within the family, similar to the situation in *Helvering v. Clifford*. The court emphasized, "Taxation is concerned 'with actual command over the property taxed—the actual benefit for which the tax is paid.'" The court concluded that Fry's dominion over the properties remained unchanged after the assignments, justifying the Commissioner's determination.

Practical Implications

This case underscores the importance of genuinely relinquishing control over income-producing property when attempting to shift the tax burden through assignment. It serves as a reminder to tax advisors and taxpayers that mere paper transactions are insufficient to avoid tax liability if the assignor retains effective control and benefit. The case highlights the necessity of adhering to formalities (such as obtaining necessary consents and recording transfers) and demonstrating a clear intent to transfer ownership. Later cases distinguish *Fry* by emphasizing the importance of proving a complete transfer of dominion and control when income-shifting arrangements are at issue.

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