***5 T.C. 1082 (1945)***

A beneficiary is taxable on trust income received, even if the trust instrument expresses a hope or suggestion that the income be used for the support of dependents, unless the beneficiary is under a legal obligation to use the funds for that specific purpose.

**Summary**

Virginia White received income from a trust established by her deceased husband's will. The will stated a hope that she would use the income to support their children, but imposed no binding obligation. White argued that the portion of the trust income she spent on child support should be taxed to the children, not to her. The Tax Court held that White was taxable on the entire trust income because she had no legal obligation to use it for child support, and the will merely expressed a wish or suggestion, not a binding trust obligation. This decision highlights the distinction between precatory language and mandatory terms in trust documents when determining tax liability.

**Facts**

Walter C. White died, leaving a will that devised real estate to his wife, Virginia White, and created a residuary trust. One-half of the trust's net income was to be paid to Virginia during her life or until remarriage. The will expressed the testator's "hope" that Virginia would use the income to support their five children. If the trust income was inadequate for both Virginia's needs and the children's support, the trustee had discretion to distribute additional income for the children. Virginia received $71,324.40 from the trust in 1940 and deposited it into her personal account, from which she paid personal, household, and children's expenses. Virginia had significant independent wealth.

**Procedural History**

The Commissioner of Internal Revenue determined a deficiency in Virginia White's income tax for 1940, arguing that she was taxable on the entire trust income she received. White contested the deficiency in the Tax Court, claiming that the portion of the income used for child support should be taxed to the children. The Tax Court ruled in favor of the Commissioner, holding that White was taxable on the entire trust distribution.

**Issue(s)**

Whether a beneficiary of a trust is taxable on the entire income distributed to them, even if the trust instrument expresses a hope that the income will be used for the support of their children, where there is no legally binding obligation to do so.

**Holding**

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No, because the trust instrument contained precatory language expressing a hope, not a legally binding obligation, for the beneficiary to use the income for the support of her children. Therefore, the beneficiary is taxable on the entire income.

**Court's Reasoning**

The Tax Court distinguished this case from *Irene O'D. Ferrer, 20 B.T.A. 811*, where the taxpayer was deemed to hold trust income for the children. The Court relied on the principle that a mere expression of motive or hope in a will does not create a binding trust obligation. The will in this case used precatory language, expressing the testator's hope that Virginia would support the children, but did not mandate it. The Court noted that Virginia was free to use the income as she saw fit. The Court also emphasized that Virginia elected to take under the will, voluntarily assuming any burden associated with that choice. Furthermore, the Court reasoned that the testator did not intend for the children to be directly supported by the trust income or be liable for income tax on it. Allowing White's argument would lead to an absurd result where the children would be taxed on the support income and the trustee (White) would not be required to pay those taxes from her own funds. The court stated, "We are of opinion that this case falls within the third class above described. The petitioner received the income of the testamentary trust without any enforceable obligation on her part to use it for the support of her children. She was free to use it in any manner that she saw fit."

**Practical Implications**

This case clarifies that precatory language in a trust instrument is insufficient to create a legal obligation for the beneficiary to use the income for a specific purpose, impacting how similar cases are analyzed. Drafters must use clear, mandatory language to create a legally binding trust. Beneficiaries cannot avoid tax liability on trust income simply by claiming they used it for a purpose suggested, but not required, by the trust. This ruling underscores the importance of precise drafting in estate planning to achieve desired tax outcomes. Subsequent cases distinguish this ruling by focusing on whether the trust language creates an enforceable right for the dependents or merely expresses a hope or wish. Attorneys must carefully examine the specific wording of trust instruments to determine the beneficiary's tax liabilities.

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