10 T.C. 706 (1948)

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A taxpayer cannot deduct alimony payments exceeding the amount required by a divorce decree during the tax year, even if a subsequent court order retroactively increases the required payment amount.

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Summary

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Peter Van Vlaanderen sought to deduct alimony payments exceeding the amount specified in his divorce decree for the 1943 tax year. He argued that a subsequent nunc pro tunc order, which retroactively increased the alimony amount, justified the deduction. The Tax Court disallowed the deduction, holding that the payments, when made, were not legally required by any decree or written instrument. The court reasoned that the retroactive order could not alter the fact that the excess payments were voluntary when made, and allowing the deduction would frustrate the purpose of correlating the husband's deduction with the wife's income inclusion.

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Facts

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Peter Van Vlaanderen and his wife, Elizabeth, divorced in 1920. The divorce decree initially required Van Vlaanderen to pay $60 weekly, later modified to $30 weekly plus a $15,000 lump sum payable in installments. Van Vlaanderen continued paying $40 weekly until 1942. In 1942, due to Elizabeth's illness, Van Vlaanderen increased payments to $100 weekly. He paid $5,200 in both 1942 and 1943. In 1946, Van Vlaanderen obtained a nunc pro tunc order retroactively increasing the weekly alimony to $100 from June 30, 1942.

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Procedural History

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The Commissioner of Internal Revenue disallowed a portion of Van Vlaanderen's alimony deduction for 1943, representing the amount exceeding the original divorce decree's requirements. The Commissioner argued that only the amount specified in the original decree was deductible. Van Vlaanderen petitioned the Tax Court, arguing that the nunc pro tunc order justified the deduction. The Commissioner also sought an increased deficiency based on the 1920 decree.

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Issue(s)

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Whether alimony payments made by a husband in excess of the amount required by a divorce decree are deductible under Internal Revenue Code sections 22(k) and 23(u) when a subsequent court order retroactively increases the alimony obligation.

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Holding

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No, because the payments, when made, were voluntary and not legally required by any decree or written instrument. The subsequent retroactive order does not change the voluntary nature of the payments at the time they were made.

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Court's Reasoning

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The Tax Court relied on Internal Revenue Code sections 22(k) and 23(u), which allow a husband to deduct alimony payments if they are included in the wife's gross income. However, the payments must be "imposed upon or incurred by such husband under such decree or under a written instrument incident" to the divorce. The court emphasized that when Van Vlaanderen made the excess payments, they were voluntary because no decree or agreement required them. The court distinguished the case from situations where a divorce decree was entirely absent during the tax years in question. It stated,

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