10 T.C. 729 (1948)

For alimony payments to be deductible under Section 23(u) of the Internal Revenue Code, they must be made pursuant to a legal obligation incurred under a written instrument incident to a divorce, not merely a verbal agreement.

Summary

Ben Myerson sought to deduct payments made to his former wife as alimony. Although he had an oral agreement to support her after their divorce, the divorce decree did not mandate alimony, and the only written agreement concerned child custody, not spousal support. The Tax Court held that because Section 22(k) of the Internal Revenue Code requires a written instrument for alimony payments to be deductible, Myerson could not deduct the payments. The court emphasized that moral obligations are distinct from legal obligations enforceable through a written agreement.

Facts

Ben and Roselyn Myerson divorced in 1936. Roselyn's divorce complaint did not request alimony, and the divorce decree did not order it. Prior to the divorce, they had separated and made an oral agreement that Ben would support Roselyn until she remarried. They also signed a written agreement regarding child custody. Ben made payments to Roselyn in 1942 and 1943, and sought to deduct these payments as alimony on his tax returns.

Procedural History

The Commissioner of Internal Revenue disallowed Myerson's deductions for alimony payments. Myerson appealed to the Tax Court, arguing the payments were deductible under Section 23(u) of the Internal Revenue Code. The Tax Court upheld the Commissioner's determination, finding the payments did not meet the requirements of Section 22(k) of the Code.

Issue(s)

Whether payments made by a divorced individual to their former spouse are deductible as alimony under Section 23(u) of the Internal Revenue Code when those payments are based on an oral agreement and not mandated by the divorce decree or a written instrument incident to the divorce.

Holding

No, because Section 22(k) of the Internal Revenue Code requires that alimony payments be made pursuant to a legal obligation incurred under a written instrument incident to the divorce for them to be deductible; a verbal agreement is insufficient.

Court’s Reasoning

The court focused on the requirements of Section 22(k) of the Internal Revenue Code, which allows a deduction for alimony payments only if they are made because of a legal obligation arising from the marital relationship and imposed either by the divorce decree or a written instrument incident to the divorce. The court noted that the divorce decree did not require alimony payments. The written agreement between Ben and Roselyn only addressed child custody and made only a passing reference to a “verbal agreement” regarding support. The court reasoned that under California law (Civil Code Section 159), agreements altering the legal relations of a husband and wife must be in writing to be enforceable, except for agreements related to property or immediate separation with provisions for support. Since the oral agreement was not incorporated into a written document, it could not form the basis for a deductible alimony payment. The court emphasized that the payments were made out of a moral obligation, not a legally binding one under a written instrument, stating that “Periodic payments (of alimony) must be in discharge of a legal obligation which is incurred by the husband under a *written instrument* incident to divorce, in order to come within the scope of section 22(k).”

Practical Implications

This case clarifies that to deduct alimony payments for federal income tax purposes, a taxpayer must demonstrate a legal obligation to make those payments arising from a divorce decree or a written agreement connected to the divorce. Oral agreements, no matter how sincere, are insufficient. Attorneys drafting separation agreements or handling divorce proceedings must ensure that any spousal support arrangements are clearly documented in a written instrument to allow for the deductibility of payments. This ruling has lasting implications for tax planning in divorce settlements, emphasizing the need for precise written documentation to secure intended tax benefits. Subsequent cases have consistently upheld the requirement for a written instrument, further solidifying this principle in tax law.

