12 T.C. 224 (1949)

Alimony payments are considered installment payments (and thus not deductible) when a principal sum is specified in the divorce decree and is to be paid within a period of 10 years, even if a subsequent court order attempts to re-characterize the payments as “periodic.”

Summary

Frank Casey sought to deduct alimony payments made to his former wife in 1944. The original divorce decree obligated him to pay $5,000 at $100 per month until paid or until the wife remarried. After the IRS disallowed the deduction, Casey obtained an amended court order stating the payments were “periodic” and the wife would pay the income tax. The Tax Court held that under both the original and amended orders, the payments were installment payments, as a principal sum was specified and payable within 10 years, making them non-deductible under sections 22(k) and 23(u) of the Internal Revenue Code.

Facts

Frank and Emma Casey divorced on July 12, 1944.
The divorce decree required Frank to pay Emma $5,000 in alimony at $100 per month, until the full amount was paid or Emma remarried.
Frank deducted $1,150 in alimony payments on his 1944 income tax return.
The Commissioner of Internal Revenue disallowed the deduction.
In 1947, Frank obtained an amended court order stating that the payments were “periodic,” not a lump sum, and that Emma would pay the income tax on them.

Procedural History

The Commissioner of Internal Revenue disallowed Frank Casey’s deduction for alimony payments on his 1944 tax return.
Casey petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether alimony payments made pursuant to a divorce decree, where a principal sum is specified and payable within 10 years, are considered “installment payments” and thus not deductible by the husband under sections 22(k) and 23(u) of the Internal Revenue Code, even if a subsequent court order attempts to re-characterize them as “periodic”?

Holding

No, because the alimony provisions of both the original and amended decree specify a principal sum payable within 10 years, resulting in classification as non-deductible “installment” payments under section 22(k) and thus not deductible under section

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23(u).

Court’s Reasoning

The court relied on its prior decisions in *J.B. Steinel* and *Estate of Frank P. Orsatti*, which held that alimony payments with a specified principal sum payable within 10 years are installment payments, not periodic payments.
The court stated that there is no material difference between a decree that expressly sets out a total amount and one where the total amount can be determined by multiplying the weekly payments by the number of weeks they are to be paid.
The court gave no weight to the amended decree’s attempt to characterize the payments as “periodic” or to shift the tax burden to the wife, stating, “That is a determination to be made by this Court upon consideration of all the facts.”
The court emphasized that deductions are a matter of legislative grace, citing *New Colonial Ice Co. v. Helvering*, 292 U.S. 435.
The court quoted the statute: “Installment payments discharging a part of an obligation the principal sum of which is, in terms of money or property, specified in the decree or instrument shall not be considered periodic payments for the purposes of this subsection.”

Practical Implications

This case clarifies the distinction between deductible periodic alimony payments and non-deductible installment payments for tax purposes. Attorneys must carefully draft divorce decrees to ensure that alimony payments intended to be deductible meet the requirements of being “periodic” and not having a fixed principal sum payable within 10 years.
Subsequent attempts to retroactively alter the terms of a divorce decree to change the tax liability of the parties are generally ineffective.
The case reinforces the principle that substance governs over form in tax law; simply labeling payments as “periodic” is not determinative if the economic reality is that of an installment payment.
This ruling has been cited in subsequent cases to disallow deductions for alimony payments that are deemed to be installment payments based on the terms of the divorce decree.

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