13 T.C. 169 (1949)

Military retirement pay is only exempt from federal income tax under Section 22(b)(5) of the Internal Revenue Code if it is received as compensation for personal injuries or sickness resulting from active service, and not merely for length of service, even if the retiree has a chronic condition.

Summary

Elmer Pangburn, a retired Army officer, argued that his retirement pay was exempt from income tax because he suffered from chronic bronchitis allegedly caused by his military service. The Tax Court ruled against Pangburn, holding that since he applied for and received retirement pay based on his length of service under a specific statute (Section 5 of the Act of July 31, 1935), the payments were considered compensation for service, not for personal injuries or sickness. Therefore, the retirement pay was not exempt from taxation under Section 22(b)(5) of the Internal Revenue Code.

Facts

Elmer Pangburn served in the Regular Army from 1912 until his retirement in 1942. During his service, he contracted acute bronchitis in 1916-1917 and experienced recurrences for 24 years. In 1941, Pangburn applied for voluntary retirement in the grade of lieutenant colonel under the provisions of Section 5 of the Act of July 31, 1935, which allowed officers with 15-29 years of service to retire. Although a physical examination indicated he was permanently incapacitated for active service due to chronic bronchitis, he applied for retirement based on length of service, not disability.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Elmer and Anna Pangburn's income tax for 1944 and 1945, arguing that their military retirement pay was taxable. The Pangburns petitioned the Tax Court, arguing the retirement pay was exempt. The Tax Court upheld the Commissioner's determination.

Issue(s)

Whether retirement pay received by a former officer of the U.S. Army for length of service is exempt from taxation under Section 22(b)(5) of the Internal Revenue Code as "amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces".

Holding

No, because the retirement pay was received as compensation for length of service under a specific statute that did not require a showing of personal injury or sickness,

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even though the officer suffered from a chronic condition.

Court’s Reasoning

The court reasoned that Section 22(b)(5) only exempts retirement pay received specifically for personal injuries or sickness incurred during active service. Pangburn applied for retirement under Section 5 of the Act of July 31, 1935, which allows retirement based on length of service, regardless of physical condition. The court emphasized that exemptions from taxation are narrowly construed. The court cited Senate Report No. 1631, which clarified that the amendment adding Section 22(b)(5) “does not apply to retirement pay not constituting amounts paid on account of personal injuries or sickness.” The court noted that although Pangburn was informed he likely would have been retired for disability, he voluntarily chose to retire based on length of service. As the court stated, “Exemptions from taxation do not rest upon implication.”

Practical Implications

This case illustrates that the reason for receiving military retirement pay is crucial for determining its taxability. Even if a retiree has a service-related disability, the retirement pay is taxable if the application and award were based on length of service rather than the disability itself. This case highlights the importance of carefully documenting the basis for military retirement to ensure proper tax treatment. Later cases distinguish Pangburn by focusing on whether there was a direct causal link between the military service and the disability for which retirement pay is received. This case serves as a reminder that tax exemptions are strictly construed, and taxpayers must clearly demonstrate that they meet the specific requirements for the exemption.

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