13 T.C. 397 (1949)

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When a divorce decree incorporates an amended pre-existing agreement, the entire agreement, as amended, is considered incident to the divorce for the purposes of determining alimony tax obligations under Section 22(k) of the Internal Revenue Code.

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Summary

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This case addresses whether payments received by Muriel Dodge Neeman from her former husband, Horace Dodge, were taxable income under Section 22(k) of the Internal Revenue Code. The Tax Court held that because a 1939 amendment to a 1933 agreement was incident to their divorce and incorporated into the divorce decree, the payments made under the amended agreement were taxable alimony. The court also found that an agreement by the husband to pay the wife's taxes on these payments was not binding on the IRS, and that Neeman was not the head of household.

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Facts

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Muriel Dodge and Horace Dodge entered into an agreement in 1933 (not incident to any divorce) stipulating Horace would pay Muriel $24,000 annually. In 1939, incident to their divorce, they amended this agreement, increasing the annual payment to $30,000. This amended agreement was incorporated into the divorce decree. Muriel received $15,000 annually in 1942 and 1943 from Horace pursuant to these agreements. The Commissioner of Internal Revenue included these payments in Muriel's taxable income and denied her claim for a personal exemption as head of a family.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Muriel Neeman's income tax for 1943. Neeman petitioned the Tax Court for a redetermination, contesting the inclusion of the alimony payments in her income and the denial of her head of household exemption. The Tax Court ruled in favor of the Commissioner.

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Issue(s)

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1. Whether payments received by the petitioner from her former husband are taxable income under Section 22(k) of the Internal Revenue Code when the payments originate from an agreement amended incident to a divorce and incorporated into the divorce decree.

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2. Whether an agreement by the husband to pay federal taxes on payments to his wife is binding upon the Commissioner in applying Section 22(k).

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3. Whether the petitioner qualified as the

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