13 T.C. 805 (1949)

Income from property is taxable to the owner of the property unless the transfer of the property lacks economic reality and is merely an attempt to assign income.

Summary

Louis Visintainer, a sheep rancher, assigned a portion of his sheep to his minor children as gifts, hoping to shift the income tax burden. The Tax Court ruled that the income from the sheep-ranching business, specifically the proceeds from wool and lamb sales, was taxable to Visintainer, despite the assignment. The court reasoned that the assignment lacked economic substance, as Visintainer continued to manage the business and control the income. This case highlights the importance of economic reality over mere legal title when determining income tax liability.

Facts

Visintainer owned a sheep-ranching business. In 1942, he assigned 500 ewes to each of his four minor children via a bill of sale, branding the sheep with each child's initial in addition to his own registered brand. He recorded the assignments in the county assessor's records and reported them on gift tax returns. Separate ledger accounts were created for each child, crediting them with the value of the sheep. However, there was no actual physical division or segregation of the sheep. Visintainer managed all sales and purchases, depositing the proceeds into his personal bank account. The children attended school and did not perform regular work on the ranch, although the son helped occasionally and received wages.

Procedural History

Visintainer filed individual income tax returns, as did his four children, each reporting income from the ranch. The Commissioner of Internal Revenue determined deficiencies, refusing to recognize the gifts and including all ranch profits in Visintainer's income. Visintainer petitioned the Tax Court, contesting the Commissioner's assessment.

Issue(s)

1. Whether the income from the sheep-ranching business, attributed to the sheep allegedly gifted to Visintainer's minor children, should be included in Visintainer's taxable income.
2. Whether Visintainer is entitled to have his income for the short period of January 1 to October 31, 1942, computed under the provisions of Section 47(c)(2) of the Internal Revenue Code.

Holding

1. No, because the assignments to the children lacked economic reality and were

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merely an attempt to reallocate income within the family group without a material change in economic status.
2. No, because Visintainer failed to make a formal application for the benefits of Section 47(c)(2) as required by the statute and related regulations.

Court's Reasoning

The court reasoned that income must be taxed to the person who earns it, citing *Helvering v. Horst*, 311 U.S. 112. It found that the ranch profits were primarily attributable to Visintainer's management and care of the sheep. The court emphasized that the children had no control over the business operations or the proceeds from the sales. The court distinguished *Henson v. Commissioner*, noting that Visintainer assigned fractional interests in only one type of capital asset (sheep), not the entire business. Referencing *Commissioner v. Tower*, 327 U.S. 280, the court stated that Visintainer stopped just short of forming a family partnership to avoid tax liability. Regarding Section 47(c)(2), the court emphasized the statutory requirement for a formal application to claim its benefits, which Visintainer failed to do. The court stated, "The statute clearly provides that the benefits of this paragraph shall not be allowed unless the taxpayer makes application therefor in accordance with the regulations."

Practical Implications

This case demonstrates the importance of economic substance over legal form in tax law. Taxpayers cannot simply assign income-producing property to family members to avoid taxes if they retain control and management of the underlying business. The ruling reinforces the principle that income is taxed to the one who earns it. Later cases applying *Visintainer* often focus on whether the purported gift or assignment results in a genuine shift of economic control and benefits. Practitioners must advise clients that mere legal title transfer is insufficient; the donee must have real ownership rights and control over the assets to shift the tax burden effectively. This case serves as a cautionary tale for taxpayers attempting to reallocate income within family groups.

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