16 T.C. 1010 (1951)

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A property settlement agreement is not considered “incident to” a divorce, making payments taxable to the receiving spouse, unless it is an integral part of a plan that includes obtaining a divorce.

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Summary

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Cecil A. Miller sought a redetermination of deficiencies in her income tax for 1945 and 1946. The central issue was whether payments she received from her former husband under a property settlement agreement were taxable to her under Section 22(k) of the Internal Revenue Code. The Tax Court held that the payments were not taxable to her because the property settlement agreement was not “incident to” the divorce, as it was substantially agreed upon before she decided to seek a divorce and was not contingent upon her doing so.

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Facts

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Cecil Miller discovered her husband’s infidelity in March 1936. He left their home in Fontana, California, in July 1936 and informed her in September that he would not return. Cecil sought legal advice in October 1936, desiring a property settlement but not a divorce. By March 1937, attorneys for both parties agreed on most terms of a property settlement, except for the division of personal items. In late April 1937, Cecil decided to seek a divorce, informing her attorney, who then informed Miller’s attorney. The property settlement agreement was finalized by late May 1937 and signed on June 15, 1937. Cecil filed for divorce on June 23, 1937, and Miller was served the same day. The divorce decree was granted in August 1938.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in Cecil Miller's income tax for 1945 and 1946, arguing the payments she received were taxable under Section 22(k). Miller petitioned the Tax Court for a redetermination, arguing the payments were not taxable to her. The Tax Court ruled in favor of Miller.

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Issue(s)

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Whether the written property settlement agreement, under which Cecil Miller received periodic payments from her former husband, was "incident to" the divorce she later obtained, thus making the payments taxable to her under Section 22(k) of the Internal Revenue Code.

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Holding

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No, because the agreement was substantially negotiated and agreed upon before Cecil Miller decided to seek a divorce, and it was not contingent upon her obtaining a divorce.

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Court's Reasoning

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The Tax Court reasoned that not every agreement followed by a divorce is "incident to" that divorce under Section 22(k). To be considered "incident to" the divorce, the agreement must be part of an integral plan that includes obtaining a divorce. The court noted that the attorneys had agreed on all material terms of the property settlement prior to Cecil's decision to seek a divorce. The court found Cecil's testimony credible that she never promised or agreed to obtain a divorce as a condition of the property settlement. The Court distinguished this case from others where there was an express agreement or promise to seek a divorce. Even though Miller knew Cecil was considering divorce when he signed the agreement, her seeking a divorce was not a condition of the settlement. The court emphasized that Cecil sought the property settlement for its own benefits, irrespective of any divorce proceedings. Therefore, the property agreement was not part of the "package of

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divorce.”

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