22 T.C. 203 (1954)

Payments made by a former spouse are considered alimony and includible in the recipient's gross income unless a divorce decree or separation agreement specifically designates a portion of the payments as child support.

Summary

The case concerns whether alimony payments received by a divorced woman should be considered taxable income. The divorce decree mandated monthly payments to the petitioner for her and her children's support, but did not explicitly allocate any portion of the payments to child support. The Tax Court held that the entire payment was taxable income to the petitioner because no specific amount was designated for child support within the divorce decree or the separation agreement. The Court distinguished this case from others where the agreement clearly delineated portions of the payments as child support.

Facts

Henrietta Seltzer (Petitioner) and Morris Seltzer divorced in 1947. They had a separation agreement in 1944, and the divorce decree, issued by a New York court, ordered Morris Seltzer to pay Henrietta $120 per month for her support and the support of their two minor children. The decree incorporated the separation agreement, which stated the husband would pay $120/month for the support and maintenance of the wife and the two sons. Neither the decree nor the incorporated separation agreement specifically designated a portion of the $120 for child support. The Commissioner of Internal Revenue determined that the payments were alimony and taxable to Henrietta under Section 22(k) of the Internal Revenue Code. Morris Seltzer was allowed a deduction under Section 23(u) of the Internal Revenue Code for the payments.

Procedural History

The Commissioner determined a tax deficiency for Henrietta Seltzer, arguing the $1,440 received was alimony and therefore taxable. The petitioner challenged this determination in the U.S. Tax Court, asserting that a portion of the payments represented child support and was therefore not includible in her gross income.

Issue(s)

1. Whether the $120 monthly payments received by the petitioner from her former husband were taxable as alimony under Section 22(k) of the Internal Revenue Code.

Holding

1. Yes, because neither the divorce decree nor the separation agreement specifically designated a portion of the payments for child support, the entire amount received

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was taxable as alimony.

Court’s Reasoning

The court relied on Section 22(k) of the Internal Revenue Code, which states that alimony payments are taxable to the recipient, except for amounts specifically designated as child support. The court referenced the case of *Dora H. Moitoret*, where the court held that a payment was fully includible in the recipient’s gross income because the agreement did not specify how much of the monthly payment was for child support. The court distinguished this case from *Robert W. Budd*, where the separation agreement clearly allocated a specific amount for child support, even if divorce occurred. In this case, the separation agreement did provide a portion of the payment was for child support, but this portion was not a part of the divorce decree as the parties were divorced in New York State.

Practical Implications

This case underscores the importance of clearly designating child support payments in divorce decrees and separation agreements to avoid taxation. If the decree or agreement does not explicitly state what portion of the payments is for child support, the entire amount is considered alimony and therefore is includible in the recipient’s gross income. Lawyers drafting such agreements must be meticulous in specifying any amount allocated for child support. This case highlights how precise language in legal documents can significantly affect tax liabilities and financial outcomes for parties involved in divorce proceedings. Future cases will continue to refer to Seltzer when determining whether alimony is taxable.

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