Prewett v. Commissioner, 22 T.C. 270 (1954)

Alimony payments subject to a contingency such as the ex-wife's remarriage do not automatically qualify as periodic payments deductible under the Internal Revenue Code if the total amount is otherwise determinable.

Summary

The U.S. Tax Court considered whether alimony payments made by Clay W. Prewett, Jr. to his former wife were deductible. The payments were set for a two-year period and subject to reduction if Prewett's earning capacity decreased, or cessation if his wife remarried. Prewett's salary increased, but he argued his net income decreased. He reduced payments with his ex-wife's consent. The court ruled that Prewett failed to prove a material reduction in earning capacity. It also held that the remarriage contingency did not change the payments from an installment to a periodic basis. The Court distinguished the case from one decided by the Court of Appeals, and ruled in favor of the Commissioner, denying Prewett's deduction claim.

Facts

Clay Prewett and his wife divorced in 1946. They entered into a property settlement agreement incorporated into the divorce decrees. The agreement specified that Prewett would pay his ex-wife $270/month for two years, subject to reduction if his earning capacity decreased, and cessation upon her remarriage. Prewett's initial salary was $450/month plus reimbursed living expenses. Later, his salary increased to $500/month, but he had to cover some living expenses. He reduced the payments to $200/month with his ex-wife's consent. Prewett claimed the $3,240 he paid in 1947 was deductible alimony, but the Commissioner disallowed the deduction.

Procedural History

The U.S. Tax Court reviewed the Commissioner's determination disallowing Prewett's deduction for alimony payments on his 1947 income tax return. Prewett contested the disallowance, arguing the payments were deductible as periodic alimony under section 23(u) of the Internal Revenue Code.

Issue(s)

1. Whether Prewett had demonstrated a material reduction in his earning capacity, thereby rendering the alimony payments deductible?

2. Whether the contingency of the wife's remarriage rendered the alimony payments periodic and deductible, despite the stated two-year timeframe?

Holding

1. No, because Prewett failed to provide sufficient evidence to demonstrate a

© 2025 SCOTUSreports.com. All rights reserved.

material reduction in his earning capacity.

2. No, because the contingency of the wife's remarriage did not transform the alimony payments into periodic payments within the meaning of the tax code, as a principal sum was determinable.

Court's Reasoning

The court first addressed whether Prewett proved a material reduction in earning capacity. It found that although his salary increased, Prewett's living expenses changed. However, he failed to provide sufficient evidence regarding the amounts of those expenses before and after the salary increase. The court emphasized that the burden of proof was on Prewett, and without specific information on these expenses, it was unable to conclude his net income had decreased. The Court stated, "The burden of proof is upon petitioner. He has failed utterly to furnish us sufficient proof from which we may determine whether or not the conclusion reached by him is correct."

The court then examined whether the remarriage contingency made the alimony payments periodic. It acknowledged that the payments were alimony, received by a divorced wife, in discharge of a legal obligation. The court refused to follow the Second Circuit's decision in *Baker v. Commissioner*, which held that the remarriage contingency precluded determining a principal sum. Instead, it followed its precedent in *Fidler*, holding that the possibility of remarriage did not convert an otherwise fixed-sum payment into a periodic payment. The court found the payments represented installments on a principal sum that was determinable from the agreement's terms, namely $270 per month for 2 years, unless a contingency occurred that did not happen, or a reduction took place that was not properly substantiated.

Practical Implications

This case underscores the importance of detailed record-keeping and thorough proof when claiming deductions for alimony payments. It suggests that taxpayers must provide concrete financial data, not just conclusory statements, to establish the deductibility of such payments. Specifically, if payments are subject to reduction due to changes in the payor's income, the taxpayer must substantiate the change with supporting documentation. Moreover, the case clarifies that contingencies such as remarriage do not automatically render alimony payments deductible as periodic payments, and such payments are considered installment payments unless the agreement specifically indicates an indefinite amount. Tax practitioners should advise clients to carefully structure divorce agreements and maintain comprehensive records to support any claimed deductions.

This case also provides an important reminder that Tax Court decisions are not necessarily binding on other circuits. The Court of Appeals in the Second Circuit

© 2025 SCOTUSreports.com. All rights reserved.

took a different view in *Baker v. Commissioner,* highlighting the importance of considering the applicable circuit's precedent when advising clients.

© 2025 SCOTUSreports.com. All rights reserved.