Gunder v. Commissioner, 29 T.C. 480 (1958)

For support payments to be taxable as alimony, the payments must be made under a written agreement that is "incident to" a divorce decree, which requires a connection between the agreement and the divorce.

Summary

The case revolves around whether support payments made by a husband to his wife were taxable as alimony. The Tax Court addressed the question of whether a support agreement was "incident to" a subsequent divorce under section 22(k) of the Internal Revenue Code. The court found that the agreement was not "incident to" the divorce because the wife did not want a divorce, had no knowledge of the husband's plans to divorce, and the agreement lacked any objective evidence of an intent to be related to a divorce. This case highlights the requirement of a demonstrable connection between a support agreement and divorce proceedings for payments under the agreement to be considered alimony and thus taxable.

Facts

The husband and wife entered into a support agreement. The wife did not want a divorce and had no knowledge of the husband's plans to institute divorce proceedings. The wife specifically rejected a provision in the support agreement that would have allowed it to be incorporated into a divorce decree. Subsequently, the husband initiated divorce proceedings.

Procedural History

The case was brought before the Tax Court. The court reviewed the facts and determined whether the support payments made by the husband to the wife were taxable as alimony under Section 22(k) of the Internal Revenue Code.

Issue(s)

Whether the support payments made by the husband to his wife were made under a written instrument "incident to" a divorce under section 22(k) of the Internal Revenue Code, making them taxable as alimony.

Holding

No, because the agreement was not incident to a divorce. There was no mutual intent for the agreement to be related to a divorce, and the wife's actions showed she did not consider the agreement to be related to a divorce.

Court's Reasoning

The Tax Court relied on the interpretation of Section 22(k), which states that

© 2025 SCOTUSreports.com. All rights reserved.

periodic payments are includible in a wife's gross income if they are made under a written instrument "incident to" a divorce. The court found the facts insufficient to establish the necessary connection between the agreement and the divorce. The wife's lack of knowledge of divorce plans and rejection of a clause to incorporate the agreement into a divorce decree, were significant factors. The court distinguished the case from situations where the agreement was employed by the court granting the divorce in establishing the legal and economic relationships between the parties. The court emphasized that not every agreement followed by a divorce is "incident to" the divorce. "The chief difficulty has been to determine from the facts in each individual case whether the necessary connection between the two exists."

Practical Implications

This case underscores the importance of carefully drafting support agreements and considering the context of divorce proceedings. For payments to be considered alimony and be tax-deductible to the payor and taxable to the payee, there needs to be a clear connection between the support agreement and the divorce. Evidence demonstrating that the parties contemplated a divorce at the time of the agreement, like incorporating the agreement into the divorce decree, is critical. If there's no such connection, the payments may not be treated as alimony. This case highlights the potential tax consequences for both the payor and the payee based on whether the agreement is properly linked to the divorce. Practitioners should advise clients to clearly document their intent regarding the agreement's relationship to any potential divorce and to ensure the agreement reflects that intent.

© 2025 SCOTUSreports.com. All rights reserved.