***23 T.C. 534 (1954)***

Under the grantor trust rules, if the grantor of a trust retains control over the distribution or accumulation of trust income, that income is taxable to the grantor.

**Summary**

The case concerns the tax liability of the children of Charles M. Moore following the creation of a trust by court order. After Charles Moore's death, his will left a life estate to his widow, Vida Moore, and the remainder to his two sons, W.T. Moore and Sam G. Moore. The sons, acting as executors, and their mother, Vida, agreed to establish a trust to manage the estate's residue. The Chancery Court of Knox County, Tennessee, ordered the transfer of the estate's assets into a trust, with the sons as trustees. The trust allowed the sons to distribute income to their mother as needed and retain or distribute their share of the income as they saw fit. The Commissioner of Internal Revenue determined that the sons were taxable on the trust income under the grantor trust rules. The Tax Court agreed, holding that because the sons, as grantors, had the power to control income distribution, the income was taxable to them, despite the trust's creation through a court order.

**Facts**

Charles M. Moore died in 1942, leaving a will that provided for a life estate for his wife, Vida G. Moore, and the remainder to his two sons, W.T. Moore and Sam G. Moore. The sons were named executors. After the estate's administration, the sons and Vida Moore sought to create a trust by court order to manage the residue of the estate. The Chancery Court of Knox County, Tennessee, ordered the sons, acting as trustees, to administer the assets, pay income to Vida Moore as needed, and retain or distribute the remaining income at their discretion. The trust reported its income, and the Commissioner of Internal Revenue assessed deficiencies against the sons, arguing they were taxable on the trust income. The sons contested this, claiming the trust was valid and taxable as a separate entity.

**Procedural History**

The Tax Court consolidated the cases of W.T. Moore and Mary C. Moore, Sam G. Moore, and Vida G. Moore. The Commissioner of Internal Revenue determined deficiencies in the income taxes of the petitioners. The Tax Court had to decide whether the income of the "Charles M. Moore Trust" was taxable to the petitioners. The Tax Court decided that the petitioners were indeed taxable.

**Issue(s)**

1. Whether the petitioners, W. T. Moore, Sam G. Moore, and Vida G. Moore, are taxable individually upon the income of the "Charles M. Moore Trust" under the Internal Revenue Code?

 

## Holding

1. Yes, because the petitioners, as grantors of the trust, retained control over the distribution and accumulation of the trust income.

## Court's Reasoning

The court determined that the petitioners were, in effect, the grantors of the trust, despite its creation by court order. Vida Moore consented to the trust's formation and the sons were its trustees. The court cited the court's order, which allowed the sons, in their capacity as trustees, to control the distribution and accumulation of the income of the trust. The sons could pay Vida Moore her share of the income and were authorized to accumulate or distribute their respective shares at their discretion. The court stated that the sons' ability to control the income distribution brought them under the purview of section 167(a)(1) and (2) of the Internal Revenue Code of 1939, which pertains to grantor trusts. Specifically, the income could be "held or accumulated for future distribution to the grantor" at the discretion of the grantor or any person without a substantial adverse interest. The court noted that none of the petitioners had an adverse interest in the share of income belonging to any other petitioner. The court concluded that the income of the trust was, therefore, taxable to the sons.

## Practical Implications

This case underscores the importance of the grantor trust rules in tax planning. It illustrates that the form of a trust's creation (e.g., court order versus written agreement) does not supersede the substance of the control retained by the grantor. Attorneys must advise clients about how to structure a trust to avoid unfavorable tax consequences under the grantor trust rules. When advising clients, the control over income or corpus that a grantor retains will likely determine who is taxed on the trust's income. The case also highlights the concept of joint grantors, as even though the court created the trust, because all parties consented, all parties were considered the grantors. This can impact estate planning and income tax strategy by ensuring proper compliance and minimizing tax liability. Later cases would continue to cite this one to determine who is considered a grantor and to determine when the grantor trust rules apply.

 