***Estate of Dorothy Beck v. Commissioner*, T.C. Memo. 1956-27 (1956)**

An interlocutory decree of divorce does not constitute a legal separation under a decree of divorce or separate maintenance, and therefore does not preclude spouses from filing a joint federal income tax return.

Summary

The Tax Court determined that a taxpayer and her deceased husband were entitled to file a joint income tax return for 1950, despite an interlocutory divorce decree being granted in that year. The court held that under California law, and consistent with prior precedent, an interlocutory decree does not legally dissolve a marriage for tax purposes. Furthermore, the court found sufficient evidence in the property settlement agreement and attorney testimonies to conclude that both spouses intended to file a joint return, even though the husband did not sign the return before his death. This decision clarified that an interlocutory decree is not a 'decree of divorce' for the purpose of filing joint tax returns under the 1939 Internal Revenue Code.

Facts

Dorothy Beck and Edward Francis Boozer were married and obtained an interlocutory decree of divorce in California in 1950. They executed a property settlement agreement in June 1950, which did not include provisions for alimony or support. Dorothy Beck filed a federal income tax return for 1950, intending it to be a joint return with Boozer. Boozer did not sign the return. The property settlement agreement included a provision indicating Boozer's agreement to sign a joint return. Testimony from both Dorothy Beck's and Boozer's attorneys indicated that Boozer had agreed to sign the joint return but failed to do so due to health issues and alcoholism.

Procedural History

The Commissioner of Internal Revenue determined that the return filed by Dorothy Beck was an individual return, not a joint return, and assessed a deficiency. Dorothy Beck petitioned the Tax Court to redetermine the deficiency, arguing that she and Boozer were entitled to file a joint return.

Issue(s)

1. Whether an interlocutory decree of divorce granted under California law in 1950 constituted a legal separation under a decree of divorce or separate maintenance within the meaning of Section 51(b)(5)(B) of the 1939 Internal Revenue Code, thereby precluding the filing of a joint return.
2. Whether the return filed by Dorothy Beck for 1950 was intended to be a joint return, even though it was not signed by her husband, Edward Francis Boozer.

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Holding

1. No, because under California law, an interlocutory decree of divorce does not dissolve the marriage for the purpose of filing a joint tax return under Section 51(b)(5)(B) of the 1939 Internal Revenue Code.
2. Yes, because the evidence presented, including the property settlement agreement and attorney testimonies, sufficiently demonstrated that both Dorothy Beck and Edward Francis Boozer intended to file a joint return for 1950.

Court's Reasoning

The Tax Court relied on its prior decision in *Marriner S. Eccles, 19 T.C. 1049 (1953)*, which held that an interlocutory decree of divorce under Utah law did not prevent the filing of a joint return. The court found California law analogous to Utah law in that an interlocutory decree does not dissolve the marriage. The court also cited with approval the District Court case of *Holcomb v. United States, 137 F. Supp. 619 (N.D., Calif. 1955)*, which addressed the same issue under California law and reached the same conclusion. The Tax Court explicitly disagreed with Revenue Ruling 178, 1955-1 C.B. 322, which took the opposite stance. Regarding the intent to file jointly, the court considered the property settlement agreement, which indicated Boozer's agreement to sign a joint return, and the testimony of attorneys confirming this intent and explaining Boozer's failure to sign. The court quoted *Holcomb v. United States*, stating, "Admittedly the parties herein were not divorced in 1951. It is elementary that in California an interlocutory decree of divorce does not destroy the marriage."

Practical Implications

This case reinforces the principle that, in states like California, an interlocutory decree of divorce does not terminate a marriage for federal income tax purposes, allowing spouses to file joint returns until the divorce becomes final. It highlights the importance of state law in determining marital status for federal tax purposes. Practitioners should be aware that the intent of both spouses to file jointly can be established through evidence beyond the signatures on the return, such as settlement agreements and corroborating testimony. This case and *Eccles* stand as significant counterpoints to the IRS's stance in Revenue Ruling 178, illustrating judicial rejection of a broad interpretation of 'decree of divorce' to include interlocutory decrees in the context of joint tax filings. It emphasizes the necessity to examine the specifics of state divorce law when advising clients on tax filing status during divorce proceedings.

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