27 T.C. 115 (1956)

Whether a taxpayer is considered “legally separated” under a decree of divorce for federal tax purposes is determined by the relevant state law regarding the finality of the divorce decree.

Summary

In *Calhoun v. Commissioner*, the U.S. Tax Court addressed whether a taxpayer with an interlocutory divorce decree was eligible to file a joint tax return. The court held that under Colorado law, where the decree had not yet become final at the end of the tax year, the taxpayer and his wife were still considered married, allowing them to file jointly. The decision emphasized that state law determines marital status for federal tax purposes, specifically regarding whether a couple is “legally separated under a decree of divorce.”

Facts

J.R. Calhoun, Jr. and Diana Calhoun married on January 1, 1952. On December 11, 1953, the District Court of Arapahoe County, Colorado, granted Diana an interlocutory decree of divorce. The decree specified that the parties would not be divorced for six months, during which time the court could set aside the decree. If not set aside and no appeal was taken, the decree would become final six months after its issuance. Calhoun and his wife filed a joint tax return for 1953. The Commissioner of Internal Revenue determined that Calhoun was “legally separated” under a decree of divorce and thus ineligible to file a joint return.

Procedural History

The Commissioner of Internal Revenue determined a tax deficiency based on Calhoun filing an individual return rather than jointly. The case was brought before the U.S. Tax Court to determine the validity of the joint return filing, which hinged on whether the Calhouns were legally separated under Colorado law at the close of the tax year.

Issue(s)

Whether, under the interlocutory decree of divorce issued by a Colorado court, the taxpayer and his wife were “legally separated” within the meaning of Section 51(b)(5)(B) of the Internal Revenue Code of 1939, thus precluding the filing of a joint tax return?

Holding

No, because the interlocutory decree did not change the marital status under Colorado law until the six-month period elapsed and the decree became final. The taxpayer and his wife were still married at the end of the tax year, entitling them to

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file a joint return.

Court’s Reasoning

The court relied on the plain language of the interlocutory decree, which stated the parties “shall not be divorced” during a six-month period. The court emphasized that, under Colorado law, the divorce was not final until the expiration of this period. The court referenced prior cases, such as *Marriner S. Eccles* and *Alice Humphreys Evans*, where it had consistently held that the termination of marital status under an interlocutory decree is determined by state law. The court distinguished the situation from a case of legal separation and concluded that Calhoun and his wife remained married for federal tax purposes until the divorce became final under Colorado law. The court stated, “Under its terms he was married and not legally separated at the close of the taxable year at issue and therefore entitled…to file a joint return with her.”

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