## *DeWitt v. Commissioner, 31 T.C. 554 (1958)*

Alimony payments made after a divorce decree are deductible by the payor, and includible in the payee's gross income, regardless of whether those payments are attributable to periods before the decree, so long as they meet the criteria for periodic payments under the Internal Revenue Code.

### Summary

In 1953, Byron DeWitt made alimony payments to his former wife, Elinor DeWitt, both before and after their divorce decree. The payments were made under an agreement incorporated into the divorce decree. The IRS disallowed DeWitt's deduction for a portion of the post-divorce payments, arguing that they were for periods before the divorce. The Tax Court held that DeWitt could deduct all payments made after the divorce decree, including those allocated to the pre-divorce period, as the statute focused on when payments were received, not the period to which they applied. This ruling emphasizes the importance of the timing of alimony payments relative to the divorce decree for tax purposes.

### Facts

Byron and Helen DeWitt filed a joint tax return. Byron DeWitt and his former wife, Elinor, had a divorce action pending. On May 14, 1953, they entered into a written agreement for alimony payments of $30,000 annually, payable monthly, starting February 1, 1953. The agreement specified that it would be incorporated into the divorce decree. An interlocutory decree was entered on June 4, 1953, and the final decree, incorporating the agreement, was entered on September 8, 1953. On September 8, 1953, Byron paid Elinor $16,422.59, representing payments from February to September 1953, minus offsets for salaries and taxes. He subsequently made four additional payments totaling $10,000 in 1953. Byron deducted the total payments of $26,422.59 on his 1953 income tax return. Elinor included this amount in her income. The IRS allowed deductions for payments made after the divorce and a portion of the payment made on the date of the decree, but disallowed the balance of the payments that the IRS determined was for the period before the decree. Elinor filed a claim for a refund based on the disallowance.

### Procedural History

The IRS disallowed a portion of Byron DeWitt's alimony deduction, leading to a deficiency determination. DeWitt contested the deficiency in the U.S. Tax Court. The Tax Court ruled in favor of the taxpayer, holding that all payments made after the divorce decree were deductible. The Tax Court's decision was not appealed.

### Issue(s)

Whether alimony payments made after a divorce decree, but attributable to periods before the decree, are deductible under section 23(u) of the Internal Revenue Code of 1939, which allows deductions for alimony payments that are includible in the recipient's gross income under section 22(k).

## Holding

Yes, the Tax Court held that alimony payments made after the divorce decree, regardless of the period to which they are attributable, are deductible under section 23(u) because section 22(k) focuses on when the payments are received, not the period for which they are made.

## Court's Reasoning

The court focused on the plain language of Sections 22(k) and 23(u) of the 1939 Internal Revenue Code. Section 22(k) stated that periodic payments received after the decree were includible in the wife's gross income. Section 23(u) allowed the husband to deduct the amount includible in the wife's gross income under section 22(k). The court reasoned that the statute provided an objective test based on the time of receipt, tied to the divorce decree. The IRS attempted to read into the statute a requirement that the payments must be *for* periods after the divorce, which was not supported by the text of the statute. The court argued that adopting the IRS's interpretation would introduce complexities and uncertainties, requiring courts to interpret agreements and determine the intent of the parties, contrary to the simple, objective test set out in the statute. The court specifically stated, "We hold there is no requirement in the statute (sec. 22 (k)), that periodic payments received after the divorce must be for periods subsequent to the divorce; that all payments received by Elinor in the taxable year 1953 after the decree of divorce on September 8, 1953, were includible in her gross income and deductible under section 23 (u) from the gross income of petitioner who made such payments."

## Practical Implications

This case clarifies the timing requirements for alimony payments to be deductible. The *DeWitt* case established that the date of the divorce decree is the critical point for determining the deductibility of alimony payments. Attorneys must advise clients that payments made after the divorce are deductible, even if they cover pre-divorce periods, as long as the other requirements of Sections 22(k) and 23(u) are met. This simplifies tax planning and compliance in divorce cases. The case reinforces the importance of the timing of payments and the need to clearly define the payment terms in the divorce agreement, making sure that the agreement is incorporated into the divorce decree. Subsequent cases have followed this precedent, confirming that payments made after the divorce are deductible when they meet the requirements of the Internal Revenue Code, regardless of the periods they cover. This case's holding highlights the importance of precise drafting in separation agreements and divorce decrees to ensure compliance with tax regulations and to avoid disputes over deductibility.