31 T.C. 749 (1959)

Installment payments made in a divorce settlement are not considered periodic payments, and thus not deductible, unless the principal sum is, by the terms of the agreement, payable over more than ten years.

Summary

The case concerns the deductibility of payments made by a divorced husband to his former wife. The husband made payments over a period shorter than ten years. The court held that these payments were not deductible as alimony. The court focused on the terms of the separation agreement, which specified a period of less than ten years for payment of the principal sum. The possibility of noncompliance by the husband with the terms of the agreement was not a factor. Because the principal sum was, by the terms of the agreement, payable within ten years, the payments did not qualify as periodic payments and were therefore not deductible.

Facts

Robert D. Stecker and Rose Gimbel Stecker divorced on November 28, 1951. A separation agreement, entered into on November 15, 1951, provided that Robert would pay Rose $50,000 in lieu of alimony and property rights. This sum was to be paid in installments of $1,000 per month for 40 months. The agreement also included provisions for securing these payments through an assignment of severance pay from Robert's former employer and the establishment of a trust. The husband made 12 monthly payments of $1,000 each during 1952 and 1953.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Robert Stecker's income tax for 1952 and 1953, disallowing deductions for the payments made to his former wife. The case was brought before the U.S. Tax Court to determine the deductibility of these payments as alimony.

Issue(s)

Whether the installment payments made by Robert Stecker to his former wife under the separation agreement qualify as deductible periodic payments under Section 23(u) of the 1939 Internal Revenue Code.

Holding

No, because the payments were to be made within 40 months, the payments did not qualify as periodic payments under the applicable statute and are not deductible.

Court's Reasoning

The court focused on the interpretation of Section 22(k) of the Internal Revenue Code of 1939, which addresses the inclusion of alimony in gross income, and Section 23(u), which allows deductions for certain alimony payments. The key provision is whether the payments are "periodic." The court determined that installment payments discharging a principal sum are not considered periodic unless, by the terms of the decree or separation agreement, the principal sum is to be paid over a period exceeding ten years. The court emphasized that the relevant factor is the period specified in the agreement, not the possibility of noncompliance by the paying spouse. Since the separation agreement specified payments over less than ten years, the payments were not considered periodic, and therefore, were not deductible.

The court stated, "installment payment shall be considered a periodic payment * * * if such principal sum, *by the terms of the decree or instrument*, may be or is to be paid within a period ending more than 10 years from the date of such decree or instrument."