***Von Tersch, Jr. v. Commissioner*, T.C. Memo. 1967-183 (1967)**

To file a joint tax return or claim personal and dependency exemptions, taxpayers must strictly adhere to the statutory requirements regarding marital status and dependency, including valid marriage under state law and providing over half of a dependent's support.

Summary

Alfred L. von Tersch, Jr. contested income tax deficiencies for 1962 and 1963, arguing he was entitled to file a joint return for 1962 and claim personal and dependency exemptions for Judy von Tersch and her children. The Tax Court denied his claims. For 1962, the court found no valid marriage existed on the last day of the year, nor a valid common-law marriage under Iowa law due to Judy's legal inability to marry. For both years, personal exemptions for Judy and dependency exemptions for her children were disallowed because the stringent requirements for marital status and dependency under the Internal Revenue Code and related regulations were not met. The court emphasized the necessity of fulfilling all statutory criteria to qualify for tax benefits related to marital status and dependents.

Facts

Judy Karn was married to Larry Karn and had two children. In May 1962, Judy separated from Larry and filed for divorce. She met Alfred von Tersch in August 1962. Judy and Larry briefly reconciled in September 1962 before finally separating again in late October 1962. On November 30, 1962, an Iowa court granted Judy a divorce from Larry, which included a one-year restriction on remarriage. From late January to March 1963, Judy and her children lived with von Tersch. Von Tersch and Judy married in Nebraska on May 11, 1963. Judy left von Tersch on May 31, 1963. Von Tersch filed a joint tax return for 1962 and claimed exemptions for Judy and her children for 1962 and 1963.

Procedural History

The Internal Revenue Service (IRS) determined deficiencies in Alfred L. von Tersch, Jr.'s income taxes for 1962 and 1963. Von Tersch challenged these deficiencies in the Tax Court.

Issue(s)

1. Whether petitioner was entitled to file a joint Federal income tax return with Judy for the taxable year 1962?
2. Whether petitioner was entitled to a personal exemption deduction for Judy for either 1962 or 1963?
3. Whether petitioner was entitled to dependency deductions for Judy's two minor children for either 1962 or 1963?

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Holding

1. No, because petitioner and Judy were not married on December 31, 1962, and did not have a valid common-law marriage under Iowa law due to Judy's legal incapacity to marry until December 1, 1963.
2. No for both 1962 and 1963. For 1962, no, because Judy was not his spouse. For 1963, no, because Judy had gross income.
3. No for both 1962 and 1963. For 1962, no, because the children were not stepchildren and did not have their principal place of abode in his home for the entire year. For 1963, no, because petitioner failed to establish he provided over half of their support and they did not have their principal place of abode in his home for the entire year.

Court's Reasoning

The court reasoned that to file a joint return for 1962, Von Tersch and Judy must have been married at the close of 1962. Iowa law, where they resided, governs marital status and recognizes common-law marriage under specific conditions: "Intent and agreement in praesenti, as to marriage, on the part of both parties, together with continuous cohabitation and public declaration that they are husband and wife." However, Iowa law also prohibited Judy from remarrying for one year after her divorce, meaning she was legally unable to enter a marriage until December 1, 1963. The court stated, "Since both Judy and petitioner were residents of Iowa at the time petitioner claims the common-law marriage took place, they were bound by the laws of Iowa and Judy was prohibited from entering into a marriage with petitioner in the State of Iowa, either formal or common-law, prior to December 1, 1963." Therefore, no valid common-law marriage existed in 1962. For personal exemptions, Judy was not his spouse in 1962. For 1963, Judy had income, disqualifying her for the exemption on a separate return. For dependency exemptions, in both years, the children were not legally dependents under relevant statutes because the requirements of relationship, household membership for the entire year, and provision of over half support were not met.

Practical Implications

Von Tersch underscores the critical role of state law in determining marital status for federal tax purposes, particularly concerning common-law marriage. It highlights the necessity for taxpayers to meet all statutory requirements for claiming joint filing status, personal exemptions, and dependency exemptions. The case serves as a reminder that legal impediments to marriage under state law directly impact federal tax classifications of marital status. It also reinforces the taxpayer's burden to substantiate all elements required for deductions and exemptions, including providing evidence of a valid marriage and meeting dependency tests. Legal practitioners should advise clients to meticulously document their marital status and support contributions, especially in cases involving common-law marriage or dependency claims for non-relatives.

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