Willits v. Commissioner, 50 T. C. 602 (1968)

Income is constructively received when it is set apart for a taxpayer or made available without substantial limitation, even if not actually received.

Summary

Oliver Willits, a trustee of several trusts, sought to defer receipt of his trustee commissions over multiple years to reduce tax liability. The court held that commissions from the terminated Strawbridge Trust, paid in 1960 but held by another trustee for Willits, were constructively received in 1960. However, commissions from the ongoing Dorrance Trusts, awarded in 1961 but deferred by court order to later years, were not taxable in 1961. The decision hinged on whether the deferral was controlled by the trust (obligor) or by private arrangements among trustees.

Facts

Oliver Willits was a trustee of a trust that terminated in 1960 and four other trusts that continued. The terminated trust paid $920,000 in terminal commissions in 1960, with Willits' share retained by another trustee, Camden Trust Co. , and paid to him over five years starting in 1961. For the ongoing trusts, a court in 1961 awarded commissions totaling $674,273. 37 but ordered Willits' share to be paid over four years starting in 1962. The IRS argued that Willits constructively received all commissions in the years they were awarded.

Procedural History

The IRS determined deficiencies in Willits' 1960 and 1961 income taxes, asserting that he constructively received the commissions in those years. Willits petitioned the U. S. Tax Court, which ruled that the 1960 commissions from the terminated trust were taxable in 1960, while the 1961 commissions from the ongoing trusts were not taxable until the years they were actually paid.

Issue(s)

1. Whether Willits constructively received his share of the terminal corpus commissions from the Strawbridge Trust in 1960.
2. Whether Willits constructively received his share of the corpus commissions from the four Dorrance Trusts in 1961.

Holding

1. Yes, because the commissions were paid by the trust in 1960 and held by another trustee under a private arrangement that lacked legal substance and was designed solely to defer tax liability.
2. No, because the court's order in 1961 effectively fixed the trusts' liability to pay

© 2025 SCOTUSreports.com. All rights reserved.

Willits' commissions in future years, preventing him from receiving them in 1961.

Court's Reasoning

The court analyzed the constructive receipt doctrine, emphasizing that income is taxable when it is credited to a taxpayer's account or otherwise made available without substantial limitation. For the 1960 commissions, the court found the deferral agreement to be a sham, designed to manipulate tax liability without altering the trust's obligation to pay. The court noted the agreement's lack of consideration and the absence of any risk of forfeiture to the trust. In contrast, the 1961 commissions were governed by a court order that established the trusts' liability to pay over time, which the court respected as a binding arrangement. The court distinguished between private agreements among trustees and court-ordered deferrals, applying the doctrine of constructive receipt only to the former.

Practical Implications

This decision clarifies the application of the constructive receipt doctrine to deferred compensation arrangements. Taxpayers and their advisors must ensure that deferral agreements are bona fide and not merely tax avoidance schemes. When a trust or court order controls the timing of payments, those arrangements are more likely to be respected for tax purposes. Practitioners should carefully draft agreements to reflect genuine consideration and not rely on informal arrangements among trustees. This case also underscores the importance of distinguishing between the actions of a trust (the obligor) and those of its trustees in their individual capacities. Subsequent cases have cited Willits for these principles, reinforcing its impact on tax planning involving deferred compensation.

© 2025 SCOTUSreports.com. All rights reserved.