Marinello v. Commissioner, 50 T. C. 247 (1968)

Payments for rent and heat made by a former husband pursuant to a divorce decree are taxable as alimony to the recipient under Section 71(a)(1) of the Internal Revenue Code.

Summary

In Marinello v. Commissioner, the Tax Court addressed whether payments for rent and heat made by Doris Marinello's former husband, pursuant to their divorce decree, were taxable to her as income. The decree required Mr. Marinello to provide free rent and heat, which he fulfilled by making payments to a corporation he owned. The court held that these payments were taxable to Mrs. Marinello under Section 71(a)(1) because they were periodic payments made in discharge of a legal obligation from the divorce decree. The decision hinges on the fact that actual payments were made, distinguishing this case from others where no payments were involved.

Facts

Doris B. Marinello was divorced from Anthony L. Marinello in 1955. The divorce decree stipulated that Mr. Marinello pay $15 weekly as alimony, $25 weekly for child support, and provide free rent and heat for Mrs. Marinello's residence. Initially, Mrs. Marinello lived in a property owned by Mr. Marinello until 1960 when he transferred it to Anthony Homes, Inc. , a corporation he wholly owned. In 1962, due to the property's condition, Mrs. Marinello moved to another property owned by Mr. Marinello, which he also transferred to Anthony Homes, Inc. in 1965. In 1966, Mr. Marinello paid $600 for rent and $235. 41 for fuel to Anthony Homes, Inc. on Mrs. Marinello's behalf.

Procedural History

The Commissioner determined a $273 deficiency in Mrs. Marinello's 1966 income tax, asserting that the rent and heat payments were taxable income to her. Mrs. Marinello contested this in the Tax Court, arguing that these payments were not taxable as they constituted a property interest rather than periodic payments.

Issue(s)

1. Whether payments made by a former husband for rent and heat pursuant to a divorce decree are taxable to the recipient as income under Section 71(a)(1) of the Internal Revenue Code.

Holding

1. Yes, because the payments for rent and heat were made periodically and in discharge of a legal obligation imposed by the divorce decree, they are taxable to

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the recipient under Section 71(a)(1).

Court’s Reasoning

The court distinguished Marinello from cases like Pappenheimer v. Allen and James Parks Bradley, where no actual payments were made by the husbands. The court emphasized that in Marinello, Mr. Marinello made direct payments for rent and heat, fulfilling his obligation under the divorce decree. These payments were considered periodic and thus taxable under Section 71(a)(1). The court noted that the transfer of the property to a corporation owned by Mr. Marinello did not alter the tax treatment, as corporations are generally treated as separate legal entities. The court concluded that the payments were clearly made in discharge of a legal obligation and therefore taxable to Mrs. Marinello.

Practical Implications

This decision clarifies that payments for necessities like rent and heat made by a former spouse under a divorce decree are taxable as alimony if they are periodic and made in discharge of a legal obligation. For attorneys and tax professionals, this case underscores the importance of distinguishing between direct payments and the provision of property interests in divorce agreements. It impacts how divorce settlements are structured to minimize tax liabilities and highlights the tax implications of transferring property to related entities. Subsequent cases have reinforced this principle, emphasizing the taxability of such payments when made directly by one spouse for the other’s benefit.

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