Kent v. Commissioner, 61 T.C. 133 (1973)

Alimony payments payable in monthly installments for a fixed period of less than ten years, where the principal sum is mathematically calculable, are considered installment payments and not deductible as periodic payments for federal income tax purposes, unless subject to specific contingencies such as death, remarriage, or change in economic status as imposed by the decree or local law.

Summary

In *Kent v. Commissioner*, the Tax Court addressed whether fixed monthly alimony payments for a period less than ten years constituted deductible "periodic payments" or non-deductible "installment payments" under Section 71(a)(1) of the Internal Revenue Code. The court held that because the total sum was mathematically determinable and not subject to contingencies under Arizona law, the payments were installment payments and thus not deductible by the husband. This decision clarifies that even without an explicitly stated principal sum, payments over a fixed term can be considered installment payments if the total amount is readily calculable and not contingent on external factors.

Facts

George B. Kent, Jr. and his former wife, Jeanne Diane Kent, divorced in Arizona. The divorce decree, incorporating a Property Settlement Agreement, ordered George to pay Jeanne $600 per month for alimony and support for 54 months, ceasing on September 1, 1971. The agreement stated there were no other agreements between the parties. In 1969, George deducted $7,500 in alimony payments on his federal income tax return. The IRS disallowed the deduction, arguing these were installment payments, not periodic payments.

Procedural History

The Internal Revenue Service (IRS) issued a notice of deficiency disallowing George Kent's alimony deduction for 1969. Kent petitioned the Tax Court to contest the deficiency.

Issue(s)

1. Whether alimony payments payable in fixed monthly amounts for a period of less than ten years, where the total sum is mathematically calculable but not explicitly stated in the divorce decree, constitute "installment payments" discharging a principal sum under Section 71(c)(1) of the Internal Revenue Code.
2. Whether contingencies imposed by local Arizona law regarding the modifiability of alimony awards are sufficient to classify these payments as "periodic payments" under Treasury Regulation § 1.71-1(d)(3)(i), despite the fixed term and calculable total sum.

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Holding

1. Yes, the alimony payments constitute installment payments because the principal sum is specified within the meaning of Section 71(c)(1) as it is mathematically calculable from the decree.
2. No, the payments are not considered periodic payments under the regulatory exception because Arizona law, as interpreted by the Tax Court, classifies this type of fixed-term alimony as "alimony in gross," which is not subject to modification and therefore not contingent.

Court's Reasoning

The court reasoned that the lack of an explicitly stated principal sum in the decree was not determinative. Citing prior Tax Court cases like *Estate of Frank P. Orsatti*, the court stated, "There is at best only a formal difference between such a decree and one where the total amount is expressly set out." The court found that multiplying the monthly payment by the number of months readily yields a principal sum. Regarding the taxpayer's reliance on *Myers v. Commissioner* from the Ninth Circuit, the court distinguished it, noting the subsequent adoption of Treasury Regulation § 1.71-1, which clarifies the treatment of payments under ten years. This regulation deems payments periodic if they are subject to contingencies like death, remarriage, or change in economic status. While Arizona law allows for modification of alimony under certain circumstances, Arizona courts recognize "alimony in gross," which is a fixed, non-modifiable award. The Tax Court determined the alimony in Kent's case, payable in fixed monthly installments for a definite term, qualified as "alimony in gross" under Arizona law, citing *Cummings v. Lockwood* and *Bartholomew v. Superior Court*. Therefore, the payments were not subject to contingencies imposed by local law that would make them periodic. The court concluded that the payments were installment payments discharging a principal sum and not deductible as periodic alimony payments.

Practical Implications

Kent v. Commissioner provides a clear example of how courts interpret the distinction between installment and periodic alimony payments for tax purposes. It emphasizes that: (1) a principal sum for installment payments does not need to be explicitly stated but can be mathematically derived from the decree; (2) the deductibility of alimony payments hinges on whether they are subject to contingencies, and these contingencies can arise from the decree itself or from applicable state law; (3) state law classifications of alimony, such as "alimony in gross," are critical in determining whether payments are considered contingent and thus periodic for federal tax purposes. Legal practitioners must carefully consider both the terms of divorce decrees and relevant state law regarding alimony modification when advising clients on the tax implications of alimony payments, particularly in jurisdictions that recognize doctrines like "alimony in gross." This case underscores the importance of clearly drafting divorce agreements to achieve

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the desired tax consequences and understanding the interplay between federal tax law and state domestic relations law.

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