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

Monthly alimony payments for a fixed term without contingencies are nondeductible installment payments when the total sum can be calculated mathematically.

Summary

George Kent made monthly payments of $600 to his former wife for 54 months as per their divorce decree. The issue was whether these payments qualified as deductible periodic alimony under IRC sec. 71(a)(1). The Tax Court held that they were nondeductible installment payments under IRC sec. 71(c)(1) because the total amount was ascertainable by multiplying the monthly payment by the number of months. The court rejected the applicability of the Ninth Circuit's Myers decision and found that Arizona law characterized the payments as alimony in gross, not subject to modification or contingencies, thus not meeting the regulatory exception for periodic payments.

Facts

George B. Kent, Jr. and Jeanne Diane Kent divorced in 1967. Their divorce decree, incorporating a property settlement agreement, required George to pay Jeanne $600 monthly for 54 months as alimony and support. The decree did not mention any contingencies like death, remarriage, or economic change that would affect the payments. In 1969, George paid $7,200 to Jeanne, claiming it as a deduction on his tax return. Jeanne remarried in 1970, after which George stopped the payments, believing his obligation ceased.

Procedural History

The Commissioner of Internal Revenue disallowed George's alimony deduction for 1969, asserting the payments were nondeductible installment payments under IRC sec. 71(c)(1). George and his current wife, Sandra Jo Kent, filed a petition with the U. S. Tax Court challenging the disallowance. The Tax Court ruled in favor of the Commissioner, determining the payments were indeed nondeductible installment payments.

Issue(s)

1. Whether the monthly payments made by George to Jeanne constitute periodic payments under IRC sec. 71(a)(1), thus deductible under IRC sec. 215.
2. Whether the decision in Myers v. Commissioner controls this case under the principle established in Golsen v. Commissioner.
3. Whether Arizona law imposes any contingencies on the payments that would make them periodic under IRC sec. 71(a)(1).

Holding

1. No, because the payments are installment payments under IRC sec. 71(c)(1) as the total amount is ascertainable by multiplying the monthly payment by the fixed term.
2. No, because the Myers decision was made before the adoption of regulations clarifying the interpretation of IRC sec. 71, and its applicability is questionable under current law.
3. No, because Arizona law characterizes the payments as alimony in gross, which is not subject to modification or contingencies.

Court's Reasoning

The court applied IRC sec. 71(c)(1), which states that installment payments discharging a specified principal sum are not treated as periodic. The court found that the total amount payable ($32,400) could be calculated mathematically from the decree, thus falling under sec. 71(c)(1). The court rejected the applicability of the Ninth Circuit's Myers decision, noting that it did not consider the regulatory exceptions established in 1957 under sec. 1. 71-1(d)(3)(i), which require contingencies for payments to be considered periodic. The court also examined Arizona law, concluding that the payments constituted alimony in gross, which cannot be modified due to contingencies like remarriage or death. The court emphasized that the decree's lack of contingencies and the characterization under Arizona law precluded the payments from being considered periodic.

Practical Implications

This decision clarifies that for alimony to be considered periodic and thus deductible, it must be subject to contingencies affecting the total sum payable. Practitioners should ensure that divorce decrees explicitly state such contingencies if they wish for alimony payments to be deductible. The case also highlights the importance of understanding state law regarding alimony characterization, as it can affect federal tax treatment. Subsequent cases, like Salapatas v. Commissioner, have upheld the validity of the regulations applied in Kent, reinforcing the importance of contingencies in determining the tax treatment of alimony payments. Businesses and individuals involved in divorce proceedings should be aware of these tax implications when structuring alimony agreements.