Herring v. Commissioner, 66 T. C. 308 (1976)

Only payments made under a written agreement or decree are deductible as alimony, and charitable contributions must be made directly by the taxpayer to be deductible.

Summary

In Herring v. Commissioner, the U. S. Tax Court ruled that payments made to a spouse before divorce under an oral agreement are not deductible as alimony under section 215 of the IRC, and charitable contributions made by a spouse from transferred funds are not deductible by the payer unless specifically designated. The court also denied head-of-household filing status to the petitioner, as his children did not primarily reside with him. This decision clarifies the necessity for written agreements in alimony deductions and the direct payment requirement for charitable contributions.

Facts

Mack R. Herring made payments to his wife between January and August 1972 while she and their children resided in Virginia, and he worked in Mississippi. After their separation in October 1972, Herring continued making payments until their divorce on November 16, 1972. These payments were made under an oral agreement. Herring's wife used some of the funds to make charitable contributions. Following the divorce, Herring was ordered to pay $100 in alimony and $250 in child support biweekly. Herring claimed deductions for alimony payments made before the divorce, charitable contributions made by his wife, and head-of-household filing status on his 1972 tax return.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Herring's 1972 Federal income tax and disallowed his claims for alimony deductions, charitable contributions, and head-of-household status. Herring petitioned the U. S. Tax Court for a redetermination of the deficiency. The court upheld the Commissioner's determinations.

Issue(s)

1. Whether payments made to a spouse prior to divorce under an oral agreement are deductible as alimony under section 215 of the Internal Revenue Code.
2. Whether a taxpayer is entitled to head-of-household filing status when his children do not primarily reside with him.
3. Whether a taxpayer can deduct charitable contributions made by his spouse from transferred funds without specific designation.

Holding

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1. No, because section 215 requires payments to be made under a written agreement or decree to be deductible as alimony.
2. No, because the taxpayer's household did not constitute the principal place of abode for his children during the taxable year.
3. No, because charitable contributions must be made directly by the taxpayer or specifically designated to be deductible.

Court's Reasoning

The court applied section 215 of the IRC, which allows alimony deductions only for payments made under a written agreement or decree, emphasizing the need for formal documentation to prevent disputes over payment characterization. The court cited section 71(a) and the related regulations, which specify that payments must be made due to the marital relationship and under a written agreement or decree. For head-of-household status, the court relied on section 1. 2-2(c) of the Income Tax Regulations, requiring the household to be the taxpayer's home and the principal place of abode for a qualifying person for the entire taxable year. Regarding charitable contributions, the court followed the principle that contributions must be made directly by the taxpayer or specifically designated to be deductible, as established in prior case law.

Practical Implications

This decision impacts how taxpayers should handle alimony payments and charitable contributions. It underscores the importance of having written agreements for alimony to ensure deductibility and clarifies that charitable contributions must be made directly by the taxpayer or specifically designated from transferred funds. Tax practitioners should advise clients to formalize alimony agreements in writing and to carefully document charitable contributions. The ruling also affects how head-of-household status is determined, requiring the principal residence of the qualifying person to be with the taxpayer for the entire taxable year. Subsequent cases have followed this precedent, reinforcing the need for clear documentation in tax-related matters.

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