Gordon v. Commissioner, 70 T. C. 525 (1978)

A state court consent decree cannot retroactively redesignate child support payments as alimony for federal income tax purposes if such a redesignation alters the legal status of the payments.

Summary

In Gordon v. Commissioner, the Tax Court ruled that payments made under a divorce decree's variable child support obligation could not be retroactively recharacterized as alimony for tax purposes. Arthur Gordon argued that a subsequent consent decree, which modified the original divorce decree, should allow him to deduct these payments as alimony. The court rejected this claim, emphasizing that for payments to qualify as alimony, they must be made pursuant to a written instrument incident to the divorce. The consent decree, issued years after the payments were made, did not retroactively change their tax status as child support, and thus, Gordon was not entitled to the deductions he sought.

Facts

Arthur Gordon and Evelyn Ackerman divorced in 1967, with a decree that included fixed alimony and child support, and a variable child support obligation tied to Gordon's income. In 1973, disputes over the application of this decree led to litigation, culminating in a 1977 consent decree. This decree retroactively classified certain past payments as alimony, not child support, and canceled future variable child support obligations. Gordon claimed these payments as alimony deductions on his tax returns for the years 1971-1973, which the IRS disallowed, treating them as nondeductible child support.

Procedural History

Gordon and Ackerman's 1967 divorce decree included a variable child support provision. Subsequent disputes led to litigation in New Hampshire state courts. In 1977, a consent decree was issued, modifying the original decree and reclassifying certain payments. Gordon filed his tax returns for 1971-1973 claiming alimony deductions, which were disallowed by the IRS. Gordon then petitioned the Tax Court for relief.

Issue(s)

1. Whether payments made under the original divorce decree's variable child support obligation can be retroactively recharacterized as alimony for federal income tax purposes due to a subsequent consent decree.

Holding

1. No, because the consent decree did not reflect the true intention of the court at

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the time the original decree was rendered, and it retroactively altered the legal status of the payments.

Court’s Reasoning

The Tax Court applied the rule that state court orders retroactively redesignating payments as alimony or child support are generally disregarded for federal income tax purposes if they alter the rights of the parties or the legal status of the payments. The court found that the consent decree did not correct a mistake in the original decree but rather changed the legal status of past payments, which is not permissible under federal tax law. The court also noted that the consent decree was not a written instrument incident to the divorce at the time the payments were made, as required by sections 71(a) and 215 of the Internal Revenue Code. The court emphasized that tax returns or oral agreements cannot serve as the required written instrument. Furthermore, the court determined that under New Hampshire law, invalid child support payments do not automatically convert to alimony but are subject to cancellation or abatement. The variable child support obligation was deemed valid, and thus, the consent decree’s retroactive recharacterization was invalid for tax purposes.

Practical Implications

This decision underscores the importance of ensuring that alimony obligations are clearly delineated in written instruments at the time of divorce for tax purposes. It clarifies that subsequent state court modifications cannot retroactively change the tax treatment of payments unless they correct a mistake in the original decree. Practitioners must advise clients to carefully draft divorce agreements to meet the requirements of sections 71(a) and 215 of the IRC. The ruling may influence how parties negotiate and document divorce settlements, emphasizing the need for clarity and foresight in tax planning. Subsequent cases, such as Turkoglu v. Commissioner, have reinforced this principle, ensuring consistent application of tax law to divorce-related payments.

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