Blakey v. Commissioner, 78 T. C. 963 (1982)

All periodic payments for both alimony and child support are taxable to the recipient and deductible by the payer if not specifically designated as child support in the divorce agreement.

Summary

In Blakey v. Commissioner, the U. S. Tax Court ruled on the tax treatment of payments made under a divorce agreement that combined alimony and child support. Charles Blakey and Sandra Bettino's agreement required Blakey to make monthly payments for the support of Bettino and their five children. The agreement did not specify the portion allocated to child support, leading to the court's decision that all payments were taxable to Bettino and deductible by Blakey, as per the Supreme Court's ruling in Commissioner v. Lester. The court also determined that Bettino's remarriage did not alter the tax treatment of these payments, as Virginia law allowed the continuation of payments post-remarriage if specified in the agreement.

Facts

Charles Blakey and Sandra Bettino (formerly Sandra Blakey) entered into a property settlement agreement in 1972, which was amended in 1973, 1975, and 1979. The 1975 amendment required Blakey to pay Bettino $440 monthly for the support of their five minor children and Bettino. The agreement did not specify how much of the payment was for child support. The monthly payment was to be reduced by one-sixth as each child reached the age of 18, died, or became emancipated, and would cease entirely when the youngest child reached these milestones. Bettino remarried in 1976, but the agreement did not address the effect of remarriage on the payments.

Procedural History

The Commissioner of Internal Revenue issued notices of deficiency to Blakey and Bettino for the tax year 1976. Blakey deducted the full $5,280 paid to Bettino as alimony, while Bettino reported only $366 as alimony and claimed dependency exemptions for all five children. The Tax Court consolidated the cases, and after hearing arguments, ruled in favor of Blakey and against Bettino.

Issue(s)

1. Whether the payments made to Bettino during 1976 under the written agreement constitute periodic payments deductible by Blakey under Section 215 and includable in Bettino's income under Section 71(a)(1).
2. Whether Bettino's remarriage during 1976 altered the tax treatment of the payments under the agreement.
3. Which parent is entitled to the dependency exemptions for their five children

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under the terms of their written agreement and Section 152(e).

Holding

1. Yes, because the agreement did not fix any portion of the payments as child support under Section 71(b), following the Supreme Court's ruling in Commissioner v. Lester.
2. No, because under Virginia law, the obligation to make payments continued despite Bettino's remarriage, as the agreement specifically provided for the continuation of payments until the youngest child reached the age of 18, died, or became emancipated.
3. Bettino, because the agreement allowed her to claim the dependency exemptions as long as Blakey could deduct the full amount of the payments.

Court's Reasoning

The court applied the legal rule from Commissioner v. Lester, which requires that a written agreement must expressly designate a sum or part of the payment as child support for it to be excluded from the recipient's income. The court found that the agreement in Blakey did not specifically designate any portion of the payments as child support, thus all payments were taxable to Bettino and deductible by Blakey. The court also considered the effect of Bettino's remarriage, noting that under Virginia law, an agreement that is not incorporated into the divorce decree and does not order the husband to perform its obligations is not subject to the automatic termination of alimony upon remarriage. The court interpreted the agreement as intending for payments to continue regardless of remarriage, based on the agreement's language and the parties' actions. Finally, the court upheld Bettino's claim to the dependency exemptions as per the agreement's terms.

Practical Implications

This decision clarifies that for tax purposes, payments under a divorce agreement that combine alimony and child support without specific designation are treated as alimony, taxable to the recipient and deductible by the payer. It also emphasizes the importance of clear language in divorce agreements regarding the effect of remarriage on support payments, particularly in states like Virginia where such provisions can override statutory termination of alimony upon remarriage. Practitioners should advise clients to explicitly address the tax treatment of payments and the effect of remarriage in their agreements. This case has been cited in subsequent rulings to reinforce the principles established in Commissioner v. Lester and to guide the interpretation of similar agreements.

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