Frances Graham, Petitioner v. Commissioner of Internal Revenue, Respondent, 79 T. C. 415 (1982)

A state court's nunc pro tunc order amending a divorce decree to retroactively designate payments as child support will not be recognized for federal tax purposes if it contradicts established state law.

Summary

In Graham v. Commissioner, the U. S. Tax Court ruled that a state court's nunc pro tunc order, which retroactively changed a divorce decree's language from 'support of the family' to 'child support', was not valid for federal tax purposes. Frances Graham received $500 monthly payments from her ex-husband following their 1974 divorce, which she initially reported as non-taxable child support. However, the IRS classified these as alimony, leading to a tax deficiency. Graham sought a nunc pro tunc amendment to the divorce decree to clarify the payments as child support. The Tax Court, applying the principle from Commissioner v. Estate of Bosch, held that the amendment did not comply with Kentucky law, which restricts nunc pro tunc orders to clerical errors. Thus, the payments were deemed alimony and taxable to Graham for the years 1975-1977.

Facts

Frances Graham divorced her husband in 1974, receiving custody of their three children. The divorce decree required her ex-husband to pay $500 per month 'toward the support of the family'. Graham did not report these payments as income, treating them as child support. After an IRS audit determined the payments to be alimony, resulting in tax deficiencies for 1975-1977, Graham sought to amend the decree nunc pro tunc to specify the payments as child support. The state court granted this amendment in 1981, effective back to 1974. However, the IRS and the Tax Court challenged the retroactive effect of this order for federal tax purposes.

Procedural History

The IRS issued a notice of deficiency to Graham for 1975-1977, classifying the $500 monthly payments as alimony. Graham then filed a petition with the U. S. Tax Court. Concurrently, she moved to amend the 1974 divorce decree in Kentucky state court, which granted her motion in 1981, effective nunc pro tunc to 1974. The Tax Court, however, reviewed the case and issued its decision in 1982, refusing to recognize the state court's order retroactively for federal tax purposes.

Issue(s)

1. Whether a state court's nunc pro tunc order amending a divorce decree to specify payments as child support, rather than alimony, should be recognized retroactively for federal tax purposes?

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Holding

1. No, because the nunc pro tunc amendment was not in accord with Kentucky law, which limits such orders to correcting clerical errors, not judicial ones. The amendment was thus not recognized retroactively for federal tax purposes, and the payments remained alimony, taxable to Graham.

Court's Reasoning

The Tax Court applied the principle from Commissioner v. Estate of Bosch, which requires federal courts to disregard a lower state court's ruling on state law if it contradicts the state's highest court. Kentucky law, as established by the Kentucky Supreme Court, restricts nunc pro tunc orders to clerical errors and does not allow them to correct judicial errors. The original divorce decree's language was deemed a judicial error, not clerical, and thus not amendable nunc pro tunc. The court noted that the state judge's intent at the time of the original decree was irrelevant without documentary evidence in the court record. Therefore, the Tax Court held that the $500 monthly payments were alimony and taxable to Graham for 1975-1977. The court also rejected Graham's later argument that other payments related to the family home were part of a property settlement, as this issue was raised too late in the proceedings.

Practical Implications

This decision clarifies that for federal tax purposes, state court nunc pro tunc orders amending divorce decrees must comply with state law to have retroactive effect. Practitioners should ensure that any such amendments are supported by documentary evidence in the court record to avoid federal tax challenges. The ruling reinforces the importance of precise language in divorce decrees regarding the nature of payments, as ambiguous terms like 'support of the family' may lead to alimony classifications by the IRS. This case may influence how attorneys draft divorce agreements to clearly designate payments as child support or alimony to avoid future tax disputes. Subsequent cases have referenced Graham in discussions about the retroactivity of state court orders in federal tax contexts.

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