***Powell v. Commissioner, 100 T. C. 39 (1993)***

Under community property law, a non-employee spouse may be considered a distributee for tax purposes of pension benefits acquired during marriage.

**Summary**

In Powell v. Commissioner, the Tax Court addressed the tax implications of a pension distribution from a qualified plan under community property law. Rodney Powell received a lump-sum distribution from his employer's pension plan post-divorce, which was divided according to a California court order. The court held that Flora Powell, Rodney's ex-wife, was taxable on her share of the pension benefits as a distributee under the Internal Revenue Code, despite the distribution being made to Rodney. This ruling was grounded in the recognition of Flora's ownership interest in the pension from the outset of the marriage, established by California community property law, and the court's interpretation of the term 'distributee' in light of ERISA's antialienation provisions.

**Facts**

Rodney and Flora Powell, married in 1968, divorced in 1983. Rodney participated in a qualified pension plan with Rockwell International Corp. The divorce decree awarded Flora 58. 96844% of the plan's value as her separate property. In July 1984, Rodney terminated his participation and received a lump-sum distribution of the entire plan account in the form of Rockwell stock. He sold some shares in 1984 and transferred $39,661 to Flora in late 1984, which she received in 1985 after deductions for attorney's fees. The issue was whether the distribution was taxable to Rodney or partially to Flora under California community property law.

**Procedural History**

The Tax Court consolidated two cases to determine the taxability of the pension distribution. The IRS determined deficiencies in the federal income taxes of both Rodney and Flora for 1984 and 1985, respectively. The case was submitted fully stipulated, and the Tax Court rendered its opinion in 1993.

**Issue(s)**

1. Whether Flora Powell can be considered a 'distributee' under section 402(a)(1) of the Internal Revenue Code for the purposes of taxing her share of the pension benefits received by Rodney Powell from a qualified pension plan.

**Holding**

1. Yes, because under California community property law, Flora's ownership interest in the pension benefits was established at the outset of the marriage, making her a 'distributee' for tax purposes despite the distribution being made to Rodney.

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## Court’s Reasoning

The Tax Court reasoned that under California community property law, Flora acquired an ownership interest in the pension benefits from the beginning of Rodney’s employment. The court interpreted the term ‘distributee’ under section 402(a)(1) in light of the antialienation provisions of section 401(a)(13) of the Internal Revenue Code. The court found that Flora’s rights were not transferred to her by Rodney but were established directly by community property law. This distinguished the case from Darby v. Commissioner, where a transfer occurred. The court emphasized that Rodney received the distribution on behalf of the community and that his payment to Flora was a transfer of funds that always belonged to her. The court also considered judicial and legislative attitudes towards the interplay between federal and state law, concluding that ERISA did not preempt California community property law in this context.

## Practical Implications

This decision has significant implications for the taxation of pension distributions in community property states. It establishes that a non-employee spouse can be considered a distributee for tax purposes if they have an ownership interest in the pension benefits from the outset of the marriage. This ruling affects how similar cases should be analyzed, particularly in ensuring that the tax treatment reflects the ownership rights established by community property laws. Legal practitioners must consider these principles when advising clients on divorce settlements involving pension benefits. The decision also reinforces the importance of state community property laws in the face of federal legislation, impacting how courts and attorneys approach the division of assets in divorce proceedings. Subsequent cases, such as Ablamis v. Roper, have distinguished Powell by focusing on post-REA years, but Powell remains a key precedent for pre-REA distributions.

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