LUCAS, COMMISSIONER OF INTERNAL REVENUE, v. EARL

No. 99

SUPREME COURT OF THE UNITED STATES

281 U.S. 111; 50 S. Ct. 241; 1930 U.S. LEXIS 738; 74 L. Ed. 731; 2 U.S. Tax Cas. (CCH) P496; 8 A.F.T.R. (P-H) 10287

March 17, 1930, Decided

PRIOR HISTORY: [**1]

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

CERTIORARI, 280 U.S. 538, to review a judgment of the Circuit Court of Appeals which reversed a decision of the Board of Tax Appeals upholding a tax upon the respondent's income.

DISPOSITION: *30 F.2d 898,* reversed.

CORE TERMS: salary, Revenue Act, taxed, personal service, income derived, earnings, tenants, import, wages

<=3> Turn Off Lawyers' Edition Display
LEXIS HEADNOTES - Classified to U.S. Digest Lawyers' Edition:
<=4> INCOME TAXES, §15
income subject -- agreement giving wife joint interest in husband's earnings. --

Headnote:
The entire earnings of a husband are, for income tax purposes, to be treated as his income, notwithstanding he and his wife have entered into a contract whereby they have agreed that whatever each has or may acquire in any way during the existence of the marriage shall be received and owned by them as joint tenants.

SYLLABUS: Under the Revenue Act of 1918, which taxes the income of every individual, including "income derived from salaries, wages, or compensation for personal service . . . of whatever kind and in whatever form paid," the income of a husband by way of salary and attorney's fees is taxable to him notwithstanding that by a contract between him and his wife, assumed to be valid in California where they reside, all their several earnings, including salaries and fees, are to be received, held and owned by both as joint tenants. P. 113.

COUNSEL: Solicitor General Hughes, with whom Assistant Attorney General Youngquist and Messrs. Millar E. McGilchrist, Claude R. Branch, Sewall Key and J. Louis Monarch, Special Assistants to the Attorney General, were on the brief, for petitioner.

Mr. Warren Olney, Jr., with whom [**2] Messrs. J. M. Mannon, Jr., Robert L. Lipman and Henry D. Costigan were on the brief, for respondent.

The agreement is valid under the law of California. *Wren v. Wren, 100 Cal. 276; Kaltschmidt v. Weber, 145 Cal. 596; Perkins v. Sunset, etc., Company, 155 Cal. 712; Moody v. Southern Pacific Co., 167 Cal. 786; Cullen v. Bisbee, 68 Cal. 695.*

It necessarily follows from the manner in which the agreement operates under the California law that the income of both parties, including the personal earnings of both, is to be taxed as the joint income of both, and not as community property.

The basic principle of the income tax law is that it is a tax on income beneficially received. Applying this principle the income in this case must be taxed as the joint income of the respondent and his wife. *United States v. Robbins, 269 U.S. 315;* see *Old Colony Trust Co. v. Commissioner, 279 U.S. 716.*

The decisions of the Supreme Court of California hold that such agreements do not operate by way of assignment but by way of establishing the incidents of property. Even if it were true that the agreement [**3] operated by way of an equitable assignment and there was at the moment of the receipt of the property an instant of time when the husband held it as exclusively his own, he would so hold it only as a naked trustee. The basic purpose of the income tax law is to tax income beneficially received. Income received as a trustee is taxable as income of the beneficiary. *O'Malley-Keyes v. Eaton, 24 F.2d 436; Young v. Guichtel, 28 F.2d 789; Bowers v. New York Trust Co., 9 F.2d 548.*

Under the community property system, in a case where husband and wife agree that the latter's earnings are to be her separate property, the earnings of the wife are to be taxed as part of her income and not as a part of her husband's. *Louis Gassner, 4 B. T. A. 1071; E. C. Busche, 10 B. T. A. 1345; Francis Krull, 10 B. T. A. 1096; Allen Harris, 10 B. T. A. 1374.*

The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services which produced the gain, is without support either in the language of the [**4] Act or in the decisions of the courts construing it. Not only this, but it is directly opposed to provisions of the Act and to regulations of the Treasury Department which either prescribe or permit that compensation for personal services be not taxed as an entirety and be not returned by the individual performing the services.

It is to be noted that by the language of the Act it is not "salaries, wages or compensation for personal service" that are to be included in gross income. That which is to be included is "gains, profits and income derived" from salaries, wages or compensation for personal service. Salaries, wages or compensation for personal service are not to be taxed as an entirety unless in their entirety they are gains, profits and income. Since, also, it is the gain, profit or income to the individual that is to be taxed, it would seem plain that it is only the amount of such salaries, wages or compensation as is gain, profit or income to the individual, that is, such amount as the individual beneficially receives, for which he is to be taxed.

JUDGES: Holmes, Van Devanter, McReynolds, Brandeis, Sutherland, Butler, Stone; Hughes took no part in this case.

OPINIONBY: [**5]

HOLMES

OPINION: [*113] MR. JUSTICE HOLMES delivered the opinion of the Court.

This case presents the question whether the respondent, Earl, could be taxed for the whole of the salary and attorney's fees earned by him in the years 1920 and 1921, or should be taxed for only a half of them in view of a contract with his wife which we shall mention. The Commissioner of Internal Revenue and the Board of Tax Appeals imposed a tax upon the whole, but their decision was reversed by the *Circuit Court of Appeals, 30 F.2d 898.* A writ of certiorari was granted by this Court.

By the contract, made in 1901, Earl and his wife agreed "that any property either of us now has or may hereafter [*114] acquire . . . in any way, either by earnings (including salaries, fees, etc.), or any rights by contract or otherwise, during the existence of our marriage, or which we or either of us may receive by gift, bequest, devise, or inheritance, and all the proceeds, issues, and profits of any and all such property shall be treated and considered and hereby is declared to be received, held, taken, and owned by us as joint tenants, and not otherwise, with the right of survivorship." The [**6] validity of the contract is not questioned, and we assume it to be unquestionable under the law of the State of California, in which the parties lived. Nevertheless we are of opinion that the Commissioner and Board of Tax Appeals were right.

The Revenue Act of 1918 approved February 24, 1919, c. 18, §§ 210, 211, 212 (a), 213 (a), 40 Stat. 1057, 1062, 1064, 1065, imposes a tax upon the net income of every individual including "income derived from salaries, wages, or compensation for personal service . . . of whatever kind and in whatever form paid," § 213 (a). The provisions of the Revenue Act of 1921, c. 136, 42 Stat. 227, in sections bearing the same numbers are similar to those of the above. A very forcible argument is presented to the effect that the statute seeks to tax only income beneficially received, and that taking the question more technically the salary and fees became the joint property of Earl and his wife on the very first instant on which they were received. We well might hesitate upon the latter proposition, because however the matter might stand between husband and wife [**7] he was the only party to the contracts by which the salary and fees were earned, and it is somewhat hard to say that the last step in the performance of those contracts could be taken by anyone but himself alone. But this case is not to be decided by attenuated subtleties. It turns on the import and reasonable construction of the taxing act. There is no doubt that the statute could tax salaries to those who earned them and [*115] provide that the tax could not be escaped by anticipatory arrangements and contracts however skilfully devised to prevent the salary when paid from vesting even for a second in the man who earned it. That seems to us the import of the statute before us and we think that no distinction can be taken according to the motives leading to the arrangement by which the fruits are attributed to a different tree from that on which they grew.

Judgment reversed.

The CHIEF JUSTICE took no part in this case.