



Appeal of Vida C. Halliburton

Commissioner v. Yeiser, 75 Fed. 2d 956, and Lillian M. Newman, 1 T.C. 921, involved irrevocable trusts created by a wife for the benefit of her children, in each of which the husband was named trustee. It appears in each that under the law of the state to which the trusts were subject (Ohio in the first case and New York in the second), the wife's liability for the support of her minor children was, like that here in California, secondary to her husband's. Chiefly on that ground, but also because, as in this case, the wife retained no control of the purse strings of the particular trusts to any extent for her own benefit, the income was held not taxable to her. The Newman case is specially significant in the present connection inasmuch as the Commissioner of Internal Revenue, like the Franchise Tax Commissioner here, contended that the wife's secondary liability for support made the trust income taxable to her under the Stuart case.

On the basis of these authorities, accordingly, the Stuart-Barroughs Rule must be held inapplicable in this matter.

We are further of the opinion that the principle of the Clifford case is even less in point here than in the Appeal of Erle P. Palliburton. Appellant relinquished all control, whether as trustor or otherwise, over the trust properties and income therefrom upon establishing the trusts. Thereafter, any control that might have been exercised could only have been exercised by her husband in his capacity as trustee,

ORDER

Pursuant to the views of the Board on file in this proceeding and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of Chas. J. McColgan, Franchise Tax Commissioner, on the protests of Vida C. Halliburton to proposed assessments of additional personal income tax in the amounts of \$2,285.56, \$2,736.93 and \$3,203.50 for the years 1939, 1940 and 1941, respectively, be and the same is hereby reversed.

Done at Sacramento, California, this 16th day of December, 1948, by the State Board of Equalization.

Wm. G. Bonelli, Chairman  
J. H. Quinn, Member  
J. L. Seawell, Member  
Geo. R. Reilly, Member  
Thomas H. Kuchel, Member

ATTEST. Dixwell L. Pierce, Secretary