5 T.C. 242 (1945)

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A family partnership will not be recognized for income tax purposes where family members contribute neither capital nor services to the business, and the partnership's primary purpose is tax avoidance.

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Summary

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Clarence L. Fox and R.C. Getsinger, equal partners in a manufacturer's representative business, attempted to shift income to their wives by making them partners without any capital contribution or services rendered. The Tax Court held that the purported partnership was not valid for income tax purposes, and the income was taxable to Fox and Getsinger. The court reasoned that the wives did not contribute capital or services, and the primary purpose of the partnership restructuring was tax avoidance, lacking economic substance.

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Facts

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Fox and Getsinger operated a successful manufacturer's representative business (Getsinger-Fox Co.) since 1923, representing woolen mills and securing orders from automobile manufacturers for upholstery fabrics. They were well-known in the automobile industry and relied on their contacts and expertise to generate commissions. In December 1940, they executed an agreement to make their wives, Edith Getsinger and Vivian Fox, equal partners, each receiving a 25% share. The wives contributed no new capital and performed no services for the company before or after the agreement.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in Fox's and Getsinger's income tax for 1941, including in their gross income one-half of the partnership's net profits each. Fox and Getsinger petitioned the Tax Court for a redetermination of the deficiencies, arguing that the income should be taxed according to the new partnership agreement. The Tax Court consolidated the cases for hearing.

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Issue(s)

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Whether the agreement between Fox, Getsinger, and their wives created a valid partnership for income tax purposes, such that the income of the business should be taxed to all four partners.

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Holding

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No, because the wives contributed neither capital nor services to the partnership, and the primary purpose of including them as partners was to reduce income tax liability, lacking economic substance.

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Court's Reasoning

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The Tax Court emphasized that the wives made no capital contributions and performed no services for the partnership. The court found that the

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