5 T.C. 1351 (1945)

A partner is only taxable on their agreed-upon share of partnership income, even if other partners agree to allocate a portion of their share to a non-partner.

Summary

The petitioner, Frank S. Delp, contested a tax deficiency, arguing that the Commissioner of Internal Revenue incorrectly attributed a larger share of partnership income to him. The case centered on an agreement between Delp and his siblings regarding the distribution of income from their family business, S. Delp's Sons. The agreement allocated a portion of the income to their brother Charles. The Tax Court held that the petitioner was only taxable on his originally agreed-upon share of the partnership income, as Charles was entitled to receive and did receive his share pursuant to the agreement. This case clarifies that partners are taxed on their actual share of partnership income as per their agreements.

Facts

- Anna E. Delp, the mother of Frank and Charles Delp, died in 1931, specifically excluding Charles from her will.
- In 1931, Frank and his siblings (excluding Charles) entered into an agreement where Charles would receive the income from what would have been a one-sixth interest in the family business, S. Delp's Sons, for his life. The other siblings would divide the remainder.
- In 1939, the siblings signed a supplemental agreement stipulating Charles would also share in any losses of the partnership and would provide appraisal and advisory services.
- In 1941, Charles received 4/24 of the net income of S. Delp's Sons, and Frank and his other siblings each received 5/24.
- Frank reported 5/24 of the income on his individual tax return. The Commissioner determined that Frank was taxable on 6/24 of the income, arguing Charles should not be considered a partner for tax purposes.

Procedural History

The Commissioner of Internal Revenue assessed a tax deficiency against Frank S. Delp. Delp petitioned the United States Tax Court to contest the Commissioner's determination. The Tax Court reviewed the agreements and the income distribution to determine the correct allocation of taxable income.

Issue(s)

1. Whether Charles Delp should be considered a partner in S. Delp's Sons for tax purposes, entitling him to be taxed on his share of the partnership income.
2. Whether the petitioner, Frank S. Delp, should be taxed on the portion of the partnership income that was allocated to Charles Delp under the agreements

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between the siblings.

Holding

1. Yes, Charles Delp was effectively a partner for tax purposes because he was entitled to receive and did receive a share of the net income from S. Delp's Sons under valid agreements.
2. No, Frank S. Delp is not taxable on the portion of the partnership income that was allocated to Charles Delp because Charles was properly considered a partner and was responsible for the taxes on his share of the income.

Court's Reasoning

The Tax Court relied on the definition of a partnership in Section 3797 of the Internal Revenue Code, which includes "a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on." The court reasoned that the agreement between the siblings established a partnership where profits were divided among them. The court noted,

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