7 T.C. 73 (1946)

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A family member is considered a partner for tax purposes only if they contribute capital, substantially contribute to the control and management of the business, or perform vital additional services; a mere gift of partnership interest is insufficient.

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Summary

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The Tax Court addressed whether a family partnership was valid for tax purposes. Joseph Rosenberg and his son Robert initially formed a partnership. Later, Joseph's three younger sons demanded partnership interests, and an oral agreement purportedly created a partnership including the three younger sons and their mother, Esther. The court held that the sons were bona fide partners due to their substantial services and intent to operate as partners. However, the court found that the mother, Esther, was not a partner because she did not contribute substantial services, capital, or participate in management. The court also addressed the transfer of Joseph's partnership interest to Esther after his death, holding that the attempted oral transfer was insufficient and the income attributable to his share was taxable to his estate.

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Facts

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Prior to 1936, the Ideal Fur Co. was a corporation. In 1936, it dissolved, and Joseph Rosenberg and his son, Robert, formed a partnership. By 1939, Joseph's three younger sons, Edward, Michael, and Wallace Roberts, were employed in the business and demanded partnership interests. An oral agreement was made to include all family members as partners starting in 1940: Joseph (20%), Robert (40%), Esther (10%), Edward (10%), Michael (10%), and Wallace (10%). Edward, Michael, and Wallace had worked in the business for several years, performing various duties. Esther spent minimal time at the business and primarily

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