*7 T.C. 848 (1946)*

An intrafamily partnership transaction does not result in a taxable gift if the new partners contribute adequate services and the business lacks valuable assets such as goodwill.

**Summary**

Willoughby J. Rothrock and W. Walter Thrasher challenged gift tax deficiencies imposed by the Commissioner of Internal Revenue, arguing that the admission of their sons into their brokerage and commission business as partners did not constitute a taxable gift. The Tax Court ruled in favor of Rothrock and Thrasher, finding that the sons contributed valuable services to the partnership, and the business lacked significant assets like goodwill. The court reasoned the success of the partnership hinged on personal services rather than inherent business value, thus no taxable gift occurred.

**Facts**

Rothrock and Thrasher operated a brokerage and commission business in foodstuffs under the name Thomas Roberts & Co. In 1941, they formed a new partnership agreement admitting their sons, John H. Rothrock and Linton A. Thrasher, as general partners. The sons received partnership interests (15% and 30% respectively), partially funded by gifts from their fathers' capital accounts. The business's success depended on securing goods from canners and finding purchasers, relying heavily on the partners' personal abilities and reputations. The partnership owned no significant assets, copyrights, patents, or advertised brands.

**Procedural History**

The Commissioner determined that the transfer of partnership interests to the sons constituted taxable gifts and assessed gift tax deficiencies against Rothrock and Thrasher. The taxpayers petitioned the Tax Court for a redetermination of these deficiencies.

**Issue(s)**

Whether the admission of the taxpayers' sons into their partnership, with the transfer of capital interests, constituted a taxable gift under Section 1002 of the Internal Revenue Code.

**Holding**

No, because the sons contributed valuable services to the partnership, and the business lacked significant assets or goodwill, indicating the success of the business was primarily due to personal services rather than the transfer of valuable business interests.

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## Court’s Reasoning

The court emphasized that the business’s income was primarily derived from the partners’ personal services, abilities, experience, and contacts. The court found that the partnership lacked valuable assets or goodwill that could be transferred as a gift. The court noted, “Our interpretation of the evidentiary facts leads us to the ultimate finding that petitioners have borne their burden of showing that the business by itself possessed no substantial element of future earning power or good will, but that, on the contrary, its income was derived primarily from personal services, so that different participants with similar abilities, experience, and contacts could have organized a comparable venture and enjoyed a parallel success from their contribution of time, skills, and services.” Because the sons provided valuable services, their acquisition of partnership interests did not constitute a taxable gift, as it was adequately compensated by their contributions.

## Practical Implications

This case highlights the importance of demonstrating that new partners in a family business contribute real services and value to the partnership, especially when assessing potential gift tax implications. It clarifies that not all transfers of partnership interests within a family constitute taxable gifts, particularly when the business is service-oriented and lacks significant assets like goodwill. When analyzing similar cases, attorneys should focus on the nature of the business, the contributions of the new partners, and the presence or absence of transferable assets separate from personal services. Later cases have cited Rothrock for its emphasis on distinguishing between contributions of personal services and transfers of business assets when determining the existence of a taxable gift within a family partnership context.

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