***6 T.C. 975 (1946)***

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A transaction does not qualify as a tax-free reorganization if the acquiring corporation does not obtain substantially all of the target corporation's assets and is not considered a party to the reorganization.

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**Summary**

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Fisher v. Commissioner concerns the tax implications of a corporate restructuring involving Standard, Pullman, and New Standard. The Tax Court determined that the transaction did not constitute a tax-free reorganization under Section 112(i)(1)(A) of the Revenue Act of 1928 because Pullman did not acquire substantially all of Standard's assets, and Pullman was not deemed a party to the reorganization. This meant the petitioners' basis in the Pullman stock was its fair market value at the time of distribution, impacting their capital gains calculations upon selling the stock. The court rejected the Commissioner's arguments based on duty of consistency because there was no concealment by the taxpayers.

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**Facts**

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Standard and Pullman entered into an agreement where Pullman would acquire certain assets of Standard. Before the transaction, Standard transferred some of its assets to Securities Co. representing approximately 34% of its total asset value. The remaining assets, representing approximately 66% of Standard's initial assets, were then transferred to New Standard, a subsidiary formed by Pullman. Standard's shareholders received cash and Pullman stock in exchange for their Standard shares. The distributed Pullman stock represented only 14.4516% of Pullman's total outstanding stock.

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**Procedural History**

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The Commissioner determined a deficiency in the petitioners' income tax, arguing the 1930 transaction was a tax-free reorganization and thus the basis of the Pullman stock should be determined by reference to the basis of the Standard stock. The petitioners appealed to the Tax Court, arguing the transaction was taxable, allowing them to use the fair market value of the Pullman stock at distribution as their basis. The Tax Court ruled in favor of the petitioners.

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**Issue(s)**

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1. Whether the transaction between Standard, Pullman, and New Standard constituted a tax-free reorganization under Section 112(i)(1)(A) of the Revenue Act of 1928?

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2. Whether Standard transferred "substantially all" of its assets within the meaning of Section 112(i)(1)(A)?

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3. Whether Pullman was a

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