15 T.C. 1 (1950)

r
r

The intent of parties to form a partnership, based on objective factors, determines partnership status for federal tax purposes, even if the agreement is termed an 'employment contract'.

r
r

Summary

r

Isadore Louis Rosenberg claimed he was a partner with Selber Bros. Inc. and sought capital gains treatment on proceeds from the termination of their business relationship. The Tax Court held that despite an agreement providing for profit sharing, Rosenberg was an employee, not a partner, of Selber Bros. The court emphasized the lack of intent to form a partnership, the restrictions on Rosenberg's control, and the corporation's limited power to enter a partnership. Therefore, the proceeds were taxable as ordinary income.

r
r

Facts

r

Rosenberg, experienced in the shoe business, entered into an agreement with Selber Bros. Inc., a clothing store, to manage its new shoe department. The agreement, titled a "contract of employment," stipulated Rosenberg would manage the department for a salary plus 50% of the net profits, with his share initially credited to a "Bonus Account." Rosenberg contributed $1,500.00. Selber Bros. Inc. maintained control over the business, and Rosenberg's duties could be changed at Selber's discretion. When Selber Bros. Inc. dissolved and reorganized as a partnership, Rosenberg was not included as a partner. A conflict arose, leading to the termination of Rosenberg's relationship with Selber, for which he received $15,000.

r
r

Procedural History

© 2025 SCOTUSreports.com. All rights reserved.

r

The Commissioner of Internal Revenue determined deficiencies in the Rosenbergs' income tax for 1943, arguing that the $15,000 received by Isadore Rosenberg upon termination of his relationship with Selber Bros. Inc. was ordinary income, not capital gain. Rosenberg petitioned the Tax Court, claiming partnership status. The Tax Court ruled against Rosenberg, finding no intent to form a partnership.

r
r

Issue(s)

r

Whether Isadore Louis Rosenberg and Selber Bros. Inc. operated as a partnership for federal tax purposes.

r
r

Holding

r

No, because considering all the facts, the parties did not intend to join together in the present conduct of an enterprise as partners.

r
r

Court's Reasoning

r

The Tax Court applied the test from *Commissioner v. Culbertson, 337 U.S. 733 (1949)*, focusing on whether the parties "intended to join together in the present conduct of the enterprise." The court emphasized several factors indicating a lack of intent to form a partnership. The agreement was explicitly termed an

© 2025 SCOTUSreports.com. All rights reserved.