Estate of Pullen v. Commissioner, 12 T.C. 355 (1949)

A husband and wife can form a valid partnership recognizable for tax purposes if they genuinely intend to conduct a business together, acting in good faith and with a business purpose.

Summary

The Tax Court addressed two issues: whether the petitioner and his wife operated a valid partnership for tax purposes and whether the company's bonus and profit-sharing plan payments were deductible. The court found a valid partnership existed based on the intent of the parties and their conduct. However, it disallowed deductions for the bonus and profit-sharing plan payments because the trust instrument allowed for the diversion of funds and did not guarantee non-forfeitable employee benefits.

Facts

- Petitioner and his wife allegedly entered into an oral agreement in 1926 to share profits equally in the Southern Fireproofing Company.
- In 1929, a written instrument was executed, seemingly to acknowledge the prior oral agreement.
- In 1941, the Company initiated a bonus and profit-sharing plan to benefit certain employees.
- The trust instrument for the plan granted significant control to an Advisory Board, including the power to direct asset disposition and change beneficiaries.
- The trust instrument also allowed the trustor (employer) to alter, modify, or amend the trust agreement, with a caveat that trust assets could not revert to the employer.

Procedural History

- The Commissioner of Internal Revenue disallowed deductions claimed by the company for payments made to the bonus and profit-sharing plan during the taxable years 1942 and 1943.
- The Estate of Pullen petitioned the Tax Court for review.

Issue(s)

1. Whether the petitioner and his wife were partners in the Southern Fireproofing Company during the taxable years 1942 and 1943 for federal income tax purposes.
2. Whether the company was entitled to deduct payments made to its bonus and profit-sharing plan in 1942 and 1943 under Section 23(p)(1)(A) or (D) of the Internal Revenue Code.

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Holding

1. Yes, because the court found that the petitioner and his wife intended to operate as partners from the beginning of the company's formation, based on the totality of the facts and circumstances.
2. No, because the trust instrument allowed for the diversion of funds to uses other than the exclusive benefit of employees, and the employee's rights were not non-forfeitable at the time the contributions were made.

Court's Reasoning

Regarding the partnership, the court emphasized the Supreme Court's test from *Commissioner v. Culbertson*, 337 U.S. 733 (1949), focusing on whether the parties

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