***17 T.C. 1539 (1952)***

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A partner's distributive share of partnership income is not taxable to another partner merely because they are related, especially when the first partner's contribution is facilitated by a non-partner's actions.

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**Summary**

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Oscar Bromberg petitioned the Tax Court contesting a deficiency assessment. The IRS attributed his brother Milton's share of partnership profits to Oscar. The court addressed whether the distribution of partnership profits to Milton, Oscar's brother, was properly taxable to Oscar, and whether Oscar was entitled to a $3,155 deduction. The Tax Court held that Milton's share was not taxable to Oscar because Oscar lacked control over that income. It also disallowed the claimed deduction because Oscar failed to demonstrate its basis.

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**Facts**

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Charles Bromberg, Oscar's father, owned Sun-Ray Textiles, Inc. Charles wanted to help Oscar start a business, so he arranged a partnership between Oscar and Jacques Cipoth, named Principal Fabrics Co. (Principal). Charles loaned Oscar $10,721.29 for his investment. Later, facing losses, Charles insisted Milton be made a partner in January 1943, along with Eva Cipoth (Jacques' wife). Charles invested an additional $3,500 in Oscar's capital account. Milton was in the army overseas and contributed no services or capital (except for $1,309.94 transferred from Oscar's account).

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**Procedural History**

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The Commissioner of Internal Revenue determined a deficiency in Oscar Bromberg's 1943 income tax. Bromberg petitioned the Tax Court to challenge this determination.

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**Issue(s)**

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1. Whether the share of partnership profits distributed to petitioner's brother Milton are properly taxable to petitioner?r
2. Is petitioner entitled to a deduction of $3,155 in the taxable year 1943?

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**Holding**

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1. No, because Oscar did not control or have any real interest in the share of partnership profits distributed to Milton.r
2. No, because Oscar failed to demonstrate that he was entitled to the deduction of $3,155.

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**Court's Reasoning**

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The Tax Court reasoned that Milton's share should not be attributed to Oscar simply because Milton was not a bona fide partner. The crucial factor was Oscar's lack of control over Milton's share. Charles Bromberg, the father, was the "vital force" behind the partnership through his capital, business connections, and services. The father dictated Milton's share. The court stated, "We can not see how either petitioner's capital or his inconsequential services produced the partnership income distributed to his brother Milton. He had no control over that income and we hold it was error for respondent to tax petitioner with it." Regarding the deduction, the court found neither the facts nor the petitioner's theory sufficiently clear to justify allowing it. The court noted that the transactions might have been business expenses in prior years, but even that was uncertain given the available facts.

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**Practical Implications**

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This case demonstrates that family partnerships require careful scrutiny, especially when capital contributions and services are provided by non-partner family members. The Tax Court's focus on control is important. A partner will not be taxed on another's distributive share simply due to a familial relationship. The key is whether the taxpayer actually controls the distribution of income. This case underscores the importance of clearly defining each partner's role, capital contribution, and control over the partnership's operations. The decision serves as a reminder that substance over form prevails, and that tax authorities will look beyond the partnership agreement to determine the true economic reality of the arrangement. It also highlights the taxpayer's burden of proof when claiming deductions; adequate documentation and a clear explanation of the deduction's basis are essential. Subsequent cases involving family partnerships must consider the element of control and the origin of capital and services when determining each partner's taxable income.

 