

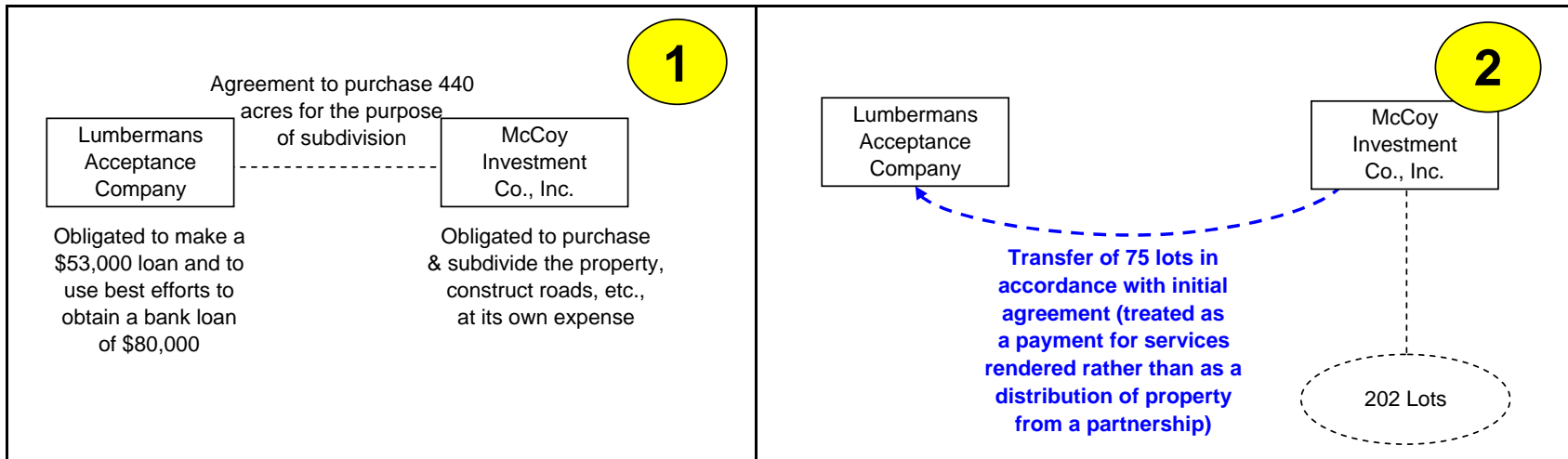
**Allison v. Commissioner
35 TCM 1069 (1976)**

**"Joint Venture" Was Not
a Partnership**

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"Joint Venture" Agreement

Transfer of Lots



Lumbermans Acceptance Company, a California corporation ("LAC"), and McCoy Investment Co., Inc., ("McCoy"), entered into a joint venture for the purpose of purchasing and subdividing certain real estate consisting of 440 acres. LAC agreed to provide a loan of \$53,000 to McCoy and also agreed to arrange on a best effort basis to obtain a bank loan for McCoy on the 440 acre parcel in the sum of \$80,000. McCoy was obligated to purchase the real estate and to subdivide it. Upon recording of the final subdivision map, 75 of the lots were deeded to LAC "for and in consideration of [its] efforts, services and liabilities . . . assumed."

A joint venture has been defined as a "special combination of two or more persons, where in some specific venture a profit is jointly sought without any actual partnership or corporate designation." Hyman Podell, 55 T. C. 429, 431 (1970). The term "joint venture" is included within the definition of the term "partnership" as found in section 761(a). The question of whether a joint venture has been created by the parties is essentially factual with special emphasis placed upon the intention of the parties. Commissioner v. Culbertson 337 U. S. 733 (1949). In sifting through the facts and circumstances of each case it is well established that they are to be applied against a framework of four basic attributes that are indicative of a joint venture. These attributes include: a contract, express or implied, that a joint venture be formed; the contribution of money, property and/or services by the ventures; an agreement for joint proprietorship and control; and an agreement to share profits. The court held that there was no joint venture here and that the transfer of the lots to LAC was in consideration for financial services rendered by LAC.