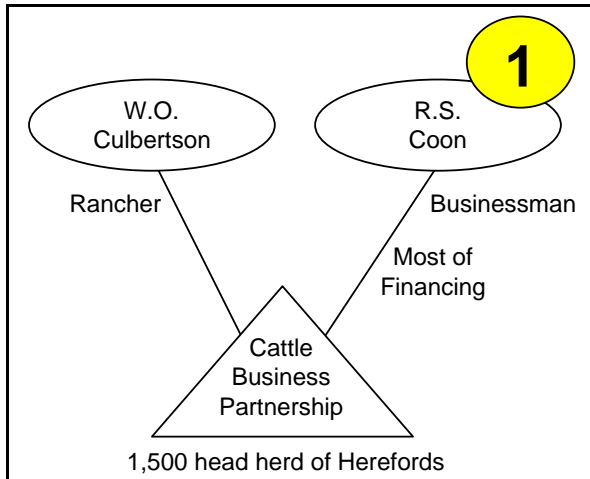


Commissioner v. Culbertson
337 U.S. 733 (1949)

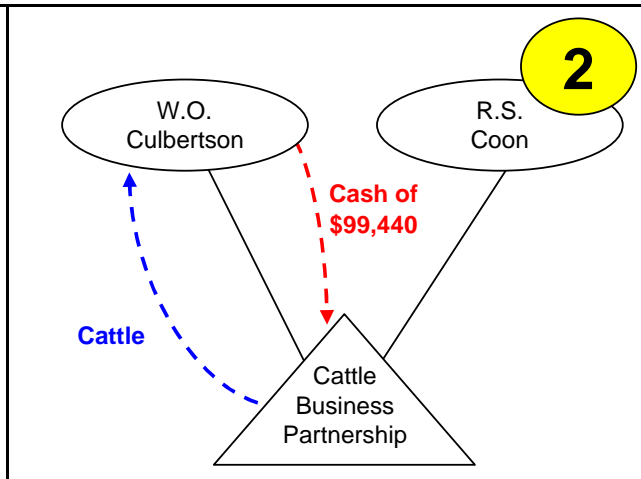
Family Partnership

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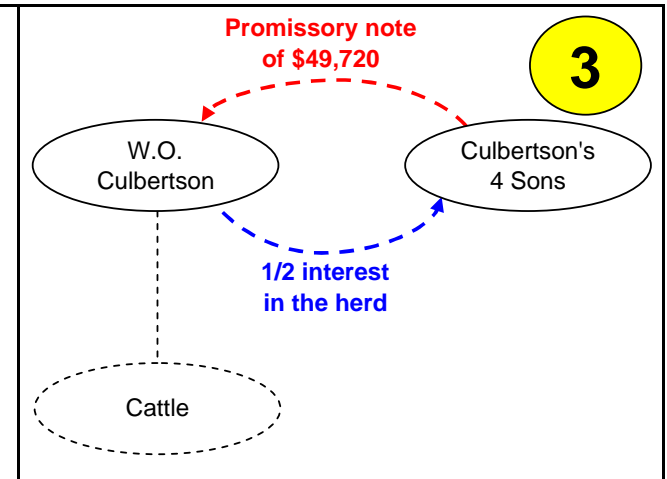
Initial Structure



Purchase/Sale of Herd

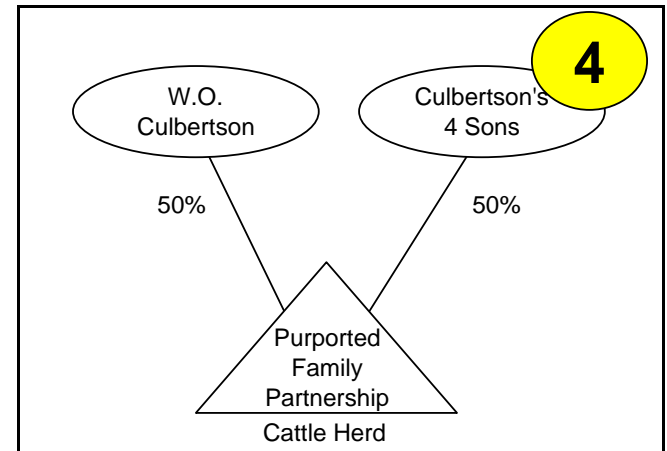


Resale to Children



Culbertson was a rancher. From 1915 until October 1939, he had operated a cattle business in partnership with R. S. Coon. Coon, who had numerous business interests in the Southwest and had largely financed the partnership, was 79 years old in 1939 and desired to dissolve the partnership because of ill health. To that end, the bulk of the partnership herd was sold until, in October of that year, only about 1,500 head remained. These cattle were all registered Herefords, the brood or foundation herd. Culbertson wished to keep these cattle and approached Coon with an offer of \$65 a head. Coon agreed to sell at that price, but only upon condition that Culbertson would sell an undivided one-half interest in the herd to his four sons at the same price.

Ending Point



A partnership is created "when persons join together their money, goods, labor, or skill for the purpose of carrying on a trade, profession, or business and where there is community of interest in the profits and losses." A partnership is, in other words, an organization for the production of income to which each partner contributes one or both of the ingredients of income--capital or service.

The question is whether, considering all the facts-- the agreement, the conduct of the parties in execution of its provisions, their statements, the testimony of disinterested persons, the relationship of the parties, their respective abilities and capital contributions, the actual control of income and the purposes for which it is used, and any other facts throwing light on their true intent--the parties in good faith and acting with a business purpose intended to join together in the present conduct of the enterprise. The fact that transfers to members of the family group may be mere camouflage does not, however, mean that they invariably are.