



1957

The Joint Venture and Tax Classification by Joseph Taubman

W. Lewis Roberts
University of Kentucky

Follow this and additional works at: <https://uknowledge.uky.edu/klj>

Right click to open a feedback form in a new tab to let us know how this document benefits you.

Recommended Citation

Roberts, W. Lewis (1957) "The Joint Venture and Tax Classification by Joseph Taubman," *Kentucky Law Journal*: Vol. 45 : Iss. 4 , Article 13.

Available at: <https://uknowledge.uky.edu/klj/vol45/iss4/13>

This Book Review is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact UKnowledge@lsv.uky.edu.

Book Review

THE JOINT VENTURE AND TAX CLASSIFICATION. By Joseph Taubman.
Federal Legal Publications, Inc., New York, N. Y. Pp. xvii, 493, 1957.

At the outset, the author of this work on joint ventures points out that to his knowledge "there is not a single textbook, hornbook, or treatise on joint venture." A joint venture, Judge Learned Hand has said, is "one of the most obscure and unsatisfactory of legal concepts."¹ The author also states that the Federal Circuit Court, in the 1930 case of *Copland v. Commissioner of Internal Revenue*, had made it clear that "joint undertakings which are limited in character do not constitute partnerships."²

The treatise sets out two problems to be solved in covering the subject of joint ventures. The first considers the conceptions of joint ventures that have prevailed in the past. The second problem is how joint ventures best fit into a tax classification plan. The history of the treatment meted out to joint ventures is then traced from the Babylonian "partnership," through the Roman law and the Middle Ages to the present time. They are compared to or distinguished from associations, corporations, business trusts, joint stock companies and partnerships. The passage of the Revenue Act of 1954 has made more careful consideration of the facts of a case involving a joint venture necessary in determining how the particular case is to be taxed. One might summarize what is to be considered by quoting from page 232 of the text:

What constitutes a joint venture, then, is not easy to identify and apply. In real estate, for example, the distinction between a tenancy in common and a joint venture is quite close, yet the tax consequences are considerable. In motion pictures, the co-production may undergo transformation if it is held to be a joint venture. Each industry has its peculiarities and each transaction and agreement must be carefully considered with a view to the impact of taxation.

The lawyer interested in advising a client in the field of taxation involving joint ventures will find the author's collection of authorities and court decisions of very great help. There is a list of texts and other books covering twelve pages; there are fourteen pages of titles of law review articles and notes, and annotations to be found in law reports

¹ *National Comic Publications, Inc. v. Fawcett Pub., Inc.*, 191 F. 2d 594, at 599 (2d Cir. 1951).

² 41 F. 2d 501, at 503 (7th Cir. 1930).

and treatises; seventeen pages of citations to court decisions and departmental rulings. It may be that this tabulation of authorities accounts for the publisher's rather unusual price of fifteen dollars for this five-hundred-page law book.

The style and much of the historical material used may not appeal to the average lawyer. He looks for clearness first of all. This is usually attained by the use of Anglo-Saxon terms. The writer of this treatise seems to delight in the use of terms derived from the Latin and Greek languages or made up by combining two or more words. A few such words, selected at random, will illustrate: "compartmentalized," "taxonomy," "ambivalence," "dichotomy," "schizophrenia," and "semantics." The use of Anglo-Saxon equivalents would add clearness.

Since this is the first treatise dealing with a complicated phase of federal tax law, as its author has pointed out, it should readily find a place in the practitioner's law library.

W. Lewis Roberts