

## Partnership in Income Taxation

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*SUBJECT(S): PARTNERSHIP, CIVIL*

*KEYWORD(S): UNREGISTERED PARTNERSHIP, INCOME TAX*

The Note essays the various nuisances attendant to the taxation of the income of partnerships. The conflict is said to have arisen when the Supreme Court rendered its decision in *Evangelista v. CIR* (102 Phil. 140 (1957)) and *CIR v. Batangas Transportation Co.* (102 Phil 822 (1958)) both of which dealt with the taxability of unregistered partnerships. As a result thereof, the Collector of Internal Revenue instructed all internal revenue officers to tax properties held by co-heirs and co-owners which are income-producing or profit-earning, and to consider them as unregistered partnerships. Thus, the problems which thus emerged are: when to consider a co-ownership a partnership for tax purposes, whether a single joint venture transaction may give rise to an unregistered partnership, or whether granting that an association is an unregistered partnership, it is to be treated as a corporation with respect to the other provisions of the income tax law relative to corporations. After discussing the concept of partnership under the New Civil Code and its interplay with the provisions of the Tax Code, the Author concludes with a recommendation to amend the income tax law with the view of incorporating therein an accurate definition of partnership, stating categorically the conditions for its taxability or non-taxability. It is only in this way, he argues, will the courts be able to determine the existence of a partnership for tax purposes without resorting to the general law on partnerships, which suffers from the defect of lack of harmonization with our present laws.