

**COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS.
MARIANO CU UNJIENG, ALFONSO CU UNJIENG, BENITO CU UNJIENG,
SOR ESPERANZA CU UNJIENG, JOSEFA C. RIVERA, CARIDAD C. PAPA,
LEONOR ...**

G.R. No. L-26850. August 06, 1975

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/64213ad46e06/>

CASTRO, J.:

Before us are two petitions for review of the decision of the Court of Tax Appeals dated April 30, 1966 in CTA case 934.

In L-26850 the Commissioner of Internal Revenue (hereinafter referred to as the Commissioner) impugns the tax court's (a) refusal to levy a 5% surcharge on the deficiency estate and inheritance taxes assessed against the respondents Mariano Cu Unjieng, Alfonso Cu Unjieng, Benito Cu Unjieng, Sor Esperanza Cu Unjieng, Josefa C. Rivera, Caridad C. Papa, Leonor C. Andres, Victoria Fe Cu Unjieng, Magdalena C. Barreto, and Elisa C. Bayot (hereinafter referred to as the Cu Unjieng heirs); and (b) taking cognizance of a matter — the correct rate of interest imposable on the assessed deficiency taxes — not appealed to it by the Cu Unjieng heirs. The Commissioner, alternatively, assails as erroneous the determination made by the tax court of the interest due on the said deficiency taxes the said deficiency taxes.

In L-26869 the Cu Unjieng heirs pose in issue the legality of the tax court's ruling that they should pay 1% (instead of only 1/2%) monthly interest on the total amount determined as deficiency taxes from the date they were originally due.

The background material facts are uncontroverted.

On December 2, 1957 Dominga Ayala vda. de Cu Unjieng died, leaving properties on which estate and inheritance taxes became due and collectible on September 2, 1958 and December 2, 1958, respectively. On May 19, 1958 her heirs paid P63,166.45 as estate tax, and on October 13, 1958 P25,998.10 in inheritance taxes.

On March 24, 1959 the Commissioner formally wrote the Cu Unjieng heirs, thru Mariano Cu Unjieng, advising them that a deficiency estate tax of P84,145.67 (P80,909.30 as basic deficiency and P3,236.37 as interest) and deficiency inheritance taxes amounting to P54,918.00 (P53,576.54 as basic deficiency and P1,339.46 as interest) were due from them and payable on or before April 23, 1959.

On March 31, 1959 the Cu Unjieng heirs requested a grace period of five years within which to settle the aforementioned liabilities. The Commissioner, in a letter dated April 3, 1959, gave them only two years, from April 15, 1959 to March 15, 1961.[1] In granting the extension, the Commissioner on April 7, 1959 informed the counsel of the Cu Unjieng heirs that payment should be made in 24 equal monthly installments of P6,571.11 in accordance with the following computation of their deficiency liabilities, to wit:

“Estate tax

P144,075.75

5% surcharge for late

payment on P80,909.30

4,045.47

1/2% mo. int. on P80,909.30 from

9/3/58 to 3/15/61

12,945.49

Compromise for late payment

50.00

Total

P161,116.71

Less amount paid

63,166.45

Balance still due

P97,950.26

Inheritance tax

P79,576.64

5% surcharge on P53,578.54 for late Payment

2,678.93

1/2% mo. int. on P53,578.54 from

12/3/58 to 3/15/61

7,768.88

Compromise for late payment

50.00

Total

P90,074.45

Less amount paid

25,998.10

Balance still due

P64,076.35

TOTAL ESTATE & INHERITANCE

TAXES DUE:

P162,026.61”

=====

The Cu Unjieng heirs protested the imposition of the 5% surcharge (amounting to P6,724.40), contending that it was uncalled for, considering that they had been granted an extension of time within which to settle their tax liabilities. The Commissioner, however, turned down the protest, invoking Section 101(c) of the National Internal Revenue Code which reads:

"(c) Surcharge. — If any amount of the taxes included in the notice and demand from the Commissioner of Internal Revenue is not paid in full within thirty days after such notice and demand, there shall be collected in addition to the interest prescribed herein and in sections ninety-nine and one hundred and as part of the taxes a surcharge of five per centum of the unpaid amount." [2]

The Commissioner's submission is that Section 101(c) is mandatory and operates independently of any tax payment extension. The Cu Unjieng heirs moved for a reconsideration of the Commissioner's ruling, but in the meantime, starting on April 15, 1959, also commenced to gradually liquidate the assessed deficiency taxes. (As of October 18, 1960 the total payment they had made amounted to P129,180.)

The Commissioner, however, denied reconsideration. The Cu Unjieng heirs then appealed to the Court of Tax Appeals. Although their appeal was limited solely to the question of the validity of the surcharge imposition, it must be noted that the Commissioner, as one of his affirmative defenses, alleged that the Cu Unjieng heirs,

"having failed to pay the deficiency estate and inheritance taxes in accordance with the terms of the extension, they are liable to 1% instead of 1/2% interest on the unpaid amounts from April 24, 1959, pursuant to Section 101(b) (2) of the Tax Code,"

and correspondingly prayed for the imposition not only of the 5% surcharge but as well a 1% monthly interest on the original basic tax deficiency because of late payment.

On April 30, 1966 the tax court rendered judgment relieving the Cu Unjieng heirs from payment of the 5% surcharge, for the following reasons:

"x x x Mere failure to pay the tax on March 15, 1961 does not justify the imposition of the 5% surcharge. Under Section 101(c) of the Revenue Code, in order that the 5% surcharge may be imposed, there must be a notice and demand for payment of the deficiency estate and inheritance taxes. The surcharge of 5% accrues only if such taxes are not paid within 30 days after such notice and demand. There being no proof that such notice and demand was issued, we find no justification for the imposition and collection of the 5% surcharge on the amounts of P80,909.30 and P53,578.54. Neither may the said surcharge be imposed upon petitioners' failure to pay the deficiency taxes within 30 days after the assessment made on March 24, 1959, because respondent granted petitioners an extension of time to pay said taxes until March 15, 1961, which is allowed under Section 116(b) [should be Section 95(b)] of the Revenue Code."

On the matter of the interest charges, the tax court held that the 1/2% monthly interest on the assessed deficiency taxes should be computed "on the unpaid balances of the deficiency estate and inheritance taxes remaining after the monthly installment payments which were made from April 15, 1959 through October 18, 1960." Applying this rule, the tax court computed the remaining taxes due from the Cu Unjieng heirs, as follows:

"Estate tax

P144,075.75

Less amount paid

63,166.45

Balance still due

80,909.30

1/2% mo. int. on inheritance tax from 9/3/58 to 4/13/59

2,961.28

P83,870.58

Inheritance Tax

79,576.64

Less amount paid

25,998.10

Balance still due

53,578.54

1/2% mo. int. on inheritance tax from 12/3/58 to 4/13/59

1,157.30

54,735.84

P138,606.42

1. Payment on 4/13/59

5,795.00

P132,811.42

1/2% mo. int. from 4/14/59 to 5/15/59

707.88

P133,519.30

2. Paymnet on 5/15/59

17,385.00

P116,134.30

1/2% mo. int. from 5/16/59 to 8/10/59

1,660.72

P117,795.02

3. Payment on 8/10/59

20,000.00

P 97,795.02

1/2% mo. int. from 8/11/59 to 9/2/59

371.62

P98,166.64

4. Payment on 9/2/59

10,000.00

P88,166.64

1/2% mo. int. from 9/3/59 to 9/25/59

335.03

P88,501.67

5. Payment on 9/25/59

5,000.00

P83,501.67

1/2% mo. int. from 9/26/59 to 10/13/59

250.50

P83,752.17

6. Payment on 10/13/59

5,000.00

P78,752.17

1/2% mo. Int. from 10/14/59 to 11/17/59

445.74

P79,197.91

7. Payment on 11/17/59

10,000.00

69,197.91

1/2% mo. int. from 11/18/59 to 12/1/59

159.15

P69,357.06

8. Payment on 12/1/59

10,000.00

P59,357.06

1/2% mo. int. from 12/2/59 to 12/22/59

207.75

P59,564.81

9. Payment on 12/22/59

10,000.00

P49,564.81

1/2% mo. int. from 12/23/59 to 2/16/60

455.99

P50,020.80

10. Payment on 2/16/60

10,000.00

P40,020.80

1/2% mo. int. from 2/17/60 to 10/5/60

1,528.80

P41,549.60

11. Payment on 10/5/60

10,000.00

P31,549.60

1/2% mo. int. from 10/6/60 to 10/18/60

69.41

P31,619.01

12. Payment on 10/18/60

16,000.00

Balance still due

P15,619.01”

=====

The tax court, in the dispositive portion of its decision, ordered the Cu Unjieng heirs

"x x x to pay the respondent Commissioner of Internal Revenue, the amounts of P9,396.40 and P6,222.61 as deficiency estate and inheritance taxes, plus interest at 1% per month from September 3, 1958 and December

3, 1958, respectively, to the date of payment. Interest at 1/2% a month having been imposed on these deficiency amounts of P9,396.40 and P6,222.61 from the dates they were originally due to October 18, 1960 as per above computation, additional interest at the rate of 1/2% per month on the said amounts from September 3, 1958 and December 3, 1958, respectively, to October 18, 1960 shall be computed, plus 1% interest per month thereon from October 19, 1960 to the date of payment. If the said amounts of P9,396.40 and P6,222.61, plus interest, are not paid within 30 days from and after this decision becomes final and executory, petitioner shall also pay 5% surcharge thereon in accordance with Sec. 101(c) of the Tax Code."

On June 21, 1966 the Cu Unjieng heirs paid the sum of P15,619.01 to the Bureau of Internal Revenue.

1. We hold that the tax court erred in invalidating the imposition by the Commissioner of the questioned surcharge. We further hold that Section 101(c) of the Tax Code is mandatory, that is, the 5% surcharge attaches at the end of the 30-day period reckoned from the day a notice of assessment and demand issued by the Commissioner of Internal Revenue is received, if the taxpayer fails to pay the deficiency tax within the said period.

Section 95(b), supra, of the Tax Code which empowers the Commissioner to extend the deadline for the payment of death taxes in meritorious cases has no controlling or modifying effect on Section 101(c) which explicitly and unqualifiedly states that the 5% surcharge "shall be collected in addition to the interest prescribed herein and in sections ninety-nine and one hundred." (italics supplied) Section 99, supra, prescribes the collection of 6% interest in cases where the time for the payment of the estate and inheritance taxes has been extended pursuant to Section 95(b).

The record shows that on March 24, 1959 the Cu Unjieng heirs were notified by the Commissioner that they had deficiencies in their estate and inheritance tax payments;[3] payment thereof in accordance with Section 101(c) was demanded. Consequently, the liability of the decedent's estate as well as of the heirs for the payment of the 5% surcharge accrued against them by force of law upon their failure to pay the full amount of the assessed deficiency taxes within 30 days from notice and demand. That the period for the payment of the said deficiency taxes was extended is of no moment; by explicit statutory fiat payment of the 5% surcharge prescribed in Section 101(c) is in addition to the interest collectible upon the basic deficiency estate and inheritance taxes the time for payment of which has been extended.

2. Upon the jurisdictional dispute over the matter of interest, we hold that the tax court properly took cognizance of the issue relative to the rate and amount of interest the Cu Unjieng heirs should pay. The Commissioner himself presented that issue before the tax court for resolution, an issue that is within the ambit of the power, authority and jurisdiction of the said tribunal to resolve under its enabling act, Republic Act 1125.

3. The dispute regarding the interest charges the Cu Unjieng heirs should pay on their assessed deficiency taxes is not a complicated one.

According to the Commissioner, by virtue of Section 100 (supra) of the Tax Code which authorizes the collection of 6% interest per annum on the amount of deficiency estate and inheritance taxes "from the due date of the tax to the date the deficiency is assessed," there is due from the Cu Unjieng heirs 1/2% monthly interest corresponding to the period from September 3, 1958 (the due date of the estate tax) and December 3, 1958 (the due date of the inheritance taxes) to March 24, 1959 (the date of the deficiency tax assessment.) In addition, and by virtue of Section 99(b)(supra) of the Tax Code, which authorizes the collection of 6% interest per annum "on the part of the deficiency the time for the payment of which is so extended ... for the period of the extension," there is due from the Cu Unjieng heirs 1/2% monthly interest on the amounts of P80,909.30 and P53,578.54 (the deficiency estate and inheritance taxes the time for the payment of which was extended) for the period of extension to March 15,

1961. The additional interest of 1% a month on the sum of P32,846.61, which should be computed from April 24, 1959 to June 21, 1966, is, on the other hand, in accordance with Section 101(b) (2) (supra) of the Tax Code which authorizes the collection of 1% monthly interest on the deficiency taxes remaining unpaid after the lapse of the period of extension from the date the same were originally due, April 24, 1959, until they are paid. Since the Cu Unjieng heirs paid the sum of P15,619.01 on June 21, 1966 in partial fulfillment of the decision of the tax court, there still remained chargeable from them the balance of P 17,227.60, on which the 1% monthly interest is due from June 22, 1966 to the date of payment.

The position taken by the Commissioner conflicts with the view of the tax court which maintained (a) that pursuant to the provisions of Sections 99(b) and 100 of the Tax Code, the 1/2% monthly interest should be computed on the balances of the deficiency taxes remaining unpaid after each installment payment made by the Cu Unjieng heirs from April 15, 1959 to October 18, 1960; and (b) that the 1% monthly interest provided for in Section 101(b) (2) should, in turn, be applied from the date the remaining unpaid balances of the deficiency estate and inheritance taxes were originally due, on September 3 and December 3, 1958, respectively, to the date of payment; however, since a 1/2% interest per month had already been imputed, per its computation, on the said deficiency taxes for the period from their original due dates to October 18, 1960, only 1/2% monthly interest need be applied thereon for the said period.

The Cu Unjieng heirs, on the other hand, object to that portion of the tax court's decision requiring them to pay 1% monthly interest from September 3 and December 3, 1958, respectively, on the balances of their deficiency estate and inheritance taxes, arguing that under Section 101 the computation of that interest should be reckoned only from the end of the extended period, that is, from March 16, 1961.

For purposes of computing the 1/2% monthly interest, therefore, the parties are in agreement that the sums of P80,909.30 and P53,578.54 are the correct tax bases as of the original due dates of the assessed deficiency taxes. They differ, however, on how far the said sums may be used as tax bases.

We hold that the tax court correctly computed the 1/2% monthly interest on P80,909.30 and P53,578.54, respectively, from the original due dates of the said assessed deficiency taxes. This method of computation is authorized by Section 100 of the Tax Code which requires the collection of 6% interest per annum upon the deficiency estate and inheritance taxes "from the due date of the tax to the date the deficiency is assessed," and by Section 99(b) which authorizes the collection of a similar interest charge on the amount of the deficiency estate and inheritance taxes "for the period of the extension."

We likewise view with approval the tax court's adoption of the declining balance principle in computing the interest due from the Cu Unjieng heirs for the period covered by the extension of time given them.

The interest prescribed in Section 99(b) of the Tax Code is in the nature of a compensation for the use or detention of money which would otherwise have been paid to the Government. Section 99(b) requires the collection of interest on a deficiency the time for the payment of which has been extended "at the rate of six per centum per annum for the period of extension." This means that the interest chargeable on the deficiency should be spread over an entire year. When, therefore, a taxpayer makes a series of partial amortizations on his tax liability during the year, the amount of interest that he must pay should be computed on the basis of the actual number of days that have elapsed between every two consecutive amortization payments, using as tax base the remaining sum then due and payable. Computation of the interest chargeable upon the deficiency for the entire two-year extension, as was done by the Commissioner in the case at bar, and the collection in advance schedules of portions of the predetermined interest charges plus a portion of the principal deficiency, effectively results in the imposition of a higher rate of interest than the 6% per annum authorized by law, since in such a situation the

taxpayer will already be required to pay, at the start of the amortization schedule, amounts computed on the basis of what the original deficiency tax base will generate as interest if paid at the end of the second year of extension. The Commissioner is not authorized by law to collect interest on a deficiency at a rate effectively higher than 6% per annum.

4. There is likewise no merit in the objection of the Cu Unjieng heirs regarding the date when payment of the 1% monthly interest on their remaining unpaid deficiency taxes is due. Section 101(b) (2) of the Tax Code provides that

"If the part of the deficiency the time for payment of which is extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the taxes, interest on such unpaid amount at the rate of one per centum a month from the date the same was originally due until it is paid."

The language of the foregoing provision is sufficiently clear — it can mean no other than that when a taxpayer, despite the extension of time given to liquidate his estate and inheritance tax liabilities, still fails to pay them in full, including all lawful charges applicable thereon, such taxpayer should pay interest at the rate of 1% a month from the date his deficiency taxes were in the first instance due and collectible and not from the date of expiry of the period of extension granted.

ACCORDINGLY, the denial by the Court of Tax Appeals of the imposition of a 5% surcharge on the original deficiency estate and inheritance taxes assessed against the Cu Unjieng heirs is set aside; the Commissioner of Internal Revenue is hereby directed to collect a 5% surcharge on the original deficiency estate and inheritance taxes assessed against the Cu Unjieng heirs from April 23, 1959, taking into account the various payments made after the date in liquidation of the said deficiency estate and inheritance taxes. In all other respects, the judgment a quo is affirmed. No costs.

Makasiar, Esguerra, Muñoz Palma, and Martin, JJ., concur.

Teehankee, J., is on leave.

[1] Section 95(b) of the Tax Code authorizes the Commissioner to grant an extension period of 2 years in the payment of death taxes "in case the estate is settled extrajudicially" (5 years if settled judicially) and where payment on due date "would impose undue hardship upon the estate or any of the heirs."

[2] Sections 99, 100 and 101 of the Tax Code pertinently provide as follows:

"Sec. 99. Interest on extended payment. — (a) Tax shown on the return. — . . . (b) Deficiency. — In case an extension for the payment of a deficiency is granted, there shall be collected, as a part of the tax, interest on the part of the deficiency the time for the payment of which is so extended, at the rate of six per centum per annum for the period of the extension."

"Sec. 100. Interest on deficiency. — Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the Commissioner of Internal Revenue, and shall be collected as a part of the tax, at the rate of six per centum per annum from the due date of the tax to the date the deficiency is assessed."

"Sec. 101. Additions to the tax in case of non-payment. . . . b) Deficiency. . . . (2) Payment extended. - If the part of the deficiency the time for payment of which is extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the taxes, interest on such unpaid amount at the rate of one per centum a month from the date the same was originally due until it is paid."

[3] Section 93 of the Tax Code states that "In all cases of the inheritance or transfer subject to either the estate tax or the inheritance tax or both, . . .the executor, administrator, or anyone of the heirs, as the case may be, shall file return under oath in duplicate ..."

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.