

PABLO LORENZO, AS TRUSTEE OF THE ESTATE OF THOMAS HANLEY, DECEASED, PLAINTIFF AND APPELLANT, VS. JUAN POSADAS, JR., COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLANT.

G. R. No. 43082. June 18, 1937

Ponente: LAUREL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-43082/>

LAUREL, J.:

On October 4, 1932, the plaintiff, Pablo Lorenzo in his capacity as trustee of the estate of Thomas Hanley, deceased, brought action in the Court of First Instance of Zamboanga against the defendant, Juan Posadas, jr., then the Collector of Internal Revenue, for the refund of the amount of P2,052.74, paid by the plaintiff as inheritance tax on the estate of the deceased, and for the collection of interest thereon at the rate of 6 per cent per annum, computed from September 15, 1932, the date when the aforesaid tax was paid under protest. The defendant set up a counterclaim for P1,191.27 alleged to be interest due on the tax in question and which was not included in the original assessment. From the decision of the Court First instance of Zamboanga dismissing both the plaintiff's complaint and the defendant's counterclaim, both parties appealed to this court.

It appears that on May 27, 1922, one Thomas Hanley died in Zamboanga, Zamboanga, leaving a will (Exhibit 5) and considerable amount of real and personal properties. On June 14, 1922, proceedings for the probate of his will and the settlement and distribution of his estate were begun in the Court of First Instance of Zamboanga. The will was admitted to probate. Said will provides, among other things, as follows:

"4. I direct that any money left by me be given to my nephew Matthew Haney,

"5. I direct that all real estate owned by me at the time of my death be not sold or otherwise disposed of for a period of ten (10) years after my death, and that the same be handled and managed by my executors, and proceeds thereof to be given to my nephew, Matthew Hanley, at Castlemore, Ballaghaderine, County of Rosecommon, Ireland, and that he be directed that the same be used only for the education of my brother's children and their descendants.

"6. I direct that ten (10) years after my death my property be given to the above mentioned Matthew Hanley to be disposed of in the way he thinks most advantageous.

* * * * *

"8. I state that at this time I have one brother living, named Malachi Hanley, and that my nephew, Matthew Hanley, is a son of my said brother, Malachi Hanley."

The Court of First Instance of Zamboanga considered it proper for the best interest of the estate to appoint a trustee to administer the real properties which, under the will, were to pass to Matthew Hanley ten years after the testator's death. Accordingly, P. J. M. Moore, one of the two executors named in the will, was, on March 8, 1924, appointed trustee. Moore took his oath of office and gave bond on March 10, 1924. He acted as trustee until

February 29, 1932, when he resigned and the plaintiff herein was appointed in his stead.

During the incumbency of the plaintiff as trustee, the defendant Collector of Internal Revenue, alleging that the estate left by the deceased at the time of his death consisted of realty valued at P27,920 and personalty valued at P1,465, and allowing a deduction of P480.81, assessed against the estate an inheritance tax in the amount of P1,434.24 which, together with the penalties for delinquency in payment consisting of a 1 per cent monthly interest from July 1, 1931 to the date of payment and a surcharge of 25 per cent on the tax, amounted to P2,052.74. On March 15, 1932, the defendant filed a motion in the testamentary proceedings pending before the Court of First Instance of Zamboanga (Special proceedings No. 302) praying that the trustee, plaintiff herein, be ordered to pay to the Government the said sum of P2,052.74. The motion was granted. On September 15, 1932, the plaintiff paid this amount under protest, notifying the defendant at the same time that unless the amount was promptly refunded suit would be brought for its recovery. The defendant overruled the plaintiff's protest and refused to refund the said amount or any part thereof. His administrative remedies exhausted, plaintiff went to court with the result herein above indicated.

In his appeal, plaintiff contends that the lower court erred:

"I. In holding that the real property of Thomnas Hanley, deceased, passed, to his instituted heir, .Matthew Hanley, from the moment of the death of the former, and that from that time, the latter became the owner thereof.

"II. In holding, in effect, that there was delinquency in the payment of inheritance tax due on the estate of said deceased.

"III. In holding that the inheritance tax in question be based upon the of the estate upon the death of the testator, and not, as it should have been held, upon the value thereof at the expiration of the period of ten years after which, according to the testator's will, the property could be and was to be delivered to the instituted heir.

"IV. In not allowing as lawful deductions, in the determination of the net amount of the estate subject to said tax, the amounts allowed by the court as compensation to the 'trustees' and paid to them from the decedent's estate.

"V. In not rendering judgment in favor of the plaintiff and in denying his motion for new trial."

The defendant-appellant contradicts the theories of the plaintiff and assigns the following error besides:

"The lower court erred in not ordering the plaintiff to pay to the defendant the sum of P1,191.27, representing part of the interest at the rate of 1 per cent per month from April 10, 1924, to June 30, 1931, which the plaintiff had failed to pay on the inheritance tax assessed by the defendant against the estate of Thomas Hanley."

The following are the principal questions to be decided by this court in this appeal: (a) When does the inheritance tax accrue and when must it be satisfied? (b) Should the inheritance tax be computed on the basis of the value of the estate at the time of the testator's death, or on its value ten years later? (c) In determining the net value of the estate subject to tax, is it proper to deduct the compensation due to trustees? (d) What law governs the case at bar? Should the provisions of Act No. 3606 favorable to the taxpayer be given retroactive effect? (e) Has there been delinquency in the payment of the inheritance tax? If so, should the additional interest claimed by the defendant in his appeal be paid by the estate? Other points of incidental importance, raised by the parties in their briefs, will be touched upon in the course of this opinion.

(a) The accrual of the inheritance tax is distinct from the obligation to pay the same. Section 1536 as amended, of the Administrative Code, imposes the tax upon "every transmission by virtue of inheritance, devise, bequest, gift mortis causa, or advance in anticipation of inheritance, devise, or bequest." The tax therefore is upon transmission

or the transfer or devolution of property of a decedent, made effective by his death. (61 C. J., p. 1592.) It is in reality an exise or privilege tax imposed on the right to succeed to, receive, or take property by or under a will or the intestacy law, or deed, grant, or gift to become operative at or after death. According to article 657 of the Civil Code, "the rights to the succession of a person are transmitted from the moment of his death." "In other words", said Arellano, C. J., "* * * the heirs succeed immediately to all of the property of the deceased ancestor. The property belongs to the heirs at the moment of the death of the ancestor as completely as if the ancestor had executed and delivered to them a deed for the same before his, death." (Bondad vs. Bondad, 34 Phil., 232. See also, Mijares vs. Nery, 3 Phil., 195; Suiliong & Co. vs. Chio-Taysan, 12 Phil., 13; Lubricous. Arbado, 12 Phil., 391; Inocencio vs. Gat-Pandan, 14 Phil., 491; Aliasas vs. Alcantara, 16 Phil., 489; Ilustre vs. Alaras Frontlosa, 17 Phil., 321; Malahacan vs. Ignacio, 19 Phil., 434; Bowa vs. Briones, 38 Phil., 276; Osorio vs. Osorio & Ynchausti Steamship Co., 41 Phil., 531; Fule vs. Fule, 46 Phil., 317; Dais vs. Court of First Instance of Capiz, 51 Phil. 396; Baun vs. Heirs of Baun, 53 Phil., 654.) Plaintiff, however, asserts that while article 657 of the Civil Code is applicable to testate as well as intestate succession, it operates only in so far as forced heirs are concerned. But the language of article 657 of the Civil Code is broad and makes no distinction between different classes of heirs. That article does not speak of forced heirs; it does not even use the word "heir". It speaks of the rights of succession and of the transmission thereof from the moment of death. The provision of section 625 of the Code of Civil Procedure regarding the authentication and probate of a will as a necessary condition to effect transmission of property does not affect the general rule laid down in article 657 of the Civil Code. The authentication of a will implies its due execution but once probated and allowed the transmission is effective as of the death of the testator in accordance with article 657 of the Civil Code. Whatever may be the time when actual transmission of the inheritance takes place, succession takes place in any event at the moment of the decedent's death. The time when the heirs legally succeed to the inheritance may differ from the time when the heirs actually receive such inheritance. "Poco importa", says Manresa commenting on article 657 of the Civil Code, "que desde el fallecimiento del causante, hasta que el heredero a legatario entre en posesion de los bienes de la herenda o del legado, transcurra mucho o poco tiempo, pues la adqmsicion ha de retrotraerse al momento de la muerte, y asi lo ordena el articulo 989, que debe considerarse como complemento del presente." (5 Manresa, 305; see also, art. 440, par. 1, Civil Code.) Thomas Hanley having died on May 27, 1922, the inheritance tax accrued as of that date.

From the fact, however, that Thomas Hanley died on May 27, 1922, it does not follow that the obligation to pay the tax arose as of that date. The time for the payment of inheritance tax is clearly fixed by section 1544 of the Revised Administrative Code as amended by Act No. 3031, in relation to section 1543 of the same Code. The two sections follow:

"SEC. 1543. Exemption of certain acquisitions and transmissions.—The following shall not be taxed:

"(a) The merger of the usufruct in the owner of the naked title.

"(b) The transmission or; delivery of the inheritance or legacy by the fiduciary heir or legatee to the trustees.

"(c) The transmission from the first heir, legatee, or donee in favor of another beneficiary, in accordance with the desire of the predecessor.

"In the last two cases, if the scale of taxation appropriate to the new beneficiary is greater than that paid by the first, the former must pay the difference,

"SEC. 1544. When tax to be paid.—The tax fixed in this article¹ shall be paid:

"(a) In the second and third cases of the next preceding section, before entrance into possession of the property.

"(b) In other cases, within the six months subsequent to the death of the predecessor; but if judicial

testamentary or intestate proceedings shall be instituted prior to the expiration of said period, the payment shall be made by the executor or administrator before delivering to each beneficiary his share.

"If the tax is not paid within the time hereinbefore prescribed, interest at the rate of twelve per centum per annum shall be added as part of the tax; and to the tax and interest due and unpaid within ten days after the date of notice and demand thereof by the Collector, there shall be further added a surcharge of twenty-five per centum.

"A certified copy of all letters testamentary or of administration shall be furnished the Collector of Internal Revenue by the Clerk of Court within thirty days after their issuance."

It should be observed in passing that the word "trustee", appearing in subsection (b) of section 1543, should read "fideicommissary" or "cestui que trust". There was an obvious mistake in translation from the Spanish to the English version.

The instant case does not fall under subsection (a), but under subsection (b), of section 1544 above-quoted, as there is here no fiduciary heir, first heir, legatee or donee. Under that subsection, the tax should have been paid before the delivery of the properties in question to P. J. M., Moore as trustee on March 10, 1934.

(b) The plaintiff contends that the estate of Thomas Hanley, in so far as the real properties are concerned, did not and could not legally pass to the instituted heir, Matthew Hanley, until after the expiration of ten years from the death of the testator on May 27, 1922 and, that the inheritance tax should be based on the value of the estate in 1932, or ten years after the testator's death. The plaintiff introduce evidence tending to show that in 1932 the real properties in question had a reasonable value of only P5,787. This amount added to the value of the personal property left by the deceased, which the plaintiff admits is P1,465, would generate an inheritance tax which, excluding deductions, interest and surcharge, would amount only to about P169.52.

If death is the generating source from which the power of the state to impose inheritance taxes takes its being and if, upon the death of the decedent, succession takes place and the right of the state to tax, vests instantly, the tax should be measured by the value of the estate as it stood at the time of the decedent's death regardless of any subsequent contingency affecting value or any subsequent increase or decrease in value. (61 C. J., pp. 1692, 1693; 26 R. C. C.J. p. 232; Blakemore and Bancroft, Inheritance Taxes, p. 137. See also Knowlton vs. Moore, 178 U. S., 41; 20 Sup. Ct. Rep., 747; 44 Law. ed., 969.) "The right of the state to an inheritance tax accrues at the moment of death, and hence is ordinarily measured as to any beneficiary by the value at that time of such property as passes to him. Subsequent appreciation or depreciation is immaterial." (Ross, Inheritance Taxation, p. 72.)

Our attention is directed to the statement of the rule in Cyclopedia of Law and Procedure (vol. 37, pp. 1574, 1575) that, in the case of contingent remainders, taxation is postponed until the estate vests in possession or the contingency is settled. This rule was formerly followed in New York and has been adopted in Illinois, Minnesota, Massachusetts, Ohio, Pennsylvania and Wisconsin. This rule, however, is by no means entirely satisfactory either to the estate or to those interested in the property (26 R. C. L., p. 231). Realizing, perhaps, the defects of its anterior system, we find upon examination of cases and authorities that New York has varied and now requires the immediate appraisal of the postponed estate at its clear market value and the payment forthwith of the tax on it out of the corpus of the estate transferred. (In re Vanderbilt, 172 N. Y., 69; 69 N. E., 782; In re Huber, 86 N. Y. App. Div., 458; 83 N. Y. Supp., 769; Estate of Tracy, 179 N. Y., 501; 72 N. Y., 519; Estate of Brez, 172 N. Y., 609; 64 N. E., 958; Estate of Post, 85 App. Div., 611; 82 N. Y. Supp., 1079. Vide also, Saltoun vs. Lord Advocate, 1 Pater. Sc. App., 970; 3 Macq. H. L., 659; 23 Eng. Rul. Cas., 888.) California adheres to this new rule (Stats. 1905, sec. 5, p. 343).

But whatever may be the rule in other jurisdictions, we hold that a transmission by inheritance is taxable at the

time of the predecessor's death, notwithstanding the postponement of the actual possession or enjoyment of the estate by the beneficiary, and the tax measured by the value of the property transmitted at that time regardless of its appreciation or depreciation.

(c) Certain items are required by law to be deducted from the appraised gross value in arriving at the net value of the estate on which the inheritance tax is to be computed (sec. 1539, Revised Administrative Code). In the case at bar, the defendant and the trial court allowed a deduction of only P480.81. This sum represents the expenses and disbursements of the executors until March 10, 1924, among which were their fees and the proven debts of the deceased. The plaintiff contends that the compensation and fees of the trustees, which aggregate P1,187.28 (Exhibits C, AA, EE, PP, HH, JJ, LL, NN, OO), should also be deducted under section 1539 of the Revised Administrative Code which provides, in part, as follows: "In order to determine the net sum which must bear the tax, when an inheritance is concerned, there shall be deducted, in case of a resident, * * * the judicial expenses of the testamentary or intestate proceedings, * * *."

A trustee, no doubt, is entitled to receive a fair compensation for his services (*Barney vs. Saunders*, 16 How., 535; 14 Law. ed., 1047). But from this it does not follow that the compensation due him may lawfully be deducted in arriving at the net value of the estate subject to tax. There is no statute in the Philippines which requires trustees' commissions to be deducted in determining the net value of the estate subject to inheritance tax (61 C. J., p. 1705). Furthermore, though a testamentary trust has been created, it does not appear that the testator intended that the duties of his executors and trustees should be separated. (*Ibid.*; *In re Vanneck's Estate*, 161 N. Y. Supp., 893; 175 App. Div., 363; *In re Collard's Estate*, 161 N. Y. Supp., 455.) On the contrary, in paragraph 5 of his will, the testator expressed the desire that his real estate be handled and managed by his executors until the expiration of the period of ten years therein provided. Judicial expenses are expenses of administration (61 C. J., p. 1705) but, in *State vs. Hennepin County Probate Court* (112 N. W.f, 878; 101 Minn., 485), it was said: "* * * The compensation of a trustee, earned, not in the administration of the estate, but in the management thereof for the benefit of the legatees or devisees, does not come properly within the class or reason for exempting administration expenses. * * * Services rendered in that behalf have no reference to closing the estate for the purpose of a distribution thereof to those entitled to it, and are not required or essential to the perfection of the rights of the heirs or legatees. * * * Trusts * * * of the character of that here before the court, are created for the benefit of those to whom the property ultimately passes, are of voluntary creation, and intended for the preservation of the estate. No sound reason is given to support the contention that such expenses should be taken into consideration in fixing the value of the estate for the purpose of this tax."

(d) The defendant levied and assessed the inheritance tax due from the estate of Thomas Hanley under the provisions of section 1544 of the Revised Administrative Code, as amended by section 3 of Act No. 3606. But Act No. 3606 went into effect on January 1, 1930. It, therefore was not the law in force when the testator died on May 27, 1922. The law at that time was section 1544 abovementioned, as amended by Act No. 3031, which took effect On March 9, 1922.

It is well-settled that inheritance taxation is governed by the statute in force at the time of the death of the decedent (26 R. C. L., p. 206; 4 Cooley on Taxation, 4th edi, p. 3461). The taxpayer can not foresee and ought not to be required to guess the outcome of pending measures, Of course, a tax statute may be made retroactive in its operation. Liability for taxes under retroactive legislation has been "one of the incidents of social life." (*Seattle vs. Kelleher*, 195 U. S., 351, 360; 49 Law. ed., 232; 25 Sup. Ct. Rep., 44.) But legislative intent that a tax statute should operate retroactively should be perfectly clear. (*Scwab vs. Doyle*, 42 Sup. Ct. Rep., 491; *Smietanka vs. First Trust & Savings Bank*, 257 U. S., 602; *Stockdale vs. Insurance Co.*, 20 Wall., 323; *Lunch vs. Turrish*, 247 U. S., 221.) "A statute should be considered as prospective in its operation, whether it enacts, amends, or repeals an

inheritance tax, unless the language of the statute clearly demands or expresses that it shall have a retroactive effect, * * *." (61 C. J., p. 1602.) Though the last paragraph of section 5 of Regulations No. 65 of the Department of Finance makes section 3 of Act No. 3606, amending section 1544 of the Revised Administrative Code, applicable to all estates the inheritance taxes due from which have not been paid, Act No. 3606 itself contains no provisions indicating legislative intent to give it retroactive effect. No such effect can be given the statute by this court.

The defendant Collector of Internal Revenue maintains, however, that certain provisions of Act No. 3606, are more favorable to the taxpayer than those of Act No. 3031, that said provisions are penal in nature and, therefore, should operate retroactively in conformity with the provisions of article 22 of the Revised Penal Code. This is the reason why he applied Act No. 3606 instead of Act No. 3031. Indeed, under Act No. 3606, (1) the surcharge of 25 per cent is based on the tax only, instead of; on both the tax and the interest, as provided for in, Act No. 3031, and, (2) the taxpayer is allowed twenty days from, notice and demand by the Collector of Internal Revenue within which to pay the tax, instead of ten days only as required by the old law.

Properly speaking, a statute is penal when it imposes punishment for an offense committed against the; state which, under the Constitution, the Executive has the power to pardon. In common use, however, this sense has been enlarged to include within the term "penal statutes" all statutes which command or prohibit certain acts, and establish penalties for their violation, and even those which, without expressly prohibiting certain acts, impose a penalty upon their commission (59 C. J., p. 1110); Revenue laws generally, which impose taxes collected by the means ordinarily resorted to for the collection of taxes are not classed as penal laws, although there are authorities to the contrary. (See Sutherland, Statutory Construction, 361; Twine Co. vs. Worthington, 141 U. S., 468; 12 Sup. Ct., 55; Rice vs. U. S., 4 C. C. A., 104; 53 Fed., 910; Com. vs. Standard Oil Co., 101 Pa. St., 150; State vs. Wheeler, 44 P., 430; 25 Nev., 143.) Article 22 of the Revised Penal Code is not applicable to the case at bar, and in the absence of clear legislative intent, we cannot give Act No. 3606 a retroactive effect.

(e) The plaintiff correctly states that the liability to pay a tax may arise at a certain time and the tax may be paid within another given time. As stated by this court, "the mere failure to pay one's tax does not render one delinquent until and unless the entire period has elapsed within which the taxpayer is authorized by law to make such payments without being subjected to the payment of penalties for failure to pay his taxes within the prescribed period." (U. S. vs. Labadan, 26 Phil., 239.)

The defendant maintains that it was the duty of the executor to pay the inheritance tax before the delivery wise, the defendant contends that delivery to the trustee was delivery to the cestui que trust, the beneficiary in this case, within the meaning of the first paragraph of subsection (b) of section 1544 of the Revised Administrative Code. This contention is well taken and is sustained. The appointment of P. J. M. Moore as trustee was made by the trial court in conformity with the wishes of the testator as expressed in his will. It is true that the word "trust" is not mentioned or used in the will but the intention to create one is clear. No particular or technical words are required to create a testamentary trust (69 C. J., p. 711). The words "trust" and "trustee", though apt for the purpose, are not necessary. In fact, the use of these two words is not conclusive on the question that a trust is created (69 C. J., p. 714). "To create a trust by will the testator must indicate in the will his intention so to do by using language sufficient to separate the legal from the equitable estate, and with sufficient certainty designate the beneficiaries, their interest in the trust, the purpose or object of the trust; and the property or subject matter thereof. Stated otherwise, to constitute a valid testamentary trust there must be a concurrence of three circumstances: (1) Sufficient words to raise a trust; (2) a definite subject; (3) a certain or ascertained object; statutes in some jurisdictions expressly or in effect so providing." (69 C. J., pp. 705, 706.) There is no doubt that the testator intended to create a trust. He ordered in his will that certain of his properties be kept together undisposed during a

fixed period, for a stated purpose. The probate court certainly exercised sound judgment in appointing a trustee to carry into effect the provisions of the will (see sec. 582, Code of Civil Procedure).

P. J. M. Moore became trustee on March 10, 1924. On that date the trust estate vested in him (sec. 582 in relation to sec. 590, Code of Civil Procedure). The mere fact that the estate of the deceased was placed in trust did not remove it from the operation of our inheritance tax laws or exempt it from the payment of the inheritance tax. The corresponding inheritance tax should have been paid on or before March 10, 1924, to escape the penalties of the law. This is so for the reason already stated that the delivery of the estate to the trustee was in esse delivery of the estate to the *cestui que trust*, the beneficiary in this case. A trustee is but an instrument or agent for the *cestui que trust* (*Shelton vs. King*, 299 U. S., 90; 33 Sup. Ct. Rep., 689; 57 Law. ed., 1086). When Moore accepted the trust and took possession of the trust estate he thereby admitted that the estate belonged not to him but to his *cestui que trust* (*Tolentino vs. Vitug*, 39 Phil., 126, cited in 65 C. J., p. 692, n. 63). He did not acquire any beneficial interest in the estate. He took such legal estate only as the proper execution of the trust required (65 C. J., p. 528) and, his estate ceased upon the fulfillment of the testator's wishes. The estate then vested absolutely in the beneficiary (65 C. J., p. 542).

The highest considerations of public policy also justify the conclusion we have reached. Were we to hold that the payment of the tax could be postponed or delayed by the creation of a trust of the type at hand, the result would be plainly disastrous. Testators may provide, as Thomas Hanley has provided, that their estates be not delivered to their beneficiaries until after the lapse of a certain period of time. In the case at bar, the period is ten years. In other cases, the trust may last for fifty years, or for a longer period which does not offend the rule against perpetuities. The collection of the tax would then be left to the will of a private individual. The mere suggestion of this result is a sufficient warning against the acceptance of the contention of the plaintiff in the case at bar. Taxes are essential to the very existence of government. (*Dobbins vs. Erie County*, 16 Pet., 435; 10 Law. ed., 1022; *Kirkland vs. Hotchkiss*, 100 U. S., 491; 25 Law. ed., 558; *Lane County m Oregon*, 7 Wall., 71; 19 Law. ed., 101; *Union Refrigerator Transit Co. vs. Kentucky*, 199 U. S., 194; 26 Sup. Ct. Rep., 36; 50 Law. ed., 150; *Charles River Bridge vs. Warren Bridge*, 11 Pet, 420; 9 Law. ed., 773.) The obligation to pay taxes rests not upon the privileges enjoyed by, or the protection afforded to, a citizen by the government, but upon the necessity of money for the support of the state (*Bobbins vs. Erie County*, *supra*). For this reason, no one is allowed to object to or resist the payment of taxes solely because no personal benefit to him can be pointed out. (*Thomas vs. Gay*, 169 U. S., 264; 18 Sup. Ct. Rep., 340; 43 Law. ed., 740.) While courts will not enlarge, by construction, the government's power of taxation (*Bromley vs. McCaughn*, 280 U. S., 124; 74 Law. ed., 226; 50, Sup. Ct. Rep., 46) they also will not place upon tax laws so loose a construction as to permit evasions on merely fanciful and insubstantial distinctions. (*XL S. vs. Watts*, 1 Bond., 580; Fed. Cas. No. 16,653; *U. S. vs. Wigglesworth*, 2 Story, 369; Fed. Cas. No. 16,690, followed in *Froelich & Kuttner vs. Collector of Customs*, 18 Phil., 461, 481; *Castle Bros., Wolf & Sons vs. McCoy*, 21 Phil., 300; *Munoz & Co. vs. Hord*, 12 Phil., 624; *Hongkong & Shanghai Banking Corporation vs. Rafferty*, 39 Phil., 145; *Luzon Stevedoring Co. vs. Trinidad*, 43 Phil., 803.) When proper tax statute should be construed to avoid the possibilities of tax evasion. Constructed this way, the statute, without resulting in injustice to the taxpayer, becomes fair to the government.

That taxes must be collected promptly is a policy deeply entrenched in our tax system. Thus, no court is allowed to grant injunction to restrain the collection of any internal revenue tax (sec. 1578, Revised Administrative Code; *Sarasola vs. Trinidad*, 40 Phil., 252). In the case of *Lim Co Chui vs. Posadas* (47 Phil., 461), this court had occasion to demonstrate trenchant adherence to this policy of the law. It held that "the fact that on account of riots directed against the Chinese on October 18, 19, and 20, 1924, they were prevented from paying their internal revenue taxes on time and by mutual agreement closed their homes and stores and remained therein, does not authorize the Collector of Internal Revenue to extend the time prescribed for the payment of the taxes or to accept

them without v the additional penalty of twenty five per cent." (Syllabus, No. 3.) "* * * It is of the utmost importance," said the Supreme Court of the United States, "* * * that the modes adopted to enforce the taxes levied should be interfered with as little as possible. Any delay in the proceedings of the officers, upon whom the duty is devolved of collecting the taxes, may derange the operations of government, and thereby cause serious detriment to the public." (Dows vs. Chicago, 11 Wall., 108; 20 Law. ed., 65, 66; Churchill and Tait vs. Rafferty, 32 Phil, 580.)

It results that the estate which plaintiff represents has been delinquent in the payment of inheritance tax and, therefore, liable for the payment of interest and surcharge provided by law in such cases.

The delinquency in payment occurred on March 10, 1924, the date when Moore became trustee. The interest due should be computed from that date and it is error on the part of the defendant to compute it one month later. The provision of law requiring the payment of interest in appropriate cases is mandatory (see and cf. Lim Co Chui vs. Posadas, supra), and neither the Collector of Internal Revenue nor this court may remit or decrease such interest, no matter how heavily it may burden the taxpayer.

To the tax and interest due and unpaid within ten days after the date of notice and demand thereof by the Collector of Internal Revenue, a surcharge of twenty-five per centum should be added (sec. 1544, subsec. (6), par. 2, Revised Administrative Code). Demand was made by the Deputy Collector of Internal Revenue upon Moore in a communication dated October 16, 1931 (Exhibit 29). The date fixed for the payment of the tax and interest was November 30, 1931. November 30 being an official holiday, the tenth day fell on December 1, 1931. As the tax and interest due were not paid on that date, the estate became liable for the payment of the surcharge.

In view of the foregoing, it becomes unnecessary for us to discuss the fifth error assigned by the plaintiff in his brief.

We shall now compute the tax, together with the interest and surcharge, due from the estate of Thomas Hanley in accordance with the conclusions we have reached.

At the time of his death, the deceased left real properties valued at P27,920 and personal properties worth P1,465, or a total of P29,385. Deducting from this amount the sum of P480.81, representing allowable deductions under section 1539 of the Revised Administrative Code, we have P28,904.19 as the net value of the estate subject to inheritance tax.

The primary tax, according to section 1536, subsection (c), of the Revised Administrative Code, should be imposed at the rate of one per centum upon the first ten thousand pesos and two per centum upon the amount by which the share of the beneficiary exceeds ten thousand pesos but does not exceed thirty thousand pesos, plus an additional two hundred per centum. One per centum of ten thousand pesos is P100. Two per centum of P18,904.19 is P378.08. Adding to these two sums an additional two hundred per centum, or P956.16, we have as primary tax, correctly computed by the defendant, the sum of P1,434.24.

To the primary tax thus computed should be added the sums collectible under section 1544 of the Revised Administrative Code. First should be added P1,465.31 which stands for interest at the rate of twelve per centum per annum from March 10, 1924, the date of delinquency, to September 15, 1932, the date of payment under protest, a period covering 8 years, 6 months and 5 days. To the tax and interest thus computed should be added the sum of P724.88, representing a surcharge of 25 per cent on both the tax and interest, and also P10, the compromise sum fixed by the defendant (Exh. 29), giving a grand total of P3,634.43.

As the plaintiff has already paid the sum of P2,052.74, only the sum of P1,581.69 is legally due from the estate. This last sum is P390.42 more than the amount demanded by the defendant in his counterclaim. But, as we cannot

give the defendant more than what he claims, we must hold that the plaintiff is liable only in the sum of P1,191.27, the amount stated in the counterclaim.

The judgment of the lower court is accordingly modified, with costs against the plaintiff in both instances. So ordered.

Avancena, C. J., Ahad Santos, Imperial, Diaz, and Concepcion, JJ., concur.

VILLA-REAL, J.:

I concur in the result.

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.