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Bonds - United States Bonds - Regulations Describing Sole Method of Transfer

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RECENT CASES

BONDS — UNITED STATES BONDS — REGULATIONS DESCRIBING SOLE METHOD OF TRANSFER. — Decedent had purchased United States Liberty Bonds and registered them in her nephew's name. She retained possession of them until her death. The nephew, petitioner herein, demanded the bonds from the executrix of the estate, and upon her refusal to give them up, brought this action to compel her to do so. The executrix contended that because of lack of delivery and acceptance, the decedent had never made a complete and effective gift of the bonds. The court *held*, that whether or not there had been a valid inter vivos gift, the treasury regulations[1] providing that the registered owner of the bonds was the sole owner required that they be awarded to the petitioner. *In Re Christie's Estate*, 130 N.Y. S. 2d 650 (Surr. Ct., 1954).

Regulations of the type involved here, if made pursuant to a valid Congressional Act, have the force and effect of law.[2] These bonds are construed as a contract between the United States Government and the purchaser and all rights of the parties arise solely from this contract, of which the pertinent regulations form a part.[3] This view, that savings bonds can be transferred only by the methods prescribed by treasury regulations, is representative of that of the majority of the courts.[4] An oft-cited Kentucky case stated that to allow outright gifts of the bonds was contrary to treasury regulations controlling the transferability of the bonds and would open the door to evasion of plainly expressed restrictions on transfers.[5]

Those courts following the minority view contend that the treasury regulations do not prohibit a transfer of the bonds by gift,[6] despite the fact that the regulations applicable to these bonds state that they are transferable only by authorized reissue except in case of disability or death of the owner, and that no judicial proceedings will be recognized if they would give effect to an attempted voluntary transfer inter vivos of the bond.[7] It is interesting to note that among the courts which follow the minority view some of them prohibit the gift gift inter vivos but allow the gift *causa mortis*, sttaing that it falls within the exception in the regulations relating to disability or death of the owner.[8]

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1. 31 Code Fed. Regs. § 306.4 (1949).
2. 55 Stat. 31 (1941), as amended, 31 U.S.C. 757c (1945).
3. United States v. Dauphin Deposit Co., 50 F. Supp. 73 (M.D. Pa., 1943).
4. Lee v. Anderson, 70 Ariz. 208, 218 P.2d 732 (1950); Connell v. Bauer, 61 N.W.2d 177 (Minn., 1953); Fidelity Union Trust Co. v. Tezyk, 140 N.J.Eq. 474, 55 A.2d 26 (1947); *In re* Nettle's Estate, 276 App. Div. 929, 94 N.Y.S.2d 704 (1950); *In re* Owen's Estate, 177 Misc. 1006, 32 N.Y.S.2d 747 (1941); Collins v. Jordan *et al.*, 110 N.E.2d 825 (Ohio, 1949); Brown v. Vinson, 188 Tenn. 120, 216 S.W.2d 748 (1949).
5. *See* Moore's Admin'r. v. Marshall, 302 Ky. 729, 196 S.W.2d 369, 372 (1946).
6. Marshall v. Felker, 156 Fla. 476, 23 So.2d 555 (1945) (held that the war savings bonds were the subject of a valid gift inter vivos and that the treasury regulations did not mean that such a transfer was unlawful.
7. 31 Code Fed. Regs. § 315.11 (1949). "*Not Transferable.* Savings bonds are not transferable and are payable only to the owners named thereon, except in case of the disability or death of the owner, authorized reissue, or as otherwise specifically provided in this subpart, but in any event only in accordance with the provisions of the regulations in this part." 31 Code Fed. Regs. § 315.13 (1949. "Judicial Proceedings. (a) No such proceedings will be recognized if they would give effect to an attempted voluntary transfer inter vivos of the bond or would defeat or impair the rights of survivorship conferred by the regulations in this part upon a surviving co-owner or beneficiary."
8. *In re Borchard's Estate*, 179 Misc. 456, 38 N.Y.S.2d. 987 (1942); Dietzen v. American Trust & Banking Co., 175 Tenn. 49, 131 S.W.2d 69, 72 (1939).

Somewhat analogous to the instant case is a recent North Dakota decision, *Littlejohn v. County Judge, Pembina County*.[9] One co-owner had made a gift inter vivos of the bonds to the other co-owner. Upon the death of the donor a question arose as to the taxability of the bonds as part of his estate. The court decided that there was no interest remaining in the deceased, since his interest in the bonds had vested in the donee upon completion of the gift. However, if the donee had died first it seems improbable that the bonds would have gone to her estate rather than to the donor, since applicable regultations provide that the registration of the name of the owner is the sole evidence of the ownership and payment by the government is to be made only to the other registered owner.[10] Thus, the case patently departs from the majority view.

The purpose for which these bonds were first issued was to aid war financing. The United States Treasury Department set up regulations over the acquisition, use and disposition of these bonds in an attempt to keep litigation involving these bonds at a minimum. In doing so they made these bonds a special and unique type of property; they did not fall in any known property category and yet had features of many different types of property. In dealing with these bonds, it is well to keep in mind the aim with which they were issued.

GENE KRUGER

CONSTITUTIONAL LAW — DUE PROCESS — REVOCATION OF LICENSE AS DEPRIVATION OF DUE PROCESS. — Appellant, a physician and a member of the executive board of the Joint Anti-Fascist Refugee Committee, was convicted in a federal court of contempt of Congress for failing to produce before the House Committee on Un-American Activities certain subpoenaed papers relative to the activities of the Anti-Fascist Committee.[1] Subsequent to affirmance of this conviction,[2] and after having served five months in jail as a consequence, appellant's license to practice medicine was suspended for six months by the Board of Regents of the University of the State of New York pursuant to the provisions of the New York State Education Law.[3] Appellant sought a review of the determination of the Board, contending, *inter alia*, that the sections of the Education Law under which disciplinary action had been taken against him were violative of the due process clause of the Fourteenth Amendment. The Court *held*, that the conviction be affirmed. When a determination of an administrative agency is supported by substantial evidence, due process does not require review of the exercise of its discretionary power. *Barsky v. Board of Regents of the University of the State of New York*, 74 S. Ct. 650 (1954).

Regultaion of physicians by the state has existed at least since Hammurabi (B.C. 2285-2242), King of Babylon compiled his famous Code embodying

9. 58 N.W. 2d 278 (N.D., 1953).
10. 31 Code Fed. Regs. §315.45(c) (1949).

1. United States v. Barsky, 72 F.Supp. 165 (D.D.C. 1947).
2. Barsky v. United States, 167 F.2d 241 (D.C. Cir. 1948), *certiorari denied*, 334 U.S. 843 (1948), *rehearing denied*, 339 U.S. 971 (1950).
3. § 6514, subd. 2 (b): "2. The license of registration of a practitioner of medicine . . . may be revoked, suspended, or annulled . . . after due hearing in any of the following cases: (a) . . . (b) That a physician . . . has been convicted in a court of competent jurisdiction, either within or without this state, of a crime; . . . ."