



The Estate Tax Debate

Tax on the right to transmit property at death and no certain transfer which are made by the estate the equivalent of testamentary dispositions and is measured by the value of property at time of death.

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CONTENTS - ESTATE TAX RETURN

(A), NIRC]
utor, or the administrator, or any of the legal heirs, as the case may
be a return under oath in duplicate, setting forth:
value of the gross estate of the decedent at the time of his death, or in
nonresident, not a citizen of the Philippines, of that part of his gross
estate situated in the Philippines;
deductions allowed from gross estate in determining the net taxable
and
part of such information as may at the time be ascertainable and
plemental data as may be necessary to establish the correct taxes.

(4) For estate tax returns showing a gross value exceeding
Two million pesos (P2,000,000) - there must be a statement
duly certified to by a Certified Public Accountant containing
the following:
(a) Itemized assets of the decedent with their corresponding
gross value at the time of his death, or in the case of a
nonresident, not a citizen of the Philippines, of that part of his
gross estate situated in the Philippines;
(b) Itemized deductions from gross estate allowed in Section
86; and
(c) The amount of tax due whether paid or still due and
outstanding.

WHEN FILED

General Rule: Filed within six (6) months from the
decedent's death. [Sec. 90(B), NIRC]

Exception: The Commissioner shall have authority
to grant, in meritorious cases, a reasonable
extension not exceeding thirty (30) days for filing
the return [Sec. 90C]

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NATURE

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It is in reality an excise 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.

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PURPOSE OR OBJECT

(1) The object of estate tax is to tax the shifting of economic benefits and enjoyment of property from the dead to the living.

(2) Death taxes are imposed to give added income to the government.

JUSTIFICATION (THEORIES) FOR THE IMPOSITION OF ESTATE TAX

Benefit received theory

The State collects the tax because of the services it renders in the distribution of the estate of the decedent, either by law or in accordance with his will.

Privilege theory or state partnership theory

Succession to the property of a deceased person is not a right but a privilege granted by the State and consequently, the legislature can constitutionally burden such succession with a tax.

Ability to pay theory

Receipt of inheritance, which is in the nature of unearned wealth or windfall, place assets into the hands of the heirs and beneficiaries.

Redistribution of wealth theory

Receipt of inheritance is a contributing factor to the inequalities in wealth and income.



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TIME AND TRANSFER OF PROPERTIES

Decedent's interest is to its extent at the time of his death. [Sec. 85(A), NIRC]

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TAXABLE TRANSFERS

- (1) Transfers Mortis Causa – Gratuitous transfers after death, either testate or intestate.
- (2) Transfers Inter Vivos – Generally attract donor's tax. However, certain transfers inter vivos are treated by law as substitutes for testamentary dispositions (i.e., transfers which are inter vivos in form but mortis causa in substance).
 - (a) Transfers in contemplation of death [Sec. 85(B), NIRC]
 - (b) Transfer with retention or reservation of certain rights [Sec. 85(B), NIRC]
 - (c) Revocable transfers [Sec. 85(C), NIRC]
 - (d) Transfers of property arising under general power of appointment [Sec. 85(D), NIRC]
 - (e) Transfers for insufficient consideration [Sec. 85(G), NIRC]

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CLASSIFICATION OF DECEDENT

The decedent may be classified into:

- (1) Citizen,
- (2) Resident alien; or
- (3) Non-resident alien.