



September 29, 2003 (Reissued September 30, 2008)
Pennsylvania Inheritance Tax
No. INH-03-013
Cessation of Lien Against a Bona Fide Purchaser

ISSUE

Whether a parcel of real estate conveyed to a bona fide Purchaser in 1969 remains subject to Pennsylvania Inheritance Tax in 2003 where Seller, who purchased the realty in 1968, sold it in 1969 subject to existing inheritance tax liabilities.

CONCLUSION

Under the Inheritance and Estate Tax Act of 1961, the law governing the subject transaction, the Department's lien for inheritance taxes ceases as to a bona fide purchaser twenty years from the date the tax becomes delinquent.

FACTS

Seller purchased real estate in 1968 that was subject to Pennsylvania Inheritance Tax based upon the failure of numerous heirs of the Taxpayer to file inheritance tax returns or pay tax. It is noted that Taxpayer died in either 1881 or 1882. His executor conveyed the real estate in 1882 but little or no records exist which documents the subsequent conveyances of the property or succession of Taxpayer's heirs.

In 1969, Seller conveyed the real estate to Purchaser. Purchaser now desires to convey the real estate to a third party. At issue is whether the property is clear of any Pennsylvania Inheritance Tax lien.

DISCUSSION

The Inheritance and Estate Tax Act of 1961 states that all taxes must be sued for within twenty years after they are due; otherwise they shall be presumed to have been paid and cease to be a lien as against any purchasers of real estate. 1961 P.L. 373, § 803 (72 P.S. § 2485-803).

The Cumberland County Orphans' Court has held that the purpose of this provision's predecessor was to quiet title to real estate in the hands of a purchaser and such protection outweighs the interest of the Commonwealth in collecting the tax due. Stoner v. Lambert, 8 Fiduc. Rep. 330 (O.C. Cumb. Cty. 1958).

In the case at hand, it does not appear that the Department ever instituted proceedings against any heir of Taxpayer to collect the inheritance tax due on the transfers of the real estate. As such, Seller obtained title clear of any inheritance tax lien when it was purchased in 1968. Subsequently, Purchaser also obtained clear title in 1969.