

**OPINION**  
**51-173**

November 21, 1951            (OPINION)

**TAXATION**

**RE: Estate Tax - Liability of Joint U.S. Bonds**

In yours of the 13th inst. you state that James Littlejohn died leaving some \$1600.00 in joint government bonds. The survivor named on the bonds was his daughter, Estella Littlejohn. You further state that in submitting the estate tax return you listed the bonds but did not include them in the gross estate for tax purposes.

You request the opinion of this office as to whether such bonds should have been included in the gross estate subject to estate or inheritance tax. We assume that these bonds were savings or defense bonds payable to James Littlejohn or Estella Littlejohn. The law upon this question is fully set forth in the syllabus to the case of Succession of Tanner (la.) 24 So.2d 642. We quote the syllabus in full:

1. United States War Savings Bonds registered in the name of husband or wife as co-owners constituted a contract between the United States and purchasers of such bonds and the rights of survivor arose solely from such contract.
2. The power vested by Constitution in Congress to borrow money on the credit of the United States cannot be burdened or impeded by the action of any state.
3. The issuance of United States War Savings Bonds was an exercise of the power vested by Constitution in Congress to borrow money on the credit of the United States.
4. The contract between the United States War Savings Bonds, embodied in the bonds is a federal contract which is necessarily controlled by federal law.
5. The power of Congress to borrow money on the credit of the United States included the power to fix the terms of the government's obligation.
6. The treasury regulations governing issuance and redemption of the United States War Savings Bonds are within the authority given the secretary of the treasury by Congress and they have the force of federal law.
7. Rules prescribed by administrative bodies and officers pursuant to authority of an act of Congress, so long as they are reasonably adapted to enforcement of the act and are not in conflict with express statutory provisions, become the supreme law of the land.
8. Each United States War Savings Bond, together with the

statutes, treasury regulations and circulars, constitute a valid binding contract determining the rights of the parties therein, and ownership and title of the bond is controlled by the statute pursuant to which it was issued and applicable treasury regulations and circulars.

9. Surviving widow became sole owner of United States War Savings Bonds purchased by husband with community funds and registered in the name of the husband or wife as co-owners only upon the death of husband, and such bonds formed no part of the deceased husband's estate or the community estate formerly existing between him and surviving widow and were not subject to state inheritance tax."

We quote further the syllabus of the case of U.S. v. Dauphin Deposit Co. 50 F. Supp.73:

A savings bond issued by United States under federal statute is a 'federal contract' which is controlled by federal law. Where savings bonds issued under federal statute were made payable to named beneficiary on death of registered owner who was Pennsylvania resident, as authorized by treasury regulations, Pennsylvania law regarding testamentary disposition of property was not applicable and on owner's death the bonds were payable to beneficiary, and not to owner's estate."

We have examined the cases cited in the Tanner case and we are satisfied that the great weight of authority supports this case fully. One of these cases is the case of In re Deyo's Estate, 42 N.Y.S. 2d 379, 180 Misc. 32. In this case deceased owned at time of death certain United States Savings Bonds registered in his name and payable on his death to his sister, May Adams. The court said:

In the opinion of the Surrogate, the executor's position is entirely justified and he is correct in his contention that these bonds or their proceeds are not assets of the estate."

And again the court said:

In the conflicting decisions which have been rendered in other jurisdictions upon the ownership of this form of bond, the overwhelming weight of reason and authority is on the side of those that sustained the form of the registration and held that the surviving beneficiary was entitled to the proceeds."

And in the case of In re Fliegelman's Will, the syllabus says:

Where United States Savings Bonds were registered in name of testator or his widow, bonds were no part of testator's estate and widow became upon testator's death owner thereof by right of her survivorship."

We have checked the other cases cited in the Tanner case and in our opinion these cases, one and all, fully sustain the Tanner case.

It is therefore our opinion that you were correct in not including the bonds in the gross estate for inheritance tax purposes. These

bonds constituted no part of the estate of James Littlejohn. Immediately upon his death these bonds became the sole property of the daughter, Estella Littlejohn. No part of these bonds was subject to payment of an inheritance tax. She was entitled to the immediate possession of the bonds, and the administrator had no power of control over them. They should not have been included in the inventory of the estate.

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