

**Greiner Vs. Lewellyn**

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**Court :** US Supreme Court

**Decided On :** Apr-10-1922

**Appeal No. :** 258 U.S. 384

**Appellant :** Greiner

**Respondent :** Lewellyn

**Judgement :**

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U.S. Supreme Court Greiner v. Lewellyn, 258 U.S. 384 (1922)

**Greiner v. Lewellyn**

**No. 187**

**Argued March 22, 1922**

**Decided April 10, 1922**

**258 U.S. 384**

*ERROR TO THE DISTRICT COURT OF THE UNITED STATES*

*FOR THE WESTERN DISTRICT OF PENNSYLVANIA*

## SYLLABUS

In imposing a tax on the transfer of an estate by death, Congress has power to require that state municipal bonds forming part of the estate be included in determining its net value, by which the tax is measured. Act of September 8, 1916, c. 463, 39 Stat. 756. P. [258 U. S. 387](#) .

Affirmed.

Error to a judgment of the district court for the defendant in an action to recover taxes alleged to have been illegally collected.

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MR. JUSTICE BRANDEIS delivered the opinion of the Court.

This action was brought in the Federal Court for Western Pennsylvania against the Collector of Internal Revenue to recover part of an amount assessed as estate tax under the Act of September 8, 1916, c. 463, Tit. II, 39 Stat. 756, 777, and paid by the plaintiff as executrix of the estate of Kate B. Kingsley. In determining the net value of the estate upon the transfer of which the tax was imposed, the collector had included bonds issued by political subdivisions of the State of Pennsylvania. The executrix claimed that to include these municipal bonds was in effect to tax them -- which the federal government is under the Constitution without power to do. *Pollock v. Farmers' Loan & Trust Co.*, [157 U. S. 429](#) , [157 U. S. 583](#) , [157 U. S. 654](#) ; [158 U. S. 158](#) U.S. 601, [158 U. S. 618](#) , [158 U. S. 693](#) . The district court overruled this claim, and entered judgment for defendant. The case comes here on writ of error under 238 of the Judicial Code. Whether Congress has power to require that state and

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municipal bonds held by decedent be included for the purpose of determining the net value on which the estate tax is imposed is the sole question presented for decision.

That the federal government has power to tax the transmission of legacies was settled by *Knowlton v. Moore*, [178 U. S. 41](#) , and that it has the power to tax the transfer of the net assets of a decedent's estate was settled by *New York Trust Co. v. Eisner*, [256 U. S. 345](#) . The latter case has established also that the estate tax imposed by the Act of 1916, like the earlier legacy or succession tax, is a duty or excise, and not a direct tax like that on income from municipal bonds. *Pollock v. Farmers' Loan & Trust Co.*, *supra*. A state may impose a legacy tax on a bequest to the United States, *United States v. Perkins*, [163 U. S. 625](#) , or on a bequest which consists wholly of United States bonds, *Plummer v. Coler*, [178 U. S. 115](#) ; *Orr v. Gilman*, [183 U. S. 278](#) . Likewise, the federal government may impose a succession tax upon a bequest to a municipal corporation of a state, *Snyder v. Bettman*, [190 U. S. 249](#) , or may, in determining the amount for which the estate tax is assessable, under the Act of 1916, include sums required to be paid to a state as inheritance tax, for the estate tax is the antithesis of a direct tax, *New York Trust Co. v. Eisner*, *supra*. Municipal bonds of a state stand in this respect in no different position from money payable to it. The transfer upon death is taxable whatsoever the character of the property transferred and to whomsoever the transfer is made. It follows that, in determining the amount of decedent's net estate, municipal bonds were properly included.

*Affirmed.*