

A state legislature enacted a statute that allowed executors to claim a tax deduction for the sale of securities that were purchased by an estate after the decedent's death. After the statute was enacted, the state suffered a significant decrease in revenue because the number of estates that claimed the tax deduction was greater than originally projected. To recover this lost revenue, the legislature amended the statute to prevent an estate from claiming the deduction unless the decedent owned the securities prior to death. The amendment was made retroactive so that its effective date was when the statute was initially enacted.

Before the amendment was enacted, an executor sold securities that he had purchased for a decedent's estate after her death. The executor attempted to claim the tax deduction on the estate's tax returns but the state agency that processes tax returns denied his claim even though the estate had purchased the securities before the amendment was enacted. The executor has filed suit against the agency to challenge the constitutionality of the retroactive application of the amendment.

Is the executor's suit likely to succeed?

- A. No, because the retroactive application of the amendment was necessary to achieve a compelling government interest.
- B. No, because the retroactive application of the amendment was rationally related to a legitimate government interest.
- C. Yes, because the amendment constitutes a bill of attainder.
- D. Yes, because the amendment violates the due process clause of the Fourteenth Amendment.

Explanation:

The Fourteenth Amendment **substantive due process** clause prevents states from depriving persons of life, liberty, or property without adequate justification. Civil laws that **retroactively impair** an **ordinary right**—eg, the right to claim a tax deduction—must undergo **rational basis scrutiny**. Under this test, the law is presumed valid until the **challenger** shows that the law's **retroactive application** has **no rational relation** to any **legitimate government interest**.

Here, the executor challenged the amendment's retroactive application since it prevented the estate from claiming the tax deduction on its tax returns, which is an ordinary right. But since the state suffered a significant decline in revenue after the statute was enacted, the retroactive application of the amendment was rationally related to the state's legitimate interest in recovering the lost revenue. This means that the amendment does *not* violate the Fourteenth Amendment due process clause **(Choice D)**. Therefore, the executor's suit is unlikely to succeed.

(Choice A) The retroactive application of a law that affects a *fundamental right* (eg, voting) is subject to strict scrutiny—ie, the government must prove that the law is necessary to achieve a compelling government interest. But here, the amendment's retroactive application affects an *ordinary* right and is therefore subject to rational basis scrutiny.

(Choice C) A bill of attainder is a legislative act that punishes a *specified* person or group without a judicial trial. But since the amendment applies to *all* persons who purchase securities, it is not a bill of attainder. Additionally, the amendment seeks to increase the state's revenue—not punish individuals. .

Educational objective:

Laws that retroactively impair an ordinary right—eg, the right to claim a tax deduction—can be challenged on substantive due process grounds. Such laws are reviewed under rational basis scrutiny and generally are presumed valid.

Substantive due process

