A state law imposes a tax on all leases of real estate. The tax is calculated on gross rent and is imposed on the lessee at the beginning of each lease term.

May the state collect this tax on the lease of office space in the state by the United States Social Security Administration?

A. No, because such a tax on lessees is not rationally related to a legitimate government interest. (0%)

B. No, because the state may not directly tax any agency of the federal government. (72%)

C. Yes, because the Social Security Administration is an independent agency of the federal government. (1%)

D. Yes, because the tax is imposed on all leases of real estate and does not discriminate against the federal government. (25%)

Incorrect

Correct answer B

72%Answered correctly

01 min, 30 secsTime Spent

2023Version

Explanation:

Under the **supremacy clause**, the **federal government is immune** (ie, exempt) from any **direct taxation** by the **states**, including taxes on federally leased real estate. As a result, states may not impose taxes on the federal government—or any of its agencies or instrumentalities—without the express consent of Congress.

Here, the state law imposes a tax on all leases of real estate within the state. The Social Security Administration (a federal agency) leases an office space within the state. But since the state may not directly tax an agency of the federal government, the state cannot collect this tax from the Social Security Administration without congressional consent.

(Choice A) Under the Fourteenth Amendment due process clause, state laws that do not impact a fundamental right (as seen here) are subject to rational basis scrutiny. The state tax satisfies this standard since it is rationally related to the state's legitimate interest in collecting revenue from a lessee of property in the state. Nevertheless, the federal agency is not subject to this tax without congressional consent.

(Choice C) In the absence of congressional consent, *all* federal agencies are immune from direct state taxation. This includes independent federal agencies—ie, agencies that operate with some level of independence from the executive branch (eg, the Social Security Administration).

(Choice D) Although the tax does not discriminate against the federal government since it applies to *all* leases of real estate within the state, a state can never impose a direct tax on an agency of the federal government without congressional consent (as seen here).

Educational objective:

The federal government, its agencies, and its instrumentalities are immune from direct taxation by the states unless Congress expressly consents.

Federal immunity from state tax/regulation