

Louisiana Law Review

Volume 6 | Number 4

The Work of the Louisiana Supreme Court for the

1944-1945 Term

May 1946

Masthead

Repository Citation

Masthead, 6 La. L. Rev. (1946)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol6/iss4/1>

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LOUISIANA LAW REVIEW

LOUISIANA STATE UNIVERSITY LAW SCHOOL
UNIVERSITY STATION, BATON ROUGE, LOUISIANA

Subscription per volume \$4.00 (Foreign \$4.50)

Single Copy, \$1.00

VOLUME VI

MAY, 1946

NUMBER 4

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Comments

INCLUSION OF COMMUNITY PROPERTY IN GROSS ESTATE UNDER FEDERAL ESTATE TAXATION

In the decision of *Fernandez v. Wiener*¹ the United States Supreme Court upheld as constitutional Section 402(b)(2) of the 1942 revenue act, as applied to the estate of a Louisiana decedent. That act, amending Section 811(e) of the Internal Revenue Code, imposes an estate tax measured by the value of the entire community upon the death of one of the spouses.² While giving effect to an attempt on the part of Congress to alleviate an inequitable situation as far as the estate tax burden is con-

1. 66 S.Ct. 178, 90 L.Ed. 147 (U.S. 1945). See also the case of *United States v. Rompel*, 90 L.Ed. 163 (U.S. 1945), a case involving the application of Section 402(b)(2) of the 1942 revenue act [56 Stat. 798 (1942), 26 U.S.C.A. § 811(e) (Supp. 1944)] in Texas, decided by the Supreme Court at the same time and with the same result as the *Wiener* case.

2. 56 Stat. 798 (1942), 26 U.S.C.A. § 811(e) (Supp. 1944).