I. V. BINAMIRA, as
Co-Executor, Estate
of W.C. Ogan, deceased;
Sp. Proc. 423, C.F.I.
Bohol,
Petitioner,

-versus- May 2/68 C.T.A. CASE No. 1840

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

x - - - - - - - - - - - x

R E S O L U T I O N

This relates to respondent's motion to dismiss petitioner's amended petition for review of an assessment for estate and inheritance taxes on the testate estate of W. C. Ogan.

As gathered from the records, petitioner, as co-executor of the testate estate of W. C. Ogan, filed an estate and inheritance tax return for the estate. On the basis of the return, the estate and inheritance taxes amounted to ₱283,542.93 and ₱211,305.02, respectively, or a total of ₱494,847.95 (pp. 496-506 Vol. 2, B.I.R. Rec.). After investigation, respondent assessed against the estate the total amount of ₱338,548.86 as estate and inheritance taxes (pp. 672-674 Vol. 2, B.I.R. Rec.), which assessment was subsequently increased to ₱424,253.55, including 5% surcharge, interest and penalties (pp. 685-686 Vol. 2, B.I.R. Rec.). The executrix, Necitas

Ogan Occeña, paid the amount of ₱424,253.55 (p. 684 Vol. 2, B.I.R. Rec.). In consequence thereof, respondent issued to the executrix a certificate of discharge from personal liability in accordance with Section 97 of the Tax Code.

Dissatisfied with the revised assessment, the payment thereof and the issuance of the certificate of discharge, petitioner filed with this Court a petition for review which was later amended. Respondent has filed a motion to dismiss the amended petition for lack of jurisdiction.

Section 11 of Republic Act No. 1125 authorizes any person, association or corporation adversely affected by a decision or ruling of the Collector (now Commissioner) of Internal Revenue to appeal to this Court. A person adversely affected has been interpreted as referring to a person whose pecuniary interests are or may be prejudiced by the ruling, order or decision in a case involving a tax (see Hoeugh v. City of North Adams, 196 Mass. 290; 82 North Eastern Reporter 46). In the light of this jurisprudence, we believe that neither petitioner I. V. Binamira nor the estate is adversely affected by respondent's decision and, therefore, they are not among those authorized by law to appeal to the Court of Tax Appeals. The full payment of the revised assessment, which is less than the amount of the tax in Binamira's return, to the satisfaction of respondent, for which reason respondent declared that "This case x x x is now considered closed and terminated" does not adversely affect the pecuniary interest of petitioner and/or the estate of W. C. Ogan. On the contrary, the estate of which petitioner is a co-executor has benefited in the sense that it was required to pay less than what petitioner claims is the correct tax liability.

But while this Court finds no other alternative than to dismiss the case for lack of jurisdiction, as prayed for by respondent, parenthetically we are constrained to express surprise and apprehension as to the underlying motive of respondent in not giving due course to petitioner's plea for an upward revision of the assessment. This is a very peculiar case. A co-executor of the estate of the deceased insists that the estate and inheritance taxes due from the estate should be higher than the amounts actually assessed. The records do not show why respondent insists on a lower assessment.

WHEREFORE, respondent's motion to dismiss is hereby GRANTED, without pronouncement as to costs.

SO ORDERED.

Quezon City, May 2, 1968.

R M Umali
ROMAN M. UMALI
Presiding Judge

Ramon L Avanceña
RAMON L. AVANCEÑA
Associate Judge

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge