

# Commissioner of internal revenue v. duberstein

[Law](#), [Court](#)



## Commissioner of Internal Revenue v. Duberstein

363 US 278 (1960)

## ISSUE:

The issue in this case is whether or not an object given to a person, whom a prior business relationship had been established, is tantamount to a giving of a gift and should be excludable as income.

## RULE:

Whether a transaction between two parties, who despite being involved in many business relationships is considered a gift rests on the conclusion derived from a case-by-case basis and not from the rule of law.

The court held that the conclusion to whether the transaction is tantamount to a gift must be reached by considering all the factors involved in the transfer of such object from the other party.

## ANALYSIS:

The resolution of the aforementioned question rests on the facts presented at the case at bar; whether the circumstances show that the transfer of the object should be considered as a gift.

The Court, in this present case, followed the dissenting opinion in a previously decide case, Bogardus v. Commissioner. In Bogardus v. Commissioner's dissenting opinion, it was said that the intention of the transferor should be given the utmost consideration as whether the transfer was indeed a gift.

Further, the Court denied the government's suggestion that in cases where a business relationship is involved, a transfer cannot be considered as a gift. The Court argued that intention is a question of fact and is not a matter of law, hence cannot be subjected to the stipulations of the code.

Moreover, the Court explained that a gift must be given with " detached or disinterested generosity."

#### CONCLUSION:

Given the ruling and ratio of the Court, a case-by-case investigation must be done in order to conclude whether or not a transfer was considered as a gift. In the dispositive portion of the decision, the Court remanded the case to the District Court for further trial with rulings consistent to the opinion of the Court. Hence, this exemplifies that a transfer of an object should not be covered by a strict stipulation of the law.