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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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DRYE ET AL. v. UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 98–1101. Argued November 8, 1999— Decided December 7, 1999

In 1994, Irma Drye died intestate, leaving a \$233,000 estate in Pulaski County, Arkansas. Petitioner Rohn Drye, her son, was sole heir to the estate under Arkansas law. Drye was insolvent at the time of his mother's death and owed the Federal Government some \$325,000 on unpaid tax assessments. The Internal Revenue Service (IRS) had valid tax liens against all of Drye's "property and rights to property" pursuant to 26 U. S. C. §6321. Drye petitioned the Pulaski County Probate Court for appointment as administrator of his mother's estate and was so appointed. Several months after his mother's death, Drye resigned as administrator after filing in the Probate Court and county land records a written disclaimer of all interests in the estate. Under Arkansas law, such a disclaimer creates the legal fiction that the disclaimant predeceased the decedent; consequently, the disclaimant's share of the estate passes to the person next in line to receive that share. The disavowing heir's creditors, Arkansas law provides, may not reach property thus disclaimed. Here, Drye's disclaimer caused the estate to pass to his daughter, Theresa Drye, who succeeded her father as administrator and promptly established the Drye Family 1995 Trust (Trust). The Probate Court declared Drye's disclaimer valid and accordingly ordered final distribution of the estate to Theresa, who then used the estate's proceeds to fund the Trust, of which she and, during their lifetimes, her parents are the beneficiaries. Under the Trust's terms, distributions are at the discretion of the trustee, Drye's counsel, and may be made only for the health, maintenance, and support of the beneficiaries. The Trust is spendthrift, and under state law, its assets are therefore shielded from creditors seeking to satisfy the debts of the Trust's beneficiaries. After Drye revealed to the IRS his beneficial interest in the Trust, the

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IRS filed with the county a notice of federal tax lien against the Trust as Drye's nominee, served a notice of levy on accounts held in the Trust's name by an investment bank, and notified the Trust of the levy. The Trust filed a wrongful levy action against the United States in the United States District Court for the Eastern District of Arkansas. The Government counterclaimed against the Trust, the trustee, and the trust beneficiaries, seeking to reduce to judgment the tax assessments against Drye, confirm its right to seize the Trust's assets in collection of those debts, foreclose on its liens, and sell the Trust property. On cross-motions for summary judgment, the District Court ruled in the Government's favor. The Court of Appeals for the Eighth Circuit affirmed, reading this Court's precedents to convey that state law determines whether a given set of circumstances creates a right or interest, but federal law dictates whether that right or interest constitutes "property" or the "right to property" under §6321.

Held: Drye's disclaimer did not defeat the federal tax liens. The Internal Revenue Code's prescriptions are most sensibly read to look to state law for delineation of the taxpayer's rights or interests in the property the Government seeks to reach, but to leave to federal law the determination whether those rights or interests constitute "property" or "rights to property" under §6321. Once it has been determined that state law creates sufficient interests in the taxpayer to satisfy the requirements of the federal tax lien provision, state law is inoperative to prevent the attachment of the federal liens. *United States v. Bess*, 357 U. S. 51, 56–57. Pp. 5–11.

(a) To satisfy a tax deficiency, the Government may impose a lien on any "property" or "rights to property" belonging to the taxpayer. §§6321, 6331(a). When Congress so broadly uses the term "property," this Court recognizes that the Legislature aims to reach every species of right or interest protected by law and having an exchangeable value. *E.g.*, *Jewett v. Commissioner*, 455 U. S. 305, 309. Section 6334(a), which lists items exempt from levy, is corroborative. Section 6334(a)'s list is rendered exclusive by §6334(c), which provides that no other "property or rights to property shall be exempt." Inheritances or devises disclaimed under state law are not included in §6334(a)'s catalog of exempt property. See, *e.g.*, *Bess*, 357 U. S., at 57. The absence of any recognition of disclaimers in §§6321, 6322, 6331(a), and 6334(a) and (c), the relevant tax collection provisions, contrasts with §2518(a), which renders qualifying state-law disclaimers "with respect to any interest in property" effective for federal wealth-transfer tax purposes and for those purposes only. Although this Court's decisions in point have not been phrased so meticulously as to preclude the argument that state law is the proper guide to the

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critical determination whether Drye's interest constituted "property" or "rights to property" under §6321, the Court is satisfied that the Code and interpretive case law place under federal, not state, control the ultimate issue whether a taxpayer has a beneficial interest in any property subject to levy for unpaid federal taxes. Pp. 5–7.

(b) The question whether a state-law right constitutes "property" or "rights to property" under §6321 is a matter of federal law. *United States v. National Bank of Commerce*, 472 U. S. 713, 727. This Court looks initially to state law to determine what rights the taxpayer has in the property the Government seeks to reach, then to federal law to determine whether the taxpayer's state-delineated rights qualify as "property" or "rights to property" within the compass of the federal tax lien legislation. Cf. *Morgan v. Commissioner*, 309 U. S. 78, 80. Just as exempt status under state law does not bind the federal collector, *United States v. Mitchell*, 403 U. S. 190, 204, so federal tax law is not struck blind by a disclaimer, *United States v. Irvine*, 511 U. S. 224, 240. Pp. 7–9.

(c) The Eighth Circuit, with fidelity to the relevant Code provisions and this Court's case law, determined first what rights state law accorded Drye in his mother's estate. The Court of Appeals observed that under Arkansas law Drye had, at his mother's death, a valuable, transferable, legally protected right to the property at issue, and noted, for example, that a prospective heir may effectively assign his expectancy in an estate under Arkansas law, and the assignment will be enforced when the expectancy ripens into a present estate. Drye emphasizes his undoubted right under Arkansas law to disclaim the inheritance, a right that is indeed personal and not marketable. But Arkansas law primarily gave him a right of considerable value— the right either to inherit or to channel the inheritance to a close family member (the next lineal descendant). That right simply cannot be written off as a mere personal right to accept or reject a gift. In pressing the analogy to a rejected gift, Drye overlooks this crucial distinction. A donee who declines an *inter vivos* gift restores the status quo *ante*, leaving the donor to do with the gift what she will. The disclaiming heir or devisee, in contrast, does not restore the status quo, for the decedent cannot be revived. Thus the heir inevitably exercises dominion over the property. He determines who will receive the property— himself if he does not disclaim, a known other if he does. This power to channel the estate's assets warrants the conclusion that Drye held "property" or a "righ[t] to property" subject to the Government's liens under §6321. Pp. 9–11.

152 F. 3d 892, affirmed.

GINSBURG, J., delivered the opinion for a unanimous Court.