

**VIRGINIA AMOR, ROSABEL B. TIANGSON, GORGONIA GANARAN,  
CARMEN M. PADERNILIA, LYDIA A. MAGBANUA, SONIA C. DAYOT,  
GLORIA P. MALUNDO AND NIMFA A. RIEGO, PETITIONERS, VS.  
COMMISSIONER...**

*G.R. No. L-16137. April 29, 1961*

Ponente: BARRERA, J.

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**BARRERA, J.:**

This is an appeal taken by petitioners Virginia Amor, Rosabel Tiangson, Gorgonia Ganaran, Carmen Padernilia, Lydia Magbanua, Sonia Dayot, Gloria Malundo, and Nimfa Riego, from the decision of the Court of Tax Appeals (in C.T.A. Case No. 629) affirming the denial by respondent Commissioner of Internal Revenue of their claim for refund; pursuant to Section 182(C) (1) of the Tax Code, of occupation taxes for 1958 paid by them.

It appears that since January 1, 1958, petitioners have been employed as pharmacists and registered nurses at the Insular Lumber Company Hospital, at Fabrica, Negros, Occidental, with monthly salaries ranging from P120.00 to P190.00. Upon assessment by, and demand from respondent Commissioner, pursuant to Section 182(b) (2) of the Tax Code, they paid to him the sum of P50.00 each or a total of P400.00, as occupation taxes for 1958. Their claims for refund thereof, pursuant to Section 182(c) (1) of the Tax Code, having been denied by respondent Commissioner, they appealed to the Court of Tax Appeals on February 25, 1959, which court, on August 17, 1959, rendered a decision affirming said refusal by respondent Commissioner to refund the tax. Petitioners' motion for reconsideration of said decision having been denied by the court, they appealed to us.

Petitioners contend that in view of their meager salaries, they are exempt from payment of the occupation tax pursuant to the provision of Section 182(c) (1) of the Tax Code which reads:

"SEC. 182. Fixed taxes.—\* \* \* (C) Exceptions.—The following shall be exempt from the tax imposed in this section:

(1) Persons whose gross monthly sales or receipts do not exceed two hundred pesos."

In denying the refund, the trial court, Honorable Mariano Nable presiding, stated:

"\* \* \* It is suggested, on behalf of petitioners, that the term 'receipts' in the aforequoted codal provision includes salaries, and inasmuch as the gross monthly salaries of the petitioners did not exceed P200.00, they were exempt from the payment of fixed occupation tax in accordance with Section 182(C) (1) of the Tax Code. But, it is contrarily urged by the respondent that the exemption authorized by said section applies solely to persons engaged in business on which percentage tax is imposed, and those otherwise subject to the graduated annual fixed tax.

"It is to be observed that the terms 'sales' and 'receipts' found in Section 182(C) (1) are conjoined by the word 'or'. From the context of the statute, we gather that the word 'or' joins two different terms which signify one and the same idea. As used in the statute under consideration, these terms refer to receipts of persons who are

engaged in business. Nowhere in the said context can we find a justification for the suggestion advanced by petitioners that the term 'receipts' in Section 182(C) (1) of the Tax Code includes salaries. Such suggestion is a strained and stretched interpretation.

"The conclusion that the term 'receipts' appearing in Section 182 (C) (1) does not embrace salaries is buttressed by the fact that the whole Section 182, as amended by Republic Acts Nos. 1612 and 1856, is merely a composite of what were formerly Sections 182, 193, 201 and 202 of the Tax Code. The modifications effected by these two statutes consist mainly of increase in tax rates and the enlargement of subjects of taxation. Except for the word 'monthly', which is different from 'quarterly'; the phrase 'or receipts', a new addendum; and the amount 'two hundred', a reduction of the sum of four hundred-fifty, Section 182 (C) (1) is an incorporated copy of what formerly was Section 182(A) of the Tax Code. It must be noted that under what was formerly Section 182 (A) 'Persons whose gross quarterly sales do not exceed four hundred fifty pesos' were exempt from the tax imposed in this section. This section was captioned 'Fixed tax upon business'. Obviously, the legislative intention to exempt from the fixed tax only persons engaged in business remained the same. The addition of the term 'receipts' to the word 'sales' does not make any difference. The resulting phraseology 'sales or receipts', as embodied in Section 182(C) (1), should not be deemed a change of law, unless there is an evident intention on the part of the legislature to make such a change (See *Taylor, et al. vs. Bowker*, 111 U.S. 110, 114). In the instant case, we find no congressional intention to effect such a change, for the added term 'receipts' conveys the same meaning as 'sales'.

"Petitioners are not entitled to exemption from the payment of occupation tax on pharmacists and registered nurses, for the reason that their professional services were not devoted exclusively to a branch of the service of the Government of the Philippines or were applied under its direction, nor were same entirely devoted to a religious, educational, or charitable institution, or hospital, sanitarium or to a similar establishment, not conducted for private gain. (See Section 182 [C] [7] of the Tax Code.)

Finally, it is a well settled rule that exemptions from taxation are highly disfavored in law; and he who claims an exemption must be able to justify his claim by the clearest grant of organic or statute law. An exemption from a common burden cannot be permitted to exist upon vague implication. (*Asiatic Petroleum Co. vs. Elanes*, 49 Phil., 466; *House vs. Posadas*, 53 Phil., 338; *Philippine Telephone and Telegraph Co. vs. Collector of Internal Revenue*, 53 Phil., 639; *Collector of Internal Revenue vs. Manila Jockey Club*, 99 Phil., 289.) In the case at bar, petitioners have failed to justify their claims for exemption by the clearest grant of law."

Petitioners argue, on the other hand, that the addition of the term "or receipts" to the word "sales" when the law was amended clearly indicates that "salaries", included in the term "receipts", come within the exception which refers not only to the fixed tax on business under paragraph (A) of Section 182 of the Tax Code, but also to the occupation tax under paragraph (B) of the same section, especially taking into account that paragraph (C), Exception, reads "the following shall be exempt from the tax imposed in this section", which, it is argued, precisely contains both paragraphs (A) and (B).

The error in this argument is that it is predicated solely on paragraph (1) and disregards or overlooks the other paragraphs enumerating the exceptions under (C) of the Section in question which, in its entirety, reads:

"SEC. 182. \* \* \*

"(C) Exceptions.—The following shall be exempt from the tax imposed in this section:

"(1) Persons whose gross monthly sales or receipts do not exceed two hundred pesos.

(2) All persons in public market places, selling exclusively domestic meat, fruits, vegetables, game, poultry, fish and other similar domestic food products.

"(3) Peddlers and sellers at fixed stands and other similar selling-places engaged exclusively in the sale at retail

of domestic meal fruits, vegetables, game, poultry, fish, and similar domestic food products, whose total stock in trade on any one day does not reach a retail value of one hundred pesos.

"(4) Producers of commodities of all classes working in their own homes, consisting of parents and children living as one family, when the value of each day's production by each person capable of working is not in excess of five pesos.

"(5) Owners of animal drawn two wheeled vehicles.

"(6) Owners of bancas.

"(7) Persons employed in any branch of the service of the Government of the Philippines whose entire professional services are devoted exclusively thereto or are applied under its direction, or persons devoting their entire professional services to any religious, educational, or charitable institution, or hospital, sanitarium, or to any similar establishment, not conflicted for private gain, in respect to the tax imposed by paragraph (B) of this section."

As is evident from the language of the law, the exceptions detailed under Nos. (1) to (6) involve business of some kind or another, and, logically, are the ones applicable to fixed taxes on the different businesses described in paragraph (A). Note that not all the businesses described in paragraph (A) involve sales. In subparagraph (3) thereunder are described "Other fixed taxes" payable by manufacturers, producers, stockbrokers, real estate brokers, customs brokers, immigration brokers, owners of race tracks, film owners, lessors or distributors, business agents, among others, who do not "engage in sale transactions. It is for this reason that the word "receipts" has been added to the term "monthly sales" in the exception, in order to include the income or earnings of those mentioned in the subdivision "other fixed taxes" under the general paragraph "(A) On business".

On the other hand, the provision applicable to the occupation tax is No. (7) of the above-quoted section which, in express language, speaks of the exception "in respect to the tax imposed by paragraph (B) of this section".

It appearing that petitioners are not employed in any branch of the service of the Government or of any religious, educational, or charitable institution, or hospital, sanitarium, or any similar establishment not conducted for private gain, they are not exempt from the occupation tax herein involved and are, therefore, not entitled to the refund of the tax paid by them.

In the light of the foregoing, the decision of the Court of Tax Appeals appealed from is affirmed, with costs against the petitioners-appellants. So ordered.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes and Dizon, JJ., concur.

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