

**WALTER E. OLSEN &#038; CO., PLAINTIFF AND APPELLANT, VS.  
JAMES J. RAFFERTY, COLLECTOR OF INTERNAL REVENUE OF THE  
PHILIPPINE ISLANDS, DEFENDANT AND APPELLEE.**

*G.R. No. 12738. January 08, 1919*

Ponente: JOHNSON, J.

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**JOHNSON, J.:**

The facts in the present case have been stipulated (page 11, bill of exceptions).

The only question presented by this appeal, and by the admitted facts, is whether or not merchandise, which is generally subject to the payment of internal revenue tax, is relieved from said tax when it is sold to the Army or Navy of the United States resale to individuals by means of, or through, the post exchanges or ship's stores. The lower court answered that question in the negative. The plaintiff appealed. The law exempting certain merchandise from the payment of internal revenue and the conditions under which the exemptions may be claimed is found in section 55 of Act No. 2339. Said article among other things provides that "no specific tax shall be collected on any articles sold and delivered directly to the United States Army or Navy for actual use or issue by the Army or Navy, and any taxes which have been paid on articles so sold and delivered for such use or issue shall be refunded upon such sale and delivery, or upon the passage of this Act."

It will be noted that the merchandise in question, in order to be relieved from the payment of the internal revenue tax, must be "sold and delivered directly to the United States Army or Navy for actual use or issue by the Army or Navy." While "post exchanges" and "ship's stores" are institutions within the Army and Navy of the United States, and are recognized by Acts of Congress, and are under the control of the Army and Navy, and are organized for the convenience and assistance of the soldiers and sailors, we are not inclined to believe that goods sold to the soldiers and sailors of the Army and Navy, even though they be sold through said exchanges by the intervention of officers of the Army and Navy, are goods sold directly to the United States Army or Navy for actual use or issue by the Army or Navy. They are goods sold for the use and benefit of the post exchanges, etc., and not for the actual use or issue by the Army or Navy. We do not believe that the exemption provided for in the above-quoted section applies to goods sold to the United States Army and Navy to be resold to the individuals of said organization. The money used for the purchase of merchandise sold through the post exchanges, etc., is not supplied by, nor for, the United States Army and Navy. Neither does the money received in the resale of such merchandise through the post-exchanges, etc., become a part of the general funds of the Army and Navy. In our opinion, the sale of merchandise through the post exchanges to the individuals of the United States Army and Navy are not goods sold and delivered directly to the United States Army or Navy for the actual use or issue by the Army or Navy and are therefore, not exempt from the payment of the internal revenue tax imposed by the law. Without a further discussion of the law, nor the citation of authorities, we are of the opinion that the judgment appealed from should be, and is hereby, affirmed, with costs. So ordered.

Torres, Araullo, Street, and Malcolm, JJ., concur.

Judgment affirmed.

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