REPUBLIC OF THE PHILIPPINES
Court Of Tax Appeals
QUEZON CITY

SECOND DIVISION

ST. LUKE'S MEDICAL CENTER, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6993

Members:

CASTAÑEDA, JR., Chairperson
UY, and
PALANCA-ENRIQUEZ, JJ.

Promulgated:

NOV 2 1 2008

3:50 p.m.

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DECISION

PALANCA-ENRIQUEZ, J.:

THE CASE

This is a Petition for Review filed by St. Luke's Medical Center (hereafter "petitioner"), which seeks the cancellation and withdrawal of the deficiency income tax assessments for taxable years 2000, 2001, and 2002, issued against petitioner.

THE PARTIES

Petitioner is a non-stock, non-profit corporation duly organized and existing under Philippine laws, with address at 279 E. Rodriquez Sr. Blvd., Cathedral Heights, Quezon City.

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue vested with authority to exercise the functions of said office, including *inter alia*, the power to abate or cancel a tax liability when the tax or any portion thereof appears to be unjustly or excessively assessed, with office address at the BIR National Office Building, Diliman, Quezon City.

THE FACTS

In their "Joint Stipulation of Facts and Issues", the parties stipulated as follows:

> "3. On September 30, 2003, Petitioner received from Respondent's Large Taxpayer's Service Audit Results/Assessment Notice No. QA-03-000360 with Assessment Notice Attachment for deficiency income tax for the year 2000 amounting to P64,090,013.29, Audit Results/Assessment Notice No. QA-03-000361 with Assessment Notice Attachment for deficiency income tax for the year 2001 amounting to P79,669,292.99, and Audit Results/Assessment Notice No. QA-03-000362 with Assessment Notice Attachment for deficiency income tax for the year 2002 amounting to P74,339,181.74, or a total deficiency income tax assessment amounting to **P218,098,488.02** for the taxable years 2000, 2001 and 2002;

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4. On October 29, 2003, Petitioner filed an administrative protest against the above-mentioned deficiency tax assessment praying for its cancellation. The administrative protest was filed with Respondent within thirty (30) days from receipt of the Formal Assessment, in accordance with Section 228 of the Tax Reform Act of 1997 (NIRC for brevity);

5. Respondent did not act upon Petitioner's protest within the prescribed period of one hundred eighty (180) days, which lapsed on April 28, 2004, in accordance with Section 228 of the NIRC. Hence, the instant Petition for Review, lest it be barred by the statute of limitations, in compliance with Section 228 of the NIRC;

6. Petitioner is a non-stock, non-profit corporation and registered as such with the Bureau of Internal Revenue (BIR) as a value-added taxpayer and was issued TIN/VAT No. 000-684-591;

7. Respondent issued a tax assessment against Petitioner covering the taxable years 2000, 2001 and 2002 for deficiency income tax amounting to a total of P218,098,488.02;

8. The Respondent's main argument in assessing Petitioner for deficiency income tax was his findings that Petitioner is allegedly not operated purely for charitable and social welfare purposes. Respondent alleged that (i) Petitioner's operations indicate that it is established for profit and not solely for charitable or social welfare purposes as only 13% of its operations for 1998 were allocated to charitable purposes, and (ii) Petitioner's board of trustees, officers and employees directly benefit from its profits and assets;

9. The amount of alleged deficiency income tax for taxable year 2000 was computed by Respondent in the following manner:

Total Gross Income		P2,090,136,387.00	
	Less: Deductions	P1,720,754,350.00	
Taxable Income			P369,382,037.00
Tax Rate: 10%			36,938,203.70
	Surcharge		P9,234,550.93
	Compromise		P25,000.00
	Interest (844 days)		P17,892,258.67
Total Amount			**P64,090,013.29**

10. The amount of alleged deficiency income tax for taxable year 2001 was computed by Respondent in the following manner:

Gross Income		P2,441,921,389.00	
	Less: Deductions	P1,922,857,610.00	
Taxable Income			P519,063,779.00
Deficiency Tax (10%)			P51,906,377.90
	Surcharge 25%		P12,976,594.48
	Compromise		P25,000.00
	Interest (519 days)		P14,761,320.62
Total Amount			**P79,669,292.99**

11. The amount of alleged deficiency income tax for taxable year 2002 was computed by Respondent in the following manner:

Gross Income		P791,959,363.00	
	Less: Deductions	P235,041,668.00	
Taxable Income			P556,917,695.00
Deficiency Tax (10%)			P55,691,769.50
	Surcharge 25%		P3,922,942.38
	Compromise		P25,000.00
	Interest (154 days)		P4,699,469.86
Total Amount			**P74,339,181.74**

12. Petitioner was assessed deficiency income taxes;

13. Section 30 of the NIRC states that:

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> 'SEC. 30. Exemptions from Tax on Corporations. – The following organizations shall not be taxed under this Title in respect to income received by them as such:
>
> x x x;
>
> (E) Non-stock corporation or association organized and operated exclusively for religious, charitable, scientific, . . . purposes, . . . no part of its net income or assets shall belong to or inure to the benefit of any member, organizer, officer or any specific person;
>
> x x x;
>
> (G) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare.
>
> x x x.'

14. The Respondent issued a letter of exemption dated June 9, 1990, which was issued in 1990;

15. Section 30 of the NIRC states, in part, that:

> 'Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code.'

16. Section 30 of the Income Tax Regulations, implementing this provision in the NIRC, explained 'income of whatever kind and character . . . from any of their properties, real or personal' to mean:

> 'The income of such corporation which is considered as income from their properties, real or personal, generally consists of income from corporate dividends, rentals received from their properties, interests received from capital loaned to other persons, income from agricultural lands owned by such

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> corporations, profits from sale of property, real or personal, and other similar income.
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> Income not derived from their properties, real or personal, are exempt.'

17. Section 30 (E) of the NIRC, exempts from income tax 'Nonstock corporations or associations organized and operated exclusively for x x x charitable x x x purposes, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person.'

The meaning of 'no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person, 'is explained in Section 30 of the Income Tax Regulations, implementing Section 30 (E) of the NIRC:

> 'It does not prevent exemption that private individuals, for whose benefit a charity is organized, receive the income of the corporation or association. The law refers to individuals having a personal and private interest in the activities of the corporation such as stockholders x x x.'

18. Under Section 27 (B) of the Tax Code, Hospitals that are non-profit are subject to 10% income tax;

19. The existence of the following cases:

a. Commissioner vs. Bishop Missionary District of the Philippine Islands (14 SCRA 991)
b. Manila Sanitarium and Hospital vs. Gabuco (7 SCRA 14)
c. Hospital de San Juan de Dios, Inc. vs. Pasay City (16 SCRA 226)
d. Jesus Sacred Heart College vs. Collector of Internal Revenue (95 Phil. 16)

20. The Respondent's issuance of the following rulings:

a. DA-014-1-10-97
b. DA-231-98 dated June 10, 1998
c. DA-006-02 dated January 17, 2002

21. Respondent imposed a 25% surcharge on Petitioner based on Sec. 248 (A) of the NIRC, which provides, in part:

> 'There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:
>
> (1) Failure to file any return and pay the tax due thereon as required under the provisions of this Code or rules and regulations on the date prescribed x x x"

In his "Answer" filed on December 1, 2000, respondent, by way of special and affirmative defenses, averred that: petitioner is subject to 10% income tax, pursuant to *Section 27 (B) of the Tax Code*; petitioner's reliance on *Section 30 (E) and (G) of the Tax Code* is misplaced; it is a basic rule in statutory construction that the specific provision prevails over the general provision; the enactment of *Section 27 (B) of the 1997 Tax Code*, which took effect on January 1, 1998, repealed the 1990 ruling invoked by petitioner; and the payment of surcharge is mandatory.

Petitioner presented Christina Hagod, Ellen R. Gawigawen, Rt. Rev. Manuel C. Lumpias, Alonzo Q. Ancheta, and Romeo B. Mary, as witnesses, and documentary evidence, marked as *Exhibits "A"* to *"II"*, inclusive of their submarkings, which were all admitted by the Court in a Resolution dated September 27, 2006, after petitioner filed a "Motion for Reconsideration" of the Resolution dated July 20, 2006.

On the other hand, respondent presented Revenue Officers, Grace G. Marohomsalic, and Marilou S. Valles, as witnesses, and documentary evidence, marked as *Exhibits "1"* and *"1-A"*, which were all admitted by this Court in a Resolution dated August 31, 2007.

Thereafter, both parties were ordered to file their simultaneous memoranda, within thirty (30) days from notice, afterwhich, the case shall be deemed submitted for decision.

Both parties having filed their respective memorandum, the case was deemed submitted for decision.

ISSUES

As stipulated upon by the parties, the following are the issues for this Court's consideration:

I

WHETHER PETITIONER IS A NON-STOCK, NON-PROFIT CORPORATION ORGANIZED FOR CHARITABLE AND SOCIAL WELFARE PURPOSES UNDER SECTION 30(E) AND (G) OF THE NIRC.

II

WHETHER PETITIONER IS EXEMPT FROM INCOME TAX ON NET INCOME EARNED AS A NON-STOCK, NON-PROFIT CORPORATION ORGANIZED FOR CHARITABLE AND SOCIAL WELFARE PURPOSES.

III

WHETHER PETITIONER AS A NON-PROFIT HOSPITAL IS SUBJECT TO 10% INCOME TAX UNDER SECTION 248(A) OF THE NIRC.

IV

WHETHER PETITIONER IS LIABLE FOR COMPROMISE PENALTIES FOR ALLEGED NON-COMPLIANCE WITH SECTION 248 (A) OF THE NIRC AS AMENDED BY REPUBLIC ACT NO. 8424.

Petitioner St. Luke's Arguments

Petitioner is a non-stock, non-profit institution organized for charitable and social welfare purposes, under *Section 30 (E) and (G) of the NIRC*; well-settled that the making of profit does not destroy the tax exemption of a charitable and social welfare institution; substantial portion of petitioner's transaction is attributable to the pursuit of charitable and social welfare activities; no part of the net income and/or net assets of petitioner inures to the benefit of any trustee, officer or employee; petitioner was assessed of alleged income tax for taxable years 2000, 2001, and 2002, without any factual or legal basis; income received

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by petitioner from operating a hospital and clinic are not taxable as income from "activities conducted for profit"; the alleged deficiency income tax assessment is based on erroneous gross income; respondent erroneously concluded that petitioner is a non-profit hospital under *Section 27 (B) of the NIRC*; and respondent erroneously imposed 25% surcharge on petitioner based on *Section 248 of the NIRC*. Petitioner is not required to file quarterly income tax returns because it is a charitable and social welfare institution.

Respondent Commissioner of Internal Revenue's Counter-Arguments

Respondent counters that petitioner, as a non-profit hospital, is subject to 10% income tax under *Section 27 (B) of the NIRC of 1997*; *Section 27* is a new provision intended to amend the exemption on non-profit hospitals that were previously categorized as non-stock, non-profit corporations under *Section 26 of the NIRC of 1977, as amended*; *Section 27* is a specific provision, which should prevail over *Section 30 (E) and (G) of the NIRC of 1997, as amended*; the payment of surcharge is mandatory; and compromise penalties were imposed for failure of the taxpayer to file the quarterly income tax returns.

THE COURT'S RULING

The petition is partly meritorious.

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The issues in the instant case ultimately boil down to the principal issue of whether petitioner is subject to income taxes under *Section 27 (B) of the NIRC of 1997, as amended*, for taxable years 2000, 2001 and 2002, or exempt from income taxes under *Section 30 (E) and (G) of the NIRC of 1997, as amended,* on income received by petitioner from its operation as a hospital.

Section 27 (B) of the NIRC of 1997, as amended, provides:

> "SEC. 27. – Rates of Income Tax on Domestic Corporations. –
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> xxx xxx
>
> (B) Proprietary Educational Institutions and Hospitals. – Proprietary educational institutions and hospitals which are nonprofit shall pay a tax of ten percent (10%) on their taxable income except those covered by Subsection (D) hereof: Provided, That if the gross income from unrelated trade, business or other activity exceeds fifty percent (50%) of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed in Subsection (A) hereof shall be imposed on the entire taxable income. For purposes of this Subsection, the term 'unrelated trade, business or other activity' means any trade, business or other activity, the conduct of which is not substantially related to the exercise or performance by such educational institution or hospital of its primary purpose or function. A 'proprietary educational institution' is any private school maintained and administered by private individuals or groups with an issued permit to operate from the Department of Education, Culture and Sports (DECS), or the Commission on Higher Education (CHED), or the Technical Education and Skills Development Authority

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> (TESDA), as the case may be, in accordance with existing laws and regulations."

Pursuant to *Section 27 (B)*, hospitals which are non-profit shall pay a tax of ten percent (10%) on their taxable income, provided, their gross income from unrelated trade, business or other activity does not exceed fifty percent (50%) of their total gross income from all sources. To fall within the ambit of *Section 27 (B)*, the hospital must be: (1) non profit; and (2) its gross income from unrelated trade, business or other activity must not exceed 50% of their total gross income from all sources.

Applying by analogy *Section 1.4 of Department Order No. 147-87* on educational institution, a "non-profit" hospital is one where no part of its income inures directly or indirectly to any individual or member.

On the other hand, *Section 30 of the NIRC of 1997, as amended*, provides:

> "SEC. 30. Exemption from Tax on Corporations. – The following organizations shall not be taxed under this Title in respect to income received by them as such:
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> xxx xxx.
>
> (E) Nonstock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;

> xxx xxx.
>
> (G) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare.
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> xxx xxx."

Pursuant to the foregoing provision, a non-stock corporation operated exclusively for charitable purpose no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person, shall not be taxed under *Title II of the NIRC of 1997, as amended,* with respect to income received by them as such. In other words, in order that a corporation will be exempt from income tax on income received by them as such, under the above *Section 30*, it must be a (1) non-stock corporation; (2) operated exclusively for charitable purpose; and (3) no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person.

The difference between *Sections 27 (B) and 30 (E) of the NIRC of 1997, as amended*, is clear. To fall under *Section 27 (B),* the hospital must be a non-profit corporation or association. However, unlike *Section 30 (E)*, *Section 27 (B)* does not require that the hospital must be a non-stock corporation. This distinction is important considering that *Section 3*

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of the Corporation Code defines a stock corporation as one whose capital stock is divided into shares and authorized to distribute to the holders of such shares dividends *(Manila International Airport Authority vs. Court of Appeals, 495 SCRA 616)*. Whereas, non-stock corporations do not issue stock and distribute dividends to their members; they are created not for profit but for the public good and welfare. Of this character are most of the charitable, religious, social, literally, scientific, civic, and political organizations and societies *(De Leon, The Corporation Code of the Philippines Annotated, 2002 ed., p. 49)*.

Since *Section 27 (B) of the NIRC of 1997, as amended,* expressly provides that "proprietary educational institutions and hospitals which are non-profit shall pay a tax of ten percent (10%) on their taxable income", it necessarily follows that when a hospital is non-stock, non-profit, and operated exclusively for charitable purpose, it falls within the purview of *Section 30 (E) of the NIRC of 1997, as amended,* and not under *Section 27 (B) of the same Code*.

This intention of the legislature to exempt 'non-stock, non-profit corporations/associations operated exclusively for charitable purpose' is evident, when the legislature incorporated the word "Non-stock" before the phrase "corporation or association organized and operated exclusively

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for religious, charitable, scientific, athletic, or cultural purposes xxx" of the former *Section 26 of the NIRC of 1977, as amended*, in the present *Section 30 (E) of the NIRC of 1997, as amended.* For expediency, *Section 26 (e) of the NIRC of 1977, as amended*, and *Section 30 (E) of the NIRC of 1997, as amended*, are quoted hereunder:

Section 26 (e) of the NIRC of 1977, as amended	***Section 30 (E) of the NIRC of 1997, as amended***
"SEC. 26. Exemptions from tax on corporations. – The following organizations shall not be taxed under this Title in respect to income received by them as such – xxx xxx (e) Corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of the net income of which inures to the benefit of any private stockholder or individual."	"SEC. 30. Exemption from Tax on Corporations. – The following organizations shall not be taxed under this Title in respect to income received by them as such: xxx xxx (E) Nonstock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;

Prescinding from the foregoing, it is clear that non-stock, non-profit hospitals operated exclusively for charitable purpose are exempt from income tax on income received by them as such, applying the provision of *Section 30 (E) of the NIRC of 1997, as amended.* This construction is in accord with the settled rule in statutory construction that no one provision of the statute is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument. Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the statute and one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together *(Francisco, Jr. vs. Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, 415 SCRA 128).*

Thus, respondent's contention that *Section 27 (E) of the NIRC of 1997, as amended*, is a specific provision intended to amend the exemption on non-profit hospitals that were previously categorized as non-stock, non-profit corporations under *Section 26 (e) of the NIRC of 1977, as amended,* now (*Section 30 (E) and (G) of the NIRC of 1997, as amended*), is devoid of merit.

Having discussed the distinctions between *Sections 27 (B) and 30 (E) of the NIRC of 1997, as amended*, We now determine in the light of the foregoing discussions, whether petitioner is a non-stock, non-profit corporation, operated exclusively for charitable purpose.

Petitioner is a Non-Stock Corporation

Records show that petitioner is a non-stock corporation. It has no capital stock divided into shares. In its Statements of Assets, Liabilities and Fund Balances *(Exhibits "D-1", "E-1", and "F-1")*, the capital account of petitioner is composed of General Funds and Restricted Funds, not capital stocks, that are divided into shares. The fact that petitioner is a non-stock corporation is acknowledged and admitted by no less than the respondent Commissioner himself, when he issued a Letter dated June 6, 1990, recognizing petitioner as a non-stock, non-profit corporation *(Exhibit "II")*. From the rendition of said BIR ruling up to the present, petitioner has not changed its corporate structure as a non-stock corporation.

Petitioner is a Non-Profit Corporation

As heretofore discussed, a non-profit corporation is one where no part of its income inures directly or indirectly to any individual or member. Examination of the record reveals that petitioner is a non-profit corporation. Petitioner's witnesses, Rt. Rev. Manuel Lumpias and Atty. Alonzo Ancheta, on direct examination, both testified that as members of the board of trustees, they, as well as all the other trustees, have not directly and indirectly benefited from petitioner's assets and income *(Exhibits "DD" to "DD-1" and "FF" and "FF-1").* Also, they have not received any salary, compensation, per diem, allowance or other form of remuneration, by virtue of their memberships in the board *(Exhibits "DD" to "DD-1" and "FF" and "FF-1").* Likewise, there is no evidence on record that will show that other persons, natural or juridical, other than the beneficiaries of petitioner's charitable activities, have benefited directly or indirectly from petitioner's assets or income.

Said testimonies of petitioner's witnesses were not refuted by the respondent. Respondent waived her right to cross examine petitioner's witness, Rt. Rev. Lumpias, despite the opportunity given to her *(TSN, June 15, 2005, p. 10).* Moreover, on cross-examination of petitioner's witness, Atty. Alonzo Ancheta, it was even stressed that as trustee of petitioner, he did not receive anything from petitioner for his services rendered. That being a member of the board of trustees of the petitioner is a labor of love and pure voluntarism *(TSN, October 5, 2005, pp. 11-12).*

Indeed, in assessing petitioner for deficiency income taxes for the years 2000 to 2002, respondent failed to establish that petitioner is a profit oriented corporation. Respondent's witness, Revenue Officer

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Grace Marohomsalic, on cross examination, testified that there was no actual and physical examination of the books of accounts of the petitioner, in connection with the assessment of the instant deficiency taxes and that petitioner was assessed on the basis solely of its returns *(TSN, November 15, 2006, pp. 16-17)*. Likewise, on cross examination, respondent's second witness, Marilou Valles, admitted that she did not examine the books of petitioner, prior to sending of the Notices of Assessment since she was not in a position to do so *(TSN, June 27, 2007, p. 10)*. It is a fundamental law in taxation that in order to stand the test of judicial scrutiny, the assessment must be based on actual facts *(Commissioner of Internal Revenue vs. Island Garment Manufacturing Corporation, 153 SCRA 677)*.

Moreover, tax laws are civil in nature *(Aban, Law of Basic Taxation in the Philippines, Rev. Ed., p. 143)*. In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence *(Sec. 1, Rule 133, Rules of Court; Umpoc vs. Mercado, 449 SCRA 238)*. "Preponderance of evidence" means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other *(Habagat Grill vs. DMC-Urban Property Developer, Inc., 454 SCRA 664-665)*. Oal

Considering that in the instant case, petitioner has sufficiently established by preponderance of evidence that no part of its net income and assets inure directly or indirectly to the benefit of any other person, and considering that respondent failed to establish that petitioner is not a non-profit corporation, We uphold respondent's prior findings that petitioner is a non-profit corporation *(Exhibit "II")*.

Petitioner is a Corporation Operated Exclusively for Charitable Purpose

The issue of whether petitioner is a charitable corporation has already been settled by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Bishop of the Missionary District of the Philippine Islands of the Protestant Episcopal Church in the U.S.A., 14 SCRA 996*, as follows:

> "Again, it should be enough to point out that the admission of pay patients does not detract from the charitable character of a hospital, if, as in the case of St. Luke's Hospital, its funds are devoted exclusively to the Maintenance of the institution (Cf., e.g., Herrera v. Quezon City Board of Assessment Appeals, G.R. No. 15270, September 30, 1961). The Secretary of Finance cannot limit or otherwise qualify the enjoyment of this exemption granted under Republic Act No. 1916 in implementing the law".

From the foregoing, it is clear that the Supreme Court recognizes the charitable character of petitioner. That petitioner's admission of pay patient will not detract its charitable character, when its funds are devoted exclusively to the maintenance of the hospital.

Furthermore, a careful scrutiny of the record shows that petitioner is a charitable and social welfare institution, as clearly provided in its Articles of Incorporation, to wit:

> "(a) To establish, equip, operate and maintain a non-stock, non-profit Christian, benevolent, charitable and scientific hospital which shall give curative, rehabilitative and spiritual care to sick, diseased and disabled persons; provided that purely medical and surgical services shall be performed by duly licensed physicians and surgeons who may be freely and individually contracted by the patients;
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> (b) To provide a center of health science education and provide medical services to the community through organized clinics in such specialties as the facilities and resources of the corporation may make possible;
>
> (c) To carry on educational activities related to the maintenance and promotion of health as well as provide facilities for scientific and medical researches which, in the opinion of the Board of Trustees, may be justified by the facilities, personnel, funds, or other requirements that are available;
>
> (d) To cooperate with organized medical societies, agencies of both government and private sector; establish rules and regulations consistent with the highest professional ethics;
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> xxx xxx."

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Also, the Department of Social Welfare and Development ("DSWD") recognizes petitioner as a charitable institution, being a partner of the DSWD in carrying out its charitable and social welfare program for indigent individuals *(Exhibit "J", TSN, Dec. 8, 2004, p. 14)*. Petitioner is also a member of the National Council of Social Development Foundation of the Philippines, Inc. ("NCSDFP") *(Exhibit "I")*, which means that petitioner is a charitable institution, organized for social welfare development, since said requisites are conditions for membership in the NCSDFP *(TSN, Dec. 8, 2004, pp. 14-15)*.

Pursuant to the purpose embodied in its Articles of Incorporation, as a benevolent, charitable hospital, record shows that petitioner extended medical assistance to various government entities, government and community hospitals, Episcopal churches and other charitable organizations *(Exhibits "M" to "BB")*.

Petitioner's witness, Christina Hagod, on direct examination, also testified that petitioner has a Medical Social Department, which provides assistance to under-privileged individuals needing medical treatment, but do not have the resources to do so *(TSN, Dec. 8, 2004, pp. 9-10)*, whose fund is derived from the revenue of the hospital *(TSN, Dec. 8, 2004, pp. 40-41)*. Said medical social services of petitioner are performed in the hospital,

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categorized into Out Patient or the Ambulatory Section and In-Patient Department for patients admitted for confinement; and outside the hospital, in the form of medical missions and home visits *(TSN, Dec. 8, 2004, pp. 26-38)*. She further testified that patients under the social service program are treated the same, as those of the paying patients *(TSN, Dec. 8, 2004, p. 40)*. Record shows that respondent failed to refute said testimonies of petitioner's witness since respondent waived her right to cross examine the witness, despite the opportunity given *(TSN, Dec. 8, 2004, p. 53)*.

On the basis of the foregoing, it is clear that petitioner is a charitable institution.

Considering that petitioner is a non-stock, non-profit hospital, operated exclusively for charitable purpose, its income derived from operating the hospital is, therefore, exempt from income tax, pursuant to *Section 30 of the NIRC of 1997, as amended.* However, the income of whatever kind and character from any of its properties, real or personal, or from any of its activities conducted for profit, regardless of the disposition made of such income, is subject to tax imposed by the NIRC *(Section 30, last par, NIRC of 1997, as amended)*.

A perusal of the Annual Income Tax Returns filed by petitioner for taxable years 2000, 2001 and 2002 *(Exhibits "D", "E", and "F")* and the accompanying audited Statements of Revenues and Expenses *(Exhibits "D-1", "E-1" and "F-1")*, shows that the following were received by petitioner as income from operating the hospital:

	2000	2001	2002
Gross Income from Operations	P2,088,855,136.00	P2,391,651,475.00	P740,831,549,00
Less: Deductions	1,720,754,350.00	1,922,857,610.00	235,041,668.00
Net Income from Operations	**368,100,786.00**	**468,793,847.00**	**505,789,881.00**

the above net income from operations are, therefore, exempt from income tax.

As to Petitioner's Other Income

However, as regards the other income of petitioner for the year 2000, P1,281,251.00; for year 2001, P50,269,932.00; and for year 2002, P51,127,814.00, a perusal of the Income Tax Returns of petitioner *(Exhibits "D" to "F")* shows that it derived said income from non-operating activity of the hospital for said year. Pursuant to the concluding paragraph of *Section 30 of the NIRC of 1997, as amended*, We will now determine the taxability of said income of petitioner from non-operating activity.

As to petitioner's other income for the year 2000 in the amount of P1,281,251.00, a perusal of the evidence on record shows that petitioner did not provide the breakdown of said amount. Thus, there is no way for

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the Court to determine the nature of said income. Since under *Section 30 of the NIRC of 1997, as amended*, the exemption granted to non-stock, non-profit charitable institution is limited only to income derived by such institution from its charitable activity and considering further that under Section *32 of the NIRC of 1997, as amended*, gross income includes all income derived from whatever source, the Court has no alternative but to subject said income of petitioner from non-operating activity to corporate income tax.

As to petitioner's other income for the year 2001 in the amount of P50,269,932.00, a perusal of petitioner's Income Tax Return for taxable year 2001 *(Exhibit "E")* shows that it did not disclose the breakdown and description of said amount. The only description of the amount of P50,269,932.00 is contained in petitioner's Statements of Revenues and Expenses *(Exhibit "E-1")*, which provides: "mainly interest". However, other than said vague description, there are no other documentary evidence submitted by petitioner that will prove the nature of the amount of P50,269,932.00. It is too settled a rule in this jurisdiction, as to dispense with the need for citations, that laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power, as taxation is the rule and exemption is the

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exception *(Commissioner of Internal Revenue vs. Mitsubishi Metal Corporation, 181 SCRA 223-224).* Since petitioner failed to prove that the amount of P50,269,932.00 should be exempted from income taxation, the Court is likewise constrained to subject said income to income tax, pursuant to the last paragraph of *Section 30 of the NIRC of 1997, as amended*, in relation to *Section 32 of the same Code.*

As regards petitioner's other income for the year 2002 in the amount of P51,127,814.00, a perusal of petitioner's Statements of Revenues and Expenses for the year ended December 2002 *(Exhibit "F-1")* shows that said other income consists of the following:

Other Income – Net		Amount
	Interest income – net	P23,499,480.00
	Foreign exchange gain (loss) – net	16,731,724.00
	Income from trust funds (Note 4)	9,198,012.00
	Others – net	1,698,598.00
Total		P51,127,814.00

Pursuant to the above details of other income, the amount of P9,198,012.00 was derived from petitioner's income from trust fund, invested by petitioner in government securities, common trust funds and mutual funds to be used to finance the construction of petitioner's another hospital in Fort Bonifacio *(Note 4, Statements of Revenues and Expenses, Exhibit "F-1").* Considering that the trust fund was allotted to finance the construction of petitioner's other hospital in Fort Bonifacio, the income

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derived therefrom in the amount of P9,198,012.00, is in furtherance of the purpose for which petitioner was incorporated. It cannot be considered an activity conducted for profit. Accordingly, the amount of P9,198,012.00 is hereby excluded from the computation of petitioner's income subject to corporate income tax.

However, with respect to the other income derived from interest income in the amount of P23,499,480.00, petitioner failed to provide the nature of said amount. There is, therefore, no way for the Court to determine whether the same should be included or excluded from petitioner's gross income subject to corporate income tax. Since taxation is the rule and tax exemption is the exception, the Court likewise subjects the amount of P23,499,480.00 to corporate income tax.

Finally, as to the other income derived from foreign exchange gain in the amount of P16,731,724.00 and others – net in the amount of P1,698,598.00, petitioner also failed to prove that said amounts are not subject to corporate income tax. This Court, likewise, subjects them to corporate income tax, pursuant to the last paragraph of *Section 30 of the NIRC of 1997, as amended.*

In sum, petitioner's tax liabilities are hereby computed, as follows:

	2000	**2001**	**2002**	**Total**
Non-operating & Other Income-				

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net	P1,281,251.00	P50,269,932.00	P41,929,802.00	
Tax rate: 32%	32%	32%	32%	
Tax due	P410,000.32	P16,086,378.24	P13,417,536.64	
Surcharge (Sec. 248, NIRC) 25%	P102,500.08	P4,021,594.56	P3,354,384.16	
Deficiency interest (Sec. 249, NIRC) 20%	P199,496.05	P4,609,959.35	P1,161,627.83	
Total Tax Due	**P711,996.45**	**P24,717,932.15**	**P17,933,548.63**	**P43,363,477.23**

WHEREFORE, premises considered, the present Petition For Review is **PARTIALLY GRANTED**. Petitioner St. Luke's Medical Center, In. is hereby **ORDERED** to pay only the amounts of SEVEN HUNDRED ELEVEN THOUSAND NINE HUNDRED NINETY SIX AND 45/100 PESOS (P711,996.45) for deficiency income tax for taxable year 2000, TWENTY FOUR MILLION SEVEN HUNDRED SEVENTEEN NINE HUNDRED THIRTY TWO AND 15/100 PESOS (P24,717,932.15) for deficiency income tax for taxable year 2001, and SEVENTEEN MILLION NINE HUNDRED THIRTY THREE THOUSAND FIVE HUNDRED FORTY EIGHT AND 63/100 PESOS (P17,933,548.63) for deficiency income tax for taxable year 2002; or the total amount of FORTY THREE MILLION THREE HUNDRED SIXTY THREE THOUSAND FOUR HUNDRED SEVENTY SEVEN AND 23/100 (**P43,363,477.23**).

In addition, petitioner is hereby **ORDERED** to pay respondent 20% delinquency interest per annum on the total amount of

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P43,363,477.23 counted from October 30, 2003 until full payment thereof, pursuant to *Section 249(C) of the NIRC of 1997, as amended.*

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice

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