REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AMADO SANTIAGO, JR.,
Petitioner,

- versus - C.T.A. CASE NO. 3220

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - x

CARMEN BAUTISTA,
Petitioner,

- versus - C.T.A. CASE NO. 3245

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - x

AMADO BAGATSING,
Petitioner,

- versus - C.T.A. CASE NO. 3246

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - x

8/30/90

LUIS BERNASCONI,
Petitioner,

- versus - C.T.A. CASE NO. 3247

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - x

LUIS TIRSO REVILLA,
Petitioner,

- versus - C.T.A. CASE NO. 3248

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - x

MODESTO RUBIO,
Petitioner,

- versus - C.T.A. CASE NO. 3249

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ALFONSO BORJA,
Petitioner,

- versus - C.T.A. CASE NO. 3250

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

GRETCHEN COJUANGCO,
Petitioner,

- versus - C.T.A. CASE NO. 3251

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

AVELINO J. ANTONIO,
Petitioner,

- versus - C.T.A. CASE NO. 3252

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ADELAIDA REYES,
Petitioner,

- versus - C.T.A. CASE NO. 3253

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

BERNARDINO REYES,
Petitioner,

- versus - C.T.A. CASE NO. 3254

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

MARTINIANO ABAD,
Petitioner,

- versus - C.T.A. CASE NO. 3255

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

DELFIN ALMEDA,
Petitioner,

- versus - C.T.A. CASE NO. 3256

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

CONRADO CALALANG,
Petitioner,

- versus - C.T.A. CASE NO. 3257

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ISIDRO RODRIGUEZ,
Petitioner,

- versus - C.T.A. CASE NO. 3258

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

MIGUEL J. ARROYO,
Petitioner,

- versus - C.T.A. CASE NO. 3259

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

NICANOR DE GUZMAN, JR.,
Petitioner,

- versus - C.T.A. CASE NO. 3262

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ROBERTO SABIDO,
Petitioner,

- versus - C.T.A. CASE NO. 3263

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ANTONIO RAMOS,
Petitioner,

- versus - C.T.A. CASE NO. 3264

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

VICENTE RAMIREZ,
Petitioner,

- versus - C.T.A. CASE NO. 3265

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ARISTEO PUYAT,
Petitioner,

- versus - C.T.A. CASE NO. 3266

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

EMILIO ESPINOSA,
Petitioner,

- versus - C.T.A. CASE NO. 3267

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ESTRELLA FRANCISCO,
Petitioner,

- versus - C.T.A. CASE NO. 3268

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

CHIU SUK YING,
Petitioner,

- versus - C.T.A. CASE NO. 3269

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ELIAS COSCOLLUELA,
Petitioner,

- versus - C.T.A. CASE NO. 3270

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

LETICIA DOMINGO,
Petitioner,

- versus - C.T.A. CASE NO. 3271

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

C-J YULO & SONS, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 3272

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

JAMES CHIONGBIAN,
Petitioner,

- versus - C.T.A. CASE NO. 3273

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

DOLORES POPLETE,
Petitioner,

- versus - C.T.A. CASE NO. 3274

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

EMILIO SALONGA,
Petitioner,

- versus - C.T.A. CASE NO. 3275

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ASTERIO FAVIS,
Petitioner,

- versus - C.T.A. CASE NO. 3276

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

MA. CONSUELO PUYAT,
Petitioner,

- versus - C.T.A. CASE NO. 3277

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ANTONIO FLOREINDO,
Petitioner,

- versus - C.T.A. CASE NO. 3284

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

DELFIN FERRER,
Petitioner,

- versus - C.T.A. CASE NO. 3285

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

FERNANDO CARRASCOSO,
Petitioner,

- versus - C.T.A. CASE NO. 3286

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

CIRILO CINCO,
Petitioner,

- versus - C.T.A. CASE NO. 3287

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - x

ANTONIO J. ARANETA,
Petitioner,

- versus - C.T.A. CASE NO. 3288

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - x

ANNIE'S FARM, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 3289

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - x

FRANKLIN RAMOS,
Petitioner,

- versus - C.T.A. CASE NO. 3290

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - x

ENRIQUE COJUANGCO,
Petitioner,

- versus - C.T.A. CASE NO. 3291

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - x

JOSE FERNANDEZ,
Petitioner,

- versus - C.T.A. CASE NO. 3292

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

RODOLFO FORMENTO,
Petitioner,

- versus - C.T.A. CASE NO. 3293

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

MACARIO ASISTIO, SR.,
Petitioner,

- versus - C.T.A. CASE NO. 3294

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

RESTITUTO RAYMUNDO,
Petitioner,

- versus - C.T.A. CASE NO. 3295

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

JOSE COJUANGCO,
Petitioner,

- versus - C.T.A. CASE NO. 3296

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

PEDRO COJUANGCO,
Petitioner,

- versus - C.T.A. CASE NO. 3297

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

HONEYCON STUD FARM, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 3298

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ALEJANDRO FLORENTINO,
Petitioner,

- versus - C.T.A. CASE NO. 3299

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

FEDERICO GONZALES,
Petitioner,

- versus - C.T.A. CASE NO. 3300

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ROGELIO GONZALES,
Petitioner,

- versus - C.T.A. CASE NO. 3301

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

MIGUEL GOCOLAY,
Petitioner,

- versus - C.T.A. CASE NO. 3302

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

REYNALDO GONZALES,
Petitioner,

- versus - C.T.A. CASE NO. 3303

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

FELICIANO GUCE, SR.,
Petitioner,

- versus - C.T.A. CASE NO. 3304

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

TERESITA GUCE,
Petitioner,

- versus - C.T.A. CASE NO. 3305

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

JUAN DE LEON,
Petitioner,

- versus - C.T.A. CASE NO. 3306

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

VICTOR TANIOCO,
Petitioner,

- versus - C.T.A. CASE NO. 3310

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ANDRES SORIANO, JR.,
Petitioner,

- versus - C.T.A. CASE NO. 3311

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

REGINA SINGSON,
Petitioner,

- versus - C.T.A. CASE NO. 3312

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

MA. TERESA TRINIDAD,
Petitioner,

- versus - C.T.A. CASE NO. 3313

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ERNESTO TEOPACO,
Petitioner,

- versus - C.T.A. CASE NO. 3314

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

AUGUSTO SANTOS,
Petitioner,

- versus - C.T.A. CASE NO. 3315

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

JOAQUIN YUSECO,
Petitioner,

- versus - C.T.A. CASE NO. 3316

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

CARLOS VICENTE,
Petitioner,

- versus - C.T.A. CASE NO. 3317

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

JAIME VERGARA,
Petitioner,

- versus - C.T.A. CASE NO. 3318

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

RICARDO SILVERIO, JR.,
Petitioner,

- versus - C.T.A. CASE NO. 3319

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ANTONIA TRINIDAD,
Petitioner,

- versus - C.T.A. CASE NO. 3320

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

JOSEFINA MILLAR,
Petitioner,

- versus - C.T.A. CASE NO. 3321

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

CECILIO MENDOZA,
Petitioner,

- versus - C.T.A. CASE NO. 3322

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

NARCISO MORALES,
Petitioner,

- versus - C.T.A. CASE NO. 3323

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

AMADO SANTIAGO, JR.,
Petitioner,

- versus - C.T.A. CASE NO. 3324

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

JOSE SANTOS,
Petitioner,

- versus - C.T.A. CASE NO. 3325

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

TERESA SAULOG,
Petitioner,

- versus - C.T.A. CASE NO. 3326

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

SONIA ISLETA,
Petitioner,

- versus - C.T.A. CASE NO. 3327

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

NICANOR JACINTO III,
Petitioner,

- versus - C.T.A. CASE NO. 3328

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

GERARDO JACOB,
Petitioner,

- versus - C.T.A. CASE NO. 3329

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

JUAN JALANDONI,
Petitioner,

- versus - C.T.A. CASE NO. 3330

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

ANTONIO MARTIN,
Petitioner,

- versus - C.T.A. CASE NO. 3331

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

RAMON OCAMPO,
Petitioner,

- versus - C.T.A. CASE NO. 3332

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

LORENZO PACIA,
Petitioner,

- versus - C.T.A. CASE NO. 3333

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

RICARDO PARREÑO,
Petitioner,

- versus - C.T.A. CASE NO. 3334

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

DANIEL PATERNO,
Petitioner,

- versus - C.T.A. CASE NO. 3335

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

CHARITO LUZURIAGA,
Petitioner,

- versus - C.T.A. CASE NO. 3336

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

SAMUEL SHARRUF,
Petitioner,

- versus - C.T.A. CASE NO. 3337

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

ANTONIO LLORA,
Petitioner,

- versus - C.T.A. CASE NO. 3338

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

OSCAR LAPID,
Petitioner,

- versus - C.T.A. CASE NO. 3339

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - x

DALTON KING,
Petitioner,

- versus - C.T.A. CASE NO. 3340

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

PEDRO MEDALLA,
Petitioner,

- versus - C.T.A. CASE NO. 3341

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

NIEVES MORENO,
Petitioner,

- versus - C.T.A. CASE NO. 3342

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

CIRILO SANTIAGO,
Petitioner,

- versus - C.T.A. CASE NO. 3343

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

RONALD ALLAN POE,
Petitioner,

- versus - C.T.A. CASE NO. 3344

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - x

D E C I S I O N

These cases cover a claim for tax refund or tax credit of 10% "tax on winnings" under Section 269 of the National Internal Revenue Code withheld by aforesaid racing clubs acting as withholding agents and collected from petitioner for the years 1979 and 1980.

The petitioners assailed the validity and constitutionality of aforesaid Section 269 of the Tax Code. Section 269 of the Tax Code provides as follows:

> SECTION 269. Tax on winnings. - Every person who wins in horse races or Jai-Alai shall pay a tax equivalent to ten percent of his winnings or "dividends", the tax to be based on the actual amount paid to him for every winning ticket after deducting the cost of ticket. The tax herein prescribed shall be deducted from the "dividends" corresponding to each winning ticket and withheld by the operator, manager, or person in charge of the horse races or Jai-Alai before paying the "dividends" to the person entitled thereto. The same tax shall be collected from owners of winning race horses at the same time and in the same manner above.
>
> The operator, manager, or person in charge of horse races of Jai-Alai, shall, within twenty days from the date the tax was deducted and withheld in accordance with the first paragraph hereof, file a

> true and correct return with the Commissioner of Internal Revenue in the manner or form to be prescribed by the Secretary of Finance, and pay within the same period the total amount of tax so deducted and withheld.
>
> If the tax herein provided is not paid within the same period prescribed above, or in case of willful neglect to file the return within the period prescribed herein, or in case a false or fraudulent return is willfully made, there shall be added to the tax or to the deficiency tax, in case any payment has been made on the basis of the return before the discovery of the falsity or fraud, the corresponding surcharges provided in Section 268 of this Code.

Sometime on 2 April 1981, about 90 written claims were filed with the office of the respondent Commissioner of Internal Revenue by the racehorse owners at the two racing clubs, namely, the Manila Jockey Club at Felix Huertas St., Sta. Cruz, Manila and the Philippine Racing Club at the Sta. Ana racetrack at A.P. Reyes St., Makati, Metro Manila, for the refund or tax credit of the 10% "tax on winnings" imposed under Section 267 of the National Internal Revenue Code withheld by the aforesaid racing clubs acting as withholding agents of the Bureau of Internal Revenue from the prizes awarded to their (racehorse owners) racehorses on account of the horse races conducted in said clubs.

In order to beat as well as toll the statute of limitations for the claims for refund or tax credit, petitioners, simultaneously with the filing of the claims for refund on 2 April 1981, filed with this Honorable Tax Court, the 90 petitions for review, inclusive of the case of Amado Santiago, Jr. vs. Commissioner of Internal Revenue, CTA Case No. 3220. All the petitions have uniformly set forth common factual allegations and raises the same question of law in assailing the validity and constitutionality of the aforesaid Section 269 of the Tax Code.

In due course, the respondent filed his answers to the petitions.

Petitioners later amended their petitions but only to clarify that the withheld taxes had been consolidated by the racing clubs referred to and remitted to the government in the name of the withholding agents racing clubs and not in the individual names of the various racehorse owners.

A consolidated trial was then held under the banner of the lead case Amado Santiago, Jr. vs. Commissioner of Internal Revenue, CTA Case No. 3220 with the implicit understanding that only one decision need be rendered to cover all these 90 petitions.

Petitioner Amado Santiago, Jr. is the owner of racehorses which participates in horse racing occasionally held at the racetracks of the Manila Jockey Club and Sta. Ana Racetracks under their respective franchises and pursuant to Republic Act 309 and Presidential Decree 420 creating the Philippine Racing Commission.

As heretofore stated, for the years 1979 and 1980, the total amount of P9,472.63 was allegedly deducted and withheld from petitioner as 10% "tax on winnings", under Section 269 of the Tax Code, which amount was remitted and paid by petitioner's withholding agent, Manila Jockey Club, Inc. and the Philippine Racing Club, Inc. to respondent Commissioner of Internal Revenue.

On April 2, 1981, petitioner filed a written claim for the refund/credit of said 10% "tax on winnings" with respondent and, simultaneously, a petition for review with this Court asking for refund of said amount on the alleged ground of the constitutional infirmities of Section 269 of the Tax Code.

In such horse races, betting by the members of the general public in the results of the races is permitted by law and betting is done through the sale of tickets in P5.00 or P10.00 amounts or multiples thereof, the total bets (called "wage funds") being divided, after every race, in designated percentages or proportions, among the various participants, namely, the board of steward (representing the Philippine Racing Commission which is the racing authority in the country), the racehorse owners (the petitioners herein) registered as such by the Philippine Racing Commission, the horse trainers, the jockeys and the grooms. The betting is done by the use of electronic machines which are connected to a totalizator that reflects the total betting. The total "wager fund" or "pool" is divided among the government in the form of amusement tax, a certain percentage goes to the racing club (6-1/2% in one club, 6-1/4% in the other) and to the bettors in the form of dividends. From the dividends or from the tickets, a certain percentage is deducted for the prize of the winning horse, and respective prizes for the horses that placed second, third and so on. The shares of the horse vary - 60% goes to the winning horse that came first, and 25% for the second placer, 13% for the third placer, and 2% for the fourth placer. That the remaining 90% of the winning horse prizes, 12% goes to the jockey, 10% to the trainers, 5% to the grooms, and 5% for the rehearses' fund, and the remaining 58% goes to the racehorse owner. That aside from the 10% tax withheld from the prize to the horses, the following taxes are imposed with the horse races: (a) 20% amusement tax on Wednesday race; (b) 25% franchise tax on 8-1/2% commission of the racing clubs; (c) local tax of ₱2,000 to local governments of Makati and Manila; and (d) another ₱50.00 as additional local tax; (e) ₱50.00 daily by the official betting stations; the jockeys, trainers, and grooms have to pay income tax too on their respective shares of the 90% racehorse prize.

Petitioner's witness, Ex-Justice Moreno, explained (t.s.n., pp. 17-21; hearing of November 13, 1985) that if a tax on "winning" is warranted at all, it should be imposed only on the "winning" horse, that is the horse that reached the finish line ahead of all the others because that is the only horse that can be considered a "winner", all the others coming in next not being in racing parlance and in the racing world, considered "winners" but only "placers", witness citing the rules on racing published by the Jockey Club of England and followed by other racing clubs all over the world.

Racehorse owner witness Ex-Justice Moreno further explained that ordinarily it is the person who goes to the amusement place seeking to be amused who should pay the amusement tax, as in the case of amusement like sporting events, ballet dances, concerts boxing contests, basketball contests where it is the public that pays the amusement tax for providing the amusement. In this case, however, of the 10% "tax on winnings" imposed by Section 267 of the Tax Code, it is the racehorse owner, the performer in effect, that is being taxed on his "winnings".

The issue posed for determination is whether or not Section 267 of the Tax Code, imposing a tax of 10% on the winnings or "dividends" of every person who wins in horse race or Jai-Alai, based on the actual amount paid to him for every winning ticket after deducting the cost of the ticket; the tax to be deducted from the "dividend" corresponding to each winning ticket and withheld by the operator, manager, or performer in charge of the horse races or Jai-Alai before paying the "dividends" to the person entitled thereto, and <u>the same tax collected from owners of winning race horses at the same time and in the same manner above</u>, is valid and constitutional.

Petitioner contends that Section 267 of the Tax Code is invalid and unconstitutional because the tax in question violates the rule of uniformity of taxation; that it is violative of the equal protection clause of the Constitution; and that if the 10% tax is to be imposed at all, it should be only on the prize of the horse that finishes first and not in the prizes awarded on the subsequent "placers".

On the matter of lack of uniformity, Ex-Justice Moreno explained that there is no equality for the reason that a Jai-Alai player or performer is not subject to the amusement tax or the 10% "tax on winnings", while here, the racehorse owner, is slapped an amusement tax or 10% of the "tax on winnings."

Petitioner did not cite where there is a violation of the equal protection clause of the Constitution but instead stated in general terms, that taxation that is not uniform is necessarily unequal and concededly discriminating.

In the matter of double taxation, there is no prohibition in our country and Constitution which prohibits double taxation. Here, a property may be taxed twice and with the same kind or character of a tax. However, there is reason to believe that the racehorse owners are not taxed twice or with the same kind or character of a tax, but with different taxes, one with income tax on its winnings and the other a kind of tax, or some may call it amusement tax, which is 10% of the "tax on winnings". The 10% "tax on winnings" and "income tax" are entirely two different taxes, and when they are imposed does not amount to double taxation.

Finally, it is lastly assailed by petitioner that if the 10% "tax on winnings" is warranted at all, it should only be imposed on the prize for the racehorse that finishes ahead of all the others. We cannot agree with this interpretation of Section 269 of the Tax Code since that did not provide for this kind of interpretation. The law is clear that it is only imposed on the "tax on winnings" so that no matter whether it is the 1st, 2nd, 3rd and 4th placer or down the line, so long as the racehorse owners are entitled to the prizes or winnings, then the racehorse owners should be subject to tax, and not "A. Only on the horse that crosses the finish line first, because he is the winner. (And) The others have lost." (t.s.n., pp. 17-21, pp. 22-24, hearing of 13 November 1985.)

In imposing a 10% "tax on winnings", Section 269 of the Tax code does not violate the uniformity rule of taxation because uniformity of taxation means that all taxable articles or kinds of property, as in the case of the 10% "tax on winnings", which is of the same class, shall be taxed at the same rate. *(De Villata v. Stanley, 32 Phil. 541, 555.)*

> "Uniformity in taxation is accomplished when the burden of the tax falls equally and impartially upon all the persons and properties subject to it, so that no higher rate or greater levy is imposed upon one person or specie of property than upon others similarly situated. x x x. *(Committee Report 2, Committee on Taxation and Debt Management, 1971 Constitutional Convention, p. 220, CTA rec.)*

There is therefore no discrimination as to the imposition of 10% on the winnings of the racehorse owners.

Respondent Commissioner of Internal Revenue avers, in strengthening our holding heretofore made, states that the power of taxation is unlimited, comprehensive and supreme and is subject to no restriction whatever, so that courts venture not to contravene. *(De Villata v. Stanley, 32 Phil. 541, 555)* To quote counsel for respondent:

> The power proceeds upon the fact that existence of government cannot

> continue without means to pay its expenses and that for these means, it has the right to compel all citizens and property within its limits to contribute.
>
> In the case of *Philippine Guaranty Co. vs. Commissioner, L-22074, April 30, 1965, 13 SCRA 775,* the Supreme Court said:
>
> > "The power to tax is an attribute of sovereignty. It is a power emanating from necessity. It is a necessary burden to preserve the State's sovereignty and means to give the citizenry an army to resist an aggression, a navy to defend its shores from invasion, a corps of civil servants to serve, public improvements designated for the enjoyment of the citizenry and those which come within the State's territory, and facilities and protection which a government is supposed to provide. x x x."

We fully concur with the view of respondent Commissioner that Section 269 does not violate the rule of equal protection clause of the Constitution. Legislature has the inherent power to select the subjects of taxation and possesses the freedom on classification through which an equitable distribution of the tax burden is achieved. Section 269 should not, therefore, be invalidated on equal protection ground except by a clear showing that the tax statute is arbitrary or capricious. Nowhere can we find the arbitrariness and capriciousness of Section 269 of the Tax Code. Section 269 does not violate the due process clause of the Constitution. It can only be invoked where the law is so arbitrary and capricious that it finds no support in the Constitution. Where it is shown that it amounts to confiscation of property, it would be a clear abuse of authority. But such is not the case here. There is no fact shown in this case which show Section 269 to be capricious or arbitrary. The presumption of its validity must necessarily have to prevail. *(Ermita-Malate Hotel and Motel Operators Association v. Hon. City Mayor, 20 SCRA 849; O'Gorman and Young v. Hartford Fire Insurance Co., 282 U.S. 251-270.)*

The owners of horse racers derive income, and the public hardly derive profit from horse racing and so Section 269 of the Tax Code imposed a 10% "tax on their winnings" which is indeed for a valid purpose.

This Court finds Section 269 of the Tax Code not violative of the constitutional requirement of equitable taxation amounting to double taxation. Double taxation exists only when the same property is taxed twice when it should be taxed but once; both taxes must be imposed on the same property or subject matter, for the same purpose, by the same state, government or taxing authority, within the same jurisdiction or taxing district, during the same taxing period, and they must be the same kind or character of tax. *(Villanueva v. City of Iloilo, L-26521, 26 SCRA 578, 580).*

Double taxation "is something not favored, but is permissible, provided some other constitutional requirement is not truly violated, such as the requirement that taxes must be uniform". *(Villanueva v. City of Iloilo, L-26521, 26 SCRA 580, supra.)*

A close scrutiny of the purposes of 10% tax on winnings will justify its imposition.

1) Tax on winnings is aimed at the sector of society with spare time and extra money to spend on unproductive ventures. Moral and economic reasons justify the imposition of higher taxes on legalized gambling;

2) Rising need for additional revenues for accelerated national development; and

3) The primary justification for the existence and maintenance of gambling establishments is the allocation of a portion of the income derived therefrom to worthwhile projects

such as charitable activities and the upkeep of the government.

Moreover, unless a law is so repugnant to the supreme law, courts should not declare a law invalid. To doubt on its validity is to resolve the doubt in favor of its validity. *(6 Ruling Case Law, Secs. 71, 72 and 73; **Churchill and Tait v. Rafferty**, 32 Phil. 580, 584.)*

Section 269 of the Tax Code, not being violative of the rule of uniformity of taxation, rule of equitable taxation, the equal protection clause and the due process clause of the Constitution, the aforesaid provision imposing the 10% tax on winnings under Section 269 of the Tax Code is constitutional, valid, lawful and enforceable. It is clear that the 10% tax on winnings of race horse owners imposed under the said law was collected in accordance with law and therefore not refundable.

WHEREFORE, We so hold that petitioner is not entitled to the refund of the amount of P9,472.63 as 10% tax on winnings under the Tax Code. Consequently, we equally hold that in the 90 petitions for review which have the same factual allegations as this one, and which raised the same

question in assailing the validity and constitutionality of the aforesaid Section 267 of the Tax Code, petitioners therein in the 70 cases cited, are not entitled to the tax refund of 10% tax on winnings paid by them under the Tax Code.

SO ORDERED.

Quezon City, Metro Manila, August 30, 1990.

CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:

ALEX Z. REYES
Associate Judge

C E R T I F I C A T I O N

I hereby certify that this decision was reached after due consultation between the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

CONSTANTE C. ROAQUIN
Associate Judge
Court of Tax Appeals