REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LINO T. TRINIDAD
Petitioner,

- versus - C.T.A. CASE NO. 2976

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

From our view of the case, the decisive question involved in this petition for review of a decision of respondent Commissioner of Internal Revenue assessing petitioner Lino T. Trinidad deficiency income tax for the year 1974 in the amount of ₱4,431.55 is whether the retirement gratuity received by a retiring employee, in order to be exempt from income tax under Presidential Decree No. 220, should arise out of his employment abroad. To quote Presidential Decree No. 220:

PRESIDENTIAL DECREE NO. 220

EXEMPTING SOCIAL SECURITY BENEFITS, RETIREMENT GRATUITIES, PENSIONS AND OTHER SIMILAR BENEFITS FROM PAYMENT OF INCOME TAXES.

I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution as Commander-in-Chief of the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby decree and order -

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1. That, provisions of any existing law to the contrary notwithstanding, social security benefits, retirement gratuities, pensions and other similar benefits received by retiring employees and workers, whether received from Philippine or foreign government agencies and other institutions, private or public, shall be exempt from the payment of income tax;

2. That this Decree shall be effective immediately after its approval.

Done in the City of Manila, this 20th day of June, in the year of our Lord, nineteen hundred and seventy-three.

(SGD) FERDINAND E. MARCOS
President of the Philippines

By the President:

(SGD) ROBERTO V. REYES
Assistant Executive Secretary

The facts are not disputed, respondent having practically admitted in his answer all the material allegations of facts of petitioner in his petition for review. As a matter of fact, respondent submitted this appeal for decision on the basis of the pleadings and the records of the Bureau of Internal Revenue pertaining to this proceeding, without controverting the relevant allegations of facts of petitioner and without submitting a memorandum in support of his position of the case. The material antecedents of the case as gathered from the petition for review,

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admitted in the answer and borne out by the records may thus be stated as follows:

1. That the petitioner is of legal age, married, with residence and postal address at No. 3698 Lingayen St., Sta. Mesa, Manila; and that the respondent is the duly qualified Commissioner of Internal Revenue who may be served with summons and other court processes at his office at the BIR Building, Quezon City, Metro Manila;

2. That the petitioner, on or about March 15, 1975, filed with the respondent an income tax return for his income and that of his wife for the calendar year 1974, a copy of which is hereto attached and made part hereof as Annexes "A", "A-1", "A-2" and "A-3";

3. That the respondent on January 15, 1976 assessed against the petitioner the sum of ₱3,888.00 as deficiency income tax and another sum of ₱453.55, as interest up to February 15, 1976 or a total amount of ₱4,341.55, a copy of the deficiency assessment is hereto attached and made a part hereof as Annex "B";

4. That the petitioner, on March 10, 1976, protested against the deficiency assessment of income tax on the ground that the basis of the deficiency assessment was on the retirement gratuity received

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by the wife of herein petitioner in the total amount of ₱22,252.62, from the University of the East, a copy of the letter protest is hereto attached as Annex "C" and a copy of the certification as to the amount of retirement gratuity received is hereto attached and made an integral part hereof as Annex "C-1";

5. That the respondent, on April 18, 1977, sent a letter to the herein petitioner, requesting the latter to furnish respondent with "evidence that the employer's retirement plan" of petitioner's wife has been approved by the Bureau of Internal Revenue as a "Reasonable Retirement Benefit Plan", a copy of said letter is hereto and made a part hereof as Annex "D";

6. That the respondent, on September 28, 1977, sent a letter to the petitioner, which was received by the latter on March 20, 1978, giving him a ten (10) days period from receipt thereof within which to furnish the respondent the document requested in their letter of April 18, 1977, a copy of which is hereto attached and made an integral part hereof as Annex "E";

7. That the petitioner failed to furnish the respondent the employer's retirement plan of petitioner's wife as a "Reasonable Retirement Benefit

Plan";

8. That the respondent, on January 26, 1978 sent another letter which was received by petitioner on March 7, 1978 demanding payment of the amount of ₱4,341.55, a copy of which is hereto attached and made an integral part hereof as Annex "F";

9. That the petitioner, on March 11, 1978, sent a letter, stating among other things that pursuant to Presidential Decree 220, dated June 20, 1973, "Retirement gratuities, pensions and other similar benefits are exempt from the payment of income tax", and requested for the cancellation of the assessment, a copy is hereto attached and made an integral part hereof as Annex "G";

10. That the respondent, on September 12, 1978, sent a letter to the petitioner, which was received by the latter on September 25, 1978, denying the petitioner's request for the cancellation of the disputed deficiency assessment, and again demanded for the collection of the amount of ₱4,341.55 under ASSESSMENT No. 35-3-07035072, plus the penalties incident to late payment, within ten (10) days from receipt of said letter, a copy is hereto attached and made an integral part hereof as Annex "H";

11. That the ground upon which the respondent

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relied in denying the petitioner's request for the cancellation of the said deficiency income tax assessment for the year 1974 was Revenue Regulation No. 6-73 (implementing Presidential Decree No. 220) dated July 10, 1973, specifically Section 2 thereof, to wit:

> "Presidential Decree No. 220 does not cover retirement benefits under reasonable private benefit plan provided for Republic Act No. 4917 which shall continue to be governed by said act, as amplified by Revenue Regulation No. 1-68".

12. That the petitioner in requesting for the cancellation of the questioned assessment relied upon the provisions of Presidential Decree No. 220, to wit:

> "That, provisions of any existing law to the contrary notwithstanding, social security benefits, retirement gratuities, pensions and other similar benefits received by retiring employees and workers, whether received from Philippine or foreign government agencies and other institutions, private or public, shall be exempt from the payment of income tax."

The parties are not in controversy on the computation of the deficiency income tax payable by petitioner in case he is adjudged liable thereto. There is no dispute also, and respondent admits in his answer (par. 10, special and affirmative defense), that the deficiency income tax assessment in the amount of ₱4,341.55 is for the year 1974, after

Presidential Decree No. 220 took effect on June 20, 1973. As special and affirmative defenses, however, respondent alleges that the basis in assessing petitioner of the amount of ₱4,341.55 is Republic Act No. 4917, approved June 17, 1967, for the reason that petitioner's employer has no retirement plan duly approved by the Bureau of Internal Revenue; and that the retirement benefit received by an employee under Republic Act No. 4917 is not covered by Presidential Decree No. 220 as implemented by Revenue Regulation No. 6-73, dated July 10, 1973.

Republic Act No. 4917, approved June 17, 1967, exempts from all taxes the retirement benefits received by officials and employees of private firms under a reasonable private benefit plan maintained by the employer and all amounts received by such officials and employees from their employers on account of involuntary separation, such as death, sickness, or physical disability, or any other cause beyond the control of said officials and employees. In order to avail of the exemption, with respect to retirement benefits, (a) the plan must be reasonable, (b) the retiring official or employee must have been in the service of the same employer for at least 10 years and is not less than 50 years of age at the time of retirement, and (c) the retiring official or employee should not have previously availed of the privilege under a retirement benefit plan of the same or another employer.

In assessing petitioner income tax on the retirement gratuity received by his wife in 1974 from the University of the East, it seems that respondent ignored and disregarded Presidential Decree No. 220 which is a latter enactment and whose provisions are more beneficial to petitioner than Republic Act No. 4917, and relied solely on the provisions of the implementing regulation, particularly Section 2 of Revenue Regulation No. 6-73, which provides as follows:

> Section 2. <u>Coverage of exemption</u>.- The income exempted from tax includes social security benefits, gratuities, pensions and other similar benefits arising out of employment abroad and received by employees and workers who are retired and who come to reside in the Philippines for the remaining years of their lives, be they citizens of the Philippines or not, and whether the employer is a foreign government or a foreign private entity. The exemption equally applies to such incomes received by citizens of the Philippines after their retirement from the same source even if they should continue to reside in the foreign country where they were employees or in any other country where they may emigrate after their retirement.
>
> Presidential Decree No. 220 does not cover retirement benefits under a reasonable private benefit plan provided for by Republic Act No. 4917 which shall continue to be governed by said Act, as amplified by Revenue Regulation No. 1-68.

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Adverting to the terms of Presidential Decree No. 220, supra, it is quite apparent that the retiring employees' and workers' exemption from the payment of income tax on the social security benefits, retirement gratuities, pensions and similar benefits received by them after retirement is not planted upon the condition that such benefits, gratuities and pensions should arise out of their employment abroad. The law employs the term "whether received from Philippine or foreign government agencies and other institutions, private or public, shall be exempt from the payment of income tax" - without more. Nothing there speaks of employment abroad. Where the statute does not exact the place of employment as a condition to the exemption from income tax, that condition should not be read into the law.

The law is clear and mandatory. It merely calls for application as it is written. There is no room for interpretation. And it is well-settled that a statute, free from constitutional infirmity, must be enforced as written. It says "provisions of any existing law to the contrary notwithstanding, social security benefits, retirement gratuities, pensions and other similar benefits received by retiring employees and workers, whether received from Philippine or foreign government agencies and other institutions, private or public, shall be exempt from the payment of income tax." (underscoring supplied.) Where the provision of the law is clear and unambiguous, so that there is no occasion for the court's seeking legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction. (Acting Commissioner of Customs vs. Manila Electric Company, L-23623, June 20, 1977, 77 SCRA 473; Insular Lumber Company vs. Court of Tax Appeals and Commissioner of Internal Revenue, L-31057 and L-31137, May 29, 1981.)

Since the language of Presidential Decree No. 220 is plain and free from ambiguity, and expresses a definite meaning, it should therefore be applied literally without deviation from the terms thereof. If it had been the legislative, or presidential, intent to limit its scope to benefits arising from employment abroad, the President of the Philippines could have easily done so by adding such words after the term "and other similar benefits" as "arising from employment abroad and" or the like words, as was done

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in the implementing Revenue Regulation No. 6-73 dated July 20, 1973. We cannot ignore the principle that the terms of the statute provide the safest guide as to the statutory policy, to which obedience is due and from which deviation is not allowable. (Padilla vs. City of Pasay, L-24039, June 29, 1968, 23 SCRA 1349.)

As we view this legal problem, we find no justification therefore in confining the scope of Presidential Decree No. 220 to benefits arising out of employment abroad only as what was done in the implementing Revenue Regulation No. 6-73. It seems too clear for serious argument that an administrative officer cannot change a law enacted by the law-making authority. (Hilado vs. Collector of Internal Revenue, 100 Phil. 288, citing Ben Stocker, et al., 12 B.T.A. 1351.) It cannot be denied that a regulation is merely a directive to the tax officer; it does not purport to change or modify the law. (Inter-provincial Autobus Co., Inc. vs. Collector of Internal Revenue, 98 Phil. 295.)

Nonetheless, on the assumption that Presidential Decree No. 220 does not cover retirement benefits under reasonable private benefit plan provided for by Republic Act No. 4917 which shall continue to be governed by said Act, as amplified by Revenue Regulation No. 1-68, the records of the case show that the University of the East, as per investigation by the office of respondent, did not have any pension plan approved by the Bureau of Internal Revenue. (p. 18, CTA records; p. 40, BIR records.) Such being the case, the retirement gratuity received by petitioner's wife Mrs. Trinidad S. Trinidad from the University of the East upon her retirement in 1974 should therefore be governed by Presidential Decree No. 220 which was the law in force at and germane to the time of her retirement.

Undoubtedly, retirees are usually over 65 years old and most of them have to subsist after retirement on their retirement gratuities or pensions which are not too substantial. They are not likely to take on a new job or go into business anymore. To protect whatever they have to tide them over during the remaining years of their lives, public policy would seem to require that such gratuities or pensions should be exempt from income tax whether received under a reasonable private benefit plan provided for by Republic Act No. 4917 or under

Presidential Decree No. 220. Under the fundamental rule of statutory construction that all statutes relating to the same subject are to be construed with reference to each other so that effect may be given to all the provisions of each (51 Am. Jur. 363; Madrigal vs. Rafferty, 38 Phil. 414), Republic Act No. 4917 and Presidential Decree No. 220 should therefore be interpreted in order that they complement and supplement each other. While this matter has already been clarified under Section 29 (b) (7) (A) (B) (C) (D) (E) and (F) of the 1977 National Internal Revenue Code, effective June 3, 1977, revenue laws are prospective in operation unless the legislative intent that the statute operates retrospectively is distinctly expressed or necessarily implied. (51 Am. Jur. 359; Lorenzo vs. Posadas, 64 Phil. 353; Commissioner vs. Filipinas Cia de Seguros, 107 Phil. 1055.) And there is nothing in the 1977 National Internal Revenue Code which provides, expressly or from which it can necessarily be implied, that Section 29 thereof, as amended or reworded, has retroactive effect.

Accordingly, the decision of respondent Commissioner of Internal Revenue assessing petitioner Lino T. Trinidad deficiency income tax for the year

1974 in the amount of ₱4,341.55 under Assessment No. 35-3-07035072, plus the penalties incident to late payment, arising out of the retirement gratuity received by his wife from the University of the East when she retired in 1974, cannot be sustained.

WHEREFORE, the judgment appealed from is hereby declared without legal basis and of no effect. Without pronouncement to costs.

SO ORDERED.

Quezon City, Metro Manila, July 31, 1981.

Amante Filler
AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

Alex Z. Reyes
ALEX Z. REYES
Associate Judge