Lit.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

VIRGINIA AMOR, ROSABEL B. TIANGSON, GORGONIA GANABAN, CARMEN M. PADERNILLA, LYDIA A. MAGANUA, SONIA C. DAYOT, GLORIA P. MALUNDO AND NINFA A. RIEGO,
Petitioners,

- versus -

C.T.A. CASE NO. 629

August 17, 1959

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

Petitioners are seeking the refund of the fixed occupation taxes for the year 1958 paid by them in the amount of ₱50.00 each, or a total of ₱400.00.

The facts are as established in the stipulation of facts submitted by the parties and the documentary exhibits presented by petitioners. Since January 1, 1958, petitioners have been employed as pharmacists and registered nurses at the Insular Lumber Company Hospital, Fabrica, Negros Occidental, with monthly salaries ranging from ₱120.00 to ₱190.00. Upon assessment by and demand from respondent in pursuance of Section 182 (B) (2) of the Tax Code, they paid in the amount of ₱50.00 each, or a total of ₱400.00, as fixed occupation taxes for the year 1958. Their claims for refund thereof having been denied by respondent, they interposed the instant appeal.

Petitioners' claims for refund are based upon the exemption granted by Section 182 (C) (1) of the Tax Code, the pertinent provisions of which we quote:

"SEC. 182. Fixed Taxes - (a) On business (1) Persons subject to percentage tax - x x x

"(B) On occupation. - Taxes on occupation shall be collected as follows, effective January one, nineteen hundred and fifty-seven, the amount stated being the sum due for the whole year:

x x x x

"(2) Land surveyors, chief mates, marine second engineers, pharmacists, registered nurses, chiropodists, tattooers, masseurs, pelotaris, jockeys, professional actors or actresses, stage performers and hostesses, fifty pesos.

(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."

The only issue involved is whether or not petitioners are exempt from the payment of fixed occupation tax. It is suggested, on behalf of petitioners, that the term "receipts" in the afore-quoted codal provision includes salaries, and inasmuch as the gross monthly salaries of the petitioners did not exceed ₱200.00, 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 was to exempt from the fixed tax only such persons who were engaged in business. Therefore, when Section 182 (a), with the modifications already adverted to, was incorporated as Section 182 (C) (1) of the Tax Code by Republic Acts Nos. 1612 and 1856, 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 change (see Taylor, et al. v. Bowker, 111 U.S. 110, 114). In the instant case, we find no congressional intention to effect such 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. v. Llanes, 49 Phil. 466; House v. Posadas, 53 Phil. 338; Philippine Telephone and Telegraph Co. v. Collector of Internal Revenue, 58 Phil. 639; Collector of Internal Revenue v. Manila Jockey Club, R. G. No. L-8755, March 23, 1956.) In the case at bar, petitioners have failed to justify their claims for exemption by the clearest grant of law.

IN VIEW OF THE FOREGOING, the decisions of respondent denying petitioners' claims for refund are hereby affirmed, with costs against petitioners.

SO ORDERED.

Manila, August 17, 1959.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

In the result.

ROMAN M. UMALI
Associate Judge