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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

THE INSULAR LIFE ASSURANCE
CO., LTD.,
Petitioner,

- versus - March 7, 1962 C.T.A. CASE NO. 513

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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

D E C I S I O N

The petitioner appeals from a decision of the Commissioner of Internal Revenue determining against it an additional real estate dealer's fixed tax for 1956 in the sum of ₱350.00.

The petitioner, an insurance company, is likewise engaged in the business of a real estate dealer. In 1956, it paid the amount of ₱150.00 as fixed tax pursuant to the rates then prescribed by Section 182 of the National Internal Revenue Code.

Meanwhile, on August 24, 1956, Republic Act No. 1612, which increased the real estate dealer's tax provided for in Section 182 of the Tax Code, was approved. Believing that the provisions of Republic Act No. 1612 retroacted to January 1, 1956, respondent, on June 17, 1957, demanded from petitioner the payment of ₱350.00 as additional real estate dealer's fixed tax for 1956, which demand petitioner subsequently asked to be reconsidered.

Reconsideration of the demand for payment of additional fixed tax having been denied, petitioner interposed the instant appeal. Inasmuch as respondent admitted all the material allegations stated in the petition for review, petitioner moved for a judgment on the pleadings which was opposed in open court by respondent. Subsequently, on January 19, 1959, the parties filed a joint manifestation requesting the Court to hold in abeyance the hearing of the case on the merits until such time the Supreme Court will have decided the case of Filipinas Compañia de Seguros vs. Commissioner of Internal Revenue, C.T.A. Case No. 447. On April 29, 1960, the Supreme Court rendered its decision in the aforecited case (G. R. No. L-14880). And on February 5, 1962, the parties submitted the case on the pleadings.

The only issue raised for our consideration is whether or not petitioner company is liable for the additional real estate dealer's fixed tax for 1956 pursuant to the new rates imposed by Republic Act No. 1612.

In Commissioner of Internal Revenue vs. Filipinas Compañia de Seguros, G. R. No. L-14880, April 29, 1960 (affirming C.T.A. No. 447, November 22, 1958), the Supreme Court held that:

> "Since the petitioner indisputably paid in full on January 4, 1956, the total annual tax then prescribed for the year 1956, to require it to pay an additional

sum of ₱350.00 to complete the ₱500.00 provided in Republic Act No. 1612 which became effective by its very terms only on August 14, 1956, would, in the language of the Court of Tax Appeals, result in the imposition upon respondent of a tax burden to which it was not liable before the enactment of said amendatory act, thus rendering its operation retroactive rather than prospective, which cannot be done, as it would contravene the aforecited Section 21 of Republic Act No. 1612 as well as the established rule regarding prospectivity of operation of statutes.

"The view that Congress did intend to impose said increased rates of real estate dealer's annual tax prospectively and not retroactively, finds some affirmation in Republic Act No. 1856, approved on June 22, 1957, which fixed the effective date of said new rates under Republic Act No. 1612 by inserting the following proviso in Section 182 of the National Internal Revenue Code:

> '<u>Provided</u>, <u>further</u>, That any amount collected in excess of the rates in effect prior to January one, nineteen hundred and fifty-seven, shall be refunded or credited to the taxpayer concerned subject to the provisions of section three hundred and nine of this Code.' (Sec. 182 [B] [2] [1].)"

We find no reason justifying a departure from the afore-quoted decision.

WHEREFORE, the decision of the respondent Commissioner of Internal Revenue assessing and demanding from petitioner the Insular Life Assurance Co., Ltd. the sum of ₱350.00 as additional real estate dealer's fixed tax for 1956 should be, as it is hereby, reversed and the respondent is hereby ordered to desist

DECISION -
C.T.A. CASE NO. 513

from collecting the same. Without pronouncement as to costs.

SO ORDERED.

Manila, March 7, 1962.

MARIANO NABLE
Presiding Judge

We concur:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge