THE INSULAR LIFE ASSURANCE COMPANY, Ltd.,
Petitioner,

Oct. 7, 1970

- versus -

C.T.A. CASE NO. 1963

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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D E C I S I O N

Petitioner appealed from the decision of respondent Commissioner of Internal Revenue holding it liable for documentary stamp tax of ₱6,780.30 on medical certificates attached to the applications for insurance during the year 1961.

Petitioner, a duly organized domestic corporation, is engaged in life insurance business. In 1967, after investigating petitioner's tax liability for 1961, respondent issued against said petitioner a deficiency documentary stamp tax assessment of ₱16,055.77, inclusive of compromise penalty, computed as follows:

Total Amount Subject to Documentary Stamp Tax ..	₱130,694,596.00
Documentary Stamp Due on the amount of Insurance at ₱0.15 for every ₱200.00: $\frac{₱130,694,596.00}{₱200.00}$ = ₱653,472.98 x ₱0.15	₱ 98,020.94

Total Documentary Stamp Due	₱98,020.94
Add: Medical certificates issued - 22,601 x ₱0.30	6,780.30
Total Documentary Stamp Due for 1961	₱104,801.24
Less: Documentary stamps purchased	89,075.47
Deficiency documentary stamp tax	₱ 15,725.77
Add: Compromise penalty for late affixture	300.00
Deficiency documentary stamp tax & penalty	₱ 16,025.77

The documentary stamp tax assessments of ₱8,945.47 and ₱6,780.30 were based on Sections 220 and 225 of the National Internal Revenue Code, respectively. The said assessment of ₱8,945.47 dealing on stamp tax on life insurance policies was not disputed by petitioner when it paid the said tax liability, plus ₱300.00 as compromise penalty, or a total of ₱9,245.47, under Official Receipt No. 1067929 dated June 20, 1967. Petitioner, however, disputed the deficiency documentary stamp tax assessment of ₱6,780.30 dealing on stamp tax on medical certificates by alleging that the same are not the "certificates" referred to in Section 225 of the Revenue Code.

The only issue presented to the Court for resolution is whether or not the 22,601 medical certificates prepared by petitioner's medical examiners in 1961 are subject to the documentary stamp tax of ₱0.30 each imposed by Section 225 of the National Internal Revenue Code.

Petitioner contends that the medical report attached to every application for life insurance is not the "certificate" subject to the documentary stamp tax imposed by Section 225 of the Revenue Code. In support of its stand, petitioner relied on section 76 of Revenue Regulations No. 26 of the Department of Finance, otherwise known as the Documentary Stamp Tax Regulations, which provides that "only those certificates issued by a public official or a person acting in a public capacity are subject to the documentary stamp tax." Petitioner further contends that the medical examiner's report attached to every application for life insurance constitutes an integral part of the insurance policy issued by petitioner. It is, therefore, argued that, inasmuch as the insurance policy is already subject to the documentary stamp tax, the imposition of another documentary stamp tax on the medical certificate would amount to double taxation.

Respondent, however, contends that the phrase "certificate of any description required by law, or by rules or regulations of a public office, or which is issued for the purpose of giving information, or establishing proof of a fact . . ." found in Section

225 of the Revenue Code includes the medical certificate in question, in line with Section 109 of the Documentary Stamp Tax Regulations, as amended by Regulations No. 601 dated September 31, 1927, which provides as follows:

> SEC. 109. Medical certificates containing a statement of the physical condition of any person are subject to this tax.

On the basis of the foregoing provisions of the Documentary Stamp Tax Regulations, respondent contends that Section 76 thereof relied upon by petitioner is not applicable to a medical certificate which is covered by a different section of the said regulations. Respondent argues that the documentary stamp tax imposed on life insurance policies under Section 220 of the Revenue Code is distinct and different from the stamp tax on certificates imposed under Section 225 of the same Code, which provides as follows:

> SEC. 225. Stamp tax on certificates.- On each certificate of damage, or otherwise, and on every other certificate or document issued by any customs officer, marine surveyor, or other person acting as such, and on each certificate issued by a notary public, and on each certificate of any description required by law, or by rules or regulations of a public office, or which is issued for the purpose of giving information, or establishing proof of a fact, and not otherwise specified herein, there shall be collected a documentary stamp tax of thirty centavos: *Provided*, That in the case of tax clearance certi-

ficates, there shall be collected a documentary stamp tax of fifteen pesos on each certificate for a first class passenger; eight pesos for a second or tourist class passenger; and two pesos for a third class or steerage passenger. (As amended by sec. 14, Republic Act No. 40.)

Under the said provisions of the Revenue Code, the following certificates are each subject to the documentary stamp tax of ₱0.30, namely:

(1) Certificate of damage, or otherwise;

(2) Certificate or document issued by:

(a) Customs officer
(b) Marine surveyor
(c) Person acting as customs officer or marine surveyor;

(3) Certificate issued by a notary public;

(4) Certificate of any description required by law, or by rules and regulations of a public office; or

(5) Certificate of any description issued for the purpose of giving information, or establishing proof of a fact.

The word "certificate" is defined in Revenue Regulations No. 26 of the Department of Finance as follows:

SEC. 75. A certificate is a statement in writing by a person having a public or official status concerning some matter within his knowledge or authority; <u>a writing by which testimony is given that a fact has or has not taken place</u>. (Underscoring supplied.)

A critical analysis of the term "certificate" found in Section 225 of the Revenue Code and Section 75 of the Documentary Stamp Tax Regulations which implemented the statutory provisions, shows that the documents subject to the stamp tax are not limited to "only those certificates issued by a public official or person acting in a public capacity" but they include a certificate of any description "which is issued for the purpose of giving information, or establishing proof of a fact" not otherwise specified in said Section 225 of the Revenue Code. In short, the provisions contained in Section 76 of Revenue Regulations No. 26 of the Department of Finance, which were invoked and relied upon by the petitioner, constitute the general rule while the certificate of any description issued for the purpose of giving information, or establishing proof of a fact embodied in section 75 of the same regulations is the exception to the general rule. The said exception is evident from the enumeration of the taxable certificates contained in Section 225 of the Revenue Code as implemented by Section 109 of the Documentary Stamp Tax Regulations of the Department of Finance, as amended, which provides that "medical certificates containing a statement of the physical condition of any person are subject to this tax" (meaning documentary stamp tax of ₱0.30 each).

The provisions of Section 76 of the Documentary Stamp Tax Regulations of the Department of Finance stating that "only those certificates issued by a public official or a person acting in a public capacity are subject to the documentary stamp tax" are not exclusive and all-embracing in scope and operation. For instance, Section 225 of the Revenue Code provides that "on each certificate of damage, or otherwise" there shall be collected a documentary stamp tax of ₱0.30. Consequently, a certificate of any description issued by a private individual is subject to the documentary stamp tax provided that the said certificate or report is listed, enumerated, or described under Section 225 of the Revenue Code.

Moreover, it is a cardinal rule in taxation that in case of conflict between the statutory provisions and the implementing regulations, the clear language of the statute should be upheld. To stress our point, the term "certificate" as defined under Section 75 of Revenue Regulations No. 26 of the Department of Finance, supra, includes "a writing by which testimony is given that a fact has or has not taken place." Neither the law nor the regulation requires that the said certificate or report be issued by a public official or person acting in a public capacity. In the same manner, Section 109 of the Documentary Stamp Tax Regulations of the Department of Finance which provides that "medical certificates containing a statement of the physical condition of any person are subject to this tax" does not require that the said certificate be issued by a public official or person acting in a public capacity in order to be taxable.

With respect to petitioner's allegation that the medical certificate is basically and actually a part of the insurance contract taxable under Section 220 of the Revenue Code and that the imposition of the ₱0.30 documentary stamp tax thereon constitutes double taxation arising out of the same transaction, suffice it to state that there are two (2) documents involved in this case, that is, the insurance policy which is taxable under Section 220 of the Revenue Code and the medical certificate taxable under Section 225 of the same Code. As the amount and basis of the documentary stamp tax are distinct and different from each other, the defense of inequitous imposition of double taxation on the same transaction is not applicable in this case. Moreover, our Supreme Court in a number of cases held that there is no prohibition against double or multiple taxation in this jurisdiction. (Manufacturer's

Life Ins. Co. vs. Meer, G.R. No. L-2910, June 29, 1951; 89 Phil. 357; City of Manila vs. Interisland Gas Service, G.R. No. L-8799, Aug. 31, 1956; 99 Phil. 854; Commissioner of Internal Revenue vs. Hawaiian-Phil. Co., G.R. No. L-16315, May 30, 1964; Villanueva vs. City of Iloilo, G.R. No. L-26521, Dec. 28, 1968; Pepsi Cola Bottling Co. vs. City of Butuan, G.R. No. L-22819, Aug. 28, 1968.)

WHEREFORE, the appealed decision of respondent Commissioner of Internal Revenue is affirmed. Petitioner is hereby ordered to pay said respondent or his duly authorized collection agent the sum of P6,780.30 representing the documentary stamp tax due on the medical certificates issued by petitioner's medical examiners in 1961. Without pronouncement as to costs.

SO ORDERED.

Quezon City, October 7, 1970.

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

I CONCUR:

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge

Presiding Judge Roman M. Umali who is on leave took no part.