REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ANNO DOMINI DRUG, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 6437

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
DEC 15 2003

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DECISION

This case involves a claim for refund or issuance of a tax credit certificate in the total amount of P397,007.06 (*originally in the amount of P924,291.62*) allegedly representing overpaid income taxes for the taxable years 1999 and 2000 due to the erroneous treatment of the 20% sales discounts granted to senior citizens on their purchases of medicines when the same were treated as deductions from gross income as prescribed by Revenue Regulations No. 2-94 instead of as tax credit as provided for under Republic Act No. 7432.

Petitioner is a domestic corporation organized and existing under the laws of the Republic of the Philippines with business address at J.P. Rizal Street, Laoag City. As a franchisee under the business name and style of "Mercury Drug", it was duly licensed to operate a drug store by the Department of Trade and Industry, the Bureau of Food and

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Drugs, and the city government of Laoag City. *(pars. 1 and 2, Joint Stipulation of Facts and Issues)*

During the period from January 1, 1999 to December 31, 2000, petitioner alleged that it granted twenty (20%) percent discount to qualified senior citizens on their purchases of medicines, totaling P1,376,984.15, in compliance with Republic Act No. 7432, otherwise known as "An Act to Maximize Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes," and its implementing rules and regulations, pertinent portions of which are hereunder quoted for easy reference:

Republic Act No. 7432

"SECTION 4. Privileges for the Senior Citizens. - The senior citizens shall be entitled to the following:

a) *the grant of twenty percent (20%) discount from all establishments relative to utilization of transportation services, hotels and similar lodging establishments, restaurants and recreation centers and purchase of medicines anywhere in the country: Provided, That private establishments may claim the cost as tax credit."*

Revenue Regulations No. 2-94

SEC. 2. DEFINITIONS. For purposes of these regulations:

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i. Tax credit. – refers to the amount representing the 20% discount granted to a qualified senior citizen by all establishments relative to their utilization of transportation services, hotels and similar lodging establishments, restaurants, drugstores, recreation centers, theaters, cinema, houses, concert halls, circuses, carnivals and other similar places of culture, leisure and amusement, which discount shall be deducted by the said establishments from their gross income for income tax purposes

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> and from their gross sales for value-added tax or other percentage tax purposes. ***(Underscoring supplied)***
>
> **SEC. 4. RECORDING/BOOKKEEPING REQUIREMENT FOR PRIVATE ESTABLISHMENTS.** xxx.
>
> The amount of 20% discount shall be deducted from the gross income for income tax purposes and from gross sales of the business enterprise concerned for purposes of the VAT and other percentage taxes. ***(Underscoring supplied)***

Petitioner alleged that it has complied with and observed all the administrative requirements in the grant of sales discounts on purchases of medicines by qualified senior citizens prescribed under Republic Act No. 7432 and its implementing rules and regulations as well as the circulars issued by the Bureau of Food and Drugs *(Item no. 2.3, Petition for Review).* According to petitioner, it treated the sales discounts as deductions from its gross sales in compliance with Revenue Regulations No. 2-94 to arrive at the net sales instead of treating the same as tax credit as provided for under Section 4 of the Senior Citizens Law.

On April 17, 2000 and April 17, 2001, petitioner filed its Corporate Annual Income Tax Returns under protest for taxable years 1999 and 2000, respectively. *(par. 3, Joint Stipulation of Facts and Issues).* Petitioner declared that it paid income taxes in the amounts of P22,562.69 for taxable year 1999 and P37,004.67 for taxable year 2000. *(Exhs. B-3 and G-3)*

Claiming that Section 2(i) of Revenue Regulations No. 2-94 made an erroneous interpretation of the tax credit provision of the Senior Citizens Law, petitioner, on March 1, 2002, ~~petitioner~~ filed with respondent a claim for tax credit/refund in the total amount of P924,291.62 representing the cost of the twenty (20%) percent discount granted to qualified senior citizens on their purchases of medicines during the period from January 1, 1999 to December 31, 2000. and overpaid income taxes less income taxes payable for 1999 and 2000 taxable years *(par.4, Joint Stipulation of Facts and Issues),* computed as follows *(Exhibit L)*:

TAXABLE YEAR 1999

SALES, Net		P 46,416,541.45
Add: Cost of 20% Discount To Senior Citizens		842,706.99
SALES, Gross		P 47,259,248.44
Less: Cost of sales		
Merchandise Inventory, Beginning	P 4,113,249.19	
Purchases	45,252,440.71	
Merchandise Inventory, Ending	(5,467,301.41)	43,898,388.49
GROSS PROFIT		P 3,360,859.95
Add: Miscellaneous Income (Net of Interest Income)		12,512.94
TOTAL INCOME		P 3,373,372.89
Less: Operating Expenses		2,464,783.21
NET INCOME BEFORE INCOME TAX		P 908,589.68
INCOME TAX (33%)		P 299,834.59
Less: Income Tax Actually Paid		(20,701.31)
Cost of 20% Discounts to Senior Citizens		(842,706.99)
INCOME TAX REFUNDABLE/CREDITABLE		P (563,573.71)

TAXABLE YEAR 2000

SALES, Net		P 47,176,326.30
Add: Cost of 20% Discount To Senior Citizens		534,277.16
SALES, Gross		P 47,710,603.46
Less: Cost of sales		
Merchandise Inventory, Beginning	P 5,467,301.41	
Purchases	44,985,441.61	
Merchandise Inventory, Ending	(6,005,861.61)	44,446,881.41
GROSS PROFIT		P 3,263,722.05
Add: Miscellaneous Income (Net of Interest Income)		16,450.97
TOTAL INCOME		P 3,280,173.02

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Less: Operating Expenses		2,630,256.27
NET INCOME BEFORE INCOME TAX	P	649,916.75
INCOME TAX (32%)	P	207,973.36
Less: Income Tax Actually Paid		(34,414.11)
Cost of 20% Discounts to Senior Citizens		(534,277.16)
INCOME TAX REFUNDABLE/CREDITABLE	P	(360,717.91)
TOTAL INCOME TAX REFUNDABLE/CREDITABLE	P	(924,291.62)

To date, petitioner has not received any response from respondent, thus, to toll the running of the two-year period, petitioner filed the instant Petition for Review on April 11, 2002.

In his Answer filed on April 25, 2002, respondent raised the following Special and Affirmative Defenses, to wit:

> "4. Revenue Regulations No. 2-94 did not alter, modify or amend the intent of the law to consider the 20% discount granted to qualified senior citizen as deduction from petitioner's gross income and not as credit against its tax liability as petitioner insists.
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> 5. With the accumulation of experience and growth of specialized capabilities by the agency charged with implementing a particular statute, it is now a recognized principle that the construction given to a statute by an administrative agency charged with the interpretation and application of that statute is entitled to great respect and should be accorded great weight by the courts, unless such construction is clearly shown to be in sharp conflict with the governing statute or the constitution and other laws. ***(Nestle Philippines, Inc. vs. CA, et, al., 203 SCRA 504)***
>
> 6. R.A. 7432 allows the discounts granted to senior citizens to be claimed as a tax credit but is silent as to the mechanics of availing the same. For clarification and as a curative measure, Revenue Regulations No. 2-94 was issued defining the term "tax credit" as used in the law and providing therein the manner of claiming the same, which is by deduction from the establishment's gross income and not from its income tax liability. Otherwise an absurdity, not intended by the law, will arise.
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> 7. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau.

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8. The amount of P924,291.62 being claimed by petitioner as alleged sales discount to senior citizens on their purchases of medicines for taxable years 1999 and 2000 was not properly documented.

9. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit.

10. Petitioner must show that it has complied with the provisions of Sections 204 (C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit.

11. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.

To prove its case, petitioner offered the following as evidence:

EXHIBIT	**DOCUMENT**
A	Secretary's Certificate dated July 8, 2002
B, inclusive, of submarkings	1999 Annual Income Tax Return
C, inclusive of submarkings	Official Receipt from Chinabank
D, D-1 & D-2	1999 1st, 2nd & 3rd Quarterly Income Tax Returns
E, E-1 & E-2	Official Receipts from Chinabank
F, inclusive of submarkings	1999 Auditor's Report and Audited Financial Statements
G, inclusive of submarkings	2000 Annual Income Tax Return
H, inclusive of submarkings	Official Receipt from Chinabank
I, I-1 & I-2	2000 1st, 2nd & 3rd Quarterly Income Tax Returns
J, J-1 & J-2	Official Receipts from Chinabank
K, inclusive of submarkings	2000 Auditor's Report and Audited Financial Statements
L	Written-claim for tax credit/refund
M, inclusive of submarkings	1999 Cash Slips
N, inclusive of submarkings	1999 Special Record Book
O, inclusive of submarkings	1999 Cash Receipts Book

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P. inclusive of submarkings	1999 General Ledger of Sales account
Q. inclusive of submarkings	2000 Cash Slips
R. inclusive of submarkings	2000 Special Record Book
S. inclusive of submarkings	2000 Cash Receipts Book
T. inclusive of submarkings	2000 General Ledger of Sales account
U	1999 Summary of Discounts
V	2000 Summary of Discounts
W. inclusive of submarkings	Report of commissioned CPA

(Formal Offer of Documentary Evidence, pp. 90-98, CTA Records)

Counsel for the respondent, however, manifested during the hearing of the case on August 13, 2003 that the issues of the case are purely legal, thus, she submits the case for decision based on the pleadings (*page 147, CTA Records*).

In its memorandum, petitioner prayed for the issuance of a tax credit certificate only for the lower amount of P397,007.06 for the taxable years 1999 and 2000 based on the audit conducted by the independent certified public accountant.

The parties have jointly stipulated on the following issues:

1. Whether the twenty (20%) percent discount granted to qualified senior citizens on their purchases of medicines should be treated as a tax credit/refund deductible from the tax due as provided under Republic Act No. 7432 or merely as a deduction from gross income as provided under Revenue Regulations No. 2-94;

2. Whether or not during the period from January 1, 1999 to December 31, 2000, petitioner granted discounts to qualified senior citizens on their purchases of medicines pursuant to Republic Act No. 7432 in the total amount of P1,376,984.15;

3. Whether or not petitioner's claim for tax credit/refund is substantiated by documentary evidence and filed within the two (2)-year statutory period.

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4. Whether or not petitioner is entitled to a tax credit/refund in the amount of P924,291.62 representing the cost of the twenty (20%) percent discount granted to qualified senior citizens on their purchases of medicines during the period from January 1, 1999 to December 31, 2000 and overpaid income taxes less income taxes payable for 1999 and 2000 taxable years.

Before we proceed to discuss the legal issue involved in this case, we must first determine if the petition for review was timely filed.

Records show that petitioner filed the written claim for refund with the respondent on March 1, 2002 ***(Exhibit L)*** and the Petition for Review with this court on April 11, 2002 ***(p.1, CTA Records)***. Both filings were made within the two-year reglementary period pursuant to Section 229 of the Tax Code, commencing on April 17, 2000 and April 17, 2001, the dates when the 1999 and 2000 Annual Income Tax Returns were filed. Thus, the timeliness of the filing of the instant petition for review is beyond dispute.

We shall now resolve the issue on the proper treatment of the twenty percent (20%) discount granted to qualified senior citizens. In the case of ***Sto. Rosario Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5367, February 16, 1998,*** the court first passed upon the issue in this wise:

> "The provision of Section 4 of R.A. 7432 is crystal clear – the 20% discounts granted to qualified senior citizens may be claimed as **tax credit**. And as a settled rule of statutory construction, when the language of the law is clear and unequivocal, the law must be taken to mean exactly what it says ***(Marin vs. Nacianceno, 19 Phil. 238).*** Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them ***(People vs. Mapa, G.R. No. L-22301, August 30, 1967).***
>
> It is true that the respondent has the power of subordinate legislation effected by her issuance of implementing rules and regulations such as

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Revenue Regulations No. 2-94 in the case at bar, but the said power is not without limit. The administrative regulation must not be in sharp conflict with the governing statute it seeks to implement ***(Nestle Philippines, Inc. vs. Court of Appeals, et al, 203 SCRA 504).*** Revenue Regulations No. 2-94 gave a new meaning to the phrase "tax credit", interpreting it to mean that the 20% discount granted to qualified senior citizens is an amount deductible from the establishment's gross sales, which is completely contradictory to the literal or widely accepted meaning of the said phrase, as an amount subtracted from an individual's or entity's tax liability to arrive at the total tax liability ***(Black's Law Dictionary).***

A research made on the deliberations of the Bicameral Conference Committee with respect to the contents of Republic Act 7432 clearly shows that the real intent of the lawmakers was to treat these discounts as a tax credit rather than as a deduction as interpreted by the respondent.

In view of such apparent discrepancy in the interpretation of the term "tax credit", the provisions of the law under R.A. 7432 should prevail over the subordinate regulation issued by respondent under Revenue Regulations No. 2-94."

Then, in the case of ***Del Rosario Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5357, dated April 6, 1998,*** the court elucidated further:

"A cursory review of the wordings of Section 4 of Republic Act No. 7432 would reveal that the law literally intended the cost of the 20% discount to be claimed as tax credit by private establishments. We could not see any plausible reason for the respondent to interpret the phrase in a different way. The discount being available for tax credit as stated in the law cannot be made incoherent to mean that such discount be utilized instead as a *deduction from gross income and from gross sales* as what is provided in RR No. 2-94.

To be valid, an administrative regulation must not be in contravention but should conform to the standards that the law prescribes *(**Tayug Rural Bank vs. Central Bank, 146 SCRA 12**)*. Its promulgation must be authorized by the legislature. *(**Philippine Administrative Law**, Cruz, 1994 ed., p. 32)*.

RR No. 2-94 which engraved a new meaning to the phrase "tax credit" as referring to the 20% discount which is deductible from gross sales is patently incongruous and a deviation from the plain intendment of

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the law. It is even repugnant to the common dictionary acceptation of said phrase.

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In declaring that the provisions of RA 7432 prevail over Revenue Regulations No. 2-94, it is important to point out that the cost of the 20% discount shall not be treated as deduction from the gross income of the petitioner nor deducted from its gross sales for VAT or other percentage tax purposes. The benefit that can be derived by taxpayers is the privilege of claiming these discounts as tax credit and no longer as deductions as what other taxpayers have done. They cannot avail of tax credit and claim said discounts as deductions at the same time because this would be tantamount to granting them benefits that are already disproportionate to the obligations imposed upon them by virtue of said law. This is to make clear for both the taxpayers and respondent that the tax credit privilege takes the place of claiming these discounts as deductions pursuant to this Court's stand that Section 2(i) of Revenue Regulations No. 2-94 is null and void and it is Section 4(a) of RA 7432 that will apply in cases of this nature."

Our ruling in the above case was reiterated in a number of similar cases that followed ***(Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 6046, June 7, 2002; Southern Luzon Drug Corporation (formerly known as Laguna Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 6049, May 14, 2002; Tropical Hut Food Market, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 6048, May 14, 2002; Bicolandia Drug Corporation (formerly known as Vas Salus Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 6047, April 16, 2002; Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 6054, April 15, 2002; Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5773, March 19, 2002; Cagayan Valley Drug Corporation (formerly known as Vas Salus Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 6053, March 11, 2002; Southern Luzon Drug Corporation (formerly known as Laguna Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5770, March 6, 2002; Tropical Hut Food***

Market, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5771, March 6, 2002; M.E. Holding Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5772, February 12, 2001; Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5767, February 12, 2001; Bicolandia Drug Corporation (formerly known as Elmas Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5768, February 12, 2001; Cagayan Valley Drug Corporation (formerly known as Vas Salus Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5769, February 8, 2001; Tropical Hut Food Market, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5600, February 8, 2001; Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5612, January 9, 2001; Bicolandia Drug Corporation (formerly known as Elmas Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5599, October 10, 2000; Mercury Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5315, September 6, 2000; Trinity Franchising and Management Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5605, May 30, 2000; Cagayan Valley Drug Corporation (formerly known as Vas Salus Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5581, April 26, 2000; M.E. Holding Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5604, April 25, 2000; Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5582, April 24, 2000; Southern Luzon Drug Corporation (formerly known as Laguna Drug Corporation) vs. Commissioner of Internal Revenue, CTA Case No. 5583, April 24, 2000; Vas Salus Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5509, November 26, 1999; Tropical Hut Food Market, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 5312, May 28, 1999; Elmas Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5311, August 27, 1998; Trinity Franchising and Management Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5313, August 18, 1998; M.E. Holding Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5314, August

17, 1998; and Baliuag Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5365, May 13, 1998)

Significantly, the Court of Appeals affirmed our ruling in the cases of ***Commissioner of Internal Revenue vs. Bicolandia Drug Corporation (formerly known as Elmas Drug Corporation) CA G.R. SP NO. 70534, June 2, 2003; Commissioner of Internal Revenue vs. Vas Salus Drug Corporation, CA-G.R. SP NO. 59873, January 31, 2002; and Commissioner of Internal Revenue vs. Elmas Drug Corporation, CA – G. R. SP NO. 49946, dated October 19, 1999***. And in the most recent case of ***Commissioner of Internal Revenue vs. Central Luzon Drug Corporation, CA-G.R. NO. 70480, August 13, 2003,*** the Court of Appeals, in affirming our ruling in the case of ***Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CTA Case No. 6054, April 15, 2002***, has made the following pronouncement, thus:

> "Under the *verba legis* or *the plain meaning rule*, if the statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. The principle rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent or will and preclude the court from construing it differently. The legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by the use of such words as are found in the statute ***(Republic vs. Court of Appeals, 299 SCRA 199)***. Section 4 (a), R.A.7432 provides in clear, unambiguous and unequivocal terms that private establishments granting 20% discount to qualified senior citizens "*may claim the cost as tax credit*". There being no ambiguity in the language employed, the CTA therefore committed no error in applying said law according to its express terms. Its use of the plain meaning or literal rule therefore is but in keeping with its sworn duty to apply the law in accordance with the intent of the legislature. *The intent of the Legislature to be ascertained and enforced is the intent expressed in the words of the statute* **(Regalado vs. Yulo, 61 Phil. 173,179 1935).**
>
> It bears to stress that tax credit and deduction have different connotations and applications. "***Tax credit***" is defined and understood as a credit against income tax itself ***(Ballantines Law Dictionary, 3rd edition)***, as distinguished from a mere deduction which applies only to reduce the income upon which the income tax is to be computed. "***Tax Credit***" is an amount subtracted from an individual's or entity's tax liability to arrive at the total tax liability. ***Tax credit***

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> reduces the taxpayer's liability while ***deduction*** reduces taxpayer's taxable income upon which the tax liability is computed. A ***credit*** differs from ***deduction*** in that the former is subtracted from tax while the latter is subtracted from income before tax is computed ***(Black's Law Dictionary).*** As the subject law uses the term "tax credit", it must be taken to mean exactly what it says. Moreover, the plain and evident intent of the legislature in enacting R.A. 7432 is to treat the 20% discount as a tax credit rather than as a deduction.
>
> Neither can We go along with petitioner's argument that to allow respondent to claim the 20% discount as tax credit instead of as a mere deduction from gross income/gross sales would be to grant a benefit not intended by law. The main objective of R.A. 7432 is to provide assistance and special privileges to senior citizens. In the implementation thereof, the State essentially requires drugstores, like herein respondent, to give 20% of the value of the medicines sold in the form of a discount in prices. This is tantamount to taking of private property for public use under the power of eminent domain. While the State's power of expropriation is authorized by the Constitution, it should not be exercised without payment of "just compensation" (Article III, Section 9). As aptly held in ***Manosca vs. Court of Appeals, 252 SCRA 412***, the only direct constitutional qualification for the exercise of such power is that "private property shall not be taken for public use without just compensation". The tax credit scheme provided under the subject law is designed to compensate private establishments the full and fair equivalent of the property taken from them, hence, it would be highly inappropriate to consider the same as "benefit not intended by law".

Moreover, the Court of Appeals, in ***Central Luzon Drug Corporation vs. Commissioner of Internal Revenue, CA G.R. SP No. 60057, May 31, 2001,*** ruled that the full amount and not only the cost of the 20% sales discounts to senior citizens should be the basis of the tax credit, thus:

> "Lastly, the concept of tax credit as just compensation, leads us to conclude that the term "cost" under Sec. 4(a) of R.A. 7432 refers to cost of acquisition, not the cost of medicines sold to senior citizens, which was already reduced by 20%. Just compensation is the full and fair equivalent of the property taken from the private owner by the expropriator. It is intended to fully indemnify the owner for the loss sustained. The actual basis or market value of the property is the standard of just compensation. Among the factors considered are the cost of acquisition of the property, the current value of like properties and its actual or potential uses. Clearly, the cost of medicines sold to senior citizens, which is already discounted, does not come close to the full and fair equivalent of the property taken. It should not be the basis of the tax credit."

Having settled the legal issue, we shall now determine whether or not petitioner has sufficiently proven the factual aspect of its claim for refund.

Records disclose that petitioner deducted the amounts of P842,706.99 (*Exh. U*) and P534,277.16 *(Exh. V)* from its gross sales for the taxable years 1999 and 2000, respectively, representing the 20% sales discounts granted to senior citizens resulting to a net sales of P46,416,541.45 *(Exh. B-2)* and P47,176,326.30 *(Exh. G-1)* for the years 1999 and 2000, respectively.

To prove that it actually granted the 20% sales discounts to qualified senior citizens, petitioner submitted in evidence various cash slips *(Exhs. M and Q)*, which were summarized in the 1999 and 2000 Monthly Summary of Senior Citizens transactions *(Exhs. U and V)*. However, as reported by the commissioned CPA *(Exh. W)*, not all of the claimed sales discounts were duly substantiated by cash slips. There were discrepancies between the claimed discounts reflected in petitioner's summary of discounts and the audited discounts with proper supporting documents. Accordingly, the sales discounts which were duly substantiated and which were granted per audit amounted to P115,715.23 for taxable year 1999 and P475,159.41 for taxable year 2000. Comparing the amounts of sales discounts per summary provided by the petitioner and the sales discounts which were duly substantiated and determined per audit would result to a variance of P726,990.94 for taxable year 1999 and P58,973.72 for taxable year 2000 *(pages 34 and 45 of the commissioned CPA's report)*. Hence, in this claim for tax credit, the court shall consider only the verified amounts of senior citizen's discounts.

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In computing petitioner's 1999 overpaid income tax[1], it becomes necessary to add back to petitioner's net sales of P46,416,541.45 the 20% sales discounts granted to senior citizens in the amount of P842,706.99 which was previously deducted from its gross sales since said discounts are no longer to be treated as deductions from gross income but rather as tax credit.

The same holds true with respect to the computation of petitioner's 2000 overpaid income tax. We shall add back to the net sales of P47,176,326.30 the amount of P534,277.16 representing the 20% sales discounts to senior citizens.

Consequently, a re-computation of petitioner's 1999 and 2000 income tax liabilities using the substantiated amounts of P115,715.23 and P475,159.41, respectively, as allowable tax credits will result to an underpaid income tax of P163,418.05 for 1999 and an overpaid income tax of P301,600.16 for 2000 or a net amount of P138,182.11 overpaid income tax for the two taxable years, computed as follows:

TAXABLE YEAR 1999

SALES, Net			P	46,416,541.45		
Add: Cost of 20% Discount To Senior Citizens				842,706.99		
SALES, Gross			P	47,259,248.44		
Less: Cost of sales						
Merchandise Inventory, Beginning	P	4,113,249.19				
Purchases		45,252,440.71				
Merchandise Inventory, Ending		(5,467,301.41)		43,898,388.49		
GROSS PROFIT			P	3,360,859.95		
Add: Miscellaneous Income (Net of Interest Income)				12,512.94		
TOTAL INCOME			P	3,373,372.89		
Less: Operating Expenses				2,464,783.21		
NET INCOME BEFORE INCOME TAX			P	908,589.68		
INCOME TAX (33%)			P	299,834.59		
Less: Income Tax Actually Paid	P	20,701.31				
Substantiated Amount of Discounts to Senior Citizens		115,715.23		136,416.54		
INCOME TAX (REFUNDABLE/CREDITABLE) OR PAYABLE					P	163,418.05

[1] It should be noted that for taxable year 1999, petitioner still has an income tax payable.

TAXABLE YEAR 2000

SALES, Net		P 47,176,326.30	
Add: Cost of 20% Discount To Senior Citizens		534,277.16	
SALES, Gross		P 47,710,603.46	
Less: Cost of sales			
Merchandise Inventory, Beginning	P 5,467,301.41		
Purchases	44,985,441.61		
Merchandise Inventory, Ending	(6,005,861.61)	44,446,881.41	
GROSS PROFIT		P 3,263,722.05	
Add: Miscellaneous Income (Net of Interest Income)		16,450.97	
TOTAL INCOME		P 3,280,173.02	
Less: Operating Expenses		2,630,256.27	
NET INCOME BEFORE INCOME TAX		P 649,916.75	
INCOME TAX (32%)		P 207,973.36	
Less: Income Tax Actually Paid	P 34,414.11		
Substantiated Amount of Discounts to Senior Citizens	475,159.41	509,573.52	
INCOME TAX (REFUNDABLE/CREDITABLE) OR PAYABLE			(301,600.16)
TOTAL INCOME TAX (REFUNDABLE/CREDITABLE) OR PAYABLE			P (138,182.11)

WHEREFORE, petitioner's claim for refund is ***PARTIALLY GRANTED***. Respondent is hereby **ORDERED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of the petitioner in the amount of P138,182.11 representing overpaid income tax for the years 1999 and 2000.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

LOVELL R. BAUTISTA
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge

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