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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE PHILIPPINE AMERICAN LIFE INSURANCE COMPANY,
Petitioner,

- versus - C.T.A. CASE NO. 2530

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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THE PHILIPPINE AMERICAN LIFE INSURANCE COMPANY,
Petitioner,

- versus - C.T.A. CASE NO. 2567

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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D E C I S I O N

These two cases involving as they do the same parties, identical issues and similar facts were heard jointly with only one decision being rendered. In its petitions for review, petitioner Philippine American Life Insurance Company seeks the refund of the amount of ₱37,207.20 in C.T.A. Case No. 2530 and the sum of ₱14,436.90 in C.T.A. Case No. 2567 which it paid as documentary stamp tax on the medical certificates issued by its medical examiners to its various clients for the period 1958 to 1963 and 1953 to 1956, respectively.

The relevant facts as stated by respondent in his memorandum dated July 21, 1975, and which are supported by the records, are as follows:

> "Petitioner is a duly registered domestic corporation engaged in the insurance business.
>
> Sometime in 1970, examiners of the Bureau of Internal Revenue conducted an investigation of petitioner's tax liabilities for the period 1958-1963. In their investigation, it was ascertained that petitioner failed to affix the correct amount of documentary stamps on the medical certificates issued by its medical examiners for the aforesaid period. Based on the report of said BIR examiners dated August 15, 1972 (Exhs. "1", "1-A" and "1-B", pp. 1 to 5, BIR rec., C.T.A. 2530), petitioner was assessed the amount of ₱37,207.20 as documentary stamp taxes, inclusive of compromise penalty, for the aforesaid period 1958-1963, computed as follows:

Total Policies issued per Office Insurance Commissioner Report . . .		₱292,682
Less: Policies issued in U.S. Branch . . .	₱8,400	
Non-medical policies	161,258	169,658
Total Policies issued subject to documentary stamp. . .		₱123,024
Documentary stamp tax due each policy		x .30
TOTAL DOCUMENTARY STAMP TAX DUE..		₱36,907.20
Add: Compromise penalty		300.00
TOTAL AMOUNT DUE AND COLLECTIBLE		₱37,207.20

Said amount was demanded under Letter of Demand No. BT-72-290 dated October 20, 1972. (Exh. "3", pp. 13-14, BIR rec., C.T.A. 2530.) It was only on April 13, 1973, however, that the same was paid by the petitioner. And later, in a letter dated April 17, 1973, petitioner requested the refund of the aforesaid amount of ₱37,207.20, alleging, among other things, that Section 72, Regulation No. 26, of the Department of Finance states that "only those certificates issued by a public official or by a person acting in a public capacity are subject to documentary stamp taxes". Receiving no decision from respondent on the matter, petitioner filed on June 4, 1973, a petition for review with this Honorable Court (C.T.A. Case No. 2530).

In another investigation conducted by the same examiners sometime in 1973, it was likewise ascertained that petitioner failed to affix documentary stamps on the medical certificates on its insurance policies issued during the period 1953-1956 (Exhs. "2", "2-A", "2-B" and "2-C", pp. 5-16, BIR rec., C.T.A. Case No. 2567). Consequently, it was assessed the amount of ₱14,436.90 under Demand Letter No. BT-73-00169 dated June 20, 1973, computed as follows:

YEAR	NO. OF POL ISSUED	NO. OF POL. SUBJECT TO DOC. STAMPS	DOC. STAMPS DUE @ ₱0.30 EACH POLICY
1953	24,675	9,278	₱ 2,783.40
1954	25,571	9,615	2,884.50
1955	29,067	10,929	3,278.70
1956	38,034	14,301	4,290.30
	117,347	44,123	13,236.90
		Compromise penalty	1,200.00
		T o t a l . . .	₱14,436.90

(Exh. "4", p. 29, BIR rec., C.T.A. Case 2567)

> The assessment of ₱14,436.90 was paid by petitioner on October 4, 1973. Like the previous payment, petitioner demanded the refund of the latter payment in a letter dated October 9, 1973 alleging the same reasons embodied in its letter of April 17, 1973 and the fact that it has availed of the benefits of the tax amnesty. On November 29, 1973, it elevated the matter to this Honorable Court (C.T.A. Case No. 2567)."

The common issue in these cases is whether or not the medical certificates prepared by petitioner's medical examiners and which form part of the insurance policies issued by it are subject to the documentary stamp tax imposed by Section 225 of the Revenue Code. And since petitioner availed itself of the benefits of the tax amnesty under Presidential Decree No. 23, whether or not it is entitled to the refund of the documentary stamp tax demanded and later paid by it.

It is only in CTA Case No. 2567, however, where petitioner alleges, among others, that it is entitled to the refund of the amount of tax paid by it because it has availed of the benefits of the tax amnesty.

With respect to the common issue, four-square with the cases at bar on this point, by reason of the exact similarity of the facts involved and the question litigated, as well as the close identity of the parties, is the case of Insular Life Assurance Co., Ltd. v. Commissioner of Internal Revenue, C.T.A. Case No. 1963, October 7, 1970. (Certiorari denied, G.R. No. L-32971, January 6, 1971).

In that case, this Court ruled that medical certificates prepared by the medical examiners of petitioner therein and which are attached to applications for life insurance are subject to the documentary stamp tax imposed by Section 225 of the Revenue Code. Due to its decisive effects on the instant cases, we will quote at length from the decision.

> "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."

In an attempt to differentiate the factual setting in these cases from that in the Insular Life Assurance Company case, supra, petitioner, however, argues that the certificates sought to be taxed are reports issued and signed by independent medical examiners who are not employees of petitioner. Whatever the dialectics employed, these reports or certificates are nothing but accounts or statements of the physical conditions of persons applying for life insurance. And under Section 225 of the Revenue Code as implemented by Section 109 of the Documentary Stamp Tax Regulations of the Department of Finance, as amended, it is expressly provided that they are subject to the documentary stamp tax. (See Sec. 109, Documentary Stamp Tax Regulations, cited in Insular Life Assurance Company, Ltd., v. Commissioner of Internal Revenue, supra.)

Likewise, we see no significance in the allegation of petitioner that these medical reports or certificates are issued and signed by independent medical examiners who are not its employees. Petitioner's Exhibit A-1 (p. 43, CTA rec.), which is a typical duly accomplished "Report of Medical Examiner," states in bold letters following the very firm name of petitioner that: "N-B-" (which means nota bene or note well) "Answers to the following questions must be elicited and recorded by a regular appointed Examiner of the Company, with no one present but the Applicant and the Examiner." (Emphasis supplied). And at the back thereof, again immediately following the title of the medical report, it is written in prominent and clear words that: "N-B- The Company (petitioner herein) expects its Examiners to exercise the utmost care in developing history of any illness or impairment of health and to make a thorough physical examination. x x x x x " (Underscoring supplied.) To say, therefore, that the medical examiners who signed the medical certificates are not employees of petitioner is to ignore the unmistakable meaning of plain words. The medical reports or certificates to be accomplished, issued and signed by the medical examiners are printed forms of petitioner, the answers to the questions are to be elicited and recorded only by regular appointed examiners of petitioner whose services are paid by petitioner, and they contain instructions of how petitioner's medical examiners should accomplish them. As a matter of fact, the Report of Medical Examiner, as per statement at the other side thereof, forms part II of the application for life insurance to petitioner. It is thus clear beyond doubt that petitioner is the maker, signer, issuer or acceptor of the medical reports or certificates sought to be taxed.

Lastly, petitioner contends in C.T.A. Case No. 2567 that it is entitled to the refund of the amount of ₱14,436.90 paid as documentary stamp tax involved therein because it has availed itself and has been granted the benefits of the tax amnesty under Presidential Decree No. 23. Section 309 of the National Internal Revenue Code governs the authority of the Commissioner of Internal Revenue to credit or refund internal revenue taxes, and under the plain provisions thereof, the authority or power of the Commissioner to refund or credit taxes refers only to "taxes erroneously or illegally received, or penalties imposed without authority." Here, the documentary stamp tax so assessed, collected and paid by petitioner is legally and legitimately due, and was not erroneously or illegally received by the Bureau of Internal Revenue. It seems clear, therefore, that under the applicable provisions of the law respondent has no authority to refund or credit the amount of documentary stamp tax previously paid, and petitioner is not entitled to refund or credit thereof.

And if petitioner availed itself of the tax amnesty under Presidential Decree No. 23, as amended, and on the assumption that it is entitled to the benefits granted therein, that alone did not grant petitioner the right to a refund or credit of the tax previously paid. Nowhere and in nowise does Presidential No. 23 provide for the refund or credit of taxes previously paid on the ground that, with the payment of the tax imposed under the decree, such taxes which are legally due and collected have become erroneous or illegal and therefore refundable.

The Presidential Decree in question merely grants tax amnesty to voluntary disclosures of previously untaxed income and/or wealth taxable under the National Internal Revenue Code by imposing a tax of 10% on such previously untaxed income or wealth in lieu of the actual internal revenue taxes due including penalties and interests. The taxpayer who avails himself of the amnesty, after having paid the tax imposed therein, is then relieved from all civil, criminal or administrative liabilities arising from or incident to the disclosure under the National Internal Revenue Code, the Revised Penal Code, the Anti-Graft and Corrupt Practices Act, the Revised Administrative Code, the Civil Service Laws and Regulations, laws and regulations on Immigration and Deportation, or any other applicable law or proclamation. (Sec. 3, Revenue Regs. No. 15-72, Dec. 11, 1972). For the enjoyment of all these benefits of the tax amnesty under the decree, tax evaders are required to pay only a small percentage of their untaxed income or wealth. As stated in the decree, the purpose is to afford tax evaders a chance to reform and become part of the New Society with a clean slate. But there is nothing therein which can be construed, even only indirectly, which would allow taxpayers availing themselves of the benefits of the amnesty to claim the refund or credit of taxes legally and legitimately due which had already been paid by such taxpayers. Following the well-settled rule that a refund partakes of the nature of an exemption which cannot be allowed unless granted in the most explicit and categorical language, the payment made by petitioner of the documentary stamp tax in question is not refundable. (Resins, Inc. v. Auditor General, G.R. No. L-17888, Oct. 29, 1968; 25 SCRA 754; See also, Asturias Sugar Central, Inc. v. Commissioner, L-19337, Sept. 30, 1969, 25 SCRA 617; Commissioner v. Visayan Electric Co., L-22611, May 27, 1968, 23 SCRA 715; Commissioner v.

Guerrero, L-20812, Sept. 22, 1967, 21 SCRA 180; Esso Standard Eastern, Inc. v. Commissioner, L-21841, Oct. 28, 1966, 18 SCRA 488.)

ACCORDINGLY, the claims of petitioner Philippine American Life Insurance Company for refund of the amount of ₱37,207.20 in C.T.A. Case No. 2530 and the sum of ₱14,436.90 in C.T.A. Case No. 2567 which it paid as documentary stamp tax on the medical certificates issued by its medical examiners to its various clients for the period 1958 to 1963 and 1953 to 1956 are hereby denied. With costs against petitioner in both cases.

SO ORDERED.

Quezon City, July 23, 1976.

Amante Filler
AMANTE FILLER
Associate Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge