REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

CARMELINO F. PANSACOLA,
Petitioner,

- versus -

C.T.A. CASE NO. 5924

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 13 2000

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DECISION

The instant petition seeks for the refund of the amount P5,950.00 representing alleged erroneously withheld income tax for the year 1997.

The facts of the case are not disputed.

Petitioner is an individual taxpayer, of legal age, Filipino, married, presently employed and with residence at No.9 Balete Road, Pilar Village, Las Pinas City.

On April 13, 1998, Petitioner filed his Annual Income Tax Return for the year 1997 showing an overpayment of P5,950.00 arising from the difference in the manner by which the tax due was computed, detailed as follows:

		Per Appellant		Per BIR	Difference
Gross compensation income		P654,270.43		P654,270.43	
Less: Personal exemptions	P32,000.00		P18,000.00		
Additional exemptions	8,000.00		5,000.00		
		40,000.00		23,000.00	
Taxable income		P614,270.43		P631,270.43	P17,000.00
Tax Due		P162,169.65		P168,119.65	
Less: Withholding tax (BIR W-2)		P168,119.65		P168,119.65	
Refundable Amount		P 5,950.00		P -.-	P 5,950.00

Petitioner computed the tax due in his return on the basis of RA 8424, otherwise known as the Tax Reform Act of 1997, granting personal exemption as a married individual in the amount of P32,000.00 and an additional exemption ofP 8,000.00 for each dependent. On the other hand, the tax withheld from Petitioner as shown by his Certificate of Income Tax Withheld on Compensation was arrived at pursuant to RA 7167 which granted a personal exemption of P18,000.00 for married individuals and P5,000.00 for each dependent. Thus, on April 16, 1999, Petitioner invoking the provisions of RA 8424 as applicable to his case, filed a claim for refund before the office of herein Respondent (Annex B, Petition for Review).

Through a letter dated June 7, 1999 which was received by Petitioner on July 22, 1999, Respondent denied with finality Petitioner's claim for refund (Annex C, Petition for Review). Hence, the instant petition.

Respondent, in his Answer, raised the following Special and Affirmative Defenses:

> "4. In denying Petitioner's claim for refund, Respondent pointed out that the same was without factual as well as legal basis, Republic Act No. 8424 having taken effect on January 1, 1998, as expressly provided in the law.
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> The legislative intent as to when the increase in personal and additional exemptions provided in RA No. 7167 will take effect, is not applicable in the case of RA No. 8424.
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> In interpreting RA No. 7167, the Supreme Court declared that the adjustments made by Congress "to the poverty threshold level" meant that Congress intended the increase in personal and additional exemptions to apply at the time of its enactment, which is 1991,

although the law (R.A. 7167) became effective on January 30, 1992 (Umali vs. Estanislao, 209 SCRA 446).

On the other hand, the intention of Congress as to when the amendatory provisions introduced by RA No. 8424 will take effect is very clear. There is no doubt or room for interpretations as to the legislative intent as Congress has explicitly and categorically declared it to be effective on January 1, 1998.

In sum, the distinction lies in the ascertainment of the legislative intent. In RA No. 7167, Congress intended the increase in personal and additional exemptions to apply to income earned during the year 1991, whereas in RA No. 8424, Congress intended its provisions to apply to income starting January 1, 1998.

5. Taxes are presumed to have been paid and collected in accordance with law;

6. In an action for tax refund, the burden is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund;

7. It is incumbent upon petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code;

8. Well-established is the rule that claims for refund/tax credit are construed in strictissimi juris against the taxpayer as they partake the nature of exemption from tax."

Both parties agree that the issue involved is purely legal: whether or not the increased personal and additional exemptions under RA 8424 can be availed of by the Petitioner for purposes of computing his income tax liability for the taxable year 1997 and thus be entitled to the refund (p. 45, CTA records).

In his Petition for Review, Petitioner contends that the rulings enunciated in *Umali vs. Estanislao, 209 SCRA 446*, are applicable to RA 8424, otherwise known as the Tax Reform Act of 1997. In the said case, the Supreme Court ruled that Rep. Act 7167 took effect on 30 January 1992, which is after fifteen (15) days following its publication on 14 January 1992 in the "Malaya," <u>but</u> at the same time held that the said Act should cover or extend to compensation income earned or received during calendar year 1991, thus:

> "It will also be observed that Rep. Act 7167 speaks of the adjustments that it provides for, as adjustments "to *the poverty threshold level.*" Certainly, "*<u>the poverty threshold level" is the poverty threshold level at the time Rep. Act 7167 was enacted by Congress, not poverty threshold levels in futuro</u>*, at which time there may be need of further adjustments in personal exemptions. xxx
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> And then, Rep. Act 7167 says that the increased personal exemptions that it provides for shall be available thenceforth, that is, after Rep. Act 7167 shall have become effective. In other words, these exemptions are available upon the filing of personal income tax returns which is, under the National Internal Revenue Code, done not later than the 15th day of April after the end of a calendar year. Thus, under Rep. Act 7167, which became effective, as aforestated, on 30 January 1992, the increased exemptions are literally available *on or before 15 April 1992* (though not before 30 January 1992). But these increased exemptions can be available on 15 April 1992 only in respect of *compensation income earned or received during the calendar year 1991.*
>
> xxx
>
> The personal exemptions as increased by Rep. Act 7167 cannot be regarded as available *only* in respect of compensation income received during 1992, as the implementing Revenue Regulations No. 1-92 purport to provide. Revenue Regulations No. 1-92 would in effect postpone the availability of the increased exemptions to 1 January-15 April 1993, and thus literally defer the effectivity of Rep. Act 7167 to 1 January 1993. Thus, the implementing regulations collide frontally with Section 3 of Rep. Act 7167 which states that the statute "shall take effect upon its approval." The objective of the Secretary of Finance and the Commissioner of Internal Revenue in postponing through Revenue Regulations No. 1-92 the legal effectivity of Rep. Act 7167 is, of course, entirely understandable – to defer to 1993 the reduction of governmental tax revenues which irresistibly follows from the application of Rep. Act 7167. But the law-making authority has spoken and the Court can not refuse to apply the law-maker's words. Whether or not the government can afford the drop in tax revenues resulting from such increased exemptions was for Congress (not this Court) to decide."

Respondent, on his part, argues that Petitioner's claim for refund has no factual nor legal basis, RA 8424 having taken effect on January 1, 1998, as expressly provided in the law.

We rule in favor of the Respondent.

To begin with, this Court finds the provision under RA 8424 on the effectivity date of the Act to be too clear to admit of the interpretation advanced by Petitioner and We simply cannot adopt the pronouncements made by the Highest Tribunal in the aforementioned case of Umali vs. Estanislao.

Firstly, the effectivity clauses of RA 7167 and RA 8424 are not similarly worded, the former to take effect upon its approval and the latter, on a specified date, January 1, 1998. As correctly pointed out by Respondent, the intention of Congress as to when the amendatory provisions introduced by RA 8424 will take effect is very clear. It need not be overemphasized that the court may not construe a statute that is clear and free from doubt. "Time and time again, it has been repeatedly declared by this court that where the law speaks in clear and categorical language, there is no room for interpretation. There is only room for application." (Cebu Portland Cement Co., v. Municipality of Naga, G.R. No. 24116, Aug. 22, 1968, 24 SCRA 708, cited in Statutory Construction, Agpalo, 3rd edition) Moreover, "tax laws operate prospectively whether they enact, amend, or repeal unless the purpose of the legislature to give retrospective effect is expressly declared or may be implied from the language used." (Philippine Education Co. v. Commissioner, CTA Case No. 703, Sept. 20, 1965 citing Lorenzo V. Posadas, 4 Phil. 353; Commissioner

v. Filipinas Cia. de Seguros, 58 O.G. No. 3, p. 460, all cited in Law of Basic Taxation, Aban). Verily, RA 8424, by its express terms, does not fall under any of the exceptions.

In the case, however, of RA 7167, considering that its supposed effectivity date would come earlier than the publication requirement under Article 2 of the Civil Code, the Supreme Court found the need to interpret the said Act after taking into account the circumstances obtaining at the time. In interpreting the effectivity clause under RA 7167, the "poverty threshold level" at the time the said Act was enacted was given utmost consideration. This is because the cardinal rule in the interpretation of all laws is to ascertain, and give effect to, the intent of the law. Furthermore, it is worthy to note that before the court may construe or interpret a statute, there must be doubt or ambiguity in its language. Unfortunately for the Petitioner, this Court finds nothing ambiguous in the effectivity clause of RA 8424.

Petitioner likewise contends that unlike the other allowable deductions which speak of a time or period covered, the allowance of the personal and additional exemptions as stated in the Tax Code recognizes no time frame or period of coverage. Rather, the same are fixed amounts allowed when, and are to be reckoned at the time of, computing or determining the tax due. According to Petitioner, these personal and additional exemptions are simply granted by law to be available at the time of filing the return and payment of the tax due thereof.

We do not agree.

For the purpose of determining the tax due from an individual taxpayer's income earned on a particular year, the law allows the deduction of basic personal and additional exemptions of the taxpayer certainly for the same taxable year. It would be absurd for the law to allow the deduction from a taxpayer's gross income earned on a certain year of exemptions availing on a different taxable year. And like business expenses which are required to be paid or incurred **during the taxable year** in order that they may be allowed as deductions, personal and additional exemptions, though fixed amounts, likewise refer to the status of the taxpayer **at the end of the year**. This is why under Section 35 (C) of the Tax Code, the taxpayer may still claim in full the exemptions corresponding for a taxable year where a change of status has occurred during such year, thus:

> **Sec. 35. Allowance of Personal Exemption for Individual Taxpayer.** -"(C) Change of Status. – If the taxpayer marries or should have additional dependent(s) as defined above **during the taxable year,** the taxpayer may claim the corresponding additional exemption, as the case may be, in full **for such year.**
>
> If the taxpayer dies **during the taxable year**, his estate may still claim the personal and additional exemptions for himself and his dependent(s) as if he died **at the close of such year.**
>
> If the spouse or any of the dependents dies or if any of such dependents marries, becomes twenty-one (21) years old or becomes gainfully employed **during the taxable year,** the taxpayer may still claim the same exemptions as if the spouse or any of the dependents died, or as if such dependents married, became twenty-one (21) years old or became gainfully employed **at the close of such year.**"

Clearly from the above, what the law considers for purposes of determining the tax due from an individual taxpayer is his status and qualified dependents at the close of the taxable year and not at the time of the filing of the return and payment of the tax due thereon, as alleged by Petitioner.

WHEREFORE, in the light of all the foregoing, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
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