Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

MANILA ELECTRIC COMPANY and MANILA ELECTRIC COMPANY Pension Fund, represented by its Agent and Assistant Secretary, Lourdes D. Torres,
Petitioner,

- versus -

C.T.A. CASE NO. 4833

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PROMULGATED:
OCT 02 1995

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D E C I S I O N

This case involves a claim for refund or tax credit in the amount of P12,743,397.35 representing final withholding tax on interest income earned by the petitioner Pension Fund from its money market placements.

It appears that petitioners Manila Electric Company and Manila Electric Company Pension Fund is an employee's trust set up by employer for the exclusive benefit of its employees, to provide them retirement, disability and death benefits.

Accordingly, the Fund is represented by its Agent and Assistant Secretary, Lourdes D. Torres with office address at the 8th floor, Lopez Building, Ortigas Avenue, Pasig, Metro Manila.

From July 25, 1990 to April 27, 1992, the amount of P12,743,397.45 representing twenty percentum final withholding tax, was allegedly withheld and remitted to the BIR by the petitioners.

The said amount consist of interest earned by the Fund from money market placements with the Philippine Commercial Capital, Inc. (PCCI) and the International Capital Corporation (ICC) which is broken down as follows:

PHILIPPINE COMMERCIAL CAPITAL, INC.

	Interest Income	Tax Withheld	Date Remitted
	P 1,224,619.11	P 244,923.83	07-25-90
	4,460,217.57	892,043.54	10-25-90
	1,126,383.49	225,276.68	01-25-91
	4,437,517.83	887,503.55	04-25-91
	1,511,608.21	302,321.66	07-25-91
	6,020,309.87	1,204,061.98	10-25-91
	310,967.74	62,193.55	01-24-92
	5,581,764.28	1,116,352.83	04-24-92
TOTAL:	**P 24,678,388.10**	**P4,934,677,62**	

INTERNATIONAL CAPITAL CORPORATION

Interest Income	Tax Withheld	Date Remitted
P 35,017.95	P 7,003.59	07-25-90
11,863.18	2,372.64	
1,866,792.33	373,358.47	
34,255.90	6,851.18	
11,809.80	2,361.96	
33,486.24	6,697.25	10-25-90
11,755.75	2,351.15	
32,708.88	6,541.78	
11,701.03	2,340.21	
31,923.75	6,384.75	
11,645.63	2,329.13	
2,168,092.61	433,618.52	
765,823.73	153,164.75	04-25-91
28,703.91	5,740.78	
11,416.99	2,283.40	
2,057,611.11	411,522.22	
27,878.73	5,575.75	
11,358.03	2,271.61	
27,045.29	5,409.06	
11,298.34	2,259.67	
2,369,427.99	473,885.60	07-25-91
26,203.52	5,240.70	
11,237.90	2,247.58	
25,353.33	5,070.67	
417,083.33	83,416.67	
834,166.67	166,833.33	
111,222.22	22,244.44	
695,138.89	139,027.78	
24,494.65	4,898.93	
11,114.75	2,222.95	
8,518,354.03	1,703,670.80	10-25-91
11,052.01	2,210.40	
57,992.44	11,598.49	
10,988.49	2,197.70	
14,764,072.48	2,952,814.50	01-27-92
1,496,444.44	299,288.89	
90,416.65	18,083.33	
10,793.14	2,158.63	
21,783.26	4,356.65	
606,666.67	121,333.33	

	Interest Income	Tax Withheld	Date Remitted
	P 303.333.33	P 60,666.67	
	505,555.56	101,111.11	
	90,416.65	18,083.33	
	80,888.89	16,177.78	
	212,089.42	42,417.88	
	1,491.74	298.35	
	22,500.00	4,500.00	
	1,228.55	245.71	
	55,415.00	11,083.00	04-27-92
	10,521.07	2,104.21	
	269,636.35	53,927,27	
	10,658.79	2,131.76	
	10,590.36	2,118.07	
	142,284.10	28,456.82	
TOTAL:	**P 39,043,598.99**	**P 7,808,719.83**	

On July 9, 1992, petitioners filed with respondent their claim for refund or tax credit in the amount of P12,743,397.45. To this date, respondent failed to act upon such claim, hence this petition for review.

The sole issue to be resolved in this case is whether or not petitioner is exempt from withholding tax on income from money market placements pursuant to Presidential Decree No. 1959.

Petitioner averred that the 20% final withholding tax on interest income earned by the petitioners was made in violation of its exemption from taxes pursuant to R.A. 4917 in relation to then Sec. 56(b) [now 53(b)] of the Tax Code.

Moreover, petitioners invoked the ruling of this Court in GCL Retirement Plan vs. Commissioner of Internal Revenue, CTA Case No. 3888, December 15, 1986.

Additionally, it cited a s basis the ruling of the High Court in the case of Commissioner of Internal Revenue vs. The Hon. Court of Tax Appeals, et al., G.R. No. 95022, March 23, 1992), affirming the decision of this Court in CTA Case No. 3888.

On the other hand, respondent raised the following affirmative defenses:

> 1. That petitioners has no cause of action, it appearing that no decision has yet been rendered by respondent on petitioners claim for refund.
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> 2. The amount sought to be refunded was collected in accordance with law and regulation.
>
> 3. It is incumbent upon the petitioner to show compliance with the provisions of Section 230 of the Tax Code.
>
> 4. A claim for refund is construed strictly against claimants since a claim for refund partakes of the nature of an exemption from taxation (citing the case of Collector of Internal Revenue vs. Ledesma, G.R. No. L-17509, January 30, 1970, 31 SCRA 95).

Thus, We find for the petitioners Manila Electric Company and Manila Electric Company Pension Fund has qualified as exempt from income tax by the Commissioner of Internal Revenue in accordance with Republic Act No. 4917 approved on 17 June 1976. The said law is herein, quoted for reference:

> **Section 1.** Any provision of law to the contrary notwithstanding, the retirement benefits received by official and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefits plan

maintained by the employer shall be exempt from all taxes and shall not be liable to attachment, levy or seizure by or under any legal or equitable process whatsoever except to pay a debt of the official or employees concerned to the private benefit plan or that arising from liability imposed in a criminal action." (*Underscoring supplied*)

The particular provision of law which specifically exempted employees trust from income tax is Section 56(b) (now 53[b]) of the Tax Code, as amended by Republic Act No. 1983 supra, which took effect on 22 June 1957 is herein quoted to wit:

> "**Sec. 56. Imposition of Tax. - (a) Application of Tax.** - The taxes imposed by this Title upon individuals shall apply to the income of estates or of any kind of property held in trust.
>
> xxx xxx xxx
>
> **(b) Exception.** - The tax imposed by this Title shall not apply to employe's trust which forms part of a pension, stock, bonus or profit-sharing plan of an employer for the benefit of some or all of his employees xxx."

The tax-exemption privilege of employes trusts, as differentiated from any other kind of property held in trust, springs from the foregoing provision. Evidently, the law has declared apos exempt employees trust from the tax imposition.

Primarily, the rationale behind the tax exemption extended to employees trust is because of the purpose of its Creation. Employees trust or benefit plans are designed to provide economic assistance to employees upon the occurrence of certain contingencies, namely old age, retirement, death, sickness or disability. It assures protection against certain risk to which members of the Plan may be exposed. Likewise, it is an independent and additional source of protection for the working group, and is established for their sole benefit and for no other purpose. (*GCL Retirement Plan vs. Commissioner of Internal Revenue, CTA Case No. 4130, February 18, 1993*)

The deletion in Presidential Decree No. 1959 of the provision dealing with tax exemption and preferential tax rated under the old law, therefore cannot apply or extend to employees trust. The said decree being a general law, cannot impliedly repeal a specific provision, Section 56(b) (now 53[b]) in relation to Rep. Act No. 4917 granting exemption from income tax to employee's trusts. Republic Act No.4917 was enacted on June 17, 1967, long before the issuance of Presidential Decree No. 1959 on October 15, 1984. A subsequent statute, general in character as to its terms and application, is not to be construed as repealing a special or specific enactment, unless the legislative purpose to do is manifested. This is so even if the provisions of the latter are sufficiently comprehensive to include what was set forth in the special act. (Villegas vs. Subido, G.R. No. L-31711, 30 September 1971, 41 SCRA 190).

Considering that the final tax and the withholding thereof are contained under Title II of Tax Code on "Income Tax", necessarily said trust must be deemed exempt therefrom.

This is so, since Section 56(b), taken in conjunction with Section 569) supra, specifically excepts employees trust from "the taxes imposed by this Title".

Undeniably, the final withholding tax is collected from income in respect of which employees trusts are declared exempt (Sec. 56[b] now 53[b] Tax Code).

The subsequent application of the withholding systems to interest on bank deposits or yield from deposit substitutes is essentially to maximize and expedite the collection of income taxes by requiring its payment at the source. Since Manila Electric Company and Manila Electric Company Pension Fund, which is an employee's trust, enjoys a tax-exempt status from income, we find it illogical in withholding a certain percentage of that income which is not obliged to pay in the first place.

Moreso, the tax advantage in Republic Act No. 1983, Section 56(b) was conceived in order to encourage the formation and establishment of such private Plans for the benefit of laborers and employees outside of the Social Security Act.

"Additionally, it is evident that tax exemption is likewise to be enjoyed by the income of the pension trust. Otherwise, taxation of those earning would result in a diminution of accumulated income and reduce whatever the trust beneficiaries would receive out of the trust fund.

This would run afoul of the very intendment of the law." (*Commissioner of Internal Revenue vs. The Hon. Court of Tax Appeals, et.al., G.R. No. 95022, March 23, 1992*).

In Fact, then Commissioner Misael P. Vera of the Bureau of Internal Revenue attèsted to the fact that indeed petitioner met all the requirements prescribed by law and regulations for a qualified plan under Republic Act No. 4917, thus entitling petitioner to all the benefits provided for in said act. The said letter is herein quoted in full:

Republic of the Philippines
Department of Finance
Bureau of Internal Revenue
Manila

March 7, 1969

Meralco Electric Company
Lopez Administration Bldg.
Ortigas Avenue
Pasig, Rizal

Gentlemen:

This refers to the Meralco employees Pension Plan which you submitted to this Office for determination of qualification under Republic Act No. 4917.

A close perusal of the Plan disclosed the following:

(1) It is a definite and written program;

(2) It is duly funded and trusteed;

(3) It provides for benefits that are not discriminatory;

(4) Benefits and contributions were actuarially determined;

(5) It covers all employees of the company; and

(6) Finally, it provides for the non-diversion of the Fund but for the exclusive benefit of the covered employees.

It appears that the Meralco Retirement Plan meets substantially the requirements prescribed by the law and regulations for a qualified Plan. Such being the case, the Plan qualifies as a reasonable plan within the contemplation of Republic Act No. 4917 and, therefore, entitled to all the benefits provided for in said Act.

It is observed, however, that the Plan provides also for payment of a certain sum to employees who resign after 15 years of continuous service. Inasmuch as any amount given to an employee by reason of resignation is not a retirement benefit, such amount shall be considered ordinary income and, therefore, subject to income tax.

It is of course understood that the Plan shall continue to qualify through all the years that it shall be in operation and that all forfeitures arising under the operation of the Plan shall be applied to reduce employer contribution.

Finally, any modification or amendment that may be effected to the Plan in the future should be coursed to this Office for certification that any such amendment or modification shall not effect the qualification of the Plan.

Very truly yours,

MISAEL P. VERA
Commissioner of Internal Revenue

Lastly, tax exemption is likewise to be enjoyed by the income of the pension trust. (Commissioner of Internal Revenue vs. Court of Appeals, 207 SCRA 487)

WHEREFORE, We find and so hold that petitioner is entitled to a refund of the amount of P12,743,397.45 representing final withholding tax on interest income from its money market placements pursuant to Sec. 56(b), now Sec. 54(b) of the Tax Code.

SO ORDERED.

MANUEL K. GRUBA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals