REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

CTA Crim. Case No. 0-067

For: Violation of Section 255 in relation to Sections 253 (d) and 256, 1997 Tax Code, as amended by R.A. 8424

LITO S. GALERO,
Accused.

Members:

CASTAÑEDA, JR., Chairperson;
UY, and
ENRIQUEZ, JJ.

Promulgated:

NOV 1 5 2007

x - x

4:30 p.m

RESOLUTION

A perusal of the Information filed in the above-captioned case shows that the herein accused is charged with the crime of Violation of Section 255, in relation to Sections 253 (d) and 256 of the 1997 Tax Code, as amended.

Section 255 of the National Internal Revenue Code of 1997, as amended, provides:

> SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* – **Any person required** under this Code or by rules and regulations promulgated thereunder **to pay any tax**, make a return, keep any record, or supply correct and accurate information, **who willfully fails to pay such tax**, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (₱10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years. x x x". ***(Emphasis supplied)***

Under the above provision, the essential elements of the crime are as follows:

1. That the accused is required under the Tax Code **to pay a tax**, make a return, keep any record, or supply correct and accurate information; and

2. That the accused **willfully fails to pay such tax**, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or regulations.

A further perusal of the Information shows that the second element was not alleged in the Information.

Moreover, a perusal of the Information and the documents appended thereto also shows that the same does not bear the approval of the Commissioner of Internal Revenue to file the case in Court, as required under Sections 220 and 221 of the National Internal Revenue Code of 1997, as amended, in relation to Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals.

WHEREFORE, for the foregoing reasons, the above-captioned case is hereby DISMISSED, without prejudice.

SO ORDERED.

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

(On Official Business)
ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice