23-000301-0009

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. SCA-0009

STANDARD INSURANCE CO. INC.,
Petitioner,

- versus -

BUREAU OF INTERNAL REVENUE, DEPARTMENT OF FINANCE, SENATE OF THE PHILIPPINES, HOUSE OF REPRESENTATIVES OF THE PHILIPPINES,
Respondents.

NOTICE OF DECISION

To:

ASST. SOLICITOR GENERAL NYRIAM SUSAN O. SEDILLO-HERNANDEZ
SR. STATE SOLICITOR SAMANTHA P. CAMITAN
ASSOCIATE SOLICITOR LESTER D. MONTILLA
ASSOCIATE SOLICITOR MA. GLECY JOY A. CONTADO
Ofice of the Solicitor General
134 Amorsolo Street, Legazpi Village
Makati City

DEPARTMENT OF FINANCE
Thru: Office of the Secretary
DOF Building, BSP Complex
Roxas Blvd. 1004 Metro Manila

SENATE OF THE PHILIPPINES
Thru: Office of the Senate President
GSIS Building, Financial Center
Diokno Blvd. Pasay City 1300

HOUSE OF REPRESENTATIVES OF THE PHILIPPINES
Thru: Office of the Speaker of the House
Constitutional Hills, Quezon City 1126

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8767 Paseo de Roxas, Makati City

GREETINGS:

You are hereby notified by these presents that on **August 22, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 27, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

STANDARD INSURANCE CO. INC., *Petitioner,*	**CTA SCA Case No. 0009**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
BUREAU OF INTERNAL REVENUE, DEPARTMENT OF FINANCE, SENATE OF THE PHILIPPINES, HOUSE OF REPRESENTATIVES OF THE PHILIPPINES, *Respondents.*	Promulgated: AUG 22 2024; 1:25PM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Certiorari (to Declare as Unconstitutional Sections 108 (A), 184, and 185 of the National Internal Revenue Code of 1997 as Amended, Insofar as the Imposition of 12% Value-Added Tax and 12.5% Documentary Stamp Tax on Non-Life Insurance Premiums)*[1] assailing the constitutionality of Sections 108 (A), 184, and 185 of the National Internal Revenue Code (NIRC) of 1997, as amended.

THE PARTIES

Petitioner Standard Insurance Co. Inc. is a non-life insurance corporation duly organized and existing under and by virtue of Philippine laws, with principal office address at 28th Floor, Petron Mega Plaza Building, 358 Senator Gil J. Puyat Avenue, Makati City.[2]

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1 Docket, pp. 5-29.
2 Petition for *Certiorari*, par. 1, Docket, pp. 6-7.

Respondent Bureau of Internal Revenue (BIR) is the government entity charged with enforcing and implementing the national internal revenue laws. Its address is at the BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

Respondent Department of Finance (DOF) is the government entity with the power to formulate, institutionalize, and administer fiscal and tax policies. It is also the government institution that has supervisory power over the BIR. Its address is the DOF Building, BSP Complex, Roxas Boulevard, Manila.[4]

Respondent Senate of the Philippines (Senate) is one of the two Chambers comprising the Congress of the Philippines. Its address is at GSIS Building, Financial Center, Diokno Boulevard, Pasay City.[5]

Respondent House of Representatives of the Philippines (House) is the other Chamber comprising the Congress of the Philippines. Its address is at Constitution Hills, Quezon City.[6]

Respondents are collectively represented by their statutory counsel, the Office of the Solicitor General (OSG), located at 134 Amorsolo Street, Legazpi Village, Makati City.[7]

THE FACTS

On December 23, 1993, Republic Act (RA) No. 7660[8] was enacted, which increased the DST on property insurance and fidelity bonds, and other insurance policies, amending Sections 184 and 185 of the NIRC of 1977, as amended, to wit:

> Sec. 8. Section 184 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:
>
> "SEC. 184. *Stamp tax on policies of insurance upon property.* - On all policies of insurance or other instruments by whatever name the same may be called, by which insurance shall be made or renewed upon property of any description, including rents or profits, against peril by sea or

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[3] *Id.*, par. 3.
[4] *Id.*, par. 4.
[5] *Id.*, par. 5.
[6] *Id.*, par. 6.
[7] *Id.*, par. 7.
[8] AN ACT RATIONALIZING FURTHER THE STRUCTURE AND ADMINISTRATION OF THE DOCUMENTARY STAMP TAX, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, ALLOCATING FUNDS FOR SPECIFIC PROGRAMS, AND FOR OTHER PURPOSES.

on inland waters, or by fire or lightning, there shall be collected a **documentary stamp tax of Fifty centavos (P0.50) on each four pesos**, or fractional part thereof, **of the amount of premium charged**: Provided, however, That no documentary stamp tax shall be collected on reinsurance contracts or on any instrument by which cession or acceptance of insurance risks under any reinsurance agreement is effected or recorded." (*Emphasis added*)

Sec. 9. Section 185 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 185. *Stamp tax on fidelity bonds and other insurance policies.* - On all policies of insurance or bonds or obligations of the nature of indemnity for loss, damage, or liability made or renewed by any person, association, company or corporation transacting the business of accident, fidelity, employer's liability, plate, glass, steam boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance), and all bonds, undertakings, or recognizances, conditioned for the performance of the duties of any office or position, for the doing or not doing of anything therein specified, and on all obligations guaranteeing the validity or legality of any bonds or other obligations issued by any province, city, municipality, or other public body or organization, and on all obligations guaranteeing the title to any real estate, or guaranteeing any mercantile credits, which may be made or renewed by any such person, company or corporation, there shall be collected a **documentary stamp tax of Fifty centavos (P0.50) on each four pesos**, or fractional part thereof **of the premium charged**." (*Emphasis added*)

The above DST rates (12.5%)[9] are maintained in Sections 184[10] and 185[11] of the present Tax Code, as amended by RA No.

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[9] ₱0.50 divided by ₱4.00.

[10] SEC. 184. *Stamp Tax on Policies of Insurance Upon Property.* - On all policies of insurance or other instruments by whatever name the same may be called, by which insurance shall be made or renewed upon property of any description, including rents or profits, against peril by sea or on inland waters, or by fire or lightning, there shall be collected a **documentary stamp tax of Fifty centavos (P0.50) on each Four pesos (P4.00)**, or fractional part thereof, **of the amount of premium charged**: Provided, however, That no documentary stamp tax shall be collected on reinsurance contracts or on any instrument by which cession or acceptance of insurance risks under any reinsurance agreement is effected or recorded. (*Emphasis added*)

[11] SEC. 185. *Stamp Tax on Fidelity Bonds and Other Insurance Policies.* - On all policies of insurance or bonds or obligations of the nature of indemnity for loss, damage or liability made or renewed by any person, association, company or corporation transacting the business of accident, fidelity, employer's liability, plate, glass, steam, boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance), and all bonds, undertakings, or recognizances, conditioned for the performance of the duties of any office or position, for the doing or not doing of anything therein specified, and on all obligations guaranteeing the validity or legality of any bond or other obligations issued by any province, city, municipality, or other public body or organization, and on all obligations guaranteeing the title to any real estate, or guaranteeing any mercantile credits, which may be made or renewed by any such person, company or corporation, there shall be collected a **documentary stamp tax of Fifty centavos (P0.50) on each Four pesos (P4.00)**, or fractional part thereof, **of the premium charged.** (*Emphasis added*)

10963, or the Tax Reform for Acceleration and Inclusion (TRAIN) Law.

On January 1, 1994, RA No. 7716, or the Expanded VAT Law, became effective. The law widened the VAT coverage by including, for the first time, the services of non-life insurance companies as VAT-subject transactions. Section 102 thereof reads:

> Section 3. Section 102 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:
>
> "SEC. 102. *Value-added tax on sale of services and use or lease of properties.* — (a) Rate and base of tax. — There shall be levied, assessed and collected, a value-added tax equivalent to 10% of gross receipts derived from the sale or exchange of services, including the use or lease of properties.
>
> "The phrase **'sale or exchange of services'** means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, **including those performed or rendered by** ... **non-life insurance companies** (except their crop insurances) **including surety, fidelity, indemnity and bonding companies**; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. The phrase 'sale or exchange of services' shall likewise include:
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> ... ...
>
> "The term 'gross receipts' means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax. (*Emphasis added*)

Section 102 (A) is renumbered as Section 108 (A) in the present Tax Code, and the VAT rate is now 12% for non-life insurance, the pertinent portion thereof reads:

> SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* —
>
> (A) *Rate and Base of Tax.* — There shall be levied, assessed, and collected, a **value-added tax equivalent to**

> **twelve percent (12%) of gross sales**[12] derived from the **sale or exchange of services**, including the use or lease of properties.
>
> The phrase **'sale or exchange of services' means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by ... non-life insurance companies** (except their crop insurances), **including surety, fidelity, indemnity and bonding companies**; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. ...[13] (*Emphasis added*)

On February 23, 2010, RA No. 10001[14] was approved, which reduced the premium tax and DST on life insurance policies, amending Sections 123 and 183 of the NIRC of 1997, as amended, to wit:

> SEC. 123. *Tax on Life Insurance Premiums.* — **There shall be collected from every person, company or corporation** (except purely cooperative companies or associations) **doing life insurance business of any sort in the Philippines a tax of two percent (2%) of the total premium collected**, ...[15] (*Emphasis added*)
>
> SEC. 183. *Stamp Tax on Life Insurance Policies.* — On **all policies of insurance** or other instruments by whatever name the same may be called, **whereby any insurance shall be made or renewed upon any life or lives**, there shall be collected **a one-time documentary stamp tax** at the following rates:

If the amount of insurance does not exceed ₱100,000	Exempt
If the amount of insurance exceeds ₱100,000 but does not exceed P300,000	₱20.00
If the amount of insurance exceeds ₱300,000 but does not exceed P500,000	₱50.00
If the amount of insurance exceeds ₱500,000 but does not exceed P750,000	₱100.00
If the amount of insurance exceeds ₱750,000 but does not exceed P1,000,000	₱150.00
If the amount of insurance exceeds ₱1,000,000	₱200.00[16]

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12 As last amended by RA No. 11976, or the Ease of Paying Taxes Act.
13 As last amended by RA No. 10963, or the Tax Reform for Acceleration and Inclusion (TRAIN) Law.
14 AN ACT REDUCING THE TAXES ON LIFE INSURANCE POLICIES, AMENDING FOR THIS PURPOSE SECTIONS 123 AND 183 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.
15 As last amended by RA No. 10001, AN ACT REDUCING THE TAXES ON LIFE INSURANCE POLICIES, AMENDING FOR THIS PURPOSE SECTIONS 123 AND 183 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.
16 As last amended by RA No. 10963, or the TRAIN Law.

On July 3, 2023, petitioner filed this Petition for *Certiorari* with the Court to challenge the constitutionality of the above-quoted Sections 108 (A), 184,[17] and 185[18] of the NIRC of 1997, as amended (assailed provisions).

On July 21, 2023, the Court directed respondents to file comment or opposition to petitioner's Petition for *Certiorari*,[19] but respondents failed to do so.[20]

On September 13, 2023, respondents filed a *Motion for Extension of Time (to File Comment on the Petition for Certiorari dated June 29, 2023)*,[21] which was granted by the Court in its Resolution dated September 26, 2023.[22]

Respondents, through the OSG, posted their *Comment*[23] on November 13, 2023. On the same date, respondent Commissioner of Internal Revenue (CIR) filed a *Comment/Opposition Re: Petitioner's Petition for Certiorari to Declare as Unconstitutional Sections 108 (A), 184 and 185 of the National Internal Revenue Code of 1997, as amended, insofar as the imposition of 12% Value-Added Tax and 12.5% Documentary Stamp Tax on Non-Life Insurance Premiums*.[24]

In its Resolution dated November 23, 2023,[25] the Court noted the OSG's *Comment* posted on November 13, 2023, and respondent CIR's *Comment/Opposition* filed on November 13, 2023. In the same Resolution, the Court submitted the case for decision.

THE ISSUES

Petitioner put forth the following issues for the resolution of this Court:

Procedural Issues

I. The Petition for *Certiorari* assails the constitutionality of Sections 108 (A), 184, and 185 of the NIRC based on

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[17] *Supra*, note 10.
[18] *Supra*, note 11.
[19] Minute Resolution, Docket, p. 329.
[20] Records Verification dated September 6, 2023, Docket, p. 333.
[21] Docket, pp. 334-336.
[22] Docket, p. 339.
[23] Docket, pp. 369-410.
[24] Docket, pp. 341-367.
[25] Docket, unpaged.

recent jurisprudential pronouncements discussed below.

a. Propriety of the remedy of *certiorari* under the expanded jurisdiction of the Court of Tax Appeals in accordance with the recent ruling in the 2016 case of *Banco de Oro v. Republic of the Philippines et al.*;[26]

II. The petition complies with all the requirements for the exercise of judicial review under Article VIII, Section 1 of the 1987 Constitution in relation to Rule 65 of the Rules of Court and as held in the 2014 case of *Araullo v. Aquino III*:[27]

a. There is an actual case or controversy ripe for adjudication.

b. Petitioner, as a non-life insurance company, has a *locus standi* on account of the transcendental importance of the issues raised in the Petition.

c. The question of constitutionality is raised at the earliest opportunity and is the *lis mota* of the present petition.

<u>Substantive Issues</u>

I. Sections 108 (A), 184, and 185 are null and void for directly contravening the right to equal protection of the laws, as provided under Article III, Section 1 of the 1987 Constitution;

II. Sections 108 (A), 184, and 185 are null and void for directly contravening the constitutional guarantee of uniformity and equitability of taxation as provided under Article VI, Section 28 (1) of the 1987 Constitution.

Petitioner's arguments:

Petitioner argues that the present Petition is an appropriate recourse to assail the constitutionality of Sections 108 (A), 184, and 185 of the NIRC of 1997, as amended, based on recent jurisprudential pronouncements.[28] Petitioner claims that this petition complies with all the requirements for the exercise of judicial review under Section 1, Article VIII of the 1987 Constitution in relation to Rule 65 of the Rules of Court and as held in the case of *Araullo v. Aquino III.*

[26] G.R. No. 198756, August 16, 2016.
[27] G.R. No. 209287, July 1, 2014.
[28] *Id.*, p. 16.

Petitioner adds that the prevailing rule in constitutional litigation is that no question involving the constitutionality or validity of a law or governmental act may be heard and decided by the Court unless there is compliance with the legal requisites for judicial inquiry, namely: (a) there must be an actual case or controversy calling for the exercise of judicial power; (b) the person challenging the act must have standing to question the validity of the subject act or issuance; (c) the question must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the very *lis mota* of the case. Case law states that the first two are the most important requisites.

Petitioner avers that Sections 108 (A), 184, and 185 of the NIRC of 1997, as amended, are null and void for directly contravening the right to equal protection of the laws as provided under Section 1, Article III of the 1987 Constitution and the constitutional guarantee of uniformity and equitability of taxation as provided under Section 28 (1), Article VI of the 1987 Constitution.

Petitioner claims that assuming the unconstitutionality of the assailed provisions is not extant under the conditions during which they were enacted, given the changed conditions and altered circumstances, the petition warrants the application of the principle of "relative unconstitutionality."

Respondents' arguments:

Respondents contend that the Court has no jurisdiction over the petition since it cannot question the legislature's intent by virtue of the doctrine of separation of powers.

Respondents assert that the Court cannot exercise its power of judicial review because petitioner failed to show the concurrence of all the requirements to trigger this Court's exercise of such power. *First,* the petition failed to present an actual case or controversy susceptible of judicial determination, and *second,* the issue on the constitutionality of Sections 108 (A), 184, and 185 of the NIRC of 1997, as amended, is not the *lis mota* of the case.

For respondents, the assailed provisions do not violate petitioner's right to equal protection of the law and the principles of uniformity and equitability of taxation because life and non-life insurance are distinct kinds of insurance; the varying imposable tax rates are valid, and the resulting classification of insurance is germane to the purpose of the law.

Lastly, respondents argue that the doctrine of "relative unconstitutionality" is inapplicable in the instant petition for petitioner's failure to present any change in circumstances that would justify the intrusion of this Court on the wisdom of the legislature. Assuming that the Court will acquire jurisdiction, the petition is infirm in form and substance and should be denied since the requisites for a valid petition for *certiorari* were not complied with.

THE COURT'S RULING

This Court has jurisdiction to pass upon the constitutionality or validity of a tax law, regulation, or administrative issuance.

Before delving into the main issue of whether Sections 108 (A), 184, and 185 of the NIRC of 1997, as amended, are constitutional insofar as the imposition of 12% VAT and 12.5% DST on non-life insurance premiums is concerned, the Court must first determine whether it has jurisdiction to entertain the present case.

Respondents argue that even considering the case of *Banco De Oro v. Republic* (*Banco De Oro*),[29] the Court has no jurisdiction over this case because its power to take cognizance of cases directly challenging the validity of a tax law or regulation must stem from decisions rendered by the CIR, the Secretary of Finance, or the Secretary of Trade and Industry based on Section 7 of RA No. 1125,[30] as amended by RA No. 9282.[31]

The Court disagrees with respondents' contention.

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[29] G.R. No. 198756 (Resolution), August 16, 2016.
[30] AN ACT CREATING THE COURT OF TAX APPEALS.
[31] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

It has already been established in several cases[32] that this Court has undoubted jurisdiction to determine the constitutionality or validity of tax laws, rules and regulations, and other administrative issuances. In the *En Banc* case of *Banco De Oro*, cited by respondents, the Supreme Court clarified that within the judicial system, the law intends the Court of Tax Appeals (CTA) to have *exclusive* jurisdiction to resolve all tax problems, except for local tax cases where the Regional Trial Court has jurisdiction,[33] *viz.*:

> **The Court of Tax Appeals has *undoubted jurisdiction* to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund**. It is only in the lawful exercise of its power to pass upon all matters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.
>
> This Court, however, declares that **the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance** (revenue orders, revenue memorandum circulars, rulings).
>
> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought ***exclusively*** to the Court of Tax Appeals.
>
> **In other words, within the judicial system, the law intends the Court of Tax Appeals to have *exclusive* jurisdiction to resolve all tax problems.** Petitions for writs of *certiorari* against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.

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[32] *Oceanagold (Philippines), Inc. v. Commissioner of Internal Revenue*, G.R. No. 234614, June 14, 2023; *Tinio, et al. v. Duterte, et al.*, G.R. Nos. 236118 and 236295, January 24, 2023; *Games and Amusement Board, et al. v. Klub Don Juan De Manila, Inc., et al.*, G.R. No. 252189, November 3, 2020; *Bakbak (1 and 2) Native Chicken Restaurant v. Secretary of Finance, et al.*, G.R. No. 217610, September 2, 2020; *In the Matter of Declaratory Relief on the Validity of BIR Revenue Memorandum Circular No. 65-2012 "Clarifying the Taxability of Association Dues, Membership Fees and Other Assessments/Charges Collected by Condominium Corporations", Bureau of Internal Revenue, et al. v. First E-Bank Tower Condominium Corp.*, G.R. Nos. 215801 and 218924, January 15, 2020; *Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), et al. v. Commissioner, Bureau of Internal Revenue, et al.*, G.R. Nos. 213446 and 213658, July 3, 2018; *Commissioner af Internal Revenue v. Court of Tax Appeals and Petron Corporation*, G.R. No. 207843 (Resolution), February 14, 2018; *Steel Corporation of the Philippines v. Bureau of Customs (BOC), et al.*, G.R. No. 220502, February 12, 2018; *Banco De Oro, et al. v. Republic of the Philippines, et al.*, G.R. No. 198756 (Resolution), August 16, 2016; *Asia International Auctioneers, Inc., et al. v. Hon. Parayno, Jr., et al.*, G.R. No. 163445, December 18, 2007; *Commissioner of Internal Revenue v. Leal*, G.R. No. 113459, November 18, 2002.

[33] *Banco De Oro, et al. v. Republic of the Philippines, et al.*, G.R. No. 198756 (Resolution), August 16, 2016, cited in *Confederation for Unity, Recognition and Advancement of Government Employees v. Commissioner, Bureau of Internal Revenue*, G.R. Nos. 213446 & 213658, July 3, 2018.

> Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. **Except for local tax cases, actions directly challenging the constitutionality or validity of a tax law** or regulation or administrative issuance **may be filed directly before the Court of Tax Appeals.** (*Emphasis added*)

Based on the foregoing disquisition, it is clear that this Court has jurisdiction to pass upon the constitutionality or validity of a tax law, regulation, or administrative issuance not only in cases when the taxpayer raised it as a defense in disputing or contesting an assessment or claiming a refund but also in actions directly challenging the constitutionality or validity of such law, regulation or administrative issuance, except for local tax cases.

The *Banco De Oro* ruling has not been overturned and stands as the prevailing jurisprudence on the matter.[34] Also, the Supreme Court cited and affirmed *Banco De Oro* in its later decisions.[35] This Court must obey the decisions of the Supreme Court and render obeisance to its status as the apex of the hierarchy of courts. Thus, *Banco De Oro* must be followed.

Considering that the present case directly assails the constitutionality of Sections 108 (A), 184, and 185 of the NIRC of 1997, as amended, an act of Congress and implemented by the BIR and DOF, alleging that there was grave abuse of discretion in the performance of a governmental act, this Court has jurisdiction to entertain the instant Petition for *Certiorari* under Rule 65 of the Rules of Court.

There is no other plain, speedy, and adequate remedy available.

A basic requirement under Rule 65 of the Rules of Court is that there be "no other plain, speedy and adequate remedy found in law," which requirement the expanded jurisdiction provision does not expressly carry. Nonetheless, this requirement is not a significant distinction in using the remedy of *certiorari* under the traditional and the expanded modes. The doctrine of exhaustion of administrative remedies applies to a

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[34] *Commissioner of Internal Revenue v. Court of Tax Appeals*, G.R. No. 207843 (Resolution), February 14, 2018.

[35] *Oceanagold (Philippines), Inc. v. Commissioner of Internal Revenue*, G.R. No. 234614, June 14, 2023; *Tinio v. Duterte*, G.R. Nos. 236118 & 236295, January 24, 2023; *Department of Finance v. Asia United Bank*, G.R. Nos. 240163 & 240168-69, December 1, 2021.

petition for *certiorari*, regardless of the act of the administrative agency concerned, *i.e.*, whether the act concerns a quasi-judicial or quasi-legislative function or is purely regulatory.[36]

As the present *Petition* involves a direct attack on the constitutionality of provisions of a tax law, there is "no appeal or any plain, speedy, and adequate remedy in the ordinary course of law."[37] Further, the principle of exhaustion of administrative remedies does not apply since the validity of an administrative or revenue issuance is not involved in the present *Petition* but raises a question on the constitutionality of a tax law.

The present Petition has satisfied the requisites for judicial review.

While the attack on the constitutionality of Sections 108 (A), 184, and 185 of the NIRC of 1997, as amended, is a direct challenge that this Court may take cognizance of, it does not have unbridled authority to rule on any claim of a constitutional violation.[38] The Court must first ascertain whether the four requisites for a valid exercise of its power of judicial review are present: (a) there must be an actual case or controversy; (b) petitioners must possess *locus standi*; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the *lis mota* of the case.[39]

Respondents contend that petitioner failed to show concurrence of these requisites to trigger the Court's exercise of its power of judicial review. Particularly, this *Petition* shows no actual case or controversy susceptible of judicial determination, and the issue of constitutionality is not the very *lis mota* of the case.

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[36] *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc., et al.*, G.R. Nos. 207132 and 207205, December 6, 2016.

[37] Section 1, Rule 65 of the Rules of Court provides:
SEC. 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

[38] *Spouses Imbong v. Ochoa, Jr.*, G.R. Nos. 204819, 204934, 204957, 204988, 205003, 205043, 205138, 205478, 205491, 205720, 206355, 207111, 207172 & 207563, April 8, 2014.

[39] *Tinio v. Duterte*, G.R. Nos. 236118 & 236295, January 24, 2023, citing *Ifurung v. Carpio-Morales*, G.R. No. 232131, April 24, 2018.

a. There is an actual case or controversy.

An actual case or controversy involves a conflict of legal rights or an assertion of opposite legal claims which is susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute.[40]

In *Didipio Earth-Savers' Multi-Purpose Association, Incorporated (DESAMA) v. Gozun*,[41] the Supreme Court ruled that "[b]y the mere enactment of the questioned law or the approval of the challenged act, the dispute is said to have ripened into a judicial controversy even without any other overt act. Indeed, even a singular violation of the Constitution and/or the law is enough to awaken judicial duty."

In this case, petitioner avers that Sections 108(A), 184, and 185 of the NIRC had been enacted and had already taken effect; that the non-life insurance sector, including petitioner, is currently being burdened by the preferential tax treatment given to life insurance sector to the former's prejudice; and that for decades, the life insurance sector has been favored and granted preferential tax treatment over the non-life insurance sector in the imposition of VAT and DST on premiums.[42]

Since the provisions challenged by petitioner have a direct adverse effect on them as a non-life insurance corporation, it follows that there exists an actual case or controversy[43] that is ripe for judicial determination. As the NIRC and its implementing rules have already taken effect, the present *Petition* presents a justiciable controversy.

b. Petitioner has locus standi.

Legal standing or *locus standi* is defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury due to the governmental act being challenged. As a rule, a party is allowed to raise a constitutional question when (1) he can show that he will personally suffer some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to

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[40] *Chamber of Real Estate and Builders' Association, Inc. v. Romulo*, G.R. No. 160756, March 9, 2010, citing *Didipio Earth-Savers' Multi-Purpose Association, Incorporated (DESAMA) v. Gozun*, G.R. No. 157882, March 30, 2006.
[41] G.R. No. 157882, March 30, 2006.
[42] Pars. 64-66, *Petition for Certiorari*, Docket, pp. 24-25.
[43] See *Manila Memorial Park, Inc. v. Secretary of Social Welfare and Development*, G.R. No. 175356, December 3, 2013.

the challenged action; and (3) the injury is likely to be redressed by a favorable action.[44]

Petitioner avers that it has the requisite legal standing to challenge the constitutionality of Sections 108(A), 184, and 185 of the NIRC because it has a direct and personal stake in the outcome of the implementation of the law, which, if unabated, will continue to cause direct injury of discriminatory tax burden to petitioner and the non-life insurance sector.[45]

Indeed, petitioner, being a non-life insurance corporation, has demonstrated personal and substantial interest in the outcome of the controversy, *i.e.*, purported invalidity of Sections 108(A), 184, and 185 of the NIRC imposing 12% VAT and 12.5% DST on non-life insurance premiums, as to vest it with the requisite *locus standi.*

c. *The question of constitutionality has been raised at the earliest opportunity.*

In *Calleja et al. v. Executive Secretary, et al.*,[46] the Supreme Court explained how the requisite of "earliest opportunity" is complied with, *viz.*:

> As to the third requisite of **"earliest opportunity,"** this Court held in *Arceta v. Mangrobang* that it does not mean immediately elevating the matter to this Court. Earliest opportunity means that the question of unconstitutionality of the act in question should have been immediately raised in the proceedings in the court below. **Since the present constitutional challenge against the statute was *directly* filed with this Court, the third requisite of judicial review of "earliest opportunity" is complied with because the issue of constitutionality is raised at the first instance**. (*Emphasis added*)

Similarly, the present *Petition* was *directly* filed with this Court; thus, the issue of the constitutionality of Sections 108(A), 184, and 185 of the NIRC was raised at the first instance.

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[44] *Private Hospitals Association of the Philippines, Inc. (PHAPI) v. Medialdea, et al.*, G.R. No. 234448, November 6, 2018.

[45] Petition for *Certiorari*, par. 70, Docket, p. 25.

[46] G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624, 252646, 252702, 252726, 252733, 252736, 252741, 252747, 252755, 252759, 252765, 252767, 252768, 16663, 252802, 252809, 252903, 252904, 252905, 252916, 252921, 252984, 253018, 253100, 253118, 253124, 253242, 253252, 253254, 254191 and 253420, December 7, 2021.

Accordingly, the requisite of "earliest opportunity" was complied with.

Petitioner also disclosed that it has attempted to challenge the constitutionality of the alleged inequality of tax treatment between life and non-life insurance in a *Petition for Declaratory Relief* docketed as G.R. No. 219340 entitled *CIR v. Standard Insurance Co., Inc.*, which was dismissed by the Supreme Court on procedural grounds and was treated as an improperly filed appeal of the then pending assessments without ruling upon the constitutionality or unconstitutionally of the assailed NIRC provisions.[47]

Despite the foregoing, the "earliest opportunity" requisite was still complied with. The Supreme Court ruling in *Moldex Realty, Inc. v. House and Land Use Regulatory Board, et al.* (*Moldex*) is instructive, *viz.*:[48]

> When an administrative regulation is attacked for being unconstitutional or invalid, a party may raise its unconstitutionality or invalidity on every occasion that the regulation is being enforced. **For the Court to exercise its power of judicial review, the party assailing the regulation must show that the question of constitutionality has been raised at the earliest opportunity**. This requisite should not be taken to mean that the question of constitutionality must be raised immediately after the execution of the state action complained of. **That the question of constitutionality has not been raised before is not a valid reason for refusing to allow it to be raised later. A contrary rule would mean that a law, otherwise unconstitutional, would lapse into constitutionality by the mere failure of the proper party to promptly file a case to challenge the same**.
>
> In the instant case, petitioner has complied with the requirement that the issue of the constitutionality of the subject HUDCC Resolution must be timely raised. Petitioner had already raised the question of constitutionality in its petition filed with the Court of Appeals. **The alleged injury caused to petitioner as a result of the implementation of the HUDCC Resolution is continuous in nature in that as long as the assailed resolution is effective, petitioner is obliged to pay for the electricity cost of the streetlights. For every occasion that petitioner is directed to comply with the assailed resolution, a new cause of action to question its validity accrues in favor of petitioner. Thus, the instant petition is not time-barred**. (*Emphasis added*)

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[47] Petition for *Certiorari*, par. 73, Docket, p. 28.
[48] G.R. No. 149719, June 21, 2007.

Applying *Moldex*, as long as the assailed NIRC provisions are effective, petitioner is obliged to pay for the 12% VAT and 12.5% DST on non-life insurance premiums. Hence, for every occasion that petitioner is directed to comply with the assailed NIRC provisions, a new cause of action to question its validity accrues in favor of petitioner. Moreover, one is not estopped from assailing the validity of a law just because such a law has been relied upon in the past and all that time has not been attacked as unconstitutional. Indeed, there is no prescription to declare a law unconstitutional.[49] Thus, a constitutional challenge can be made anytime. A contrary rule would mean that a law, otherwise unconstitutional, would lapse into constitutionality by the mere failure of the proper party to promptly file a case to challenge the same.[50]

d. The issue of constitutionality is the very lis mota of the case.

Anent respondents' claim that the issue of constitutionality is not the very *lis mota* of the case or that constitutionality must be essential to the disposition of the case, the courts, as a rule, will not resolve the constitutionality of a law when the controversy can be settled on other grounds.[51] In other words, the constitutionality must be essential to the disposition of the case or its *lis mota*.[52]

Lis mota means "the cause of the suit or action;" it is rooted in the principle of separation of powers and the presumption of validity accorded the executive and legislative acts of the government.[53]

Given the presumed validity of a legislative act, a petitioner who claims otherwise has the burden of showing first that the case cannot be resolved unless the Court determines the constitutional question it raised.[54]

As stated earlier, the issue of the constitutionality of the taxes to be paid by non-life insurance companies was first raised by petitioner in its *Petition for Declaratory Relief (with*

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49 *Liban, et al. v. Gordon*, G.R. No. 175352, January 18, 2011.
50 *Id.*, citing *Moldex Realty, Inc. v. House and Land Use Regulatory Board*, G.R. No. 149719, June 21, 2007.
51 *Parcon-Song v. Parcon*, G.R. No. 199582, July 7, 2020, cited in *Spouses Cañaveras v. Gamboa-Delos Santos*, G.R. No. 241348, July 5, 2022.
52 *Spouses Cañaveras v. Gamboa-Delos Santos*, G.R. No. 241348, July 5, 2022.
53 *General v. Urro*, G.R. No. 191560, March 29, 2011.
54 *Id.*

prayer for issuance of a Temporary Restraining Order (TRO) or of a Writ of Preliminary Injunction) filed with the Regional Trial Court (RTC).[55] On appeal, the Supreme Court dismissed petitioner's action on procedural grounds without ruling on the constitutionality of the assailed provisions.

Here, petitioner alleges violation of the equal protection of the laws and the constitutional guarantee of uniformity and equitability of taxation as provided under the 1987 Constitution. Thus, the constitutionality of Sections 108(A), 184, and 185 of the NIRC is the very *lis mota* of the case.

Having established that the present *Petition* meets the requisites for the Court's exercise of its expanded power of judicial review, it is now time to discuss the substantive issues of the present *Petition.*

Sections 108 (A), 184, and 185 of the NIRC of 1997, as amended, are not violative of the equal protection of the laws and uniformity and equitability of taxation enshrined in the Constitution.

Petitioner claims that the assailed provisions violate Section 1, Article III, or the equal protection clause of the 1987 Constitution. It asserts that there is no sufficient and compelling state interest to be served by the differential tax treatment among life and non-life insurance sectors, and even the Insurance Code does not create a distinction among these classes. The imposition of higher tax rates on non-life insurance stripped it of equal protection of laws and violated the rule on uniformity of taxation.

At present, life and non-life insurance companies are subject, among others, to the taxes under Sections 108(A),[56] 123,[57] 183,[58] 184,[59] and 185[60] of the NIRC of 1997, as amended.

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[55] *Commissioner of Internal Revenue v. Standard Insurance Co., Inc.*, G.R. No. 219340, November 7, 2018.
[56] *Supra*, notes 12 and 13.
[57] *Supra*, note 15.
[58] *Supra*, note 16.
[59] *Supra*, note 10.
[60] *Supra*, note 11.

A brief comparison of the taxes, among others, imposed under the NIRC on life and non-life insurance companies is shown below:

Tax	Life Insurance	Non-Life Insurance
Business Tax	2% Percentage Tax	12% VAT
DST	₱20 to ₱200 depending on the amount of insurance	12.5%[61] of premium charged

Petitioner claims that although the insurance policies issued by life and non-life insurance companies are essentially the same as they conform to the requirements of Section 51 of the Insurance Code, as amended, the taxes imposed are discriminatory, such that it favors life insurance companies over non-life insurance companies. Petitioner maintains that, in essence, all types of insurance, as provided under the Insurance Code, are risk-distributing devices. Thus, since the Insurance Code does not substantially distinguish between life and non-life insurance, petitioner sees no reason that the NIRC of 1997, as amended, should give a distinction between the same.[62]

Section 1, Article III, and Section 28(1), Article VI, of the 1987 Constitution provide:

ARTICLE III
Bill of Rights

SEC. 1. No person shall be deprived of life, liberty, or property without due process of law, **nor shall any person be denied the equal protection of the laws**. (*Emphasis added*)

ARTICLE VI
The Legislative Department

SEC. 28. (1) **The rule of taxation shall be uniform and equitable.** The Congress shall evolve a progressive system of taxation. (*Emphasis added*)

The equal protection clause under the Constitution requires that all persons be treated alike under like circumstances and conditions, both as to privileges conferred and liabilities enforced.[63] "The purpose of the equal protection clause is to secure every person within a state's jurisdiction against intentional and arbitrary discrimination, whether

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61 ₱0.50 divided by ₱4.00.
62 Petition for *Certiorari*, pars. 115-116, Docket, p. 42.
63 *Zomer Development Company, Inc, v. Special Twentieth Division of the Court of Appeals, et al.*, G.R. No. 194461, January 7, 2020.

occasioned by the express terms of a statute or by its improper execution through the state's duly constituted authorities."[64]

However, the guaranty of equal protection of the laws is not a guaranty of equality in applying the laws to all citizens of the state. The Constitution does not require that things that are different be treated in law as though they were the same. The equal protection clause does not forbid discrimination regarding things that are different. It does not prohibit legislation that is limited either in the object to which it is directed or by the territory within which it is to operate.[65]

The guaranty of the equal protection of the laws is not violated by a law based on a *reasonable classification.*[66] The classification, to be valid, must (1) rest on substantial distinction, (2) be germane to the purpose of the law, (3) not be limited to existing conditions only, and (4) apply equally to all members of the same class.[67]

Applying the foregoing test to this case, the Court finds no violation of the right to equal protection of the laws.

The classification rests on substantial distinction between life and non-life insurance.

Contrary to petitioner's claim, substantial distinctions lie between life and non-life insurance, justifying the difference in their treatment. Life insurance is hardly the same class as non-life insurance. Life insurance is insurance on human lives[68] and "includes all policies of insurance in which payment of insurance money is contingent upon loss of life;"[69] whereas non-life insurance assumes risks pertaining to real or personal property.

Petitioner argues that the Insurance Code governs all classes of insurance and that all insurance policies, whether life or non-life, must contain the details under Section 51 thereof. Further, life and non-life insurance follow the general principle

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64 *Power Sector Assets and Liabilities Management Corporation (PSALM) v. Commission on Audit (COA)*, G.R. Nos. 213425 and 216606, April 27, 2021.
65 *Victoriano v. Elizalde Rope Workers' Union, et al.*, G.R. No. L-25246, September 12, 1974.
66 *Coconut Oil Refiners Association, Inc. v. Torres*, G.R. No. 132527, July 29, 2005.
67 *Tiu v. Court of Appeals*, G.R. No. 127410, January 20, 1999.
68 Insurance Code, SEC. 181. Life insurance is insurance on human lives and insurance appertaining thereto or connected therewith.
69 *Gallardo v. Morales*, G.R. No. L-12189, April 29, 1960, citing *Bowless v. Mutual Ben. Health & Accident Ass'n*, C.C.A. Va. 99F. 2d 44, 48, 49.

for the computation of the premium necessary to cover the risk or loss. While the Court agrees with the same, petitioner conveniently disregards that the same Code also lays down notable differences between life and non-life insurance, some of which are highlighted below:

Insurance Code	**Life Insurance**	**Non-life insurance**
Subject	Life and Health[70]	Property, real or personal[71]
Extent of insurable interest	Unlimited (except if secured by the creditor on the life of the debtor)	Limited to the actual value of the property.[72]
Time when insurable interest must exist	When the insurance takes effect, but need not exist thereafter or when the loss occurs.[73]	When the insurance takes effect, and when the loss occurs, but need not exist in the meantime.[74]

Further, the components of a life insurance substantially differ from that of a non-life insurance. It is recognized that life insurance is a savings institution.[75] The premiums paid by the insured, plus participation in the profits realized by the life insurance company from the investment of those premiums, are returned to the insured if he or she survives the policy.[76] On the other hand, non-life insurance primarily focuses on risk coverage without an investment component.

In Senator Jinggoy Ejercito Estrada's explanatory note on Senate Bill No. 1016, which later became RA No. 10001, the premium paid on a life insurance policy consists of a taxable savings component. This put life insurance at a disadvantage with bank savings:

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[70] SEC. 10. Every person has an insurable interest in the life and health:
(a) Of himself, of his spouse and of his children;
(b) Of any person on whom he depends wholly or in part for education or support, or in whom he has a pecuniary interest;
(c) Of any person under a legal obligation to him for the payment of money, or respecting property or services, of which death or illness might delay or prevent the performance; and
(d) Of any person upon whose life any estate or interest vested in him depends.

[71] SEC. 13. Every interest in property, whether real or personal, or any relation thereto, or liability in respect thereof, of such nature that a contemplated peril might directly damnify the insured, is an insurable interest.

[72] *Id.*

[73] SEC. 19. An interest in property insured must exist when the insurance takes effect, and when the loss occurs, but need not exist in the meantime; and interest in the life or health of a person insured must exist when the insurance takes effect, but need not exist thereafter or when the loss occurs.

[74] SEC. 17. The measure of an insurable interest in property is the extent to which the insured might be damnified by loss or injury thereof.

[75] *Insular Life Assurance Co., Ltd. v. Feliciano*, G.R. No. 47593, September 13, 1941.

[76] *Id.*

> It is to noted [*sic*] that **the premium paid on a life insurance policy consists of two major components: (1) the insurance component or the amount necessary to cover the cost of pure insurance protection; (2) the investment component or the amount that is added to the policy reserve which the insurer invests.** The latter represents the accumulated part as savings in the form of cash values to be returned to the policy holder upon maturity of the policy or at time it is surrendered for cash. Hence, the higher the number of the policy holders or the amount of insurance coverage, the higher the amount of savings that can be accumulated by the insurance industry. Higher savings mean more investments that translate to the higher economic growth.
>
> From the equity point of view, the savings portion of the insurance policy is inevitably taxed since the premium tax is applied on gross premiums. This places savings in the form of insurance policies at a disadvantage compared to other forms of savings particularly those generated by the banking industry. It is to be pointed out that in case of bank deposits, only the interest income, [not] on the amount deposited, is taxed. **The reduction of the premium tax would somehow mitigate the unequal tax treatment of the various forms of savings.**[77] (*Emphasis added*)

To tax a life insurance company on account of these "deposits" or "savings" is actually to tax the policyholder for being provident.[78] There is a reasonable basis to extend to life insurance the benefits accorded in RA No. 10001, which aimed to remove the inequitable treatment of savings made in life insurance and the banking system.

The classification is germane to the purpose of the law.

The classification is also germane to the purpose of the laws. RA No. 7716 was enacted to restructure the VAT system by widening its tax base and enhancing its administration.[79] In furtherance of such an objective, Congress deemed it necessary to broaden the coverage of VAT to non-life insurance.

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77 Senate of the Philippines, 13th Congress. Retrieved from https://legacy.senate.gov.ph/lisdata/22231298!.pdf.
78 *Filipinas Life Assurance Company v. The Court of Tax Appeals, et al.*, G.R. No. L-21258, October 31, 1967.
79 *Commissioner of Internal Revenue v. SM Prime Holdings, Inc. and First Asia Realty Development Corporation*, G.R. No. 183505, February 26, 2010.

Congress' intention to rationalize the imposition of VAT on non-life insurance policies can be seen during the interpellations on Senate Bill No. 1630, which later became RA No. 7716:[80]

> Senator Herrera: Mr. President, this was raised earlier and mention was made that we are not very clear as to what are these taxes that were replaced by the VAT.
>
> Let me cite what these taxes are that will immediately be replaced by approving this bill. ...
>
> ... ...
>
> The 5 percent tax in ... nonlife insurance premiums will also be replaced by the VAT.
>
> So immediately, Mr. President, we have nine taxes that will be replaced by the VAT. The estimate that was published by the Department of Finance will be something like 78 or 81—those are the figures that have been mentioned—this will be part of the recommendation in the Tax Comprehensive Reform Package that these taxes will be replaced by the VAT in order to **simplify our tax structure and**, at the same time, **reduce the tax rate but expand the base in order that this will become a progressive tax.**[81] (*Emphasis added*)

Likewise, the increase in DST in non-life insurance in RA No. 7660, which was retained in RA No. 8424 and RA No. 10963, aimed to rationalize further the structure and administration of the DST.

Proclamation No. 1059 of 1997[82] acknowledged the role of life insurance in providing Filipino families with services and benefits for financial protection in times of need and peace of mind when the families' income earners pass away or become incapacitated is a major contributor to the social and economic development of our country, particularly in our government's thrust to generate meaningful long-term savings; it is also a major contributor to the social and economic development of our country, particularly in the government's thrust to generate meaningful long-term savings.

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80 Legislative History of RA No. 7716. Retrieved from https://ldr.senate.gov.ph/sites/default/files/2022-07/Legislative%20History%20%28RA%207716%29.pdf.

81 Interpellations on Senate Bill No. 1630/House Bill No. 11197, Record of the Senate, Vol. V. No. 77, May 2, 1994, pp. 187-188.

82 DECLARING THE FIRST WEEK OF OCTOBER OF EVERY YEAR AS "LIFE INSURANCE CONSCIOUSNESS WEEK", August 20, 1997.

In line with this policy, RA No. 10001 was enacted to level the playing field in investment *via* the banking system and life insurance. Senator Panfilo Lacson delivered the following in his Sponsorship Speech of the Senate Bill No. 3502,[83] which was subsequently enacted as RA No. 10001:

> **Components of Premium Tax**
>
> To enrich our records, allow me to discuss what is premium tax on insurance.
>
> Premiums paid under a life insurance policy consist of two major components:
>
> (a) The insurance portion, or the amount necessary to cover the cost of pure insurance protection under the policy; and
>
> (b) The investment portion, or the amount that is added to the policy reserve which the insurer invests.
>
> The *investment component* represents the accumulated part as savings in the form of cash values to be returned to the policyholder at the maturity of the policy or at the time it is surrendered for cash.
>
> In past studies made by the life insurance industry, the average rate of tax applicable to the pure insurance portion is between 1.5% and 2% of the premiums.
>
> **The industry considers the premium tax and the documentary stamp tax (DST) as penalty for savings.** Comparisons have been made vis-a-vis savings made through the banking system wherein only the interest income and not the total amount saved is taxed. Further, under Section 24(8) of the Tax Code, interest income from long-term deposit is exempt from the 20% tax.
>
> ... ...
>
> **Committee Recommendations**
>
> After two public hearings and careful study, technically backed up by our Senate Tax Study and Research Office, your **Committee recognizes the vital role played by life insurance companies in mobilizing resources for long-term savings and investments.** However, the total abolition of the 5% premium tax, espoused under SBN 3181 and HBN 6017, is not indorsed for the following reasons:

[83] AN ACT REDUCING THE TAX INSURANCE PREMIUM UNDER CERTAIN CONDITIONS, AMENDING FOR THIS PURPOSE SECTION 123 OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED.

(a) It is basically a business tax and it is at par with the gross receipts tax (GRT) imposed on banks and other financial institutions.

(b) There is no guarantee that the total abolition of the premium tax would result in an increased demand for life insurance protection.

(c) Annual revenue loss from the proposed total abolition of the 5% premium tax is estimated at P2.84 billion based on the total premium income for 2008 as reported by the Insurance Commission from the 35 life insurance companies.

(d) **It will distort the level playing field within the insurance industry**. It is instructive to note that non-life insurance companies were levied 12% value-added tax (VAT) beginning January 1, 1996, under R.A. No. 7716.

(e) It will set a precedent for the other players in the financial sector to request for similar tax treatment.

However, **we are amenable to a *reduction* of the premium tax in recognition of the life insurance as a vehicle for long-term savings** and in recognition of the need for revenues for the government.

... ...

Senate Bill No. 3502 will level the playing field in terms of long-term investment via the banking system and life insurance.[84] (*Emphasis added*)

Hence, there is a legitimate State interest behind RA No. 10001 due to the nature of life insurance having a savings or investment component. Such characteristics and distinctions of life and non-life insurance are recognized by lawmakers in enacting the assailed provisions.

The classification is not limited to existing conditions and applies equally to all members of the same class of non-life insurance.

Further, the provisions on non-life insurance uniformly apply to all said policies. It does not exempt any non-life

[84] Senate Journal, Fourteenth Congress, Session No. 33, November 10, 2009, pp. 1048-1050.

insurance from its operation nor single out any characteristic of non-life insurance for imposition of taxes.[85]

As declared in *Abakada Guro Party List v. Ermita,*[86] the State may make reasonable and natural classifications in exercising its power of taxation, and such exercise enjoys the presumption of validity "whether it relates to the subject of taxation, the kind of property, the rates to be levied, or the amounts to be raised, the methods of assessment, valuation and collection."[87] In general, the Court will not interfere with such power "absent a clear showing of unreasonableness, discrimination, or arbitrariness.[88]

Here, petitioner failed to show that the assailed provisions are arbitrary or motivated by a hostile or oppressive attitude to unduly favor life insurance over non-life insurance. The separate provisions on life and non-life insurance in the Tax Code demonstrate an intention to treat these two types of insurance policies differently. If Congress intended insurance policies to be taxed regardless of their coverage, there would be no need to delineate between life and non-life insurance, and only one provision lumping all insurance types would have been sufficient. Equal protection is not a license for the courts to judge the wisdom, fairness, or logic of legislative choices.[89] Thus, petitioner's remedy is with Congress and not this Court, as it is not within the power of the Court to pass upon or look into the wisdom of said classification.[90]

Regarding petitioner's contention that the assailed provisions violate the uniformity and equitability of taxation, the same is misplaced. A tax is uniform when it operates with the same force and effect in *every place* where the subject of it is found.[91] It does not signify an intrinsic but simply a *geographical uniformity.*[92] The uniform taxation rule does not prohibit classification for purposes of taxation,[93] and only demands uniformity within the particular class.[94]

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85 See *British American Tobacco v. Camacho, et al.*, G.R. No. 163583, April 15, 2009.
86 G.R. Nos. 168056, 168207, 168461, 168463 & 168730, September 1, 2005.
87 *Tinio v. Duterte*, G.R. Nos. 236118 & 236295, January 24, 2023.
88 *Id.*
89 *British American Tobacco v. Camacho, et al.*, G.R. No. 163583, April 15, 2009, citing *Federal Communications Commission v. Beach Communications, Inc.*, 508 U.S. 307, 313 (1993).
90 See *Fariñas v. Executive Secretary*, G.R. Nos. 147387 & 152161, December 10, 2003.
91 *Commissioner of Internal Revenue v. Lingayen Gulf Electric Power Co., Inc.*, G.R. No. L-23771, August 4, 1988.
92 *British American Tobacco v. Camacho, et al.*, G.R. No. 163583 (Resolution), April 15, 2009, citing *Churchill v. Concepcion*, G.R. No. 11572, September 22, 1916.
93 *Id.*
94 *Abakada Guro Party List v. Ermita*, G.R. Nos. 168056, 168207, 168461, 168463 & 168730, September 1, 2005.

In this case, the assailed provisions meet the geographical uniformity requirement because they apply to all classes of non-life insurance policies in the Philippines. The Legislature has the inherent power not only to select the subjects of taxation but to grant exemptions, and tax exemptions have never been deemed violative of the equal protection clause.[95] Hence, the VAT exemption of life insurance cannot be said to infringe the equal protection clause just because another class of insurance was excluded therefrom.

In *British American Tobacco v. Camacho,*[96] citing *Sison, Jr. v. Ancheta,*[97] the Supreme Court explained the applicable standard in deciding equal protection and uniformity of taxation challenges:

> 6. Now for equal protection. ... The Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same." Hence **the constant reiteration of the view that classification if rational in character is allowable**. As a matter of fact, in a leading case of *Lutz v. Araneta,* this Court, through Justice J.B.L. Reyes, went so far as to hold "at any rate, **it is inherent in the power to tax that a state be free to select the subjects of taxation, and it has been repeatedly held that 'inequalities which result from a singling out of one particular class for taxation, or exemption infringe no constitutional limitation.'"**
>
> 7. Petitioner likewise invoked the kindred concept of uniformity. According to the Constitution: "The rule of taxation shall be uniform and equitable." This requirement is met according to Justice Laurel in *Philippine Trust Company v. Yatco,* decided in 1940 when the tax "operates with the same force and effect in every place where the subject may be found." He likewise added: "The rule of uniformity does not call for perfect uniformity or perfect equality, because this is hardly attainable." The problem of classification did not present itself in that case. It did not arise until nine years later, when the Supreme Court held: "**Equality and uniformity in taxation means that all taxable articles or kinds of property of the same class shall be taxed at the same rate. The taxing power has the authority to make reasonable and natural classifications for purposes of taxation**, . . . As clarified by Justice Tuason, where "the differentiation" complained of "conforms to the practical dictates of justice and equity" it "is not discriminatory within the meaning of this clause and is therefore uniform." There is quite a similarity then to the standard of equal protection for

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[95] *Commissioner of Internal Revenue v. Lingayen Gulf Electric Power Co., Inc.*, G.R. No. L-23771, August 4, 1988.
[96] G.R. No. 163583, August 20, 2008.
[97] G.R. No. L-59431, July 25, 1984.

all that is required is that the tax "applies equally to all persons, firms and corporations placed in similar situation." (*Emphasis added*)

Every law has in its favor the presumption of constitutionality; thus, the burden of proof is on the one attacking the constitutionality of the law to prove beyond reasonable doubt that the legislative classification is without rational basis.[98] The presumption of constitutionality can be overcome only by the clearest showing that a classification is a hostile and oppressive discrimination against particular persons and classes,[99] not one that is speculative or argumentative,[100] and that there is no conceivable basis which might support it.[101] As discussed earlier, petitioner failed to prove this.

The Congressional deliberations reveal that the assailed provisions are products of earnest efforts to improve the efficiency and effectiveness of tax administration. Since the legislative classification is related to furthering a legitimate State interest, the Constitution's equal protection clause is not infringed.[102]

As a final note, the Court, following the doctrine of separation of powers, cannot substitute its judgment for that of the wisdom of Congress in enacting the assailed provisions.[103] The imposition and reduction of taxes is a question of economic policy, the determination of which is vested in Congress, not in this Court. It is within the sovereign prerogative of the State to select the subjects of taxation, and "inequalities which result from a singling out of one particular class for taxation or exemption infringe no constitutional limitation."[104]

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[98] *Municipality of San Mateo, Isabela v. Smart Communications, Inc.*, G.R. No. 219506, June 23, 2021; *British American Tobacco v. Camacho*, G.R. No. 163583, August 20, 2008, citing *Basco v. Philippine Amusements and Gaming Corp.*, G.R. No. 91649, May 14, 1991; *Victoriano v. Elizalde Rope Workers Union*, G.R. L-25246, September 12, 1974.

[99] *British American Tobacco v. Camacho*, G.R. No. 163583, August 20, 2008.

[100] *Municipality of San Mateo, Isabela v. Smart Communications, Inc.*, G.R. No. 219506, June 23, 2021.

[101] *Id., British American Tobacco v. Camacho*, G.R. No. 163583.

[102] *British American Tobacco v. Camacho*, G.R. No. 163583, August 20, 2008; *Fariñas v. Executive Secretary*, G.R. Nos. 147387 & 152161, December 10, 2003.

[103] *British American Tobacco v. Camacho*, G.R. No. 163583, August 20, 2008; *Tatad v. Secretary of the Department of Energy*, G.R. Nos. 124360 & 127867, November 5, 1997, citing *Kapatiran ng mga Naglilingkod v. Tan*, G.R. Nos. 81311, 81820, 81921 & 82152, June 30, 1988.

[104] *Sison, Jr. v. Ancheta*, G.R. No. L-59431, July 25, 1984, cited by *Chamber of Real Estate and Builders' Association, Inc. v. Romulo*, G.R. No. 160756, March 9, 2010, *Commissioner of Internal Revenue v. Santos*, G.R. No. 119252, August 18, 1997, and *Tolentino v. Secretary of Finance*, G.R. Nos. 115455, 115525, 115543, 115544, 115754, 115781, 115852, 115873 & 115931 (Resolution), October 30, 1995; *Lutz v. Araneta*, G.R. No. L-7859, December 22, 1955.

In *Lawyers Against Monopoly and Poverty (LAMP) et al. v. The Secretary of Budget and Management, et al.*,[105] the Supreme Court held that:

> To justify the nullification of the law or its implementation, **there must be a clear and unequivocal, not a doubtful, breach of the Constitution**. In case of doubt in the sufficiency of proof establishing unconstitutionality, the Court must sustain legislation because 'to invalidate [a law] based on . . . baseless supposition is an affront to the wisdom not only of the legislature that passed it but also of the executive which approved it.' **This presumption of constitutionality can be overcome only by the clearest showing that there was indeed an infraction of the Constitution, and only when such a conclusion is reached by the required majority may the Court pronounce, in the discharge of the duty it cannot escape, that the challenged act must be struck down.** (*Emphasis added*)

Absent a clear breach of the Constitution showing that the classification between life and non-life insurance was unreasonable, capricious, or unfounded, the Court finds no reason to impede the continued implementation of the assailed provisions.

WHEREFORE, premises considered, the instant *Petition for Certiorari* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[105] G.R. No. 164987, April 24, 2012.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice