



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PHILIPPINE VETERANS BANK,
Petitioner,

G.R. No. 205261

Present:

LEONEN, J., *Chairperson*,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J., *JJ.*

- versus -

COMMISSIONER OF INTERNAL
REVENUE,

Promulgated:

Respondent.

April 26, 2021

MisADC B-H

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DECISION

LOPEZ, J., *J.*:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeks to set aside the Decision² dated December 20, 2012 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 747, which affirmed the CTA Division's Decision dated October 8, 2010 in CTA Case No. 6563,³ affirming the assessment of a total amount of ₱55,282,658.72 as deficiency gross receipts tax (*GRT*) and documentary stamp tax (*DST*) for taxable years 1994, 1995, and 1996, plus interest that may have accrued thereon.

The Facts

The petitioner, Philippine Veterans Bank, is a commercial banking institution organized and existing under and by virtue of the laws of the

¹ *Rollo*, pp. 8-25.

² Penned by Associate Justice Amelia R. Cotangco-Manalastas, with Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, and Cielito N. Mindaro-Grulla, concurring; Ernesto B. Acosta, on leave; *id.* at 31-38.

³ *Id.* at 31.

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Republic of the Philippines, organized through its special charters, Republic Act No. 3518 and Republic Act No. 7169.⁴

In the years 1994-1996, petitioner offered the following financial products to its clients: (i) Special Savings Account, (ii) Special Savings Deposit (Government), and (iii) Golden V (Private) (collectively, the *Special Savings Accounts*).⁵ These accounts earned interest income in favor of the bank's clients.⁶ The Special Savings Accounts have the following features: (i) they are withdrawable by the depositor at any time through the presentation of a passbook;⁷ (ii) the amount of deposit usually runs into millions of pesos;⁸ (iii) the deposit is subject to a special rate of interest;⁹ (iv) the deposit allows posting of additional or multiple deposits;¹⁰ (v) the deposit allows partial or multiple withdrawals;¹¹ (vi) the account has no fixed maturity;¹² (vii) the deposit cannot be negotiated nor assigned;¹³ and (viii) the deposit cannot be pre-terminated, as there is no fixed maturity.¹⁴

On December 9, 1999, respondent Commissioner of Internal Revenue (*respondent*), through Mr. Percival T. Salazar, BIR Assistant Commissioner for the Enforcement Service of the BIR, sent the petitioner a Final Notice of Assessment in the total amount of ₱22,092,035.21 as deficiency DST on the Special Savings Accounts for taxable years 1994 and 1995.¹⁵

On December 13, 1999, Atty. Florencio Z. Sioson, the Executive Vice President and Chief Operating Officer of the petitioner, replied to the aforesaid Notice of Assessment.¹⁶ In the reply, Atty. Sioson requested that the demand letter be held in abeyance pending the resolution of other issues involved in the case.¹⁷

Subsequently, the Appellate Division of the BIR scheduled conference hearings, wherein the petitioner presented two witnesses and documentary evidence.¹⁸ After two conferences, the petitioner submitted its position paper.¹⁹

4 *Id.* at 9.
5 *Id.* at 14-15.
6 *Id.* at 15.
7 *Id.*
8 *Id.*
9 *Id.*
10 *Rollo*, p. 16.
11 *Id.*
12 *Id.*
13 *Rollo*, p. 17.
14 *Id.*
15 *Rollo*, p. 33.
16 *Id.*
17 *Id.*
18 *Id.*
19 *Id.*

Thereafter, the respondent issued a Formal Letter of Demand dated December 4, 2000 and Audit Results/Assessment Notices, requiring the petitioner to pay deficiency GRT for the year 1996 in the amount of ₱5,009,876.88 and deficiency DST for the year 1996 in the amount of ₱28,180,746.63.²⁰ With respect to the deficiency GRT, the respondent included the amount of final withholding taxes on the gross interest income of the bank, for the purpose of determining the bank's GRT. With respect to the deficiency DST, the respondent, imposed DST on the Special Savings Account.²¹

The said assessments were received by the petitioner, and were protested in a letter dated January 10, 2001, wherein the petitioner reiterated its request to hold in abeyance the enforcement of the assessments.²²

On August 8, 2002, the respondent rendered a decision entitled "*In the Matter of the Internal Revenue Tax Case of Philippine Veterans Bank involving the Total Amount of ₱55,282,658.72 as Deficiency Gross Receipts and Documentary Stamp Taxes for Taxable Years 1994, 1995 and 1996, Covered by Assessment Notice Nos. ST-DST-94-0114-99; ST-DST-95-0113-99; DST-96-000003; GRT-96-000005 dated December 9, 1999 and December 4, 2000, respectively* (August 8, 2002 CIR Decision).²³ In the said decision, the respondent denied the request for deferment and protest of the petitioner, and, thus, ordered the petitioner to pay, within a period of 30 days from receipt thereof, the total amount of ₱55,282,658.72 as deficiency GRT and DST for taxable years 1994, 1995, and 1996, plus interest that may have accrued thereon.²⁴

Upon receipt of the August 8, 2002 CIR Decision, the petitioner filed a Petition for Review with the CTA Division.²⁵

The CTA Division issued its October 8, 2010 Decision,²⁶ which ruled as follows:

WHEREFORE, the Petition for Review is hereby PARTIALLY GRANTED. The assessments for deficiency documentary stamp tax on the Increase in Capitalization issued by respondent against petitioner for taxable years 1995 and 1996 in the amounts of P12,337,500.00 and P5,209,066.80, respectively, are hereby CANCELLED and WITHDRAWN in view of the Termination Letter dated June 7, 2010 issued by respondent as regards petitioner's availment of the Abatement Program under Revenue Regulations No. 15-2006, as amended by Revenue Regulations No. 03-07, in relation to Sections 204 and 244 of the NIRC of 1997, as amended.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 34.

²⁶ Culled in the CTA Decision dated December 20, 2012; *rollo*, pp. 31-32.

The assessments for deficiency documentary stamp tax on petitioner's Special Savings Accounts, Special Savings Deposits and Golden Vs for taxable years 1994, 1995, and 1996, are hereby AFFIRMED WITH MODIFICATION. Petitioner is hereby ORDERED TO PAY respondent the amount of P25,707,090.66, computed as follows:

xxx xxx xxx

In addition, petitioner is likewise ORDERED TO PAY interest thereon at the rate of twenty percent (20%) *per annum* commencing on November 8, 2002 until full payment thereof, pursuant to Section 248(d), in relation to Section 249, both of the NIRC of 1977, as amended.

The assessments for deficiency Gross Receipts Tax for taxable year 1996 and deficiency gross receipts tax for taxable year 1996 [sic], is also AFFIRMED WITH MODIFICATION. Petitioner is hereby ORDERED TO PAY respondent the amount of P3,499,320.78, computed as follows:

xxx xxx xxx

In addition, petitioner is likewise ORDERED TO PAY interest thereon at the rate of twenty percent (20%) *per annum* commencing from January 20, 1997 until full payment thereof, pursuant to the above-quoted Section 249(a) of the NIRC of 1997; and delinquency interest at the rate of twenty percent (20%) *per annum* commencing from November 8, 2002 until full payment thereof, pursuant to the said Section 249(c) of the same law.²⁷

The petitioner filed a Petition for Review of the October 8, 2010 Decision of the CTA Division before the CTA *En Banc*.²⁸ Affirming the October 8, 2010 Decision of the CTA Division, the dispositive portion of the December 20, 2012 Decision of the CTA *En Banc* provides:

WHEREFORE, premises considered, the instant Petition for Review is hereby DISMISSED for lack of merit.²⁹

The petitioner filed the instant petition, assailing the December 20, 2012 Decision of the CTA *En Banc*.

The Issues

I.

Whether or not the Special Savings Accounts of the Philippine Veterans Bank are subject to documentary stamp tax

II.

Whether or not final withholding taxes on the gross interest income of Philippine Veterans Bank are deductible from gross receipts for purpose of determining the bank's gross receipts tax³⁰

²⁷ *Id.*
²⁸ *Id.* at 31.
²⁹ *Id.* at 37.
³⁰ *Id.* at 14.

The Court's Ruling

The petition is denied for lack of merit.

On the first issue, We rule that the Special Savings Accounts of the Philippine Veterans Bank are subject to DST.

On the second issue, We rule that the final withholding taxes on the gross interest income of Philippine Veterans Bank are not deductible from gross receipts for the purpose of determining the bank's GRT.

I. Whether or Not the Special Savings Accounts of the Philippine Veterans Bank are Subject to Documentary Stamp Tax

A. Petitioner's Arguments

The petitioner claims that its Special Savings Accounts are not subject to DST.³¹ Section 180 of the National Internal Revenue Code (*NIRC*) of 1997, prior to amendment by Republic Act No. 9243, only imposes DST on "certificates of deposits drawing interest, orders for the payment of any sum of money otherwise than at sight or on demand," and not on those that are payable at sight or on demand.³² The Special Savings Accounts of the petitioner are payable at sight or on demand, considering that they are withdrawable at any time through the presentation of a passbook.³³ Hence, they are exempt from DST.

B. Respondent's Arguments

The respondent claims that the Special Savings Accounts are subject to DST.³⁴ Section 180 of the *NIRC* of 1977, the prevailing law during the period covered by the assessment, provides that certificates of deposits drawing interest are subject to DST of ₱0.30 on each ₱200, or fractional part thereof, of the face value of such certificates of deposits.³⁵ This is regardless of whether the deposits are withdrawable through the presentation of a passbook.³⁶ Hence, the Special Savings Accounts are considered certificates of deposits drawing interest.³⁷

³¹ *Id.* at 15-21.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

C. Special Savings Accounts Subject to Documentary Stamp Tax

The petitioner is mistaken. We uphold the respondent.

There is a long history of confusion about the imposable DST on bank deposit products. This confusion is rooted in the various classifications and variations of bank deposits in the Philippine banking system, and the attempt to distinguish between (i) certain types of bank deposits that are subject to DST and (ii) those types of bank deposits that are exempt from DST. We have ruled on the applicability (or non-applicability) of DST in regular savings deposits, time deposits, and special savings deposits, among other variations of bank deposits, in the cases of *Banco de Oro Universal Bank v. CIR*,³⁸ *International Exchange Bank v. CIR*,³⁹ *Philippine Banking Corp. v. CIR*,⁴⁰ *Metropolitan Bank and Trust Co. v. CIR*,⁴¹ and *China Banking Corp. v. CIR*.⁴² And yet the confusion whether a particular bank deposit is subject to DST remains, as in the case at bar.

This case is an occasion for this Court to clarify and finally end this confusion.

The respondent bank offered the Special Savings Accounts subject of this case in the years 1994 to 1996.⁴³ At the time of the offer and perfection of the said bank deposits, the prevailing tax code was the NIRC of 1977,⁴⁴ as amended by Republic Act No. 7660,⁴⁵ and not the NIRC of 1997. Hence, the applicable tax provision in respect of the imposable DST on the said Special Savings Accounts is Section 180 of the NIRC of 1977, and not the current Section 179 (re-numbered from Section 180) of the NIRC of 1997.

Section 180 of the NIRC of 1977 provides:

Sec. 180. Stamp tax on all loan agreements, promissory notes, bills of exchange, drafts, instruments and securities issued by the government or any of its instrumentalities, certificates of deposit bearing interest and others not payable on sight or demand. — On all loan agreements signed abroad wherein the object of the contract is located or used in the Philippines; bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities or certificates of deposits drawing interest, or orders

³⁸ 612 Phil. 544 (2007).

³⁹ 549 Phil. 456 (2007).

⁴⁰ 597 Phil. 363 (2009).

⁴¹ 612 Phil. 544 (2009).

⁴² 617 Phil. 522 (2009).

⁴³ *Rollo*, pp. 14-15.

⁴⁴ Presidential Decree No. 1158.

⁴⁵ "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"

for the payment of any sum of money otherwise than at the sight or on demand, or on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each Two hundred pesos, or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: *Provided*, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory note issued to secure such loan, whichever will yield a higher tax: *Provided, however*, That loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this section.⁴⁶

DST is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale or transfer of an obligation, right or property incident thereto.⁴⁷ A DST is levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments.⁴⁸ In imposing the DST, the Court considers not only the document but also the nature and character of the transaction.⁴⁹

Pursuant to Section 180 of the NIRC of 1977, a DST is imposable on loan agreements, bills of exchange, drafts, and a number of other instruments, in the amount of P0.30 on each P200, or fractional part thereof, of the face value of such instruments. For clarity, and as held in *China Banking Corp. v. CIR*,⁵⁰ the proper breakdown of the enumeration of these instruments subject to DST under Section 180 should read as follows:

1. Loan agreements signed abroad wherein the object of the contract is located or used in the Philippines;
2. Bills of exchange (between points within the Philippines);
3. Drafts;
4. Instruments and securities issued by the Government or any of its instrumentalities;
5. Certificates of deposits drawing interest;
6. Orders for the payment of any sum of money otherwise than at sight or on demand; and
7. Promissory notes, whether negotiable or non-negotiable.⁵¹

⁴⁶ Emphasis supplied.

⁴⁷ *Philippine Banking Corp. v. CIR*, *supra* note 38, at 381.

⁴⁸ *Id.* at 381-382.

⁴⁹ *Id.* at 382.

⁵⁰ *Supra* note 42.

⁵¹ *Id.* at 534.

In *Philippine Banking Corp. v. Commissioner of Internal Revenue*,⁵² We noted that the *Bangko Sentral ng Pilipinas (BSP)*, through the Manual of Regulation for Banks (*MORB*), provides the following classifications of bank deposits:

1. Demand Deposits — are deposits, subject to withdrawal either by check or thru the automated teller machines which are otherwise known as current or checking accounts. The Bank may or may not pay interest on these accounts.
2. Savings Deposits — are interest-bearing deposits which are withdrawable either upon presentation of a properly accomplished withdrawal slip together with the corresponding passbook or thru the automated teller machines.
3. Negotiable Order of Withdrawal Accounts — are interest-bearing savings deposits which are withdrawable by means of Negotiable Orders of Withdrawal.
4. Time Deposits — are interest-bearing deposits with specific maturity dates and evidenced by certificates issued by the bank.⁵³

Certain types of bank deposits will attract DST under Section 180 of the NIRC of 1977, while some types will not. We clarify this in the discussion below.

Pursuant to Section 180 of the NIRC of 1977, the relevant instruments in this case are: (i) certificates of deposits drawing interest, and (ii) orders for the payment of any sum of money otherwise than at sight or on demand.

1. Certificates of Deposits Drawing Interest

In *Far East Bank & Trust Co. v. Querimit*,⁵⁴ We defined a “certificate of deposit” as a written acknowledgment by a bank or banker of the receipt of a sum of money on deposit which the bank or banker promises to pay to the depositor, to the order of the depositor, or to some other person or his order, whereby the relation of debtor and creditor between the bank and the depositor is created.

In *International Exchange Bank v. CIR*,⁵⁵ We stated that a “certificate of deposit” requires no specific form, as long as there is some written memorandum that the bank accepted a deposit of a sum of money from a depositor. What is important and controlling is the nature or meaning conveyed by that written memorandum (such as a passbook), and not the

⁵² *Supra* note 40.

⁵³ *Id.* at 377-378.

⁵⁴ 424 Phil. 721, 730 (2002).

⁵⁵ *Supra* note 37.

particular label or nomenclature attached to it, inasmuch as substance, not form, is paramount.⁵⁶ In this case, We have ruled that a passbook representing an interest-earning deposit account issued by a bank qualifies as a certificate of deposit drawing interest.⁵⁷

We have also ruled in the *International Exchange Bank* case that a certificate of deposit may or may not be negotiable, as gathered from the use of the conjunction “or”, instead of “and”, in the *Far East Bank & Trust Co.* definition of “certificate of deposit”.⁵⁸ A certificate of deposit may be payable to: (i) the depositor, (ii) to the order of the depositor, or (iii) to some other person or his order.⁵⁹ In any event, the negotiable character of any and all documents under Section 180 is immaterial for purposes of imposing DST.⁶⁰

In *Philippine Banking Corp. v. CIR*,⁶¹ We cited the BIR’s Revenue Memorandum Circular No. 16-03 dated February 18, 2003, entitled “*Defining the Term ‘Certificate of Deposit’*”, in clarifying the nature of a certificate of deposit. The issuance provides:

“Certificate of Deposit” is defined as a “written acknowledgment by a bank of the receipt of money on deposit which the bank promises to pay to the depositor, bearer or to some other person or order. No particular form is necessary to constitute a certificate of deposit. The clear and unmistakable language of Section 180 of the Tax Code imposes a tax on certificates of deposits drawing interest, orders for the payment of any sum of money otherwise than at sight or on demand.[”]

“Time deposit” on the other hand, is another form of a Certificate of Deposit in a bank. The term “time deposit” refers to a deposit account paying interest for a fixed term, with the understanding that funds cannot be withdrawn before maturity without giving advance notice. (Barron’s Dictionary of Banking Terms) “It is so called because in theory (though no longer in practice) a person must await a certain amount of time after notice of his or her desire to withdraw part or all of his or her savings before the scheduled maturity date. Certificates of deposits or time deposits usually carry penalties for early withdrawal.” (Black’s Law Dictionary, 6th Edition)

From the aforesaid definitions, the essential elements of a certificate of deposit are as follows:

1. The bank receives money for deposit;
2. The bank acknowledges the receipt of the deposit through the issuance of a written document;
3. The bank promises to pay to the depositor or bearer or to some other person or order the deposit upon maturity;
and

⁵⁶ *Id.* at 465.

⁵⁷ *Id.* at 464.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* at 465.

⁶¹ *Supra* note 38.

4. The bank imposes an early withdrawal penalty in case of withdrawal prior to maturity which comes in the form of reduced interest.

From a technical point of view, a Certificate of Deposit has the following distinct features:

1. Minimum deposit requirement;
2. Stated maturity period;
3. Interest rate is higher than the ordinary savings account;
4. Not payable on sight or demand, but upon maturity or in case of pre-termination, prior notice is required; and
5. Early withdrawal penalty in the form of partial loss or total loss of interest in case of pre-termination.⁶²

In the *Philippine Banking Corp.* case, We recognized that a certificate of deposit drawing interest includes a time deposit account.⁶³ We also emphasized in this case that the presence or absence of a passbook is not determinative of whether an instrument will qualify as a certificate of deposit for purpose of imposing DST.⁶⁴ This is because a certificate of deposit requires no specific form, as long as there is some written memorandum that the bank accepted a deposit of a sum of money from a depositor.⁶⁵

In *Banco de Oro Universal Bank v. CIR*,⁶⁶ We ruled:

The CTA *en banc* likewise declared that in practice, a time deposit transaction is covered by a certificate of deposit while petitioner's Investment Savings Account (ISA) transaction is through a passbook. Despite the differences in the form of any documents, the CTA *en banc* ruled that a time deposit and ISA have essentially the same attributes and features. It explained that like time deposit, ISA transactions bear a fixed term or maturity because the bank acknowledges receipt of a sum of money on deposit which the bank promises to pay the depositor, bearer or to the order of a bearer on a specified period of time. Section 180 of the 1997 NIRC does not prescribe the form of a certificate of deposit. It may be any 'written acknowledgment by a bank of the receipt of money on deposit.' The definition of a certificate of deposit is all encompassing to include a savings account deposit such as ISA.

In *Metropolitan Bank and Trust Co. v. CIR*,⁶⁷ We ruled:

⁶² Revenue Memorandum Circular No. 16-03 dated February 18, 2003.

⁶³ *Philippine Banking Corp. vs. CIR*, *supra* note 38, at 379.

⁶⁴ *Id.* at 389.

⁶⁵ *Id.* at 465.

⁶⁶ *Supra* note 36.

⁶⁷ *Supra* note 39, at 564.



x x x There can be no doubt that the UNISA — the special savings account of Metrobank, granting a higher tax rate to depositors able to maintain the required minimum deposit balance for the specified holding period, and evidenced by a passbook — is a certificate of deposit bearing interest, already subject to DST even under the then Section 180 of the NIRC. Hence, the assessment by the CIR against Metrobank for deficiency DST on the UNISA for 1999 was only proper.

In *China Banking Corp. v. Commissioner of Internal Revenue*,⁶⁸ We reiterated the ruling in the *International Exchange Bank* case that: (i) a passbook representing an interest-earning deposit account issued by a bank qualifies as a certificate of deposit drawing interest; and (ii) a document to be deemed a certificate of deposit requires no specific form as long as there is some written memorandum that the bank accepted a deposit of a sum of money from a depositor.

2. Orders for the payment of any sum of money otherwise than at sight or on demand

The order for the payment of a sum of money, under Section 180 of the NIRC of 1977, should be “otherwise” than at sight or on demand. This means that there is a fixed period, holding period or maturity period before triggering the obligation of the payor to pay the sum of money. In short, the payment obligation involved is an obligation with a period, or one that is not demandable at any time.

The word “otherwise” in Section 180 of the NIRC of 1977 implies that (i) an order for the payment of a sum money *at sight or on demand—i.e.*, a payment obligation without a period—is not subject to DST, while (ii) an order for the payment of a sum of money *not at sight or on demand—i.e.*, a payment obligation with a period—is subject to DST.

This is consistent with Our ruling in *International Exchange Bank v. CIR*⁶⁹ that orders for the payment of sum of money payable at sight or on demand are explicitly exempted from the payment of DST. In that case, We applied this item to mean that a “regular savings account” with a passbook which is withdrawable at any time is not subject to DST, unlike a “time deposit” which is payable on a fixed maturity date.⁷⁰ Thus, if the bank deposit is an obligation without a period—*i.e.*, one that is demandable or withdrawable at any time—it is not subject to DST. However, if the bank deposit is an obligation with a period—*i.e.*, one that has a fixed, holding or maturity period—it is subject to DST.

⁶⁸ *Supra* note 40, at 539-540.

⁶⁹ *Supra* note 37, at 465.

⁷⁰ *Id.*

3. DST on Special Savings Deposits

The issue on the applicability of DST on bank deposits in *Banco de Oro Universal Bank v. CIR*,⁷¹ *International Exchange Bank v. CIR*,⁷² *Philippine Banking Corp. v. CIR*,⁷³ *Metropolitan Bank and Trust Co. v. CIR*,⁷⁴ and *China Banking Corp. v. CIR*,⁷⁵ is rooted in the financial innovation in the banking industry of a deposit which is a “hybrid” of a regular savings deposit and a time deposit. On the one hand, this special savings deposit may be withdrawable at any time, as signified by the use of passbooks, which evidence the ability of the depositor to add or subtract from his or her account at any time. Hence, it appears to be an obligation without a period, demandable at any time by the depositor. On the other hand, the rates of interest income on said deposits are higher than the regular savings deposits. In addition, there are consequences for pre-termination or withdrawal before a specified holding period, such as the imposition of penalties or charges, reduction of interest rate, or the reversion of the account from a special savings account to a regular savings account.

These hybrid features are exemplified in the special savings deposit involved in the case of *Metropolitan Bank and Trust Co. v. CIR*,⁷⁶ as follows:

Metrobank explains that a UNISA is not the same as a time deposit account. It is a new product developed by Metrobank after the removal of interest ceilings on both savings and time deposits. It offers the flexibility of a savings deposit account by doing away with the rigidity of a time deposit account, but with interest rate on par with the latter. A time deposit can be distinguished from a UNISA by the following features: (1) in a time deposit account, the depositor agrees that the bank shall keep the money for a fixed period; in a UNISA, the depositor can make withdrawals anytime, just like an ordinary savings account; to be entitled to the preferential interest rate for UNISA, however, the depositor must maintain the required minimum deposit balance within the specified holding period; (2) a time deposit account is evidenced by a certificate of deposit; on the other hand, a UNISA is covered by a passbook; (3) for renewal, the certificate issued for a time deposit has to be formally surrendered upon maturity, while the passbook issued for UNISA need not be renewed in the same manner; and (4) the withdrawal of the money from a time deposit account before the expiration of the fixed period would mean the pretermination of said account; in comparison, there can be no pretermination of a UNISA, since the account simply reverts to an ordinary savings account in case the depositor makes a withdrawal, which would result in non-compliance with the required maintaining balance or holding period for UNISA.

⁷¹ *Supra* note 36.

⁷² *Supra* note 37.

⁷³ *Supra* note 38.

⁷⁴ *Supra* note 39.

⁷⁵ *Supra* note 40.

⁷⁶ *Supra* note 42, at 555-556.

On the one hand, it is true that the special savings deposit involved in the *Metropolitan Bank and Trust Co.* case is withdrawable at any time.⁷⁷ On the other hand, there is a specified holding period that will entitle the depositor to a preferential interest rate. If the depositor withdraws before the expiration of the holding period, the account simply reverts to an ordinary savings account.⁷⁸

Banking institutions, which are parties to the said cases, emphasize the withdrawable nature of such special savings accounts. Since they are withdrawable, and thus demandable at any time (as evidenced by a passbook), they invoke the DST exemption on regular savings deposits. In the *Philippine Banking Corp.* case, We recognized that regular savings deposits are “interest-bearing deposits which are withdrawable either upon presentation of a properly accomplished withdrawal slip, together with the corresponding passbook or thru the automated tellering machines.”⁷⁹ In *International Exchange Bank v. CIR*,⁸⁰ We characterized such regular savings deposits as “orders for the payment of sum of money payable at sight or on demand,” which are exempt from DST. Thus, the banks in these cases theorized that the special savings deposits or special savings accounts are exempt from DST.

As noted in the case of *International Exchange Bank v. CIR*,⁸¹ this hybrid innovation can be used to circumvent the imposition of DST on certificates of deposit drawing interest, and to disguise a time deposit as a regular savings account. This Court recognized the scheme used by banks of issuing passbooks to “cloak” its time deposits as regular savings deposits.⁸²

We have consistently ruled against the use of such devices to cloak a time deposit as a regular savings deposits, for the purpose of non-payment of DST. Thus, in the *Metropolitan Bank and Trust Co.* case, We have rejected the theory of the bank that the withdrawable special savings deposit is exempted from DST, on the ground that the subject deposit enjoyed a preferential interest rate if the specified holding period was observed by the depositor, and that the deposit reverted to an ordinary savings deposit if the holding period was not observed (*i.e.*, the depositor availed of an early withdrawal).⁸³

4. The Special Savings Accounts of Philippine Veterans Bank are Subject to DST

Applying the above principles to the facts of this case, We rule that the Special Savings Accounts of the petitioner are subject to DST.

⁷⁷ *Id.* at 560.

⁷⁸ *Id.* at 555.

⁷⁹ *Supra* note 38.

⁸⁰ *Supra* note 37, at 465.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Supra* note 39, at 555.

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The Special Savings Accounts have the following features: (i) they are withdrawable by the depositor at any time through the presentation of a passbook; (ii) the amount of deposit usually runs into millions of pesos; (iii) the deposit is subject to a special rate of interest; (iv) the deposit allows posting of additional or multiple deposits; (v) the deposit allows partial or multiple withdrawals; (vi) the account has no fixed maturity; (vii) the deposit cannot be negotiated nor assigned; and (viii) the deposit cannot be pre-terminated, as there is no fixed maturity.⁸⁴

While the Special Savings Accounts are withdrawable and evidenced by a passbook, We have consistently ruled in the aforecited cases that these factors do not detract from the nature of the special savings deposit as a certificate of deposit drawing interest. As admitted by the petitioner, the Special Savings Accounts in this case involve minimum deposit requirements in order to enjoy a preferential interest rate.⁸⁵

In the *International Exchange Bank* case,⁸⁶ We pointed out that there is a legislative intent to impose DST on certificates of deposit that are either: (i) drawing interest significantly higher than the regular savings deposit taking into consideration the size of the deposit and the risks involved, or (ii) drawing interest and having a specific maturity date. The qualification that a certificate of deposit “drawing interest significantly higher than the regular savings deposit taking into consideration the size of the deposit and the risks involved” is independent of the fact that the certificate of deposit has a specific maturity date. These two qualifications were included in the amendment of the then Section 180 of the NIRC of 1997, which was re-numbered to Section 179. The amendment was intended to eliminate precisely the scheme used by banks of issuing passbooks to “cloak” its time deposits as regular savings deposits.⁸⁷ We held that this amendment is only a recognition of the legislative intent to cover certificates of deposit that are withdrawable any time through the presentation of a passbook,⁸⁸ but it does not mean that “prior to its further amendment on said date, Section 180 of the Tax Code and the NIRC time deposits for which passbooks were issued were exempted from payment of DST.”⁸⁹

In sum, We hold that the imposition of DST on bank deposits depends on the classification and features of such deposits. If the bank deposit is a regular savings deposit (which is withdrawable upon demand), it is exempt from DST. If the bank deposit is a time deposit (which has a maturity period), it is subject to DST. If the bank deposit combines the features of a regular savings deposit and a time deposit, such as the offer of higher interest rates in consideration of a holding period prior to withdrawability, or there is a stipulation of fees, charges or penalties for pre-termination or early

⁸⁴ *Rollo*, pp. 15-17.

⁸⁵ *Id.* at 15.

⁸⁶ *Supra* note 37, at 468.

⁸⁷ *Id.*

⁸⁸ *Id.* at 465.

⁸⁹ *Id.*

withdrawal, then the same is subject to DST. In this case, the Special Savings Accounts, while not technically considered time deposits, combine the features of a regular savings deposit and a time deposit. Accordingly, the Special Savings Accounts of the petitioner are subject to DST, and the deficiency DST assessment issued by the respondent for the years 1994, 1995, and 1996, is correct.

II. Whether or Not Final Withholding Taxes on the Gross Interest Income of Philippine Veterans Bank are Deductible from Gross Receipts for Purposes of Determining the Bank's Gross Receipts Tax

A. Petitioner's Arguments

The petitioner claims that for purposes of determining its GRT, its "gross receipts" should not be included the final withholding tax on its gross interest income.⁹⁰ Since the petitioner is merely considered an agent of the government in the collection of the tax, by withholding the same from the income of the payee-taxpayer, it is but just and equitable that said withholding tax shall not be included in the determination of the gross receipts.⁹¹ The final withholding tax on gross interest income is actually due to the government, and is simply passing through the hands of the bank.⁹²

B. Respondent's Arguments

The respondent claims that for purposes of determining the bank's GRT, its "gross receipts" should include the final withholding tax on its gross interest income.⁹³ The respondent claims that this is the established doctrine in *Philippine National Bank v. CIR*⁹⁴ and a catena of cases.⁹⁵

C. Final Withholding Tax on Gross Interest Income of Bank Not Deductible from Gross Receipts for Purposes of Determining Gross Receipts Tax

The petitioner is mistaken. We uphold the respondent.

⁹⁰ *Rollo*, pp. 21-22.

⁹¹ *Id.* at 21-22.

⁹² *Id.*

⁹³ *Id.* at 116-118.

⁹⁴ 562 Phil. 575, 582 (2007).

⁹⁵ *Rollo*, pp. 116-118.

The tax code governing the period covered by the assessment of deficiency GRT in this case is the NIRC of 1977. Section 260 of the said law provides the basis for the 5% GRT on banking institutions, as follows:

SECTION 260. *Tax on banks.* — There shall be collected a tax of **five per centum** on the **gross receipts** derived by all **bank** doing business in the Philippines from **interests**, discounts, dividends, commissions, profits from exchange, royalties, rentals of property, real and personal, and all other items treated as gross income under section 29 of this Code. This tax shall also be collected from other financial intermediaries on their gross receipts derived from quasi-banking activities as herein defined.⁹⁶

Pursuant to the above provision, the gross receipts is the tax base and 5% is the tax rate, for the purpose of the GRT. Moreover, gross receipts include the interest income of a bank. This interest income is subject to 20% final withholding tax (FWT).⁹⁷

This issue is not novel. We have consistently ruled that the 20% FWT on a bank's interest income forms part of the taxable gross receipts for purposes of computing the 5% GRT.

In *Philippine National Bank v. CIR*,⁹⁸ We ruled that the 5% GRT by its nature applies to all the receipts without any deduction, unless otherwise provided by law. Any deduction, exemption or exclusion from gross receipts is inconsistent with the policy of the law and is not normally allowed in the GRT, to maintain simplicity in tax collection, and to assure a steady source of state revenue even during periods of economic slowdown.⁹⁹ It also changes the result and meaning of gross receipts to net receipts.¹⁰⁰

In *CIR v. Citytrust Investment Phils., Inc.*,¹⁰¹ We defined "gross receipts" as "the entire receipts without any deduction." Citing *CIR v. Bank of the Philippine Islands*,¹⁰² We ruled in that case thus:

The Tax Code does not provide a definition of the term "gross receipts". Accordingly, the term is properly understood in its plain and ordinary meaning and must be taken to comprise of the entire receipts without any deduction. We, thus, made the following disquisition in *Bank of Commerce*:

The word "gross" must be used in its plain and ordinary meaning. It is defined as "whole, entire, total, without deduction." A common definition is "without deduction." "Gross" is also defined as "taking in the

⁹⁶ Emphasis supplied.
⁹⁷ *Rollo*, p. 21.
⁹⁸ *Supra* note 92, at 581.
⁹⁹ *Id.*
¹⁰⁰ *Id.*
¹⁰¹ 534 Phil. 517 (2006).
¹⁰² 525 Phil. 624 (2006).

whole; having no deduction or abatement; whole, total as opposed to a sum consisting of separate or specified parts.” Gross is the antithesis of net. Indeed, in *China Banking Corporation v. Court of Appeals*, the Court defined the term in this wise:

As commonly understood, the term “gross receipts” means the entire receipts without any deduction. Deducting any amount from the gross receipts changes the result, and the meaning, to net receipts. Any deduction from gross receipts is inconsistent with a law that mandates a tax on gross receipts, unless the law itself makes an exception. As explained by the *Supreme Court of Pennsylvania in Commonwealth of Pennsylvania v. Koppers Company, Inc.* —

Highly refined and technical tax concepts have been developed by the accountant and legal technician primarily because of the impact of federal income tax legislation. However, this in no way should affect or control the normal usage of words in the construction of our statutes; and we see nothing that would require us not to include the proceeds here in question in the gross receipts allocation unless statutorily such inclusion is prohibited. *Under the ordinary basic methods of handling accounts, the term gross receipts, in the absence of any statutory definition of the term, must be taken to include the whole total gross receipts without any deductions,* [Citations omitted] (Emphasis supplied)”

Likewise, in *Laclede Gas Co. v. City of St. Louis*, the Supreme Court of Missouri held:

The word “gross” appearing in the term “gross receipts,” as used in the ordinance, must have been and was there used as the direct antithesis of the word “net.” *In its usual and ordinary meaning, “gross receipts” of a business is the whole and entire amount of the receipts without deduction,* On the ordinary, “net receipts” usually are the receipts which remain after deductions are made from the gross amount thereof of the expenses and cost of doing business, including fixed charges and depreciation. Gross receipts become

net receipts after certain proper deductions are made from the gross. And in the use of the words "gross receipts," the instant ordinance, or course, precluded plaintiff from first deducting its costs and expenses of doing business, *etc.*, in arriving at the higher base figure upon which it must pay the 5% tax under this ordinance. (Emphasis supplied)

In sum, We reiterate the established doctrine that in the determination of gross receipts tax, the term "gross receipts" includes the FWT of the bank's gross interest income. Accordingly, the 20% FWT on the petitioner's gross interest income forms part of the taxable gross receipts for purposes of computing the 5% GRT. Thus, the respondent's computation of the GRT, and the deficiency GRT assessment issued by the respondent for the year 1996, are correct.

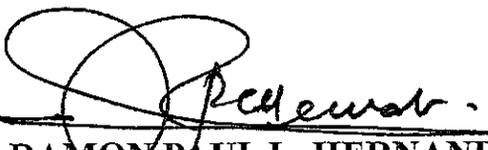
WHEREFORE, the Petition for Review on *Certiorari* is **DENIED** for lack of merit. The Decision dated December 20, 2012 of the Court of Tax Appeals *En Banc* in CTA EB No. 747, which affirmed the CTA Division's Decision dated October 8, 2010 in CTA Case No. 6563, affirming the assessment of a total amount of ₱55,282,658.72 as deficiency gross receipts tax and documentary stamp tax for taxable years 1994, 1995, and 1996, plus interest that may have accrued thereon, is **AFFIRMED**. The prayer for the suspension of the collection of taxes is **DENIED**.

SO ORDERED.

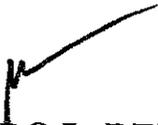

JHOSEP LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice

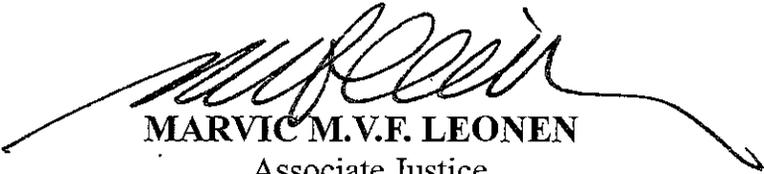

HENRI JEAN PAUL B. INTING
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

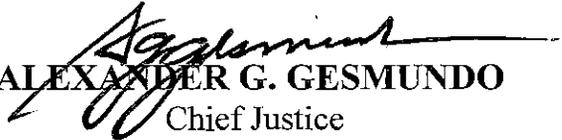
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Third Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice