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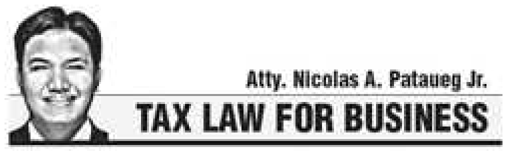

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The power to tax as a tool of police power

THE purposes of taxation are twofold: revenue and non-revenue. The revenue purposes of taxation involve increasing the collection of taxes for public use. On the other hand, among the non-revenue purposes of taxation is the promotion of general welfare—that is, taxation may be used as an effective tool to apply the police power of the state to promote the general welfare of the people.

Police power is just one of the state's three powers: the other two are the power of taxation and the power of eminent domain. These powers are inherent in the state; these can be exercised even in the absence of an expressed constitutional grant. These can also be used to violate or disturb the rights and private properties of its citizens. But can the police power of the government be exercised through taxation? Can police power and the power of taxation be exercised simultaneously? If so, what are their limitations?

This issue has been resolved by the Supreme Court many years ago, when it held that taxes may be levied with a regulatory purpose for the promotion of the welfare of the public (Lutz v. Araneta, G.R. L-7859, December 22, 1955).

In relation to our current situation, it is alarming that so many of our young people are now smoking cigarettes and drinking liquor. Indulging in these vices, according to one study, can cause various ailments, such as tuberculosis, cancer, heart attack, stroke, hypertension and liver problems. Sometimes, such indulgences can result in violent crimes and accidents.

To address this problem, President Aquino has signed into law Republic Act 10351, or the Restructured Sin Tax Law. Obviously, this law not only aims to raise billions of pesos for the Philippine government, but more important, discourage the public—especially young people—from buying cigarettes and alcohol. By increasing the tax on tobacco and liquor, this will somehow discourage or prohibit the buying public, especially young people and the poor, from purchasing these so-called sin products and satisfying their vices. According to the government, the funds collected in accordance to this law will be used for the government's health-care program and other health-related projects.

But one has to ask: How about the tobacco farmers and liquor manufacturers who were greatly affected by this law? This issue has been the subject of several debates in Congress, but in weighing the scale of the parties affected—tobacco producers, alcohol manufacturers and the general public—the state, as the guardian of its citizens, will more likely choose to protect the interest of the many, instead of the few.

It is said the power to tax involves the power to destroy, considering that the power to tax includes the power to regulate, even to the extent of prohibition or destruction, as when the power to tax is used validly to apply police power in discouraging and prohibiting certain things or enterprises that are inimical to the public (McCulloch v. Maryland, 4 Wheat, 316 4 L ed. 579, 607). Justice Marshall's famous dictum, however, was brushed away by one stroke of Justice Holmes's pen when he said "the power to tax is not the power to destroy, while this Court 'sits'" (G.R. L-59431). Stated differently, while the power to tax is so unlimited in its force and so penetrating in its extent that the courts scarcely venture to declare that it is subject to any restriction whatsoever, it is subject to the inherent and constitutional limitations that are intended to prevent the abuse of the exercise of these unlimited powers. It is the court's role to see to it that the exercise of these powers does not transgress these limitations.

In reconciling the two dicta, one must keep in mind that the power to tax must not be exercised in an arbitrary manner. It should be exercised with caution to minimize injury to the proprietary rights of a taxpayer. It must be exercised fairly, equally and uniformly, lest the tax collector kills the hen that lays the golden egg (Roxas et al v. CTA et. al, L-25043, April 26, 1968).

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