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SO ORDERED.

Davide, Jr. (Chairman), Bellosillo, Vitug, and *Quisumbing, JJ.,* concur.

FIRST DIVISION

[G.R. No. 124043. October 14, 1998]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **COURT OF APPEALS, COURT OF TAX APPEALS and YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE PHILIPPINES, INC.,** *respondents.*

SYNOPSIS

On July 2, 1984, the Commissioner of Internal Revenue (CIR) issued an assessment to the Young Men's Christian Association of the Philippines, Inc. (YMCA) for deficiency income tax, deficiency expanded withholding taxes on rentals and professional fees and deficiency withholding tax on wages. Private respondent formally protested the assessment and, as a supplement to its basic protest, filed a letter. In reply, the CIR denied the claim of YMCA. Contesting the denial of its protest, the YMCA filed a petition for review with the Court of Tax Appeals (CTA) on March 14, 1989. The CTA rendered a decision in favor of the YMCA. Dissatisfied with the CTA ruling, the CIR elevated the case to the Court of Appeals (CA). In its decision, the CA initially decided in favor of the CIR, but on a motion for reconsideration by YMCA, the CA reversed itself and promulgated its first assailed resolution. The CIR's own motion was denied by respondent court in its second assailed resolution. Hence, this petition.

The Supreme Court held that private respondent is exempt from the payment of property tax, but not income tax on the rentals from its property. The bare allegation alone that it is

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a non-stock, non-profit educational institution is insufficient to justify its exemption from the payment of income tax. The petition was granted. The decision of the Court of Appeals was reinstated, insofar as it ruled that the income derived by petitioner from rentals of its real property was subject to income tax.

SYLLABUS

1. **TAXATION; FACTUAL FINDINGS, WHEN SUPPORTED BY SUBSTANTIAL EVIDENCE, WILL NOT BE DISTURBED ON APPEAL; CASE AT BAR.—** It is a basic rule in taxation that the factual findings of the CTA, when supported by substantial evidence, will not be disturbed on appeal unless it is shown that the said court committed gross error in the appreciation of facts. In the present case, this Court finds that the February 16, 1994 Decision of the CA did not deviate from this rule. The latter merely applied the law to the facts as found by the CTA and ruled on the issue raised by the CIR: "Whether or not the collection or earnings of rental income from the lease of certain premises and income earned from parking fees shall fall under the last paragraph of Section 27 of the National Internal Revenue Code of 1977, as amended." Clearly, the CA did not alter any fact or evidence. It merely resolved the aforementioned issue, as indeed it was expected to. That it did so in a manner different from that of the CTA did not necessarily imply a reversal of factual findings.

2. **ID.; APPEAL; QUESTION OF LAW AND QUESTION OF FACT, DISTINGUISHED.—** The distinction between a question of law and a question of fact is clear-cut. It has been held that "[t]here is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or falsehood of alleged facts." In the present case, the CA did not doubt, much less change, the facts narrated by the CTA. It merely applied the law to the facts. That its interpretation or conclusion is different from that of the CTA is not irregular or abnormal.

3. **ID.; TAX EXEMPTION; COURT HAS ALWAYS APPLIED THE DOCTRINE OF STRICT INTERPRETATION IN CONSTRUING TAX EXEMPTIONS; APPLICATION IN**

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CASE AT BAR.— Because taxes are the lifeblood of the nation, the Court has always applied the doctrine of strict interpretation in construing tax exemptions. Furthermore, a claim of statutory exemption from taxation should be manifest and unmistakable from the language of the law on which it is based. Thus, the claimed exemption "must expressly be granted in a statute stated in a language too clear to be mistaken." In the instant case, the exemption claimed by the YMCA is expressly disallowed by the very wording of the last paragraph of then Section 27 of the NIRC which mandates that the income of exempt organizations (such as the YMCA) from any of their properties, real or personal, be subject to the tax imposed by the same Code. Because the last paragraph of said section unequivocally subjects to tax the rent income of the YMCA from its real property, the Court is duty-bound to abide strictly by its literal meaning and to refrain from resorting to any convoluted attempt at construction. It is axiomatic that where the language of the law is clear and unambiguous, its express terms must be applied. Parenthetically, a consideration of the question of construction must not even begin, particularly when such question is on whether to apply a strict construction or a liberal one on statutes that grant tax exemptions to "religious, charitable and educational propert[ies] or institutions." The phrase "any of their activities conducted for profit" does not qualify the word "properties." This makes income from the property of the organization taxable, regardless of how that income is used — whether for profit or for lofty non-profit purposes. *Verba legis non est recedendum*. Hence, Respondent Court of Appeals committed reversible error when it allowed, on reconsideration, the tax exemption claimed by YMCA on income it derived from renting out its real property, on the solitary but unconvincing ground that the said income is not collected for profit but is merely incidental to its operation. The law does not make a distinction. The rental income is taxable regardless of whence such income is derived and how it is used or disposed of. Where the law does not distinguished, neither should we.

4. **ID.; ID.; WHEN GRANTED; REQUISITES.**— Private respondent is exempt from the payment of property tax, but not income tax on the rentals from its property. The bare allegation alone that it is a non-stock, non-profit educational institution is insufficient to justify its exemption from the payment of income tax. For the YMCA to be granted the

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exemption it claims under the aforecited provision, it must prove with substantial evidence that (1) it falls under the classification *non-stock, non-profit educational institution*; and (2) the income it seeks to be exempted from taxation is *used actually, directly, and exclusively for educational purposes*. However, the Court notes that not a scintilla of evidence was submitted by private respondent to prove that it met the said requisites.

5. **ID.; ID.; EDUCATIONAL INSTITUTION, CONSTRUED; WHEN NOT APPLICABLE; CASE AT BAR.**— Is the YMCA an *educational* institution within the purview of Article XIV, Section 4, par. 3 of the Constitution? We rule that it is not. The term "educational institution" or "institution of learning" has acquired a well-known technical meaning, of which the members of the Constitutional Commission are deemed cognizant. Under the Education Act of 1982, such term refers to schools. The school system is synonymous with formal education, which "refers to the hierarchically structured and chronologically graded learnings organized and provided by the formal school system and for which certification is required in order for the learner to progress through the grades or move to the higher levels." The Court has examined the "Amended Articles of Incorporation" and "By-Laws" of the YMCA, but found nothing in them that even hints that it is a school or an educational institution. Furthermore, under the Education Act of 1982, even non-formal education is understood to be school-based and "private auspices such as foundations and civic-spirited organizations" are ruled out. It is settled that the term "educational institution," when used in laws granting tax exemptions, refers to a "x x x school seminary, college or educational establishment x x x." Therefore, the private respondent cannot be deemed one of the educational institutions covered by the constitutional provision under consideration. "x x x Words used in the Constitution are to be taken in their ordinary acceptation. While in its broadest and best sense education embraces all forms and phases of instruction, improvement and development of mind and body, and as well of religious and moral sentiments, yet in the common understanding and application it means a place where systematic institution in any or all of the useful branches of learning is given by methods common to schools and instruction of learning. That we conceive to be the true intent and scope of the term [educational institutions,] as used in the Constitution."

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BELLOSILLO, *J., dissenting opinion*:

1. **TAXATION; COURT OF TAX APPEALS; FINDINGS OF FACTS, WHEN SUPPORTED BY SUBSTANTIAL EVIDENCE, WILL NOT BE DISTURBED ON APPEAL; EXCEPTION; NOT APPLICABLE IN CASE AT BAR.**— The basic rule is that the factual findings of the Court of Tax Appeals when supported by substantial evidence will not be disturbed on appeal unless it is shown that the court committed grave error in the appreciation of facts. In the instant case, there is no dispute as to the validity of the findings of the Court of Tax Appeals that private respondent Young Men's Christian Association (YMCA) is an association organized and operated exclusively for the promotion of social welfare and other non-profitable purposes, particularly the physical and character development of the youth.

2. **ID.; TAX EXEMPTION; WHEN INCOME DERIVED FROM ITS PROPERTY BY TAX-EXEMPT ORGANIZATION IS NOT ABSOLUTELY TAXABLE; CASE AT BAR.**— Respondent YMCA is undoubtedly exempt from corporate income tax under the provisions of Sec. 27, pars. (g) and (h), of the National Internal Revenue Code, to wit: Sec. 27. *Exemptions from tax on corporations.*— The following organizations shall not be taxed under this Title in respect to income received by them as such - x x x (g) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare; (h) club organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member x x x Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit, regardless of the disposition made of such income, shall be subject to tax imposed under this Code. Income derived from its property by a tax exempt organization is not absolutely taxable. Taken in solitude, a word or phrase such as, in this case, "the income of whatever kind and character x x x from any of their properties" might easily convey a meaning quite different from the one actually intended and evident when a word or phrase is considered

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with those with which it is associated. It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, that every part of the statute must be considered together with the other parts and kept subservient to the general intent of the whole enactment. A close reading of the last paragraph of Sec. 27 of the National Internal Revenue Code, in relation to the whole section on tax exemption of the organizations enumerated therein, shows that the phrase "conducted for profit" in the last paragraph of Sec. 27 qualifies, limits and describes "the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities" in order to make such income taxable. It is the exception to Sec. 27, pars. (g) and (h) providing for the tax exemptions of the income of said organizations. Hence, if such income from property or any other property is not conducted for profit, then it is not taxable. Even taken alone and understood according to its plain, simple and literal meaning, the word "income" which is derived from property, real or personal, provided in the last paragraph of Sec. 27 means the amount of money coming to a person or corporation within a specified time as profit from investment; the return in money from one's business or capital invested. Income from property also means gains and profits derived from the sale or other disposition of capital assets; the money which any person or corporation periodically receives either as profits from business, or as returns from investments. The word "income" as used in tax statutes is to be taken in its ordinary sense as gain or profit. Clearly, therefore, income derived from property whether real or personal connotes profit from business or from investment of the same. If we are to apply the ordinary meaning of income from property as profit to the language of the last paragraph of Sec. 27 of the NIRC, then only those profits arising from business and investment involving property are taxable. In the instant case, there is no question that in leasing its facilities to small shop owners and in operating parking spaces, YMCA does not engage in any profit-making business. Both the Court of Tax Appeals, and the Court of Appeals in its resolution of 25 September 1995, categorically found that these activities conducted on YMCA's property were aimed not only at fulfilling the needs and requirements of its members as part of YMCA'S youth program but, more importantly, at raising funds to finance the multifarious projects of the Association.

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3. ID.; ID.; MERE REALIZATION OF PROFITS OUT OF ITS OPERATION DOES NOT AUTOMATICALLY RESULT IN LOSS THEREOF, AS LONG AS NO PART OF PROFITS OF EDUCATIONAL INSTITUTION INURES TO BENEFIT OF STOCKHOLDER OR INDIVIDUAL; CASE AT BAR.— As the Court has ruled in one case, the fact that an educational institution charges tuition fees and other fees for the different services it renders to the students does not in itself make the school a profit-making enterprise that would place it beyond the purview of the law exempting it from taxation. The mere realization of profits out of its operation does not automatically result in the loss of an educational institution's exemption from income tax as long as no part of its profits inures to the benefit of any stockholder or individual. In order to claim exemption from income tax, a corporation or association must show that it is organized and operated exclusively for religious, charitable, scientific, athletic, cultural or educational purposes or for the rehabilitation of veterans, and that no part of its income inures to the benefit of any private stockholder or individual. The main evidence of the purpose of a corporation should be its articles of incorporation and by-laws, for such purpose is required by statute to be stated in the articles of incorporation, and the by-laws outline the administrative organization of the corporation which, in turn, is supposed to insure or facilitate the accomplishment of said purpose. The foregoing principle applies to income derived by tax exempt corporations from their property. The criterion or test in order to make such income taxable is when it arises from purely profit-making business. Otherwise, when the income derived from use of property is reasonable and incidental to the charitable, benevolent, educational or religious purpose for which the corporation or association is created, such income should be tax-exempt. The majority, if not all, of the income of the organizations covered by the exemption provided in Sec. 27, pars. (g) and (h), of the NIRC are derived from their properties, real or personal. If we are to interpret the last paragraph of Sec. 27 to the effect that all income of whatever kind from the properties of said organization, real or personal, are taxable, even if not conducted for profit, then Sec. 27, pars. (g) and (h), would be rendered ineffective and nugatory. As this Court elucidated in *Jesus Sacred Heart College v. Collector of Internal Revenue,* (95 Phil. 16 [1954]) every responsible organization must be so run

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as to at least insure its existence by operating within the limits of its own resources, especially its regular income. It should always strive whenever possible to have a surplus. If the benefits of the exemption would be limited to institutions which do not hope or propose to have such surplus, then the exemption would apply only to schools which are on the verge of bankruptcy. Unlike the United States where a substantial number of institutions of learning are dependent upon voluntary contributions and still enjoy economic stability, such as Harvard, the trust fund of which has been steadily increasing with the years, there are and there have always been very few educational enterprises in the Philippines which are supported by donations, and these organizations usually have a very precarious existence.

APPEARANCES OF COUNSEL

Gancayco Balasbas & Santos for private respondent.

D E C I S I O N

PANGANIBAN, *J.*:

Is the income derived from rentals of real property owned by the Young Men's Christian Association of the Philippines, Inc. (YMCA) — established as "a welfare, educational and charitable non-profit corporation" — subject to income tax under the National Internal Revenue Code (NIRC) and the Constitution?

The Case

This is the main question raised before us in this petition for review on *certiorari* challenging two Resolutions issued by the Court of Appeals[1] on September 28, 1995[2] and February 29, 1996[3] in CA-GR SP No. 32007. Both Resolutions affirmed

[1] Special Former Fourth Division composed of *J.* Nathanael P. de Pano, Jr., presiding justice and *ponente*; and *JJ.* Fidel P. Purisima (now an associate justice of the Supreme Court) and Corona Ibay-Somera, concurring.

[2] *Rollo,* pp. 42-48.

[3] *Ibid.,* pp. 50-51.

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the Decision of the Court of Tax Appeals (CTA) allowing the YMCA to claim tax exemption on the latter's income from the lease of its real property.

The Facts

The Facts are undisputed.[4] Private Respondent YMCA is a non-stock, non-profit institution, which conducts various programs and activities that are beneficial to the public, especially the young people, pursuant to its religious, educational and charitable objectives.

In 1980, private respondent earned, among others, an income of ₱676,829.80 from leasing out a portion of its premises to small shop owners, like restaurants and canteen operators, and ₱44,259.00 from parking fees collected from non-members. On July 2, 1984, the commissioner of internal revenue (CIR) issued an assessment to private respondent, in the total amount of ₱415,615.01 including surcharge and interest, for deficiency income tax, deficiency expanded withholding taxes on rentals and professional fees and deficiency withholding tax on wages. Private respondent formally protested the assessment and, as a supplement to its basic protest, filed a letter dated October 8, 1985. In reply, the CIR denied the claims of YMCA.

Contesting the denial of its protest, the YMCA filed a petition for review at the Court of Tax Appeals (CTA) on March 14, 1989. In due course, the CTA issued this ruling in favor of the YMCA:

"xxx [T]he leasing of [private respondent's] facilities to small shop owners, to restaurant and canteen operators and the operation of the parking lot are reasonably incidental to and reasonably necessary for the accomplishment of the objectives of the [private respondents]. It appears from the testimonies of the witnesses for the [private respondent] particularly Mr. James C. Delote, former accountant of YMCA, that these facilities were leased to members and that they

[4] *See* Memorandum of private respondent, pp. 1-10 and Memorandum of petitioner, pp. 3-10; *rollo,* pp. 149-158 and 192-199, respectively. *See also* Decision of the CTA, pp. 1-21; *rollo,* pp. 69-89.

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have to service the needs of its members and their guests. The rentals were minimal as for example, the barbershop was only charged ₱300 per month. He also testified that there was actually no lot devoted for parking space but the parking was done at the sides of the building. The parking was primarily for members with stickers on the windshields of their cars and they charged ₱.50 for non-members. The rentals and parking fees were just enough to cover the costs of operation and maintenance only. The earning[s] from these rentals and parking charges including those from lodging and other charges for the use of the recreational facilities constitute [the] bulk of its income which [is] channeled to support its many activities and attainment of its objectives. As pointed out earlier, the membership dues are very insufficient to support its program. We find it reasonably necessary therefore for [private respondent] to make [the] most out [of] its existing facilities to earn some income. It would have been different if under the circumstances, [private respondent] will purchase a lot and convert it to a parking lot to cater to the needs of the general public for a fee, or construct a building and lease it out to the highest bidder or at the market rate for commercial purposes, or should it invest its funds in the buy and sell of properties, real or personal. Under these circumstances, we could conclude that the activities are already profit oriented, not incidental and reasonably necessary to the pursuit of the objectives of the association and therefore, will fall under the last paragraph of Section 27 of the Tax Code and any income derived therefrom shall be taxable.

"Considering our findings that [private respondent] was not engaged in the business of operating or contracting [a] parking lot, we find no legal basis also for the imposition of [a] deficiency fixed tax and [a] contractor's tax in the amount[s] of ₱353.15 and ₱3,129.73, respectively.

x x x x x x x x x

"WHEREFORE, in view of all the foregoing, the following assessments are hereby dismissed for lack of merit:

1980 Deficiency Fixed Tax – ₱353.15;

1980 Deficiency Contractor's Tax – ₱3,129.23;

1980 Deficiency Income Tax – ₱372,578.20.

While the following assessments are hereby sustained:

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1980 Deficiency Expanded Withholding Tax – ₱1,798.93;

1980 Deficiency Withholding Tax on Wages – ₱33,058.82

plus 10% surcharge and 20% interest per annum from July 2, 1984 until fully paid but not to exceed three (3) years pursuant to Section 51 (e)(2) & (3) of the National Internal Revenue Code effective as of 1984."[5]

Dissatisfied with the CTA ruling, the CIR elevated the case to the Court of Appeals (CA). In its Decision of February 16, 1994, the CA[6] initially decided in favor of the CIR and disposed of the appeal in the following manner:

"Following the ruling in the afore-cited cases of *Province of Abra vs. Hernando and Abra Valley College, Inc. vs. Aquino*, the ruling of the respondent Court of Tax Appeals that 'the leasing of petitioner's (herein respondent's) facilities to small shop owners, to restaurant and canteen operators and the operation of the parking lot are reasonably incidental to and reasonably necessary for the accomplishment of the objectives of the petitioners,' and the income derived therefrom are tax exempt, must be reversed.

"WHEREFORE, the appealed decision is hereby REVERSED in so far as it dismissed the assessment for:

1980 Deficiency Income Tax	₱ 353.15
1980 Deficiency Contractor's Tax	₱ 3,129.23, &
1980 Deficiency Income Tax	₱372,578.20,

but the same is AFFIRMED in all other respect."[7]

Aggrieved, the YMCA asked for reconsideration based on the following grounds:

I

"The findings of facts of the Public Respondent Court of Tax Appeals being supported by substantial evidence [are] final and conclusive.

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[5] CTA Decision, pp. 16-18 and 2-21; *rollo*, pp. 84-86 and 88-89.

[6] Penned by *J.* Asaali S. Isnani and concurred in by *JJ.* Nathanael P. De Pano, Jr., chairman, and Corona Ibay-Somera of the Fourth Division.

[7] *Rollo*, pp. 39-40.

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II

"The conclusions of law of [p]ublic [r]espondent exempting [p]rivate [r]espondent from the income on rentals of small shops and parking fees [are] in accord with the applicable law and jurisprudence."[8]

Finding merit in the Motion for Reconsideration filed by the YMCA, the CA reversed itself and promulgated on September 28, 1995 its first assailed Resolution which, in part, reads:

"The Court cannot depart from the CTA's findings of fact, as they are supported by evidence beyond what is considered as substantial.

x x x x x x x x x

"The second ground raised is that the respondent CTA did not err in saying that the rental from small shops and parking fees do not result in the loss of the exemption. Not even the petitioner would hazard the suggestion that YMCA is designed for profit. Consequently, the little income from small shops and parking fees help[s] to keep its head above the water, so to speak, and allow it to continue with its laudable work.

"The Court, therefore, finds the second ground of the motion to be meritorious and in accord with law and jurisprudence.

"WHEREFORE, the motion for reconsideration is GRANTED; the respondent CTA's decision is AFFIRMED *in toto*."[9]

The internal revenue commissioner's own Motion for Reconsideration was denied by Respondent Court in its second assailed Resolution of February 29, 1996. Hence, this petition for review under Rule 45 of the Rules of Court.[10]

The Issues

Before us, petitioner imputes to the Court of Appeals the following errors:

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[8] CA Resolution, p. 2; *rollo,* p. 43.

[9] *Ibid.,* pp. 2, 6-7; *rollo,* pp. 43, 47-48.

[10] The case was submitted for resolution on April 27, 1998, upon receipt by this Court of private respondent's Reply Memorandum.

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I

"In holding that it had departed from the findings of fact of Respondent Court of Tax Appeals when it rendered its Decision dated February 16, 1994; and

II

"In affirming the conclusion of Respondent Court of Tax Appeals that the income of private respondent from rentals of small shops and parking fees [is] exempt from taxation."[11]

This Court's Ruling

The petition is meritorious.

First Issue:

Factual Findings of the CTA

Private respondent contends that the February 16, 1994 CA Decision reversed the factual findings of the CTA. On the other hand, petitioner argues that the CA merely reversed the "*ruling* of the CTA that the leasing of private respondent's facilities to small shop owners, to restaurant and canteen operators and the operation of parking lots are reasonably incidental to and reasonably necessary for the accomplishment of the objectives of the private respondent and that the income derived therefrom are tax exempt."[12] Petitioner insists that what the appellate court reversed was the legal conclusion, *not the factual finding*, of the CTA.[13] The commissioner has a point.

Indeed, it is a basic rule in taxation that the factual findings of the CTA, when supported by substantial evidence, will not be disturbed on appeal unless it is shown that the said court committed gross error in the appreciation of facts.[14] In the present case, this Court finds that the February 16, 1994 Decision

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[11] Petitioner's Memorandum, pp. 10-11; *rollo*, pp. 199-200.

[12] *Ibid.*, p. 16; *rollo*, p. 205.

[13] *Ibid.*, p. 17; *rollo*, p. 206.

[14] *Commissioner of Internal Revenue v. Mitsubishi Metal Corp.*, 181 SCRA 214, 220, January 22, 1990.

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of the CA did not deviate from this rule. The latter merely applied the law to the facts as found by the CTA and ruled on the issue raised by the CIR: "Whether or not the collection or earnings of rental income from the lease of certain premises and income earned from parking fees shall fall under the last paragraph of Section 27 of the National Internal Revenue Code of 1977, as amended."[15]

Clearly, the CA did not alter any fact or evidence. It merely resolved the aforementioned issue, as indeed it was expected to. That it did so in a manner different from that of the CTA did not necessarily imply a reversal of factual findings.

The distinction between a question of law and a question of fact is clear-cut. It has been held that "[t]here is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or falsehood of alleged facts."[16] In the present case, the CA did not doubt, much less change, the facts narrated by the CTA. It merely applied the law to the facts. That its interpretation or conclusion is different from that of the CTA is not irregular or abnormal.

Second Issue:

Is the Rental Income of the YMCA Taxable?

We now come to the crucial issue: Is the rental income of the YMCA from its real estate subject to tax? At the outset, we set forth the relevant provision of the NIRC:

"SEC. 27. *Exemptions from tax on corporations.* — The following organizations shall not be taxed under this Title in respect to income received by them as such —

x x x x x x x x x

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[15] *Rollo*, p. 36.

[16] *Ramos, et al. v. Pepsi Cola Bottling Co. of the P.I., et al.*, 19 SCRA 289, 292, February 9, 1967, per Bengzon, *J.;* citing II Martin, *Rules of Court in the Philippines,* 255 and II *Bouvier's Law Dictionary,* 2784.

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(g) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

(h) Club organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;

x x x x x x x x x

Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit, regardless of the disposition made of such income, shall be subject to the tax imposed under this Code. (as amended by Pres. Decree No. 1457)"

Petitioner argues that while the income received by the organizations enumerated in Section 27 (now Section 26) of the NIRC is, as a rule, exempted from the payment of tax "in respect to income received by them as such," the exemption does not apply to income derived "xxx from any of their properties, real or personal, or from any of their activities conducted for profit, regardless of the disposition made of such income xxx."

Petitioner adds that "rental income derived by a tax-exempt organization from the lease of its properties, real or personal, [is] not, therefore, exempt from income taxation, even if such income [is] exclusively used for the accomplishment of its objectives."[17] We agree with the commissioner.

Because taxes are the lifeblood of the nation, the Court has always applied the doctrine of strict interpretation in construing tax exemptions.[18] Furthermore, a claim of statutory exemption from taxation should be manifest and unmistakable from the language of the law on which it is based. Thus, the claimed

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[17] Memorandum for Petitioner, pp. 21-22; *rollo*, pp. 210-211.

[18] See *Commissioner of Internal Revenue v. Court of Appeals*, 271 SCRA 605, 613, April 18, 1997.

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exemption "must expressly be granted in a statute stated in a language too clear to be mistaken."[19]

In the instant case, the exemption claimed by the YMCA is expressly disallowed by the very wording of the last paragraph of then Section 27 of the NIRC which mandates that the income of exempt organizations (such as the YMCA) from any of their properties, real or personal, be subject to the tax imposed by the same Code. Because the last paragraph of said section unequivocally subjects to tax the rent income of the YMCA from its real property,[20] the Court is duty-bound to abide strictly by its literal meaning and to refrain from resorting to any convoluted attempt at construction.

It is axiomatic that where the language of the law is clear and unambiguous, its express terms must be applied.[21] Parenthetically, a consideration of the question of construction must not even begin, particularly when such question is on whether to apply a strict construction or a liberal one on statutes that grant tax exemptions to "religious, charitable and educational propert[ies] or institutions."[22]

The last paragraph of Section 27, the YMCA argues, should be "subject to the qualification that the income from the properties must arise from activities 'conducted for profit' before it may be considered taxable."[23] This argument is erroneous.

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[19] *Davao Gulf Lumber Corporation v. Commissioner of Internal Revenue and Court of Appeals*, G.R. No. 117359, p. 15, July 23, 1998, per Panganiban, *J.*

[20] Justice Jose C. Vitug, *Compendium of Tax Law and Jurisprudence,* p. 75, 4th revised ed. (1989); and De Leon, Hector S., *The National Internal Revenue Code Annotated,* p. 108, 5th ed. (1994), citing a BIR ruling dated May 6, 1975.

[21] See *Ramirez v. Court of Appeals*, 248 SCRA 590, 596, September 28, 1995.

[22] Cooley, Thomas M., *The Law of Taxation*, p. 1415, Vol. II, 4th ed. (1924).

[23] Reply Memorandum of private respondent, p. 10; *rollo,* p. 234.

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As previously stated, a reading of said paragraph ineludibly shows that the income from any property of exempt organizations, as well as that arising from any activity it conducts for profit, is taxable. The phrase "any of their activities conducted for profit" does not qualify the word "properties." This makes income from the property of the organization taxable, regardless of how that income is used — whether for profit or for lofty non-profit purposes.

Verba legis non est recedendum. Hence, Respondent Court of Appeals committed reversible error when it allowed, on reconsideration, the tax exemption claimed by YMCA on income it derived from renting out its real property, on the solitary but unconvincing ground that the said income is not collected for profit but is merely incidental to its operation. The law does not make a distinction. The rental income is taxable regardless of whence such income is derived and how it is used or disposed of. Where the law does not distinguish, neither should we.

Constitutional Provisions on Taxation

Invoking not only the NIRC but also the fundamental law, private respondent submits that Article VI, Section 28 of par. 3 of the 1987 Constitution,[24] exempts "charitable institutions" from the payment not only of property taxes but also of income tax from any source.[25] In support of its novel theory, it compares the use of the words "charitable institutions," "actually" and "directly" in the 1973 and the 1987 Constitutions, on the one hand; and in Article VI, Section 22, par. 3 of the 1935 Constitution, on the other hand.[26]

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[24] "*Charitable institutions*, churches and parsonages or convents appurtenant thereto, *mosques, non-profit* cemeteries, and all lands, buildings, and improvements *actually, directly,* and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation." (Italics copied from Reply Memorandum of Private Respondent, p. 7; *rollo*, p. 231.)

[25] Reply Memorandum of private respondent, p. 7; *rollo,* p. 231.

[26] "Cemeteries, churches, and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements actually, directly, and exclusively

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Private respondent enunciates three points. *First,* the present provision is divisible into two categories: (1) "[c]haritable institutions, churches and parsonages or convents appurtenant thereto, mosques and non-profit cemeteries," the incomes of which are, from whatever source, all tax-exempt;[27] and (2) "[a]ll lands, buildings and improvements actually and directly used for religious, charitable or educational purposes," which are exempt only from property taxes.[28] *Second*, *Lladoc v. Commissioner of Internal Revenue*,[29] which limited the exemption only to the payment of property taxes, referred to the provision of the 1935 Constitution and not to its counterparts in the 1973 and the 1987 Constitutions.[30] *Third*, the phrase "actually, directly and exclusively used for religious, charitable or educational purposes" refers not only to "all lands, buildings and improvements," but also to the above-quoted first category which includes charitable institutions like the private respondent.[31]

The Court is not persuaded. The debates, interpellations and expressions of opinion of the framers of the Constitution reveal their intent which, in turn, may have guided the people in ratifying the Charter.[32] Such intent must be effectuated.

Accordingly, Justice Hilario G. Davide, Jr., a former constitutional commissioner, who is now a member of this Court, stressed during the Concom debates that "xxx what is exempted is not the institution itself xxx; those exempted from real estate

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used for religious, charitable, or educational purposes shall be exempt from taxation."

[27] Reply Memorandum of private respondent, pp. 7-8; *rollo,* pp. 231-232.

[28] *Ibid.,* p. 8; *rollo,* p. 232.

[29] 14 SCRA 292, June 16, 1965.

[30] Reply Memorandum of private respondent, pp. 6-7; *rollo,* pp. 230-231.

[31] *Ibid.,* p. 9; *rollo,* p. 233.

[32] *Nitafan v. Commissioner of Internal Revenue*, 152 SCRA 284, 291-292, July 27, 1987.

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taxes are lands, buildings and improvements actually, directly and exclusively used for religious, charitable or educational purposes."[33] Father Joaquin G. Bernas, an eminent authority on the Constitution and also a member of the Concom, adhered to the same view that the exemption created by said provision pertained only to property taxes.[34]

In his treatise on taxation, Mr. Justice Jose C. Vitug concurs, stating that "[t]he tax exemption covers *property* taxes only."[35] Indeed, the income tax exemption claimed by private respondent finds no basis in Article VI, Section 28, par. 3 of the Constitution.

Private respondent also invokes Article XIV, Section 4, par. 3 of the Charter,[36] claiming that the YMCA "is a non-stock, non-profit educational institution whose revenues and assets are used actually, directly and exclusively for educational purposes so it is exempt from taxes on its properties and income."[37] We reiterate that private respondent is exempt from the payment of property tax, but not income tax on the rentals from its property. The bare allegation alone that it is a non-stock, non-profit educational institution is insufficient to justify its exemption from the payment of income tax.

As previously discussed, laws allowing tax exemption are construed *strictissimi juris*. Hence, for the YMCA to be granted the exemption it claims under the aforecited provision, it must prove with substantial evidence that (1) it falls under the

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[33] Record of the Constitutional Commission, Vol. Two, p. 90.

[34] Bernas, Joaquin G., *The 1987 Constitution of the Republic of the Philippines: A Commentary*, p. 720, 1996 ed.; citing *Lladoc v. Commissioner of Internal Revenue*, *supra*, p. 295.

[35] Vitug, *supra*, p. 16.

[36] "All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law,"

[37] Reply Memorandum of private respondent, p. 20; *rollo*, p. 244.

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classification *non-stock, non-profit educational institution*; and (2) the income it seeks to be exempted from taxation is *used actually, directly, and exclusively for educational purposes*. However, the Court notes that not a *scintilla* of evidence was submitted by private respondent to prove that it met the said requisites.

Is the YMCA an *educational* institution within the purview of Article XIV, Section 4, par.3 of the Constitution? We rule that it is not. The term "educational institution" or "institution of learning" has acquired a well-known technical meaning, of which the members of the Constitutional Commission are deemed cognizant.[38] Under the Education Act of 1982, such term refers to schools.[39] The school system is synonymous with formal education,[40] which "refers to the hierarchically structured and chronologically graded learnings organized and provided by the formal school system and for which certification is required in order for the learner to progress through the grades or move to the higher levels."[41] The Court has examined the "Amended Articles of Incorporation"[42] and "By-Laws"[43] of the YMCA, but found nothing in them that even hints that it is a school or an educational institution.[44]

Furthermore, under the Education Act of 1982, even non-formal education is understood to be school-based and "private

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[38] See *Krivenko v. Register of Deeds of Manila*, 79 Phil. 461, 468 (1947).

[39] Section 26, Batas Pambansa Blg. 232.

[40] Section 19, Batas Pambansa Blg. 232.

[41] Section 20, Batas Pambansa Blg. 232.

[42] Exhibit B, BIR Records, pp. 54-56.

[43] Exhibit C, BIR Records, pp. 27-53.

[44] This is in stark contrast to its predecessor, the YMCA of Manila. In *YMCA of Manila v. Collector of Internal Revenue* (33 Phil. 217, 221 [1916]), cited by private respondent, it was noted that the said institution had an educational department that taught courses in various subjects such as law, commerce, social ethics, political economy and others.

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auspices such as foundations and civic-spirited organizations" are ruled out.[45] It is settled that the term "educational institution," when used in laws granting tax exemptions, refers to a "xxx school seminary, college or educational establishment xxx."[46] Therefore, the private respondent cannot be deemed one of the educational institutions covered by the constitutional provision under consideration.

> "xxx Words used in the Constitution are to be taken in their ordinary acceptation. While in its broadest and best sense education embraces all forms and phrases of instruction, improvement and development of mind and body, and as well of religious and moral sentiments, yet in the common understanding and application it means a place where systematic instruction in any or all of the useful branches of learning is given by methods common to schools and institutions of learning. That we conceive to be the true intent and scope of the term [educational institutions,] as used in the Constitution."[47]

Moreover, without conceding that Private Respondent YMCA is an educational institution, the Court also notes that the former did not submit proof of the proportionate amount of the subject income that was actually, directly and exclusively used for educational purposes. Article XIII, Section 5 of the YMCA by-laws, which formed part of the evidence submitted, is patently insufficient, since the same merely signified that "[t]he net income derived from the rentals of the commercial buildings shall be apportioned to the Federation and Member Associations as the National Board may decide."[48] In sum, we find no basis for granting the YMCA exemption from income tax under the constitutional provision invoked.

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[45] Dizon, Amado C., *Education Act of 1982 Annotated, Expanded and Updated,* p. 72 (1990).

[46] 84 CJS 566.

[47] *Kesselring v. Bonnycastle Club*, 186 SW2d 402, 404 (1945).

[48] "By-Laws of the YMCA," p. 22; BIR Records, p. 31.

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Cases Cited by Private Respondent Inapplicable

The cases[49] relied on by private respondent do not support its cause. *YMCA of Manila v. Collector of Internal Revenue*[50] and *Abra Valley College, Inc. v. Aquino*[51] are not applicable, because the controversy in both cases involved exemption from the payment of property tax, not income tax. *Hospital de San Juan de Dios, Inc. v. Pasay City*[52] is not in point either, because it involves a claim for exemption from the payment of regulatory fees, specifically electrical inspection fees, imposed by an ordinance of Pasay City — an issue not at all related to that involved in a claimed exemption from the payment if income taxes imposed on property leases. In *Jesus Sacred Heart College v. Com. Of Internal Revenue*,[53] the party therein, which claimed an exemption from the payment of income tax, was an educational institution which submitted substantial evidence that the income subject of the controversy had been devoted or used solely for educational purposes. On the other hand, the private respondent in the present case has not given any proof that it is an educational institution, or that part of its rent income is actually, directly and exclusively used for educational purposes.

Epilogue

In deliberating on this petition, the Court expresses its sympathy with private respondent. It appreciates the nobility of its cause. However, the Court's power and function are limited merely to applying the law fairly and objectively. It cannot change the law or bend it to suit its sympathies and appreciations. Otherwise, it would be overspilling its role and invading the realm of legislation.

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[49] Reply Memorandum of private respondent, pp. 14-16; *rollo,* pp. 238-240.

[50] *Supra.*

[51] 162 SCRA 106, June 15, 1988.

[52] 16 SCRA 226, February 28, 1966.

[53] 95 SCRA 16, May 24, 1954.

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We concede that private respondent deserves the help and the encouragement of the government. It needs laws that can facilitate, and not frustrate, its humanitarian tasks. But the Court regrets that, given its limited constitutional authority, it cannot rule on the wisdom or propriety of legislation. That prerogative belongs to the political departments of government. Indeed, some of the members of the Court may even believe in the wisdom and prudence of granting more tax exemptions to private respondent. But such belief, however well-meaning and sincere, cannot bestow upon the Court the power to change or amend the law.

WHEREFORE, the petition is *GRANTED*. The Resolutions of the Court of Appeals dated September 28, 1995 and February 29, 1996 are hereby *REVERSED* and *SET ASIDE*. The Decision of the Court of Appeals dated February 16, 1995 is *REINSTATED*, insofar as it ruled that the income derived by petitioner from rentals of its real property is subject to income tax. No pronouncement as to costs.

SO ORDERED.

Davide, Jr. (Chairman), Vitug, and *Quisumbing, JJ.,* concur.

Bellosillo, J., please see dissenting opinion.

BELLOSILLO, *J.*: *Dissenting Opinion.*

I vote to deny the petition. The basic rule is that the factual findings of the Court of Tax Appeals when supported by substantial evidence will not be disturbed on appeal unless it is shown that the court committed grave error in the appreciation of facts.[1] In the instant case, there is no dispute as to the validity of the findings of the Court of Tax Appeals that private respondent Young Men's Christian Association (YMCA) is an association organized and operated exclusively for the promotion of social welfare and other non-profitable purposes, particularly the physical and character development of the youth.[2]

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[1] *Commissioner of Internal Revenue v. Mitsubishi Metal Corporation*, G.R. No. 54908, 22 January 1995, 181 SCRA 2140.

[2] *Rollo*, p. 76.

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The enduring objectives of respondent YMCA as reflected in its Constitution and By-laws are:

(a) To develop well-balanced Christian personality, mission in life, usefulness of individuals, and the promotion of unity among Christians and understanding among peoples of all faiths, to the end that the Brotherhood of Man under the Fatherhood of God may be fostered in an atmosphere of mutual respect and understanding;

(b) To promote on equal basis the physical, mental, and spiritual welfare of the youth, with emphasis on reverence for God, social discipline, responsibility for the common good, respect for human dignity, and the observance of the Golden Rule;

(c) To encourage members of the Young Men's Christian Associations in the Philippines to participate loyally in the life of their respective churches; to bring these churches closer together; and to participate in the effort to realize the church Universal;

(d) To strengthen and coordinate the work of the Young Men's Christian Associations in the Philippines and to foster the extension of the Youth Men's Christian Associations to new areas;

(e) To help its Member Associations develop and adopt their programs to the needs of the youth;

(f) To assist the Member Associations in developing and maintaining a high standard of management, operation and practice; and

(g) To undertake and sponsor national and international programs and activities in pursuance of its purposes and objectives.[3]

Pursuant to these objectives, YMCA has continuously organized and undertaken throughout the country various programs for the youth through actual workshops, seminars, training, sports and summer camps, conferences on the cultivation of Christian moral values, drug addiction, out-of-school youth, those with handicap and physical defects and youth alcoholism. To fulfill these multifarious projects and attain the laudable objectives of YMCA, fund raising has become an indispensable and integral part of the activities of

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[3] *Rollo*, pp. 76-77.

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the Association. YMCA derives its funds from various sources such as membership dues, charges on the use of facilities like bowling and billiards, lodging, interest income, parking fees, restaurant and canteen. Since the membership dues are very minimal, the Association derives funds from rentals of small shops, restaurant, canteen and parking fees. For the taxable year ending December 1980, YMCA earned gross rental income of ₱676,829.00 and ₱44,259.00 from parking fees which became the subject of the questioned assessment by petitioner.

The majority of this Court upheld the findings of the Court of Tax Appeals that the leasing of petitioner's facilities to small shop owners and to restaurant and canteen operators in addition to the operation of a parking lot are reasonably necessary for and incidental to the accomplishment of the objectives of YMCA.[4] In fact, these facilities are leased to members in order to service their needs and those of their guests. The rentals are minimal, such as, the rent of ₱300.00 for the barbershop. With regard to parking space, there is no lot actually devoted therefor and the parking is done only along the sides of the building. The parking is primarily for members with car stickers but to non-members, parking fee is ₱0.50 only. The rentals and parking fees are just enough to cover the operation and maintenance costs of these facilities. The earnings which YMCA derives from these rentals and parking fees, together with the charges for lodging and use of recreational facilities, constitute the bulk or majority of its income used to support its programs and activities.

In its decision of 16 February 1994, the Court of Appeals thus committed grave error in departing from the findings of the Court of Tax Appeals by declaring that the leasing of YMCA's facilities to shop owners and restaurant operators and the operation of a parking lot are used for commercial purposes or for profit, which fact takes YMCA outside the coverage of tax exemption. In later granting the motion for reconsideration filed by respondent YMCA, the Court of Appeals correctly reversed its earlier decision and upheld the findings of the Court

[4] *Rollo*, p. 84.

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of Tax Appeals by ruling that YMCA is not designed for profit and the little income it derives from rentals and parking fees helps maintain its noble existence for the fulfillment of its goals for the Christian development of the youth.

Respondent YMCA is undoubtedly exempt from corporate income tax under the provisions of Sec. 27, pars. (g) and (h), of the National Internal Revenue Code, to wit:

> Sec. 27. *Exemptions from tax on corporations.* — The following organizations shall not be taxed under this Title in respect to income received by them as such – x x x (g) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare; (h) club organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members x x x Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit, regardless of the disposition made of such income, shall be subject to tax imposed under this Code.

The majority of the Court accepted petitioner's view that while the income of organizations enumerated in Sec. 27 are exempt from income tax, such exemption does not however extend to their income of whatever kind or character from any of their properties real or personal regardless of the disposition made of such income; that based on the wording of the law which is plain and simple and does not need any interpretation, any income of a tax exempt entity from any of its properties is a taxable income; hence, the rental income derived by a tax exempt organization from the lease of its properties is not therefore exempt from income taxation even if such income is exclusively used for the accomplishment of its objectives.

Income derived from its property by a tax exempt organization is not absolutely taxable. Taken in solitude, a word or phrase such as, in this case, "the income of whatever kind and character x x x from any of their properties" might easily convey a meaning quite different from the one actually intended and evident when

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a word or phrase is considered with those with which it is associated.[5] It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, that every part of the statute must be considered together with the other parts and kept subservient to the general intent of the whole enactment.[6] A close reading of the last paragraph of Sec. 27 of the National Internal Revenue Code, in relation to the whole section on tax exemption of the organizations enumerated therein, shows that the phrase "conducted for profit" in the last paragraph of Sec. 27 qualifies, limits and describes "the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities" in order to make such income taxable. It is the exception to Sec. 27, pars. (g) and (h) providing for the tax exemptions of the income of said organizations. Hence, if such income from property or any other property is not conducted for profit, then it is not taxable.

Even taken alone and understood according to its plain, simple and literal meaning, the word "income" which is derived from property, real or personal, provided in the last paragraph of Sec. 27 means the amount of money coming to a person or corporation within a specified time as profit from investment; the return in money from one's business or capital invested.[7] Income from property also means gains and profits derived from the sale or other disposition of capital assets; the money which any person or corporation periodically receives either as profits from business, or as returns from investments.[8] The word "income" as used in tax statutes is to be taken in its ordinary sense as gain or profit.[9]

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[5] *Sajonas v. Court of Appeals*, G.R. No. 102377, 5 July 1996, 258 SCRA 79.

[6] *Paras v. Commission on Elections*, G.R. No. 123169; 4 November 1996, 264 SCRA 49.

[7] Moreno, Federico B., *Philippine Law Dictionary, Third Edition.*

[8] Sibal, Jose Agaton R., *Philippine Legal Encyclopedia, 1986 Edition.*

[9] *Words and Phrases,* Vol. 20A, 1959 Ed., p. 1616.

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Clearly, therefore, income derived from property whether real or personal connotes profit from business or from investment of the same. If we are to apply the ordinary meaning of income from property as profit to the language of the last paragraph of Sec. 27 of the NIRC, then only those profits arising from business and investment involving property are taxable. In the instant case, there is no question that in leasing its facilities to small shop owners and in operating parking spaces, YMCA does not engage in any profit-making business. Both the Court of Tax Appeals, and the Court of Appeals in its resolution of 25 September 1995, categorically found that these activities conducted on YMCA's property where aimed not only at fulfilling the needs and requirements of its members as part of YMCA's youth program but, more importantly, at raising funds to finance the multifarious projects of the Association.

As the Court has ruled in one case, the fact that an educational institution charges tuition fees and other fees for the different services it renders to the students does not in itself make the school a profit-making enterprises that would place it beyond the purview of the law exempting it from taxation. The mere realization of profits out of its operation does not automatically result in the loss of an educational institution's exemption from income tax as long as no part of its profits inures to the benefit of any stockholder or individual.[10] In order to claim exemption from income tax, a corporation or association must show that it is organized and operated exclusively for religious, charitable, scientific, athletic, cultural or educational purposes or for the rehabilitation of veterans, and that no part of its income inures to the benefit of any private stockholder or individual.[11] The main evidence of the purpose of a corporation should be its articles of incorporation and by-laws, for such purpose is required by statute to be stated in the articles of incorporation, and the by-laws outline the administrative organization of the corporation

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[10] *Collector of Internal Revenue v. University of the Visayas*, L-13554, 28 February 1961, 1 SCRA 669.

[11] *Ibid.*

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which, in turn, is supposed to insure or facilitate the accomplishment of said purpose.[12]

The foregoing principle applies to income derived by tax exempt corporations from their property. The criterion or test in order to make such income taxable is when it arises from purely profit-making business. Otherwise, when the income derived from use of property is reasonable and incidental to the charitable, benevolent, educational or religious purpose for which the corporation or association is created, such income should be tax-exempt.

In *Hospital de San Juan de Dios, Inc. v. Pasay City*[13] we held —

> In this connection, it should be noted that respondent therein is a corporation organized for 'charitable, educational and religious purposes'; that no part of its net income inures to the benefit of any private individual; that it is exempt from paying income tax; that it operates a hospital in which MEDICAL assistance is given to destitute persons free of charge; that it maintains a pharmacy department within the premises of said hospital, to supply drugs and medicines only to charity and paying patients confined therein; and that only the paying patients are required to pay the medicines supplied to them, for which they are charged the cost of the medicines, plus an additional 10% thereof, to partly offset the cost of medicines supplied free of charge to charity patients. Under these facts we are of the opinion and so hold that the Hospital may not be regarded as engaged in "business" by reason of said sale of medicines to its paying patients x x x (W)e held that the UST Hospital was not established for profit-making purposes, despite the fact that it had 140 paying beds, because the same were maintained only to partly finance the expenses of the free wards containing 203 beds for charity patients.

In *YMCA of Manila v. Collector of Internal Revenue*,[14] this Court explained —

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[12] *Jesus Sacred Heart College v. Collector of Internal Revenue*, 95 Phil. 16 [1954].

[13] No. L-19371, 28 February 1966, 16 SCRA 226.

[14] 33 Phil. 217 [1916].

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It is claimed however that the institution is run as a business in that it keeps a lodging and boarding house. It may be admitted that there are 64 persons occupying rooms in the main building as lodgers or roomers and that they take their meals at the restaurant below. These facts however are far from constituting a business in the ordinary acceptation of the word. In the first place, no profit is realized by the association in any sense. In the second place it is undoubted, as it is undisputed, that the purpose of the association is not primarily to obtain the money which comes from the lodgers and boarders. The real purpose is to keep the membership continually within the sphere of influence of the institution; and thereby to prevent, as far as possible, the opportunities which vice presents to young men in foreign countries who lack home or other similar influences.

The majority, if not all, of the income of the organizations covered by the exemption provided in Sec. 27, pars. (g) and (h), of the NIRC are derived from their properties, real or personal. If we are to interpret the last paragraph of Sec. 27 to the effect that all income of whatever kind from the properties of said organization, real or personal, are taxable, even if not conducted for profit, then Sec. 27, pars. (g) and (h), would be rendered ineffective and nugatory. As this Court elucidated in *Jesus Sacred Heart College v. Collector of Internal Revenue*,[15] every responsible organization must be so run as to at least insure its existence by operating within the limits of its own resources, especially its regular income. It should always strive whenever possible to have a surplus. If the benefits of the exemption would be limited to institutions which do not hope or propose to have such surplus, then the exemption would apply only to schools which are on the verge of bankruptcy. Unlike the United States where a substantial number or institutions of learning are dependent upon voluntary contributions and still enjoy economic stability, such as Harvard, the trust fund of which has been steadily increasing with the years, there are and there have always been very few educational enterprises in the Philippines which are supported by donations, and these organizations usually have a very precarious existence.[16]

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[15] *See* Note 11.

[16] *Ibid.*

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Finally, the non-taxability of all income and properties of educational institutions finds enduring support in Art. XIV, Sec. 4, par. 3, of the 1987 Constitution –

> (3) All revenues and assets of non-stock, non-profit educational institutions used actually, directly and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.

In *YMCA of Manila v. Collector of Internal Revenue*[17] this Court categorically held and found YMCA to be an educational institution exclusively devoted to educational and charitable purposes and not operated for profit. The purposes of the Association as set forth in its charter and constitution are "to develop the Christian character and usefulness of its members, to improve the spiritual, intellectual, social and physical condition of young men and to acquire, hold, mortgage and dispose of the necessary lands, buildings and personal property for the use of said corporation exclusively for religious, charitable and educational purposes, and not for investment or profit." YMCA has an educational department, the aim of which is to furnish, at much less than cost, instructions on subjects that will greatly increase the mental efficiency and wage-earning capacity of young men, prepare them in special lines of business and offer them special lines of study. We ruled therein that YMCA cannot be said to be an institution used exclusively for religious purposes or an institution devoted exclusively for charitable purposes or an institution devoted exclusively to educational purposes, but it can be truthfully said that it is an institution used exclusively for all three purposes and that, as such, it is entitled to be exempted from taxation.

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[17] *See* Note 13.