REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE PHILIPPINE AMERICAN MANAGEMENT COMPANY, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 2494

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - - x

D E C I S I O N

This is a claim for refund in the amount of ₱5,748.83 which petitioner paid as deficiency income tax and delinquency penalties assessed from July 1, 1968 to December 1, 1968, based on the application effective July 1, 1968 of the new corporate income tax rates of 25% and 35% prescribed in Republic Act No. 5431, which increased the old rates provided in Section 24 of the Revenue Code.

Petitioner is a corporation which keeps its books and records on the calendar year basis. On August 15, 1972, it paid under protest the total sum of ₱15,096.43, representing alleged deficiency income tax for 1968 in the amount of ₱9,311.58 resulting from the disallowance of certain salaries paid by petitioner, and the deficiency assessment in the amount of ₱5,784.83 due to the interpretation by the Bureau of Internal Revenue that the new income tax rates provided in Republic Act No. 5431, which took effect on July 1, 1968, are applicable to the net

(42)

income of petitioner for the year 1968.

On December 11, 1972, petitioner, through counsel, claimed from respondent the refund of the sum of ₱5,784.83 which it paid on account of the application as aforesaid of the new corporate income tax rates under Republic Act No. 5431 on income earned beginning from July 1, 1968 to December 31, 1968.

Respondent, on January 3, 1973, withheld action on the claim for refund pending the final decision by this Court on similar pending cases. Consequently, on March 2, 1973, petitioner filed its petition for review.

This case is not one of first impression. In several cases, it was held that a calendar year corporation is liable to the increased rates of income tax prescribed in Republic Act No. 5431 from January 1, 1969 and not from July 1, 1968. Thus, the income earned from July 1, 1968 to December 31, 1968 of such corporation is subject to the old income tax rates prescribed in Section 24 of the National Internal Revenue Code, before its amendment by Republic Act No. 5431. (Manila Times Publishing Co. v. Comm. of Internal Revenue, C.T.A. Case No. 2263, Dec. 17, 1973, certiorari denied in G.R. No. L-38154, May 10, 1974; Zamboanga

Wood Products,Inc. v. Comm. of Int. Rev., C.T.A. Case No. 2053, June 3, 1974; Colgate Palmolive Philippines, Inc. v. Comm. of Int. Rev., C.T.A. Case No. 2293, June 10, 1974; Philippine Aviation Corp. v. Comm. of Int., Rev., C.T.A. Case No. 2195, August 5, 1974; First Insular Bank of Cebu v. Comm. of Int. Rev., C.T.A. Case No. 2262, August 29, 1974; Tabacalera Inc. Co., Inc. v. Comm. of Int. Rev., C.T.A. Case No. 2081, Nov. 20, 1974.) Petitioner is, therefore, entitled to the refund of the sum it paid as deficiency income tax and penalties for the period from July 1, 1968 to December 1, 1968.

IN VIEW OF THE FOREGOING, respondent is hereby ordered to refund to petitioner the sum of ₱5,784.83 within thirty days from the date this decision becomes final. Without pronouncement as to costs.

SO ORDERED.

Quezon City, September 22, 1975.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

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