REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST INSULAR BANK OF CEBU,
Petitioner,

- versus - C. T. A. CASE NO. 2262

THE COMMISSIONER OF INTERNAL
REVENUE,
Respondent.
x - - - - - - - - - - - - - - - -x

8/29/74

D E C I S I O N

This appeal involves petitioner's claim for refund of the sum of ₱61,143.00, representing alleged overpaid income tax for the year 1968.

On June 27, 1968, Republic Act No. 5431 was enacted increasing the rates of corporate income tax from 22% to 25% on the first ₱100,000.00 net income, and from 30% to 35% on the net income in excess of ₱100,000.00. Section 10 of the said Act provides:

> "The provisions of this Act shall apply to income for taxable years beginning after June thirty, nineteen hundred sixty eight."

On April 11 and July 15, 1969, based upon an interpretation of respondent that the increased rates of 25% and 35% were applicable to income of all corporations beginning July 1, 1968, regardless of their accounting period, petitioner, a domestic corporation which files its income tax returns on the calendar year basis, paid to the Bureau of Internal Revenue the total amount of ₱798,854.00 as income tax for the year 1968.

Subsequently, in February, 1971, petitioner filed with the Commissioner of Internal Revenue a claim for refund of the sum of ₱61,143.00 as overpaid income tax for 1968, contending that the increased rates of 25% and 35% under Republic Act No. 5431 were not applicable to its income beginning July 1, 1968 but from January 1, 1969, since this is the start of its taxable year after June 30, 1968.

On April 5, 1971, without waiting for the decision of respondent on its claim for refund, petitioner instituted the instant appeal praying for the refund of the aforesaid sum of ₱61,143.00. There is no question as to the correctness of the amount of ₱61,143.00 claimed as overpayment, if the stand of petitioner is sustained.

The issue before us is not of first impression. In the cases of Manila Times Publishing Co., Inc. vs. The Commissioner of Internal Revenue, C.T.A. Case No. 2263, Dec. 17, 1973; and Philippine Aviation Corporation vs. Commissioner of Internal Revenue, CTA Case No. 2195, Aug. 5, 1974, the same issue was resolved in favor of the petitioners, this Court holding, inter alia, as follows:

> As defined by law and applicable jurisprudence, "taxable year" refers to a period of twelve uninterrupted months. For this purpose, corporate taxpayers are classified into two, i.e., calendar year corporations and fiscal year corporations. Calendar year corporations have a taxable year beginning January 1 and ends December 31; while fiscal year corporations have a taxable year beginning the first day of any month except January 1. Accordingly, after June 30, 1968, the beginning of the taxable year in the case of fiscal year corporations would be July 1, August 1, September 1, October 1, November 1, 1968, February 1, March 1, April 1, May 1, and June 1, 1969. With respect to calendar year corporations, the beginning of their taxable year after June 30, 1968 is January 1, 1969. When the law, therefore states that "The provisions of this Act shall apply to income for taxable years beginning after June 30, 1968", it simply means that the increased rates apply to those whose "taxable year" begins after June 30, 1968, or to income earned for fiscal periods beginning July 1, 1968, etc., in the case of fiscal year corporations, and for those whose taxable period is the calendar year, beginning January 1, 1969, these periods being the first and next taxable years beginning after June 30, 1968. <u>Applied to the case at bar, petitioner is subject to the increased rates (25% -35%) of tax only on income received from January 1, 1969, this date being the beginning of its first taxable year after June 30, 1968. Its income earned prior to January 1, 1969 is, therefore, still subject to the old rates (22% - 30%)</u>. (Underlining supplied.)

We find no sufficient justification to reverse our opinion in the aforesaid cases as to the applicability of the effectivity clause of Republic Act No. 5431. Accordingly, judgment is hereby rendered ordering respondent to refund to petitioner the sum of ₱61,143.00, as erroneously paid income tax for the year 1968.

SO ORDERED.

Quezon City, August 29, 1974.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge