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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AMADEO BRIONES, JR.,
Petitioner,

- versus - C.T.A. CASE NO. 3348

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

10/30/81

D E C I S I O N

Petitioner filed a petition for review contesting the legality of respondent's decision holding him liable for deficiency income tax and business tax, inclusive of increments, for the taxable year 1975. Instead of filing his answer, respondent, on August 31, 1981, filed a motion to dismiss said petition on the ground that the same was filed beyond the 30-day period for appeal prescribed in Section 11 of Republic Act No. 1125.

The very petition for review of petitioner alleges the following facts:

> "4. that on 15 December 1980 respondent, through his Revenue Regional Director in Region 5, assessed the petitioner the aggregate amount of ₱31,499.24 allegedly representing deficiency business taxes and increments (in the amount of ₱15,950.60) and deficiency income tax and increments (in the amount of ₱15,548.64). A copy of respondent's aforestated letter-assessment is attached as Annex "A" hereof;

> "5. that on 26 February 1981, petitioner sought reconsideration of respondent's assessment requesting opportunity to be heard and reinvestigation of his case. A copy of his letter/request dated February 26, 1981 is attached as Annex "B" hereof;
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> "6. that respondent in a letter, dated May 13, 1981, (received by counsel on May 22, 1981) denied petitioner's request for reconsideration. A copy of the letter of Regional Director Cirilo R. Francisco is attached as Annex "C" hereof;"

And the records show that petitioner's petition for review was filed in this Court on June 23, 1981. (see p. 1, C.T.A. records.)

Indeed, it is very clear that petitioner's petition for review was filed beyond the statutory period of thirty days within which to appeal to this Court because from May 22, 1981, the date of receipt of respondent's decision, to June 23, 1981, the date of filing of the appeal to this Court, a total of thirty two (32) days was consumed by petitioner.

The requirement of Section 11 of Republic Act No. 1125, which reads:

> "Any person, association or corporation adversely affected by a decision or ruling of the Commissioner of Internal Revenue, the Collector of Customs or any provincial or City Board of Assessment Appeals <u>may file an appeal in the Court of Tax Appeals within thirty days after receipt of such decision or ruling</u>. (Underlining supplied.)

is jurisdictional and non-extendible, and non-compliance therewith renders the assessment final, executory and demandable (Republic v. Lim Tian Teng Sons & Co., Inc., L-21731, March 31, 1966, 16 SCRA 584); and deprives this Court of jurisdiction to entertain the taxpayer's appeal. (See Commissioner of Internal Revenue vs. Western Pacific Corporation, L-18804, May 27, 1965, 14 SCRA 105; Filipinas Investment and Finance Corporation vs. Commissioner of Internal Revenue, L-23501, May 16, 1967, 20 SCRA 50; Surigao Electric Co., Inc. vs. Court of Tax Appeals, L-25289, June 28, 1974, 57 SCRA 253.)

ACCORDINGLY, since the appeal of petitioner was filed beyond the 30-day period for appeal prescribed in Section 11 of Republic Act No. 1125, the same is hereby dismissed for lack of jurisdiction. With costs.

SO ORDERED.

Quezon City, Metro Manila, October 30, 1981.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge