THE CABANATUAN CITY DEVELOPMENT BANK,
Petitioner,

- versus - C.T.A. CASE NO. 2330

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

12/6/74

D E C I S I O N

Petitioner, a private development bank organized under Republic Act No. 4887, is seeking the refund of the sum of ₱13,361.00, representing the income tax which it paid on October 3, 1969, covering its income from October 1, 1967 to September 30, 1968. There being no dispute as to the facts, the parties agreed to submit the case for judgment on the pleadings.

The said amount of ₱13,361.00 was paid by petitioner pursuant to Revenue Memorandum Circular No. 41-68 of the Bureau of Internal Revenue which requires all corporations previously exempt from income tax to pay such tax by virtue of Section 24(d) of the Revenue Code, as amended by Section 1 of Republic Act No. 5431, providing that all corporate taxpayers, other than those exempted under Sections 24(c)(1) and 27 of said Code, are subject to tax regardless of the provisions of existing special or general laws to the contrary.

It is alleged on behalf of petitioner that under Republic Act No. 4887, it is exempt from all taxes, and that Section 24(d) of the Revenue Code, as amended by Section 1 of Republic Act No. 5431, which provides for the taxability of previously exempt corporations, did not repeal its exemption under its charter. Even assuming that its exemption was repealed by Republic Act No. 5431, it is contended that its taxability should commence from October 1, 1968 and not from October 1, 1967, in view of Section 10 of said Act which provides:

> "SEC. 10. The provisions of this Act shall apply to income for taxable years beginning after June 30, 1968."

It appears that petitioner, as a private development bank, is keeping its books of account on the fiscal year basis starting from October 1 to September 30 of the following year. Therefore, the beginning of its taxable year after June 30, 1968 is October 1, 1968, and it was error for it to have been required to pay income tax on its income for the period from July 1 to September 30, 1968, because of its exemption under its charter. (The Manila Times Publishing Co. v.

Comm. of Int. Rev., C. T. A. Case No. 2263, Dec. 17, 1973, cert. denied in G. R. No. L-38154, May 10, 1974; Rural Bank of Camiling, Inc. v. Comm. of Int. Rev., C. T. A. Case No. 2041, March 1, 1974, cert. denied in G. R. No. L-38476, May 10, 1974; see also Rural Bank of Talisay (Cebu), Inc. v. Comm. of Int. Rev., C. T. A. Case No. 2250, Sept. 24, 1974; Rural Bank of Sariaya, Inc. v. Comm. of Int. Rev., C. T. A. Case No. 2068, Sept. 24, 1974.)

In view of our opinion on the effectivity clause of Republic Act No. 5431, it is needless to pass upon the question of whether or not said Act repealed the exemption from taxation of petitioner under its charter (Republic Act No. 4887). At any rate, assuming that Republic Act No. 5431 repealed the prior exemption of development banks, the provisions exempting said banks from taxation under their charter has been re-enacted in Republic Act No. 6110 /Section 27(e), National Internal Revenue Code7, which took effect on September 1, 1969.

WHEREFORE, respondent is hereby ordered to refund to petitioner the sum of ₱13,361.00. No costs.

SO ORDERED.

Quezon City, December 6, 1974.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

/dma