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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FGU INSURANCE CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 2168

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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10/9/75

D E C I S I O N

Petitioner, a corporation filing its income tax returns on the calendar year basis, was required by respondent to pay the sums of ₱5,183.20 and ₱23,184.00 as deficiency income tax and penalty for the year 1968. The basis of the assessment in the amount of ₱23,184.00 was 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. The assessment in the amount of ₱5,183.20 was brought about by the disallowance of certain deductions claimed by petitioner in its 1967 income tax return.

Having failed to obtain a reconsideration of the assessment, petitioner has appealed. At the same time, a motion seeking to enjoin the collection of the said amounts was filed, respondent having insisted on the collection thereof by distraint and levy.

Without objection on the part of respondent, an order was issued by this Court on October 28, 1970, enjoining respondent from collecting the amounts assessed against petitioner upon the filing of a surety bond for ₱30,000.00.

In its appeal to this Court from the decision of the respondent denying its request for reconsideration of the assessment, petitioner contends that under Section 10 of Republic Act No. 5431, which provides that the new income tax rates of 25% and 35% "shall apply to income for taxable years beginning after June 30, 1968," the increased rates are applicable only to its income beginning January 1, 1969 and not July 1, 1968, since its taxable year, which is the calendar year, begins on January 1st and ends on December 31st of each year. Respondent, however, contends that the new rates under Republic Act No. 5431 apply to income earned by a corporation beginning July 1, 1968, regardless of whether the corporation is on the calendar or fiscal year basis.

With respect to the amount of ₱5,183.00, counsel for petitioner manifested the willingness of petitioner to pay the said amount. However, as to the assessment in the amount of ₱23,184.00, petitioner submitted the issue for decision on the basis of the pleadings, records and decision in the Manila Times case.

The only issue raised for our consideration is whether or not a calendar year corporation, like petitioner, is subject to the corporate income tax rates of 25% and 35% beginning July 1, 1968 or only from

January 1, 1969. In several cases (The Manila Times Publishing Co., Inc. vs. Comm. of Int. Rev., CTA No. 2263, December 17, 1973, certiorari denied in G. R. No. 38154, May 10, 1974; Pepsico, Inc. v. The Commissioner of Int. Rev., CTA Case No. 2245, Feb. 19, 1975, and cases cited therein), it was held that the increased income tax rates prescribed in Republic Act No. 5431 are applicable to income of calendar year corporations beginning January 1, 1969 and not July 1, 1968. Thus, the income of such corporations from July 1, 1968 to December 31, 1968 is still subject to the old rates prescribed under Section 24 of the Internal Revenue Code, before its amendment by Republic Act No. 5431.

WHEREFORE, the decision appealed from holding petitioner liable for the amount of ₱23,184.00 is hereby reversed. As regards the sum of ₱5,183.20, the legality of the assessment not being questioned, petitioner is hereby ordered to pay the same within thirty (30) days from the date this decision becomes final. No costs.

SO ORDERED.

Quezon City, October 9, 1975.

R M Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge

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