PHILIPPINE AVIATION CORPORATION,
Petitioner,

-versus- C.T.A. CASE NO. 2195

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

8/5/74

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D E C I S I O N

Republic Act No. 5431, which was approved on June 27, 1968, amended Section 24 of the National Internal Revenue Code by 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 excess thereof. Section 10 of the said Act provides that -

> "The provisions of this Act shall apply to income for taxable years beginning after June thirty, nineteen hundred sixty eight."[1]

Interpreting the said law to mean that the increased rates of 25% and 35% are applicable to income of all corporations from July 1, 1968, irrespective of their accounting period, the Commissioner of Internal Revenue assessed against petitioner deficiency income tax and interest in the sum of ₱3,170.45 for 1968, after discovering from the latter's return that its income tax was computed on the basis of the old rates.

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[1] 65 O.G., No. 28, p. 7114

Petitioner protested the Commissioner's assessment and, thereafter, within thirty (30) days from the denial of its protest, appealed to this Court contending that its taxable year for purposes of income tax coincides with the calendar year (which begins from January 1 and ends on December 31). Accordingly, the beginning of its taxable year after June 30, 1968, is January 1, 1969 and not July 1, 1968. In other words, petitioner believes that the increased corporate income tax rate, provided in Republic Act No. 5431 should be applied to it effective January 1, 1969 as that is the beginning of its taxable year after June 30, 1968.

The issue and the arguments involved in this case are not new. In the case of Manila Times Publishing Co., Inc. vs. Commissioner of Internal Revenue, C.T.A. Case No. 2263, December 17, 1973 (cert. denied in G.R. No. L-38154, May 10, 1974), this Court, in disposing of a similar issue, held:

> It is the opinion of this Court, as the parties likewise do, that the terms of Section 10 of Republic Act No. 5431 are clear and unambiguous and should be accorded its literal meaning. Analyzing carefully the wording of the law, we find that the key which could unravel the true and plain meaning thereof is the phrase "taxable year". The law has defined the term "taxable year" as the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed;

and the term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. /Sec. 84 (o) & (p), Revenue Code./ In accounting and income taxation, the term "taxable year" has acquired the accepted meaning as an accounting period of twelve months beginning January 1 and ending December 31, which is called a calendar year, or an accounting period of twelve months ending on the last day of any month other than December, which is termed a fiscal year. In the United States, from which our Income Tax Law is patterned, the term "taxable year" has been similarly defined as follows:

> Relating income to a fixed period of time is a settled practice under the income tax law. Usually that period, whether a fiscal year or a calendar year, is 12 months and is known as the "taxable year." The return of a taxpayer is made and his income and deductions computed on the basis of a "taxable year," that is, his calendar year or fiscal year depending on which taxable year he has adopted. (Merten's Law of Federal Income Taxation, Vol. 2, Sec. 13.01.)

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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 its 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 whose 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. 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%).

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To subscribe to respondent's contention would be to veer away from the clear and explicit madate of the law which provides that only "income for taxable years beginning after June 30, 1968" is subject to the increased rates. Being on a calendar year period, petitioner's taxable year (for 1968) began on January 1, 1968, or <u>before</u> June 30, 1968, and if we are to apply the increased rate to petitioner's income beginning July 1, 1968, we would not only be ignoring the law but defying the very meaning it explicitly conveys because we would be subjecting petitioner to the increased rates when the law emphatically and categorically applied the new rates only to income for the taxable year which began <u>after</u> June 30, 1968. Petitioner's taxable year after June 30, 1968 did not begin on July 1, 1968; it began on January 1, 1969. Respondent's contention would have been tenable if the phrase "taxable year" was nowhere to be found in the law. The presence, however, of such phrase, which this Court cannot disregard or ignore without doing violence to the positive meaning of the law, amply support petitioner's stand.

Our attention has been drawn to the deliberation of both houses of Congress on House Bill No. 14543, which became Republic Act No. 5431, in an effort to show that the legislative intent in enacting the law is to apply the increased rates of corporate income tax on income earned beginning July 1, 1968 regardless of the taxpayer's accounting period. If we are to inquire into the legislative intent and purpose, we would in effect be indulging in the construction and interpretation of a law which we have already considered to be clear and free from ambiguity, thus violating the established canon of statutory construction. Be that as it may, we wish to point out that there is nothing in the legislative history of the law which would suggest that the legislative intent and purpose are different from what the language of the law conveys.

One thing on which we want to dwell more in particular is the assertion of respondent that when Section 10 of Republic Act No. 5431 was passed by Congress, there was already a provision in the United States Revenue Code interpreting the clause "shall apply to income for taxable year beginning after" to mean that <u>a change of increase of rate within the taxable year is allowed.</u> (Sec. 21, 1954 U.S. Internal Revenue Code.) Respondent then concludes that inasmuch as our income tax laws are patterned after those of the United States, our lawmakers must have been aware of the existence of such a similar provision in the U.S. Internal Revenue Code and enacted Section 10 of Republic Act No. 5431 in the light of the interpretation given by the U.S. Code itself.

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It is true that when our Congress passed Section 10 of Republic Act No. 5431, which provides that the rates provided therein shall apply to income "for taxable years beginning after June 30, 1968", a similar effectivity clause had already been interpreted by the U.S. Revenue Acts (Rev. Act of 1942 and 1954 Int. Rev. Code) as permitting a dual computation of the tax. It cannot, however, be argued, as respondent wants it, that Section 10 of Republic Act No. 5431 was enacted in the light of said interpretation because no similar provision is found in our law. We would not hesitate to accept respondent's theory as correct had our Congress enacted a law providing for a similar effectivity clause as that found in the aforesaid U.S. Revenue Acts. The fact that there is no similar provision in our law is an eloquent proof that our legislature, in enacting Section 10 of Republic Act No. 5431, wanted to adhere to the U. S. Revenue Act of 1934 and the interpretation given to it by U.S. Courts. Furthermore, although the U.S. Revenue Act of 1942 and the Internal Revenue Act of 1954, interpreted the U.S. Revenue Act of 1934, such interpretation cannot be applied to Republic Act No. 5431 for the reason that said Republic Act is posterior to the U.S. Revenue Acts of 1942 and 1954.

> x x x Furthermore, Act No. 2833 with which we are now dealing, took effect on January 1, 1920, and is therefore subsequent to Revenue Act of the Congress of the United States passed in 1918, amending the United States Revenue Act of 1916, from section 9, subdivision (a), of which section 9 subdivision (a), of the aforementioned Act No. 2833 is taken. Even admitting that an act amending another may be considered as interpreting the act so amended, this cannot be applied to said Section 9, subdivision (a), of Act No. 2833, for the reason that this Act is posterior to the Act of of Congress of 1918. (Collector of Internal Revenue v. Villegas, 56 Phil. 554; underscoring supplied.)

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Finally, it is claimed by respondent that the position advocated by petitioner would result in inquality, which is violative of the uniformity of taxation because corporations reporting their income on the calendar year basis would pay the increased rates of tax only on income earned beginning 1969, while corporations reporting their income on the fiscal year basis would be paying said tax on income earned beginning July 1, 1968, if their fiscal year began on July 1, 1968 or thereafter. Again, we are unable to subscribe to this argument because the term "uniformity", as applied to the constitutional requirement that all taxes shall be uniform, means that all property or subject belonging to the same class shall be taxed alike. (See Churchill v. Concepcion, 34 Phil. 969; Cooley on Taxation, Vol. I, Sec. 334, p. 712, 4th Ed.) It is recognized that Congress, without violating the said constitutional requirement, can make distinctions and classifications and the distiction made by law in question between "calendar year" taxpayers and "fiscal year" taxpayers is a valid and reasonable exercise of such power. Corporations on a fiscal year basis belong to one class and corporations on a calendar year basis belong to another class. Under Section 10 of Republic Act No. 5431, corporations filing income tax returns on the fiscal year basis and having the same fiscal period are subject to the same rates of tax effective at the same time, while corporations on the calendar year basis are likewise subject to the same rates of tax effective on the same date. By the way, respondent himself has construed a similar provision of Republic Act No. 2343 as providing for a date of effectivity for calendar year corporations different from that of a fiscal year corporation. (See memorandum of counsel for respondent dated June 18, 1973.) We cannot see any logic in respondent's assertion that there would be a violation of the uniformity rule in one case and no violation in the other.

We find no sufficient justification to modify or reverse our opinion on the application of Section 10 of Republic Act No. 5431. Accordingly, the decision of the Commissioner of Internal Revenue appealed from is hereby reversed.

SO ORDERED.

Quezon City, August 5, 1974.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge