lit.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

U. S. INDUSTRIES, INC. and
USI PHILIPPINES, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 2298

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

12/5/75

D E C I S I O N

The petitioner, a non-resident foreign corporation, is seeking the refund of P108,478.23, representing alleged overpaid withholding tax, plus interest, for the third and fourth quarters of 1968.

The alleged overpayment was the result of the ruling of respondent Commissioner of Internal Revenue to the effect that non-resident foreign corporations are subject to the withholding tax of 35% on their income derived in the Philippines as provided in Section 24(b), in relation to Section 54, of the National Internal Revenue Code, as amended by Republic Act No. 5431.

Section 10 of Republic Act No. 5431 provides that the new rates of corporate income tax provided in said Act shall apply to income of corporations for taxable years beginning after June 30, 1968. As the taxable year of petitioner is the calendar year, the beginning of its taxable year after June 30, 1968 is January 1, 1969, and not July 1, 1968. Hence, the withholding income tax that should be applied to the income of petitioner from July 1 to December 31, 1968 is the old rate (30%), and the new rate (35%) should be applied to its income beginning January 1, 1969. (See Manila Times Publishing Co., Inc. v. Commissioner of Int. Rev., C.T.A. No. 2263, Dec. 17, 1973, cert. denied in G.R. No. L-38154, May 10, 1974.) Respondent having collected from petitioner the withholding tax of 35%, instead of 30%, on the latter's income from July 1 to December 31, 1968, resulting in an overpayment of ₱108,478.23, petitioner is entitled to the refund of said amount.

WHEREFORE, respondent is hereby ordered to refund to petitioner the sum of ₱108,478.23. No pronouncement as to costs..

SO ORDERED.

Quezon City, December 5, 1975

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

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