fdv.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE PHILIPPINE GUARANTY
CO., INC.,
Petitioner,

versus C.T.A. CASE NO. 2154

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

10/15/75

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

DECISION

Petitioner, a corporation filing its income tax returns on the calendar year basis, was required by respondent to pay the sums of ₱6,627.10 and ₱31,587.70 as deficiency income tax and delinquency penalties for the year 1968. The basis of the assessments 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, as well as the disallowance of petitioner's claim for deduction for recruiting, soliciting and representation expenses in the total amount of ₱19,514.08 in its 1968 income tax return. In computing petitioner's tax liability in the aforesaid disallowed items, respondent applied the increased rates provided for in Republic Act 5431.

In its appeal to this Court from the decision of respondent dated April 30, 1970 denying its request for reconsideration against the assessment, petitioner contends that under Section 10 of Republic Act No. 5431 which provides that the provisions of said Act "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, by way of special and affirmative defenses, contends that the new rates under Republic Act No. 5431 apply to income earned beginning July 1, 1968, regardless of whether a corporation computes its income on the calendar or fiscal year basis.

During the hearing of the instant case on August 21, 1974, counsel for petitioner manifested in open court that petitioner is submitting the issue as regards the assessment of ₱31,587.70 for decision on the basis of the doctrine laid down in the Manila Times case. With respect to the assessment of ₱6,627.10, petitioner manifested its willingness to pay the same. Respondent on the other hand submitted his case for decision on the basis of the records of the instant case.

With respect to the date of effectivity of the new corporate income tax rates provided in Republic Act No. 5431, it has been held that, in the case of calendar year corporations, the new rates shall apply to their income beginning January 1, 1969, since that is the beginning of their taxable year after June 30, 1968. (The Manila Times Publishing Co. v. Commissioner, C.T.A. No. 2263, Dec. 17, 1973, cert. denied in G.R. No. L-38154, May 10, 1974; Pepsico, Inc. v. Commissioner, C.T.A. No. 2245, Feb. 19, 1975, and cases cited therein.) Accordingly, it was error for respondent to require petitioner to pay the sum of ₱31,587.70.

WHEREFORE, the decision appealed from in regard to the assessment in the amount of ₱31,587.70 is hereby reversed. However, petitioner is hereby ordered to pay the sum of ₱6,627.10 as deficiency income tax for 1968, , liability therefor not being contested, together with the corresponding interest and surcharge incident to delinquency as provided in Section 51(e) of the Revenue Code, as amended.

SO ORDERED.

Quezon City, October 15, 1975.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge