

AN ACT AMENDING SECTIONS 34, 45, 51 AND 72 OF THE NATIONAL INTERNAL REVENUE CODE OF 1977, AS AMENDED, BY SUBJECTING TO THE FINAL TAX CAPITAL GAINS DERIVED FROM THE SALE OF REAL ...

BATAS PAMBANSA BLG. 37, September 07, 1979

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Be it enacted by the Batasang Pambansa in session assembled:

SECTION 1. Section 34 of the National Internal Revenue Code of 1977, as amended, is hereby further amended by adding thereto paragraph (h) to read as follows:

"(h) The provisions of paragraph (b) of this Section to the contrary notwithstanding, net capital gains from the sale or other disposition of real property by citizens of the Philippines or resident alien individuals shall be subject to the final income tax rates prescribed as follows:

NET CAPITAL GAINS

RATES

On the first P100,000 or less

10%

On any amount over P100,000

20%

such tax shall be in lieu of the tax imposed under Section 21 of this Code: Provided, however, That the tax liability, if any, on gains from sales or other dispositions of real property to the government or any of its political subdivisions or agencies or to government-owned or controlled corporations shall be determined either under Section 21 hereof or under this Section, at the option of the taxpayer; Provided, further, That if the taxpayer elects to report such gains in accordance with the provisions of Section 43 (b), the amount of the tax which shall be paid on each installment shall be the proportion of the tax herein imposed, which the installment payment received bears to the total selling price; Provided, finally, That failure on the part of the seller to pay the tax imposed herein on any gains returnable under the installment method will automatically disqualify the seller-taxpayer from paying the tax in installments and the unpaid portion of the tax shall immediately be due and demandable. The tax herein imposed shall be returned and paid in accordance with Sections 45 (c) and 51 (a) (4) of this Code.

"No registration of any document transferring real property shall be effected by the Register of Deeds unless the Commissioner or his duly authorized representative has certified that such transfer has been reported and the tax herein imposed, if any, has been paid; in case of deferred-payment sales of real property where the vendor retains title to the property, the vendee shall furnish the Commissioner with a copy of the instrument of sale within the same period prescribed for payment of the tax herein imposed."

SEC. 2. Subparagraphs (A) and (B) of paragraph (c) of Section 45 of the National Internal Revenue Code of.

1977, as amended, are hereby renumbered as Subparagraphs (1) and (2), respectively.

SEC. 3. Paragraph (c) of Section 45, as amended by the preceding Section, is hereby further amended by adding thereto a new Subparagraph (3) to read as follows:

"(3) Persons subject to the tax prescribed under Section 34 (h) of this Code, shall file or cause to be filed a separate return prescribed therefor by the Commissioner within thirty (30) days following each sale or other disposition of capital assets."

SEC. 4. Section 51 (a) of the National Internal Revenue Code of 1977, as amended, is hereby further amended by adding thereto a new Subparagraph (4), prescribing the manner of payment of the tax imposed on capital gains to read as follows:

"(4) Payment of Capital Gains Tax.—The total amount of tax imposed under Section 34 (g) and (h) shall be paid on the date the return prescribed therefor is filed by the person liable thereto: Provided, however, That if the seller submits proof of his intention to avail himself of the benefit of exemption of capital gains under existing special laws, no such payment shall be required; Provided, further, That in case of failure to qualify for exemption under such special laws and implementing rules, the tax due on the gains realized from the original transaction shall immediately become due and payable, and subject to the penalties prescribed under applicable provisions of this Code; and Provided, finally, That if the seller, having paid the tax, submits such proof of intent within six months from the registration of the document transferring real property, he shall be entitled to a refund of such tax upon verification of his compliance with the requirements for such exemption.

"In case the person elects and is qualified to report the gain by installments under Section 43 of this Code, the tax due from each installment payment shall be paid within thirty (30) days from the receipt of such payments."

SEC. 5. Section 72 of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 72. Surcharges for failure to render returns; for rendering false and fraudulent returns; and for failure to file income tax returns in the proper revenue office.— In case of willful neglect to file the return or list required under this Title within the time prescribed by law, or in case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax or to the deficiency tax, in case any payment has been made on the basis of such return before the discovery of the falsity or fraud, a surcharge of fifty per centum of the amount of such tax or deficiency tax. The Commissioner shall add to the tax twenty-five per centum of its amount:

"(a) In case of any failure to make and file a return or list within the time prescribed by law or by the Commissioner or other internal revenue officer, not due to willful neglect, except that, when a return is voluntarily and without notice from the Commissioner or other officer filed after such time, and it is shown that the failure to file it was due to a reasonable cause, no such addition shall be made to the tax;

"(b) In case the return is filed with a person other than that mentioned in Sections 45 (b) and 86 of this Code; and

"(c) In case the tax imposed under Section 34 (h) on capital gains realized from a deferred-payment sale where the vendor retained title to the property, or on gains on any installment payments, is not paid within the time prescribed in Section 51 (a) (4) of this Code.

"The amount so added to any tax shall be collected at the same time in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

SEC. 6. Any individual who realized capital gains from a sale, exchange or other disposition of real property prior

to the effectivity of this Act but has not yet reported the same or a portion thereof for income tax purposes may elect to declare such gains and pay the tax thereon without penalty nor civil or criminal liability, within one (1) year from the effectivity of this Act, at the rates prescribed in Section 34 (h) of the National Internal Revenue Code, as amended by this Act, in the same manner as provided therein. The Minister of Finance, upon the recommendation of the Commissioner of Internal Revenue, shall promulgate rules and regulations necessary to implement the provisions of this Section.

SEC. 7. The Minister of Finance shall, within 30 days after approval of this Act, promulgate rules and regulations to implement the provisions of this Act.

SEC. 8. This Act shall take effect upon its approval.

Approved, September 7, 1979.

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