

AN ACT AMENDING CERTAIN PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE OF 1977 AS AMENDED, AND FOR OTHER PURPOSES.

BATAS PAMBANSA BLG. 135, December 18, 1981

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Be it enacted by the Batasang Pambansa in session assembled:

SECTION 1. Section 21 of the National Internal Revenue Code of 1977, as amended, is hereby further amended to read as follows:

"SEC. 21. Rates of tax on citizens or residents.— (a) On taxable compensation income.—A tax is hereby imposed upon the taxable compensation income as determined in Section 28 (a) received during each taxable year from all sources by every individual, whether a citizen of the Philippines or alien residing in the Philippines, determined in accordance with the following schedule:

Not over P2,500

0%

Over P 2,500 but not over P 5,000

1%

Over P 5,000 but not over P 10,000

P 25 + 3% of excess over P 5,000

Over P 10,000 but not over P 20,000

P 175 + 7% of excess over P 10,000

Over P 20,000 but not over P 40,000

P 875 + 11% of excess over P 20,000

Over P 40,000 but not over P 60,000

P 3,075 + 15% of excess over P 40,000

Over P 60,000 but not over P 100,000

P 6,075 + 19% of excess over P 60,000

Over P100,000 but not over P 250,000

P 13,675 + 24% of excess over P 100,000

Over P250,000 but not over P 500,000

P 49,676 + 29% of excess over P250,000

Over P500.000

$P122,175 + 35\%$ of excess over P500.000

"(b) On taxable net income.—A tax is hereby imposed upon the taxable net income as determined in Section 29 (a) received during each taxable year from all sources by every individual, whether a citizen of the Philippines, or an alien residing in the Philippines determined in accordance with the following schedule:

Not over P 10,000

5%

Over P 10,000 but not over P 30,000

$P 500 + 15\%$ of excess over P 10,000

Over P 30,000 but not over P 150,000

$P 3,500 + 30\%$ of excess over P 30,000

Over P150.000 but not over P 500,000

$P 39,500 + 45\%$ of excess over P150,000

Over P 500,000

$P197.000 + 60\%$ of excess over P 500,000

" (c) On royalties, prizes and other winnings.—Royalties, prizes (except prizes amounting to Three thousand pesos or less which shall be subject to tax under paragraph (b)) and other winnings (except Philippine Charity Sweepstakes winnings) received by citizens and resident alien individuals shall be subject to a final tax at the rate of fifteen per centum (15%) on the total amount thereof, which shall be collected and paid as provided in Sections 53 and 54 of this Code.

"(d) On interest from bank deposits and yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements.—Interest from Philippine Currency Bank deposits and yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements whether received by citizens of the Philippines or by resident alien individuals, shall be subject to the final tax as follows: (a) fifteen per centum (15%) of the interest on savings deposits, and (b) twenty per centum (20%) of interest on time deposits and yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements, which shall be collected and paid as provided in Sections 53 and 54 of this Code: Provided, That no tax shall be imposed if the aggregate amount of the interest on all Philippine Currency deposit accounts maintained by a depositor alone or together with another in any one bank at any time during the taxable period does not exceed One thousand pesos (P1,000.00) a year or Two hundred fifty pesos (P250.00) per quarter: Provided, further, That if the recipient of such interest is exempt from income taxation, no tax shall be imposed and that, if the recipient is enjoying preferential income tax treatment, then the preferential tax rates so provided shall be imposed.

"(e) On dividends and share of individual partner in the net profits of taxable partnership.—Dividends received by an individual who is a citizen of the Philippines or resident alien from a domestic corporation and the share of an individual partner in a partnership subject to tax under Section 24 (a) shall be subject to a final tax at the rate of fifteen per centum (15%) on the total amount thereof, which shall be collected and paid as provided in Sections 53 and 54 of this Code.

"(f) On adjusted gross income—A tax is hereby imposed upon the adjusted gross income derived by a non-resident citizen from all sources without the Philippines during each taxable year computed in accordance

with the following schedule:

If the amount subject to tax is:

Not over U.S. \$6,000.00

1%

Over U.S. \$6,000.00 but not over U.S. \$20,000.00

U.S. \$60 plus 2% of excess over U.S. \$6,000

Over U.S. \$20,000

U.S. \$340 3% of excess over U.S. \$20,000

For purposes of this paragraph, 'adjusted gross income' means the gross income from all sources without the Philippines less the following:

"(1) An allowance for personal exemption in the amount of Two thousand dollars (U.S. \$ 2,000), if the person making the return is a single or a married person legally separated from his or her spouse; or Four thousand dollars (U.S. 4,000), if the person making the return is married or head of the. family, as defined in Section 23 of this Code and

"(2) The total amount of the national income tax actually paid to the government of the foreign country of his residence.

"Every non-resident citizen availing of the special rates provided herein is required to support his declaration of gross income, exemption and deductions claimed by attaching to his Philippine income tax return a copy of the income tax return he has filed with the government of the foreign country of his residence."

SEC. 2. Section 22 of the said Code is hereby amended to read as follows:

"SEC. 22. Tax on non-resident alien individuals.—(a) Non-resident aliens engaged in trade or business within the Philippines. (1) In general.—Non-resident aliens engaged in trade or business in the Philippines shall be subject to tax in the same manner as resident citizens and aliens on taxable compensation income and/or other taxable net income received from all sources within the Philippines, except capital gains realized from buying and/or selling shares of stock of Philippine corporations listed in the dollar or any foreign currency board of stock exchange: Provided, That for purposes of this Title, a non-resident alien individual who shall come to the Philippines and stay therein for an aggregate period of more than one hundred eighty days during any calendar year shall be deemed a non-resident alien, doing business in the Philippines, the provision of Section 20 (g) of this Code to the contrary notwithstanding.

"(2) Dividends, share in the net profits of a taxable partnership, interest, royalties, prizes and other winnings, etc.—Dividends from a domestic corporation, share in the net profits of a partnership taxable under Section 24 (a), interest, royalties (in any form) and prizes (except prizes amounting to P3,000 or less which shall be subject to tax under paragraph (b) of Section 21) and other winnings (except Philippine Charity Sweepstakes winnings), shall be subject to a final tax of thirty per centum (30%) on the total amount thereof, which shall be collected and paid as provided in Sections 53 and 54 of this Code.

"(b) Non-resident alien not engaged in trade or business within the Philippines.—There shall be levied, collected and paid for each taxable year upon the entire income received from all sources within the Philippines by every non-resident alien individual not engaged in trade or business within the Philippines as interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical or casual gains, profits, and income, and capital gains (except capital gains

real-ized from buying and/or selling shares of stock of Philippine corporations listed in the dollar or any acceptable foreign currency board of any stock exchange), a tax equal to thirty per centum (30%) of such income.

"(c) Aliens employed by regional or area headquarters of multinational corporations.—There shall be levied, collected and paid for each taxable year upon the gross income received by every alien individual employed by regional or area headquarters established in the Philippines by multinational corporations as salaries, wages, annuities, compensations, remunerations and other emoluments, such as honoraria and allowances, from such regional or area headquarters a tax equal to fifteen per centum (15%) of such gross income: Provided, That the activities of the said regional headquarters or area headquarters shall be limited to acting as supervisory, communications and coordinating center for their affiliates, subsidiaries or branches of such multinational corporations. For purposes of this chapter, the term 'multinational corporation' means a foreign firm or entity engaged in international trade with affiliates or subsidiaries or branch offices in the Asia Pacific Region.

"(d) Aliens employed by offshore banking units.— There shall be levied, collected and paid for each taxable year upon the gross income received by every alien in-dividual employed by offshore banking units established in the Philippines as salaries, wages, annuities, compen-sations, remunerations and other emoluments, such as honoraria and allowances, from such offshore banking units a tax equal to fifteen per centum (15%) of such gross income.

"(e) Aliens employed by petroleum service contractors and subcontractors.—Aliens who are permanent residents of a foreign country but who are employed and assigned in the Philippines by service contractors or by subcontractors engaged in petroleum operations in the Philippines shall be liable to a final income tax equal to fifteen per centum (15%) of the salaries, wages, annuities, compensations, remunerations and other emoluments such as honoraria and allowances, received from such contractors or subcontractors. Any income earned from all other sources within the Philippines by the said alien employees shall be subject to the income tax imposed under the National Internal Revenue Code."

SEC. 3. Section 23 of the said Code is hereby amended to read as follows:

"SEC. 23. Amount of personal exemptions allowable to individuals.—For the purpose of the tax provided in this Title, there shall be allowed in the nature of a deduction from the amount of gross compensation income and/or net income, as the case may be, the following personal exemptions:

"(a) Personal exemption of single individuals.—The sum of Three thousand pesos (P3,000.00), if the person making the return is a single person or a married person judicially decreed as legally separated from his or her spouse.

"(b) Personal exemption of married persons or heads of family.—The sum of Six thousand pesos (P6,000.00), if the person making the return is a married man or a married woman, or Four thousand five hundred pesos (P4,500.00), if the person making the return is the head of a family: Provided, That only one exemption of Six thousand pesos (P6,000.00) shall be made from the aggregate income of both husband and wife when not legally separated. For the purposes of this section, the term head of the family' means an unmarried man or woman with one or both parents, or with one or more brothers or sisters, or with one or more legitimate, recognized natural, or adopted children living with and dependent upon him or her for their chief support where such brothers, sisters, or children are not more than twenty-one years of age, unmarried, and not gainfully employed, or where such children are incapable of self-support because of mental or physical defect.

"(c) Additional exemption for dependents.—The sum of Two thousand pesos (P2,000.00) for each legitimate, recognized natural or adopted child wholly dependent upon and living with the taxpayer if such dependents are not more than twenty-one years of age, unmarried, and not gainfully employed or if they are incapable of self-support because of mental or physical defect. The additional exemption under this subsection shall be allowed only if the person making the return is either married or head of the family: Provided, however, That

the total number of dependents for which additional exemptions may be claimed shall not exceed four dependents: Provided, further, That an additional exemption of One thousand pesos (P1,000.00) shall be allowed for each child who otherwise qualified as dependent prior to January 1, 1980.

"In the case of an individual who derives compensation and other incomes, the amount of personal and additional exemptions granted under this section shall be deducted first from the gross compensation income. Any excess thereof shall be deducted from other income.

"(d) Change of status.—If the taxpayer married or should have additional dependents as defined in subsection (c) above during the taxable year, the taxpayer may claim the corresponding personal and additional exemption, as the case may be, in full for such year.

"If the taxpayer should die during the taxable year, his estate may still claim the personal and additional exemptions for himself and his dependents as if he died at the close of such year.

"If the spouse or any of the dependents should die or if any of such dependents becomes twenty-one years old during the taxable year, the taxpayer may still claim the same exemptions as if they died, or if such dependents become twenty-one years old at the close of such year.

" (e) Allowances for adjustment.—Upon the recommendation of the Minister of Finance, the President may not more often than once every three years, adjust the personal and additional exemptions taking into account, among others, the movements in consumer price indices, levels of minimum wages, and bare subsistence levels.

"(f) Personal exemptions allowable to non-resident alien individuals.—A non-resident alien individual engaged in trade or business in the Philippines shall be entitled to personal exemption in an amount equal to the exemptions allowed by the income tax law of the country of which he is a subject or citizen to citizens of the Philippines not residing in such country, but not to exceed the amount fixed in this section as exemption for citizens or residents of the Philippines: Provided, That said non-resident alien should file a true and accurate return of the total income received by him from all sources in the Philippines, as required by this Title."

SEC. 4. The title of Chapter IV is hereby amended to read as follows:

"Chapter IV.—Computation of taxable compensation income and taxable net income."

SEC. 5 Section 28 of said Code is hereby amended to read as follows:

"SEC. 28. Taxable compensation income.—(a) Computation For purposes of determining the tax prescribed in section 21 (a), 'taxable compensation income' is gross compensation income as defined in paragraph (b) hereof, less the personal and additional exemptions allowed under Section 23.

"(b) 'Gross compensation income' defined.—'Gross compensation income' includes all income payments received as a result of an employer-employee relationship such as, salaries, wages, honoraria, bonuses, pensions, allowances for transportation, representation, entertainment, fees (including director's fees) and other income of similar nature, including compensation paid in kind: Provided, however, That payments made by a general professional partnership to a partner for services rendered shall not be considered as gross compensation income but as a partner's distributive share of ordinary business income.

"(c) Exclusion from gross compensation income.—The following are excluded from the computation of gross compensation income:

"(1) Actual, moral, exemplary and nominal damages received by the employee or his heirs pursuant to a final judgment or compromise agreement arising out of or related to an employer-employee relationship.

"(2) All items excluded under paragraphs (c) (1) to (c) (8), inclusive, of Section 29."

SEC. 6. Section 29 of said Code is hereby amended to read as follows:

"SEC. 29. Taxable net income.— (a) Computation.—For purposes of determining the tax prescribed in Section 21 (b) and Section 24, 'taxable net income' is gross income as defined in paragraph (b) hereof, less the deductions allowed by Section 30 and, in the case of individuals, the personal and additional exemptions allowed under Section 23.

"(b) 'Gross income' defined.—'Gross income' includes gains, profits, and income derived from professions, vocations, trades, business, commerce, sales, or from dealings in property, whether real or personal, or growing out of the ownership or use of property or any interest therein; and from interest, rents, dividends, securities, or the transactions of any business carried on for gain or profit, or gains, profits and income of whatever kind and in whatever form derived from any source: Provided, however, That gross compensation income and items of gross income subject to the final income tax under this Title shall not be included in 'gross income'.

"(c) Exclusions from gross income.—The following items shall not be included in gross income and shall be exempt from taxation under this Title:

"(1) Life Insurance.—The proceeds of life insurance policies paid to the heirs or beneficiaries upon the death of the insured, whether in a single sum or otherwise, but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

"(2) Amount received by insured as return of premium. —The amount received by the insured, as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

"(3) Gifts, bequests, and devises.—The value of property acquired by gift, bequest, devise, or descent; but the income from such property shall be included in gross income.

"(4) Interest on Government securities.—Interest upon the obligations of the Government of the Republic of the Philippines or any political subdivisions thereof, but in the case of such obligations issued after the approval of this Code, only to the extent provided in the act authorizing the issue thereof.

"(5) Compensation for injuries or sickness.—Amounts received, through Accident or Health Insurance or under Workmen's Compensation Acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness.

"(6) Income exempt under treaty.—Income of any kind, to the extent required by any treaty obligation binding upon the Government of the Philippines.

"(7) Retirement benefits, pensions, gratuities, etc.— "(A) Retirement benefits received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer: Provided, That the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty years of age at the time of his retirement: Provided, further, That the benefits granted under this subparagraph shall be availed of by an official or employee only once. For purposes of this subsection, the term 'reasonable private benefit plan' means a pension, gratuity, stock bonus or profit-sharing plan maintained by an employer for the benefit of some or all of his officials or employees, wherein contributions are made by such employer for officials and employees, or both, for the purpose of distributing to such officials and employees the earnings and principal of the fund thus accumulated, and wherein it is provided in said plan that at no time shall any part of the corpus or income of the fund be used for, or be diverted to, any purpose other than for the exclusive benefit of the said officials and employees.

"(B) Any amount received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer due to death, sickness or other

physical disability or for any cause beyond the control of the said official or employee.

"(C) The provisions of any existing law to the contrary notwithstanding, social security benefits, retirement gratuities, pensions and other similar benefits received by resident or non-resident citizens of the Philippines or aliens who come to reside permanently in the Philippines from foreign government agencies and other institutions, private or public.

"(D) Payments of benefits due or to become due to any person residing in the Philippines under the laws of the United States administered by the United States Veterans Administration.

"(E) Payments of benefits made under the Social Security Act of 1954, as amended.

"(F) Benefits received from the GSIS and the retirement gratuity received by government officials and employees.

"(8) Miscellaneous items.— (A) Income received from their investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on their deposits in banks in the Philippines by (1) foreign governments, (2) financing institutions owned, controlled, or enjoying refinancing from them, and (3) international or regional financing institutions established by governments.

"(B) Income derived from any public utility or from the exercise of any essential governmental function accruing to the Government of the Philippines or to any political subdivision thereof.

"(C) Income derived as rewards under Republic Act Numbered Twenty-three hundred and thirty-eight, as amended by Presidential Decree No. 707.

"(D) Interest earned from deposits maintained with a bank under the expanded foreign currency deposit system."

SEC. 7. Section 30 of said Code is hereby amended to read as follows:

"SEC. 30. Deductions from gross income—In computing net income there shall be allowed as deductions.—

"(a) Expenses.— (1) Business expenses.— (A) In general.—All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; travelling expenses while away from home in the pursuit of a trade, profession or business, rentals or other payments required to be made as a condition to the continued use or possession, for the purpose of the trade, profession or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

"(B) General requirements for entertainment, amusement or recreation.—No deductions otherwise allowable under this paragraph shall be allowed for any item—

"(i) Activity.—With respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, unless the taxpayer establishes that the item was directly related to, or, in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), that such item was associated with, the active conduct of the taxpayer's trade, profession or business, or

"(ii) Facility.—With respect to a facility used in connection with an activity referred to in subparagraph (A), unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade, profession or business.

"For purposes of applying this subparagraph, dues or fees paid to any social, athletic or sporting club or organization shall be treated as items with respect to facilities.

"In no case shall an entertainment, amusement or recreational expense which is contrary to law, public policy or for immoral purposes be allowed as a deduction.

"(C) Substantiation required.—No deduction shall be allowed under the preceding subparagraph (B) unless the taxpayer substantiates with official receipts or by adequate records or by sufficient evidence corroborating his own statement (i) the amount of such expense or other item, (ii) the date and place of entertainment, amusement, or recreation, (iii) the professional or business purpose of the expense or other items and (iv) the professional or business relationships to the taxpayer of the persons entertained or using the facility. The Minister of Finance may by regulations provide that some or all of the requirements in the preceding sentence shall not apply in the case of an expense which does not exceed an amount prescribed pursuant to such regulations.

"(2) Expenses allowable to non-resident alien individuals and foreign corporations.—In the case of a non-resident alien individual or a foreign corporation, the expenses deductible are the necessary expenses paid or incurred in carrying on any business or trade conducted within the Philippines exclusively.

"(3) Expenses allowable to private educational institutions.—In addition to the expenses allowable as deductions under paragraph (1) of this subsection, a private educational institution, whether stock or non-stock, shall also be allowed to deduct during the taxable year when they incurred expenses for the expansion of school facilities to be determined by rules and regulations issued jointly by the Ministries of Education and Culture and of Finance.

"(b) Interest:

"(1) In general.—The amount of interest paid or accrued within a taxable year on indebtedness incurred in connection with the taxpayer's profession, trade or business, except on indebtedness incurred or continued to purchase or carry obligations the interest upon which is exempt from taxation as income under this Title: Provided, however, That interest on deposits paid by authorized agent banks of the Central Bank of the Philippines to depositors shall be allowed as a deduction only if it is shown that the tax on such interest was withheld and paid in accordance with the provisions of Sections 53 and 54 of this Code.

"(2) Interest allowable to non-resident aliens.—In the case of a non-resident alien individual or a foreign corporation, the amount of interest allowable is the proportion of the amount of interest paid within the year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations, the interest upon which is wholly exempt from taxation as income under this Title, which the gross amount of income for the year derived from sources within the Philippines bears to the gross amount of income derived from all sources within and without the Philippines; but this deduction shall be allowed only if such non-resident alien individual or foreign corporation includes in the return required by this Title all the information necessary for its calculation.

"(3) No deduction shall be allowed in respect of interest otherwise deductible under the preceding subparagraphs—

"(A) If within the taxable year an individual taxpayer reporting income on the cash basis incurs an indebtedness on which an interest is paid in advance through discount or otherwise: Provided, however, That such interest shall be allowed as a deduction in the year the indebtedness is paid: and Provided, further, That if the indebtedness is payable in periodic amortizations, the amount of interest which corresponds to the amount of the principal amortized or paid during the year shall be allowed as deduction in such taxable year.

"(B) If both the taxpayer and the person to whom the payment has been made or is to be made are persons specified within any one of the paragraphs of subsection (b) of Section 31.

"(C) If the indebtedness is incurred to finance petroleum exploration.

"(c) Taxes:

"(1) In general—Taxes paid or accrued within the taxable year in connection with the taxpayer's profession, trade or business, except—

(A) The income tax provided for under this Title;

“(B) Income, war-profits, and excess-profits taxes imposed by authority of any foreign country; but this deduction shall be allowed in the case of a taxpayer who does not signify in his return his desire to have to any extent the benefits of paragraph (3) of this subsection (relating to credits for taxes of foreign countries);

"(C) Estate and gift taxes;

"(D) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed; and

"(E) Electric energy consumption tax imposed by Batas Pambansa Blg. 36.

"(2) Limitations on deductions.—

"(A) In the case of a non-resident alien individual and a foreign corporation, the deductions for taxes provided in paragraph (1) of this subsection (c) shall be allowed only if and to the extent that they are connected with income from sources within the Philippines; and

"(B) In the case of a citizen of a foreign country residing in the Philippines whose income from sources within such foreign country is not taxable under this Title, only that portion of the taxes paid to such foreign country which corresponds to his net income taxable under this Title shall be allowed as deduction.

"(3) Credit against tax for taxes of foreign countries — If the taxpayer signifies in his return his desire to have the benefits of this paragraph, the tax imposed by this Title shall be credited with—

"(A) Citizen and domestic corporation.—In the case of a citizen of the Philippines and of a domestic corporation, the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country;

"(B) Alien resident of the Philippines.—In the case of an alien resident of the Philippines, the amount of any such taxes paid or accrued during the taxable year to any foreign country; if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes allows a similar credit to citizens of the Philippines residing in such country; and

(C) Partnerships and estates.—In the case of any such individual who is a member of a general professional partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the general professional partnership or the estate or trust paid or accrued during the taxable year to a foreign country, if his distributive share of the income of such partnership or trust is reported for taxation under this Title.

"(D) Non-resident aliens and foreign corporations.— Non-resident alien individuals and foreign corporations shall not be allowed the credits against the tax for the taxes of foreign countries allowed under this paragraph.

"(4) Limitations on credit.—The amount of the credit taken under this section shall be subject to each of the following limitations:

"(A) The amount of the credit in respect to the tax paid or accrued to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources within such country under this Title bears to his entire net income for the same taxable year; and

"(B) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the Philippines taxable under this Title bears to

his entire net income for the same taxable year.

"(5) Adjustments on payment accrued taxes.—If accrued taxes, when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner of Internal Revenue, who shall redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the Commissioner, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer. In the case of sum a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as he may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such re-determination. The bond herein prescribed shall contain such further conditions as the Commissioner may require.

"(6) Year in which credit taken.—The credits provided for in paragraph (3) of this subsection may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year in which the taxes of the foreign country accrued, subject, however, to the conditions prescribed in paragraph (5) of this subsection. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country accrued, the credits for all subsequent years shall be taken upon the same basis, and no portion of any such taxes shall be allowed as a deduction in the same or any succeeding year.

" (7) Proof of credits.—The credits provided in paragraph (3) of this subsection shall be allowed only if the taxpayer establishes to the satisfaction of the Commissioner (1) the total amount of income derived from sources without the Philippines, (2) the amount of income derived from each country, the tax paid or accrued to which is claimed as a credit under said paragraph, such amount to be determined under rules and regulations prescribed by the Minister of Finance, and (3) all other information necessary for the verification and computation of such credits.

"(8) Taxes of foreign subsidiary.—For the purposes of this subsection a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country, upon or with respect to the accumulated profits of such foreign corporation from such dividends were paid which the amount of such dividend bears to the amount of such accumulated profits: Provided, That the amount of tax deemed to have been paid under this subsection shall in no case exceed the same proportion of the tax against which credit is taken which the amount of such dividends bears to the amount of the entire net income of the domestic corporation in which such dividends are included. The term 'accumulated profits' when used in this subsection in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war-profits, and excess-profits taxes imposed upon or with respect to such profits or income; and the Commissioner of Internal Revenue shall have full power to determine from the accumulated profits of what year or years such dividends were paid; treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings. In the case of a foreign corporation, the income, war-profits, and excess-profits taxes of which are determined on the basis of an accounting period of less than one year, the word 'year' as used in this subsection shall be construed to mean such accounting period.

"(9) Taxes of shareholder paid by corporation.—The deduction for taxes allowed by subsection (c) shall be allowed to a corporation in the case of taxes imposed upon a shareholder of the corporation upon his interest as shareholder which are paid by the corporation without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes.

"(d) Losses:

"(1) By individuals.—In the case of an individual, losses actually sustained during the taxable year and not compensated for by insurance or otherwise.

“(A) If incurred in trade, profession, or business: Provided, however, That a loss representing the excess over the income, of allowable expenses and other deductions directly or approximately attributable or related to the production or earning of such income from a particular line of business or activity, shall not be allowed as a deduction from or offset against income derived from other sources: Provided, further, That a net operating loss sustained in a particular line, of profession, business or activity within three years after the commencement of such business or activity may, in a manner prescribed by regulations promulgated by the Minister of Finance, be carried over as a deduction from the income derived from the same particular line of business or activity for two (2) consecutive years immediately following the year such loss was sustained, or

"(B) If incurred in any transaction entered into for profit, though not connected with the trade or business. The Minister of Finance, upon recommendation of the Commissioner of Internal Revenue, is hereby authorized to promulgate rules and regulations prescribing, among other things, the time and manner by which the taxpayer shall submit a declaration of loss sustained from casualty or from robbery, theft, or embezzlement during the taxable year: Provided, however, That the time limit to be so prescribed in the regulations shall not be less than 30 days nor more than 90 days from the date of the occurrence of the casualty or robbery, theft, or embezzlement giving rise to the loss.

"(2) By corporation.—In the case of a corporation, all losses actually sustained and charged off within the taxable year and not compensated for by insurance or otherwise.

"(3) By non-resident aliens or foreign corporations.—In the case of a non-resident alien individual or foreign corporation, the losses deductible are those actually sustained during the year incurred in business or trade conducted within the Philippines, and losses actually sustained during the year in transactions entered into for profit in the Philippines although not connected with their business or trade, when such losses are not compensated for by insurance or otherwise. The Minister of Finance, upon recommendation of the Commissioner of Internal Revenue, is hereby authorized to promulgate rules and regulations prescribing, among other things, the time and manner by which the taxpayer shall submit a declaration of loss sustained from casualty or from robbery, theft, or embezzlement during the taxable year: Provided, however, That the time to be so prescribed in the regulations shall not be less than 30 days nor more than 90 days from the date of the occurrence of the casualty or robbery, theft, or embezzlement giving rise to the loss.

"(4) Capital losses.—

"(A) Limitation.—Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in Section 34.

"(B) Securities becoming worthless.—If any securities as defined in Section 20 become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this Title, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

"(5) Losses on wash sales of stock or securities.—Losses on 'wash sales' of stock or securities as provided in Section 33.

"(6) Wagering losses.—Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

"(7) Abandonment Losses.— (A) In the event a contract area where petroleum operations are undertaken is partially or wholly abandoned, all accumulated exploration and development expenditures pertaining thereto shall be allowed as a deduction: Provided, however, That accumulated expenditures incurred in that area prior to January 1, 1979, shall be allowed as a deduction only from any income derived from the same contract area. In all cases, notices of abandonment shall be filed with the Commissioner of Internal Revenue.

"(B) In case a producing well is subsequently abandoned, the unamortized costs thereof, as well as the undepreciated costs of equipment directly used therein shall be allowed as a deduction in the year such well, equipment or facility is abandoned by the contractor: Provided, however, That if such abandoned well is reentered and production is resumed, or if such equipment or facility is restored into service, the said costs shall be included as part of gross income in the year of resumption or restoration and shall be amortized or depreciated, as the case may be.

"(e) Bad Debts:

"(1) In general.—Debts due to the taxpayer actually ascertained to be worthless and charged off within the taxable year except those not connected with profession, trade or business and those sustained in a transaction entered into between parties mentioned under subsection (b) of Section 31 of this Code.

"(2) Bad debts deductible by non-resident aliens or foreign corporations.—In the case of a non-resident alien individual or a foreign corporation, bad debts are deductible if they have arisen in the course of business or trade conducted within the Philippines and actually ascertained to be worthless and charged off within the year.

"(3) Securities becoming worthless.—If any securities as defined in Section 20 are ascertained to be worthless and charged off within the taxable year and are capital assets, the loss resulting therefrom shall, in the case of a taxpayer other than a bank or trust company incorporated under the laws of the Philippines a substantial part of whose business is the receipt of deposits, for the purpose of this Title, be considered as a loss from the sale or exchange, on the last day of such taxable year of capital assets.

"(f) Depreciation:

"(1) In general.—A reasonable allowance for deterioration of property arising out of its use or employment in the profession, business or trade, or out of its not being used: Provided, That when the allowance authorized under this subsection shall equal the capital invested by the taxpayer or, in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustees in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allowable to each.

"(2) Depreciation of properties used in petroleum operations.—An allowance for depreciation in respect to all properties directly related to production of petroleum initially placed in service in a taxable year under the straight-line or double-declining balance method of depreciation at the option of the service contractor. However, if the service contractor initially elects the double-declining method, it may, at any subsequent date, shift to the straight-line method. The useful life of properties used in or related to production of petroleum shall be ten (10) years or such shorter life as may be permitted by the Commissioner of Internal Revenue.

"Properties not used directly in the production of petroleum shall be depreciated under the straight-line method on the basis of an estimated useful life of five (5) years.

"(3) Depreciation deductible by non-resident aliens or foreign corporations.—In the case of a non-resident alien individual or foreign corporation, a reasonable allowance for the deterioration of property arising out of its use or employment or its non-use in the business or trade shall be permitted only when such property is located within the Philippines.

"(g) Depletion of oil and gas wells and mines:

"(1) In general.—In the case of oil and gas wells and mines, a reasonable allowance for depletion or amortization computed in accordance with the cost depletion method shall be granted under rules and regulations to be

prescribed by the Minister of Finance: Provided, That when the allowance shall equal the capital invested no further allowance, shall be granted: Provided, further, That after production in commercial quantities has commenced, certain intangible exploration and development drilling costs (i) shall be deductible in the year incurred if such expenditures are incurred for on-producing wells or (ii) shall be deductible in full in the year paid or incurred or, at the election of the taxpayer, may be capitalized and amortized, if such expenditures incurred are for producing wells in the same contract area.

"Intangible costs in petroleum operations refer to any costs incurred in petroleum operations which in itself has no salvage value and which is incidental to and necessary for the drilling of wells and preparation of wells for the production of petroleum: Provided, That said cost shall not pertain to the acquisition or improvement of property of a character subject to the allowance for depreciation except that the allowances for depreciation on such property, shall be deductible under this subsection.

"Any intangible exploration, drilling and development expenses allowed as a deduction in computing taxable income during the year shall not be taken into consideration in computing the adjusted cost basis for the purpose of computing allowable cost depletion.

(2) Election to deduct exploration and development expenditures.—In computing taxable income, the taxpayer may, at his option, deduct exploration and development expenditures accumulated as cost or adjusted basis for cost depletion as of January 1, 1973, as well as exploration and development expenditures paid or incurred during the taxable year: Provided, That the total amount deductible for exploration and development expenditures shall not exceed twenty-five per centum (25%) of the net income from mining operations computed without the benefit of any tax incentives under existing laws. This subparagraph shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation under Section 30 (f) (1) of this Code but the allowance for depreciation thereon shall be treated as expenditure.

"The election by the taxpayer to deduct the exploration and development expenditures is irrevocable and shall be binding in succeeding taxable years.

"In no case shall this paragraph apply with respect to amounts paid or incurred for the exploration and development of oil and gas. The term 'exploration expenditures' means expenditures paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, and paid or incurred before the beginning of the development stage of the mine or deposit. The term 'development expenditures' means expenditures paid or incurred during the development stage of the mine or other natural deposits. The development stage of a mine or other natural deposit shall begin at the time when deposits or ore or other minerals are shown to exist in sufficient commercial quantity and quality and shall end upon commencement of actual commercial extraction.

"(3) Depletion of oil and gas wells and mines deductible by a non-resident alien individual or foreign corporation.— In the case of a non-resident alien individual or a foreign corporation, allowance for depletion of oil and gas wells or mines under paragraph (1) shall be authorized only in respect to oil and gas wells or mines located within the Philippines.

"(h) Charitable and other contributions.—

"(1) In general.—Contributions or gifts actually paid or made within the taxable year to or for the use of the Government of the Philippines or any of its agencies or any political subdivision thereof for exclusively public purposes, or to domestic corporations or associations organized and operated exclusively for religious, charitable, scientific, youth and sports development, cultural or educational purposes or for the rehabilitation of veterans, or to social welfare institutions, no part of the net income of which inures to the benefit of any private stockholder or individual to an amount not in excess of six per centum (6%) in the case of an individual, and three per centum (3%) in the case of a corporation, of the taxpayer's taxable net income as computed without

the benefit of this and the following subparagraphs.

"(2) Contributions deductible in full.—Notwithstanding the provisions of the preceding subparagraph, donations to the following institutions or entities shall be deductible in full:

"(A) Donations to the Government.—Donations to the Government of the Philippines or to any of its agencies or political subdivisions including fully-owned government corporations exclusively to finance, to provide for, or to be used in undertaking priority activities in education, health, youth and sports development, human settlements, science and culture, and in economic development according to a national priority plan to be determined by the NEDA, in consultation with appropriate government agencies, including its regional development councils, and private philanthropic persons and institutions: Provided, however, That any donation which is made to the Government or to any of its agencies or political subdivisions not in accordance with the said annual priority plan shall be subject to the limitations prescribed in subparagraph (1) of this Section.

"(B) Donations to certain foreign institutions or international organizations.—Donations to foreign institutions or international organizations which are fully deductible in pursuance of or in compliance with agreements, treaties, or commitments entered into by the Government of the Philippines and the foreign institutions or international organizations or in pursuance of special laws.

"(C) Donations to certain private foundations.—The term 'private foundation' means a non-profit domestic corporation ;

" (i) Organized and operated exclusively for scientific, research, educational, character-building and youth and sports development, health, social welfare, cultural or charitable purposes or a combination thereof, no part of the net income of which inures to the benefit of any private individual ;

"(ii) Which, not later than the 15th day of the third month after the close of the foundation's taxable year in which contributions are received, makes utilization directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated, unless an extended period is granted by the Minister of Finance in accordance with the rules and regulations to be promulgated;

"(iii) The level of administrative expense of which shall on an annual basis conform with the rules and regulations to be prescribed by the Minister of Finance but in no case to exceed thirty per centum (30%) of total expenses;

"(iv) The assets of which in the event of dissolution would be distributed to another non-profit domestic corporation organized for similar purpose or purposes, or to the State for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of said court will best accomplish the general purpose for which the dissolved organization was organized.

"Subject to such terms and conditions as may be prescribed by the Minister of Finance, the term 'utilization' means:

"(i) any amount in cash or in kind (including administrative expenses) paid or utilized to accomplish one or more purposes for which the private foundation was created or organized.

"(ii) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes for which the foundation was created or organized.

"An amount set aside for a specific project which comes within one or more purposes of the foundation may be treated as a utilization, but only if, at the time such amount is set aside, the private foundation establishes to the satisfaction of the Commissioner of Internal Revenue that the amount will be paid for the specific project within a period to be prescribed in regulations to be promulgated by the Minister of Finance, but not to exceed 5 years, and the project is one which can be better accomplished by setting aside such amount than by

immediate payment of funds The Minister of Finance shall promulgate rules and regulations to implement this subparagraph.

"(3) Valuation.—Properties other than cash donated shall be valued in accordance with the rules and regulations prescribed by the Minister of Finance, in consultation with the appropriate government agencies.

"(4) Proof of deductions.—Contributions or gifts shall be allowable as deduction only if verified under the regulations prescribed by the Minister of Finance.

"(i) Conditions under which a non-resident alien individual may receive benefit of deductions.— A non-resident alien individual engaged in trade or business in the Philippines shall receive the benefit of the deductions provided for in this section only by filing or causing to be filed with the Commissioner of Internal Revenue a true and accurate return of his total income, received from all sources, corporate or otherwise, in the Philippines, in the manner prescribed by this Code; and in case of his failure to file such return the Commissioner of Internal Revenue shall collect the tax on such income.

"(j) Pension trusts.—General rule.—An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees shall be allowed as a deduction (in addition to the contributions to such trusts during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction and (2) is apportioned in equal parts over a period of ten consecutive years beginning with the year in which the transfer or payment is made.

"(k) Optional Standard Deduction.—In lieu of the deductions allowed under this section an individual subject to tax under Section 21 (b), other than a non-resident alien, may elect a standard deduction in an amount not exceeding ten per centum (10%) of his gross income. Unless the taxpayer signifies in his return his intention to elect the optional standard deduction, he shall be considered as having availed himself of the deductions allowed in the preceding subsection. The Minister of Finance shall proscribe the manner of the election. Such election when made in the return shall be irrevocable for the taxable year for which the return is made.

"(l) Additional requirement for deductibility of certain payments.—Any amount paid or payable which is otherwise deductible from, or taken into account in computing gross income for which depreciation or amortization may be allowed under this section and Section 29, shall be allowed as a deduction only if it is shown that the tax required to be deducted and withheld therefrom has been paid to the Bureau of Internal Revenue in accordance with this section, Sections 54 and 93 of this Code. (As amended by PD 1351, PD 1353, PD 1457)

"Notwithstanding the provisions of the preceding paragraphs, the Minister of Finance, upon recommendation of the Commissioner, after a public hearing shall have been held for this purpose may prescribe by regulations, limitations or ceilings for any of the itemized deduction under this section: Provided, That for purposes of determining such ceilings or limitations, the Minister of Finance shall consider the following factors: (1) adequacy of the prescribed limits on the actual expenditure requirements of each particular industry; and (2) effects of inflation on expenditure levels: Provided, further That no ceilings shall further be imposed on items of expense already subject to ceilings under present law."

SEC. 8. Section 45 of said Code is hereby amended to read as follows:

"SEC. 45. Individual returns.— (a) Requirements. —(1) The following individuals are required to file an income tax return, if they have a gross income of at least P3,000 for the taxable year.

"(A) Every Filipino citizen, whether residing in the Philippines or abroad, and

" (B) Every alien residing in the Philippines , regardless of whether the cross income was derived from sources

within or outside the Philippines .

"(2) Regardless of amount, every non-resident alien engaged in trade or business in the Philippines shall file an income tax return.

"The income tax return shall be filed in duplicate, and shall set forth specifically the gross amount of income from all sources, except that of non-resident aliens engaged in trade or business in the Philippines which shall contain only such income derived from sources within the Philippines : Provided, however, That in the case of an individual with compensation income taxable under Section 21 (a) and where the tax withheld thereon is final, a simplified return shall be filed with the Bureau of Internal Revenue either directly or through the employer.

"(3) Notwithstanding the provisions of the preceding paragraphs, an individual (except a non-resident alien engaged in trade or business in the Philippines) whose gross compensation income as defined under Section 28 (b) does not exceed his personal exemption of P3,000 if he/she is single or P6,000 if he/she is married or P4,500 if he/she is head of family, is not required to file an income tax return.

"(b) Where to file.—Except in cases where the Commissioner otherwise permits, the return shall be filed with the Revenue District Officer, Collection Agent, or duly authorized Treasurer of the Municipality in which such person has his legal residence or principal place of business in the Philippines, or if there be no legal residence or place of business in the Philippines, then with the Office of the Commissioner of Internal Revenue.

"(c) When to file.—The return of:

"(1) Residents of the Philippines, whether citizens or aliens, whose income had been derived solely from salaries, wages, interests, dividends, allowances, commissions, bonuses, fees, pensions, or any combination thereof shall be filed on or before the eighteenth day of March of each year, covering income for the preceding taxable year.

"(2) All other individuals not mentioned above, including non-resident citizens shall be filed on or before the fifteenth day of April of each year covering income of the preceding taxable year.

"Individuals subject to the final schedular tax on net capital gains from the sale or other disposition of real property 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.

"(d) Husband and Wife.—In the case of married persons, whether citizens, resident or non-resident aliens, only one consolidated return for the taxable year shall be filed by either spouse to cover the income of both spouses, but where it is impracticable for the spouses to file one consolidated return, each spouse may file his separate return of income, but the returns so filed shall be consolidated for the purpose of the tax prescribed under this Title.

"(e) Return of parent to include income of children.—The income of unmarried minors derived from property received from a living parent shall be included in the return of the parent, except (1) when the gift tax has been paid on such property, or (2) when the transfer of such property is exempt from gift tax.

"(f) Persons under disability.—If the taxpayer is unable to make his own return, the return may be made by his duly authorized agent or representative or by the guardian or other person charged with the care of his person or property, the principal and his representative or guardian assuming the responsibility of making the return and incurring penalties provided for erroneous, false or fraudulent returns.

" (g) Signature presumed correct.—The fact that an individual's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by him."

SEC. 9. Section 53 of said Code is hereby amended to read as follows:

"SEC. 53. Withholding of tax at source.— (a) Tax-free covenant bonds.—

"(1) Requirements of withholding.—In any case where bonds, mortgages, deeds of trust, or other similar obligations of domestic or resident foreign corporations, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed in this Title upon the obligee or to reimburse the obligee for any portion of the tax or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the Philippines, or any state or country, the obligor shall deduct and withhold a tax equal to thirty per centum (30%) of the interest or other payments upon those bonds, mortgages, deeds of trust, or other obligations, whether the interest or other payments are payable annually or at shorter or longer periods, and whether the bonds, securities or obligations had been or will be issued or marketed, and the interest or other payment thereon paid, within or outside the Philippines, if the interest or other payment is payable to a non-resident alien or to a citizen or resident of the Philippines.

" (b) Withholding tax on royalties, prizes and other winnings.—The tax imposed by Sections 21 (c) and 24 of this Code on royalties, prizes (except prizes amounting to Three thousand pesos or less which shall be subject to tax under paragraph (b) of Section 21) and winnings shall be withheld by the payor-corporation and/or person and paid in the same manner and subject to the same conditions as provided in Section 54 of the National Internal Revenue Code.

"(c) Withholding tax on dividends.—The tax imposed by Sections 21 and 24 (c) of this Code on dividends shall be withheld by the payor-corporation and paid in the same manner and subject to the same conditions as provided in Section 54 of this Code.

"(d) Withholding of final tax on interest on bank deposits, yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements.

"(1) Withholding of final tax.—Every bank or non-bank financial intermediary shall deduct and withhold from the interest on bank deposits or yield or any other monetary benefit from deposit substitutes a final tax equal to fifteen per centum (15%) of the interest on savings deposits and twenty per centum (20%) of the interest on time deposits or yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements: Provided, however, That no withholding tax shall be made if the aggregate amount of the interest on all deposit accounts maintained by a depositor alone or together with another in any one bank at any time during the taxable period does not exceed One thousand pesos (P1,000.00) a year or Two hundred fifty pesos (P250.00) per quarter. For this purpose, interest on a deposit account maintained by two persons shall be deemed to be equally owned by them.

"(2) Depositors or placers/investors enjoying tax exemption privileges or preferential tax treatment.—In all cases where the depositor or placer/investor is tax-exempt or is enjoying preferential income tax treatment under existing laws, the withholding tax imposed in this paragraph shall be refunded or credited as the case may be upon submission to the Commissioner of Internal Revenue of Proof that the said depositor, or placer/investor is a tax exempt entity or enjoys a preferential income tax treatment.

"(3) Manner of withholding.—Without divulging the names of the depositors, or placer/investors, the tax shall be withheld by the bank or non-bank financial intermediary and paid in the same manner and subject to the same conditions provided in Section 54 of this Code.

"(e) Non-resident, aliens and foreign corporations. Non-resident aliens.—Every individual, corporation, partnership, or association, in whatever capacity acting, including a lessee or mortgagor of real or personal property, trustee acting in any trust capacity, executor, administrator, receiver, conservator, fiduciary, employer, and every officer or employee of the Government of the Republic of the Philippines having the control, receipt, custody, disposal, or payment of interest, dividends, rents, royalties, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, or other fixed or determinate annual, periodical or casual gains, profits, and income, and capital gains, of any non-resident alien not engaged in trade or business within the

Philippines, shall (except in the cases provided in subsection (a) (1) of this section) deduct and withhold from the annual, periodical, or casual gains, profits, and income, and capital gains, a tax equal to thirty per centum (30%) thereof. This deduction and withholding shall not be required in the case of dividends paid by a foreign corporation unless (1) the corporation is engaged in trade or business within the Philippines, and (2) more than eighty-five per centum (85%) of the gross income of the corporation for the three-year period ending with the close of each taxable year preceding the declaration of the dividends (or for such part of the period as the corporation has been in existence) was derived from sources within the Philippines as determined under the provisions of Section 37. The Commissioner may authorize the tax to be deducted and withheld from the interest or other income upon any security or obligation the owners of which are not known to the withholding agent.

"(2) Non-resident foreign corporations.—In the case of foreign corporations subject to tax under this Title, not engaged in trade or business within the Philippines, there shall be deducted and withheld at the source in the same manner and upon the same items as provided in subsection (b) (1) of this section, as well as on remunerations for technical services or otherwise, a tax equal to thirty-five per centum (35%) thereof: Provided, That interest on foreign loans shall be subject to withholding tax of fifteen per centum (15%). This tax shall be returned and paid in the same manner and subject to the same conditions as provided in Section 54. This deduction and withholding shall not be required in the case of reinsurance premiums ceded to foreign insurance corporations not engaged in trade or business in the Philippines .

"(f) Other cases of withholding tax at source—The Minister of Finance may upon recommendation of the Commissioner of Internal Revenue, require also the withholding of a tax on the same items of income payable to persons (natural or juridical) residing in the Philippines by the same persons mentioned in paragraph (b) (1) of this section at the rate of not less than two and one-half per centum (2-1/2%) but not more than thirty-five per centum (35%) thereof which shall be credited against the income tax liability of the taxpayer for the taxable year."

SEC. 10. Section 58 of said Code is hereby amended to read as follows:

"SEC. 58. Exemption allowed to estates and trusts.— For the purpose of the tax provided for in this Title, there shall be allowed an exemption of Three thousand pesos from the income of the estate or trust."

SEC. 11. Section 61 of said Code is hereby amended to read as follows:

"SEC. 61. Fiduciary returns.—Guardians, trustees, executors, administrators, receivers, conservators, and all Persons or corporations, acting in any fiduciary capacity shall render, in duplicate, a return of the income of the person, trust, or estate for whom or which they act, and be subject to all the provisions of this Title, which apply to individuals in case such person, estate, or trust has a gross income of Three thousand pesos or over during the taxable year. Such fiduciary or person filing the return for him or it, shall take oath that he has sufficient knowledge of the affairs of such person, trust, or estate to enable him to make such return and that the same is, to the best of his knowledge and belief, true and correct and be subject to all the provisions of this Title which apply to individuals: Provided, That a return made by or for one or two or more joint fiduciaries filed in the province where such fiduciary resides, under such regulation.; as the Minister of Finance prescribe, shall be a sufficient compliance with the requirements of this section."

SEC. 12. Section 73 of said Code is hereby amended to read as follows:

"SEC. 73. Penalty for failure to file return or to pay tax —Any one liable to pay the tax, to make a return or to supply information required under this Code, who refuses or neglects to pay such tax, to make such return or to supply such information at the time or times herein specified in each year, shall be punished by a fine of not more than Two thousand pesos or by imprisonment for not more than six months, or both: Provided, however, That an individual with compensation income taxable under Section 21 (a) of this Code and where the tax withheld from such compensation income is final shall be exempt from the penalty for failure to pay the tax on

such compensation income and to file a return thereon at the designated period.

"Any individual or any officer of any corporation, or general co-partnership (compania colectiva), required by law to make, render, sign or verify any return or to supply any information, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this Code to be made, shall be punished by a fine of not less than Five thousand pesos and imprisonment of not less than two years."

SEC. 13. Section 77 of said Code is hereby amended to read as follows:

"SEC. 77. Information at source as to income payments.—All persons, corporations or duly registered co-partnerships (companias colectivas), in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees, acting in any trust capacity, executors, administrators, receivers, conservators, and employees making payment to another person, corporation, or duly registered general co-partnership (compania colectiva), of interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income, other than payment described in Sections 75 and 79, in any taxable year, or, in the case of such payments made by the Government of the Philippines, the officers or employees of the Government having information as to such payments and required to make returns in regard thereto, are authorized and required to render a true and accurate return to the Commissioner of Internal Revenue, under such rules and regulations and in such form and manner as may be prescribed by the Minister of Finance, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payments: Provided, That such returns shall be required, in the case of payments of interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, and in the case of collections of items, not payable in the Philippines, of interest upon the bonds of foreign countries and interest from the bonds and dividends from the stock of foreign corporations by persons, corporations, or duly registered general co-partnership (companias colectivas), undertaking as a matter of business or for profit or otherwise the collection of foreign payments of such interest or dividends by means of coupons or bills of exchange."

SEC. 14. Section 91 of said Code is hereby amended to read as follows:

"SEC. 91. Income tax collected at source.— (a) Requirement of withholding.—Every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with regulations to be prepared by the Minister of Finance. The tax withheld is a final tax, except where the personal circumstances or income of the taxpayer change within the taxable year or where the taxpayer has multiple employment.

"(b) Tax paid by recipient.—If the employer, in violation of the provisions of this chapter, fails to deduct and withhold the tax as required under this chapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this subsection shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

"(c) Refunds or credits.— (1) Employer.—When there has been an overpayment of tax under this section, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld hereunder by the employer.

"(2) Employees.—The amount deducted and withheld under this chapter during any calendar year shall be allowed as a credit to the recipient of such income against the tax imposed under the main provisions of this Title. Refunds and credits in cases of excessive withholding shall be granted under rules and regulations promulgated by the Minister of Finance.

"Any excess of the taxes withheld over the tax due from the taxpayer shall be returned or credited within three months from the fifteenth day of April. Refunds or credits made after such time shall earn interest at the rate, of six per centum (6%) per annum starting after the lapse of the three-month period to the date the refund or

credit is made.

"Refunds shall be made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of counter-signature by the Chairman, Commission on Audit or the latter's duly authorized representatives as an exception to the requirement prescribed by Section 621 of the Revised Administrative Code.

"(d) Personal exemptions.—

"(1) In general.—Unless otherwise provided by this chapter, the personal and additional exemptions applicable under this chapter shall be determined in accordance with the main provisions of this Title.

"(2) Exemption certificates.—

"(A) When, to be filed.—On or before the date of commencement of employment with an employer, or within ten days from the effectivity of this Code in case of persons already employed, the employee shall furnish the employer with a signed withholding exemption certificate relating to the personal and additional exemptions to which he is entitled.

"(B) Change of status.—In case of change of status of an employee as a result of which he would be entitled to a lesser amount of exemption, the employee shall, within ten days from such change, file with the employer a new withholding exemption certificate reflecting the change. If the change would entitle the employee to a greater amount of exemption, he may furnish the employer with a new withholding exemption certificate reflecting such change.

"(C) Use of certificates.—The certificates filed hereunder shall be used by the employer in the determination of the amount of taxes to be withheld.

"(D) Failure to furnish certificate.—Where an employee, in violation of this chapter, either fails or refuses to file a withholding exemption certificate, the employer shall withhold the taxes prescribed under the schedule for zero exemption of the withholding tax table in sub section (a).

" (e) Withholding on basis of average wages.—The Commissioner of Internal Revenue may, under regulations promulgated by the Minister of Finance, authorize employers (1) to estimate the wages which will be paid to an employee in any quarter of the calendar year, (2) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and (3) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be required to be deducted and withheld during such quarter without regard to this subsection.

" (f) Husband and wife.—When a husband and wife each are recipients of wages, whether from the same or from different employers, taxes to be withheld shall be determined on the following bases:

"(1) The husband shall be deemed the head of the family and proper claimant of the additional exemption in respect to any dependent children;

"(2) Taxes shall be withheld from the wages of the wife in accordance with the schedule for zero exemption of the withholding tax table in subsection (a).

"(g) Non-resident aliens.—Wages paid to non-resident alien individuals engaged in trade or business in the Philippines shall be subject to the provisions of this chapter."

SEC. 15. Rules and Regulations.—The Minister of Finance, upon recommendation of the Commissioner of Internal Revenue, shall within 90 days after approval of this Act, promulgate the necessary rules and regulations for the effective enforcement of this Act. Such regulation shall take effect following the completion of its

publication in two newspapers of general circulation in the Philippines .

SEC. 16. Repealing Clause.—All other laws, decrees, orders and regulations or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly: Provided, That incentives granted under Presidential Decree No. 1789 otherwise known as the Omnibus Investments Code, Presidential Decree No. 66, as amended, Presidential Decree No. 535 and other special laws of similar nature shall not be affected.

SEC. 17. Effectivity.—This Act shall take effect on January 1, 1982 , and shall be applicable to incomes earned beginning on such date.

Approved, December 18, 1981.

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