

AN ACT AMENDING THE ACT GRANTING A FRANCHISE TO PHILIPPINE AIRLINES, INC. OTHERWISE KNOWN AS PUBLIC ACT NO. 4271, AS AMENDED.

PRESIDENTIAL DECREE NO. 1294, January 27, 1978

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WHEREAS, the ownership, control, and management of Philippine Airlines, Inc. have been acquired by the Government;

WHEREAS, there is an urgent need to assist and support our National Flag Carrier in improving and expanding the domestic and international services it provides the general public and to make its operations financially sound and economically viable to effect the desired social and economic development of our country;

WHEREAS, because of the high cost of modern aircraft and other equipment which are necessary to adequately cope with the increasing domestic and international traffic demand and the inadequacy of domestic capital resources, Philippine Airlines, Inc. has to avail of foreign loans for the acquisition of such aircraft, machineries and equipment;

WHEREAS, the foreign lenders of such foreign loans invariably require Philippine Airlines, Inc. to assume payment of the corresponding tax on interests and charges on such loans;

WHEREAS, because of the high cost of modern flight equipment and inadequacy of local capital sources, the National Flag Carrier has to resort to leases of such flight equipment at prohibitive costs due to the imposition of the withholding and other taxes on the rentals payable to foreign lessors which invariably require Philippine Airlines to absorb and assume the payment of such taxes;

WHEREAS, it is a common practice in the international airline industry for airline companies to lease flight and other equipment;

WHEREAS, in order to assist the National Flag Carrier in maintaining a favorable competitive position vis-a-vis foreign airlines in the international routes, and to adequately meet the increasing demand of domestic and international traffic in line with the tourism program of the Government, it is necessary to make available to the National Flag Carrier foreign loans at the lowest possible cost and it becomes imperative that modern aircraft and other equipment be made available to Philippine Airlines, Inc. by reducing the cost of acquiring such aircraft and other equipment through lease arrangements.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and order the following:

SECTION 1. Section 13 of the Act shall be amended to read as follows:

"SEC. 13. In consideration of the franchise and rights hereby granted, the grantee shall be taxable as provided under subsections (a) or (b), hereunder whichever will result in a lower tax:

- A tax payable quarterly of 2% on the gross revenues of the grantee from domestic operations plus its gross

revenues derived from its outgoing freight and passenger operations; or

- The basic corporate income tax based on the grantee's worldwide income as provided under Section 24 (a) of the National Internal Revenue Code, it being understood that the corporate development tax as imposed by Presidential Decree No. 1158-A shall not apply to the grantee.

The tax paid by the grantee in any of the above alternatives shall be in lieu of all taxes, duties, fees, and licenses of any kind, nature or description, levied, established or collected by any municipal, provincial or National authority; Provided, That the grantee shall pay the tax on its real property in conformity with existing law."

SECTION 2. The Act is hereby amended by adding Section 25 which shall read as follows:

"SEC. 25. Foreign Loans. — The Corporation is hereby authorized to contract loans, credits in any convertible foreign currency or capital goods, and indebtedness from time to time from foreign governments, foreign banks or any international financial institutions or fund sources, or to issue bonds, on such terms and conditions as it shall deem appropriate for the accomplishment of its purposes and to enter into and execute agreements and other documents specifying such terms and conditions.

The loans, credits, and indebtedness contracted under this Section by the grantee, and the payment of the principal, interests, and other charges thereon shall be exempt from withholding tax provided that the liability for the payment of the taxes on such interests and other charges has been assumed by the grantee.

The Republic of the Philippines hereby guarantees payment of both the principal and the interest of the foreign loans, bonds, debentures, collaterals, notes or such other obligations issued or incurred by the grantee by virtue of the preceding paragraph and shall pay such principal and interest in case the grantee fails to do so. In such event, the Republic of the Philippines shall succeed to all the rights of the holders of such bonds, debentures, collaterals, notes or other instruments to the extent of the payment made, unless the sum so paid by the Republic of the Philippines shall be refunded by the grantee within a reasonable time".

SECTION 3. The Act is further amended by adding Section 26 which shall read as follows:

"SEC. 26. Rental on Leased Aircraft and Equipment. — All rentals, fees or charges paid to foreign lessors by the grantee for the lease of aircraft, engines, and other equipment shall be exempt from all taxes, provided that the liability for said taxes has been assumed by the grantee.

The term "foreign lessor" shall be construed to apply to a foreign corporation, whether resident or nonresident, which enters into a lease contract with the grantee for the lease of aircraft, engines, and other equipment wherein the rentals, fees, or charges are denominated or payable in foreign currency."

SECTION 4. All acts, decrees, orders, instructions, and rules and regulations or parts thereof which are inconsistent herewith are hereby revoked or modified accordingly.

SECTION 5. This Act shall take effect immediately and shall form part of the law of the land.

Done in the City of Manila, this 27th day of January, in the year of Our Lord, nineteen hundred and seventy-eight.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JACOBO C. CLAVE

Presidential Executive Assistant

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