

AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE.

PRESIDENTIAL DECREE No. 1773, January 16, 1981

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WHEREAS, the taxpaying public has been persistently and incessantly clamoring for upward adjustment of the personal and additional exemptions;

WHEREAS, inflation has increased the cost of living and has effectively pushed otherwise nontaxable, low-income individuals beyond the threshold of exemption, thereby justifying the demand for increase in personal and additional exemptions;

WHEREAS, it is also necessary to re-structure and improve the progressivity of the graduated income tax rates in order to make the tax system more equitable not only as a source of revenue but also as a social instrument for redistribution of wealth and income;

WHEREAS, it is necessary to amend further certain provisions of the National Internal Revenue Code in order to strengthen the enforcement powers of the Bureau of Internal Revenue;

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

SECTION 1. Section 7 of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby further amended to read as follows:

“Power of the Commissioner of Internal Revenue to Obtain Information, Examine, Summon and Take Testimony.

“(a) From government officers or agencies. When it comes to the knowledge of the Commissioner of Internal Revenue that certain offices or officers of the National and Local governments such as the Office of the Register of Deeds, the Securities and Exchange Commission, the Philippine Patent Office, the Government Service Insurance System, the Social Security System, the Philippine Medical Care Commission, mayors and treasurers and others, possess valuable information for discovery of potential taxpayers, the Commissioner or his authorized representative shall obtain that information upon proper request from the offices or officers concerned. It shall be the duty of those offices or officers to furnish the desired information within thirty days from receipt of the request of the Commissioner of Internal Revenue or his authorized representative.

“(b) From other persons. For the purpose of ascertaining the correctness of any return where none has been made, determining the liability of any person for any internal revenue tax or collecting any such liability, the Commissioner or his authorized representative is empowered.

“(1) To examine any book, paper, or record, or other data which may be relevant or material to such inquiry;

“(2) To summon any person having possession, custody, or care of books of accounts containing entries, or of any information relating to the tax liability of any person to appear before the Commissioner or his authorized representative at a time and place specified in the summons and to produce such books, papers, records, or other

data, and to give testimony; and

“(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.”

“Any person who neglects or refuses to obey such summons, or to produce books, papers, records or other data, or give testimony, as required, shall be liable to the penalties prescribed by Section 337 hereof.”

SEC. 2. Section 16 of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby further amended to read as follows:

“Sec. 16. Power of the Commissioner of Internal Revenue to make assessments.

“(a) Failure to submit required reports, statements, etc. When a report required by law as a basis for the assessment of any national internal revenue tax shall not be forthcoming within the time fixed by law or regulation, or when there is reason to believe that any such report, is false, incomplete, or erroneous, the Commissioner of Internal Revenue shall assess the proper tax on the best evidence obtainable.

“(b) Authority to conduct surveillance. The Commissioner of Internal Revenue may place the business operations of any person, natural or juridical, under observation or surveillance for a period of two months if there are reasons to believe that such person is not declaring his correct income and receipts for internal revenue tax purposes. The findings for this period may be used as a basis for assessing the taxes for the other months or quarters of the same or different taxable years and such assessment shall be deemed prima facie correct.

“(c) Authority to terminate taxable period. When it shall come to the knowledge of the Commissioner of Internal Revenue that a taxpayer is retiring from the business subject to tax or intends to leave the Philippines, or remove his property therefrom, or hide or conceal his property, or perform any act tending the proceedings for the collection of the tax for the past or current quarter or year, or render the same totally or partly ineffective unless such proceedings are begun immediately, the Commissioner of Internal Revenue shall declare the tax period of such taxpayer terminated at any time and shall send the taxpayer a notice of such decision, together with a request for the immediate payment of the tax for the period so declared terminated and the tax for the preceding year or quarter, or such portion thereof as may be unpaid, and said taxes shall be due and payable immediately and shall be subject to all the penalties hereafter prescribed, unless paid within the time fixed in the demand made by the Commissioner of Internal Revenue.

SEC. 3. Paragraphs (a), (b) and (c) of Section 23 of the National Internal Revenue Code are hereby amended to read as follows:

“(a) Personal exemptions of single individuals. The sum of Three thousand pesos, 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, if the person making the return is a married man or a married woman, or Four thousand five hundred pesos if the person making the return is the head of a family: Provided, That only one exemption of Six thousand pesos shall be made from the aggregate income of both husband and wife when not legally separated. For the purpose 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 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 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 shall be allowed for each child who otherwise qualified as dependent prior to January 1, 1980.”

SEC. 4. Section 23 is further amended by inserting a new paragraph between paragraphs (d) and (e) to be known as paragraph (e) and making the existing paragraph (e) as paragraph (f). The new paragraph shall read as follows:

“Sec. 23(e). Allowances for Adjustment. Upon the recommendation of the Minister of Finance, the President may, not 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.”

SEC. 5. Paragraph (a) of Section 24 (b) (2) of the National Internal Revenue Code, as amended by Presidential Decree No. 1705 is hereby renumbered as paragraph (i) and paragraph (b) of the same Sub-section is hereby renumbered as paragraph (ii) and amended to read as follows:

“(ii) Tax on branch profits remittances. Any profit remitted abroad by a branch to its head office shall be subject to a tax of fifteen per cent (15%) (except those registered with the Export Processing Zone Authority): Provided, That any profit remitted by a branch to its head office authorized to engage in petroleum operations in the Philippines shall be subject to tax at seven and one-half per cent (7.5%): And Provided, Further, That interests, dividends, rents, royalties, including remunerations for technical services, salaries, wages, premiums, annuities, emoluments or other fixed or determinable annual, periodical or casual gains, profits, income, and capital gains received by a foreign corporation during each taxable year from all sources within the Philippines shall not be considered as branch profits unless the same are effectively connected with the conduct of its trade or business in the Philippines.”

SEC. 6. Paragraph (e) of Section 24 of the National Internal Revenue Code is hereby amended to read as follows:

“(e) Corporate Development Tax. In addition to the tax imposed in subsection (a) of this Section, an additional tax in an amount equivalent to 10% of the same taxable net income shall be paid by a domestic or a resident foreign corporation which qualifies as a closely-held corporation as defined herein: The term “closely-held corporation” means any corporation, (a) at least 50% in value of the outstanding stock or (b) at least 50% of the total combined voting power of all classes of stock entitled to vote, at any time during the taxable year, is owned directly or indirectly by or for not more than five persons, natural or juridical. For the purpose of determining whether an individual indirectly owns shares of stock in a corporation, the attribution rules prescribed by paragraphs (b) and (c) of Section 66 of this Code shall be applied.

The additional corporate income tax imposed in this Subsection shall be collected and paid at the same time and in the same manner as the tax imposed in subsection (a) of this Section.

“The foregoing provisions shall not apply to banks, non-bank financial intermediaries or corporations organized primarily, and authorized by the Central Bank of the Philippines to hold shares of stock of banks unless (A) More than twenty (20%) per cent of all classes of stock entitled to vote of such corporation is held by (1) persons related to each other within the third degree of consanguinity or affinity, or (2) a corporation, the majority of the shares are owned by such related persons or (3) two or more corporations the majority of the shares are owned by the same person or so related persons.”

SEC. 7. Section 24(f) of the same Code is hereby amended to read as follows:

“(f) Tax on transactions by offshore banking units and under the expanded foreign currency deposits system.

“(1) Offshore Banking Units. The provisions of any law to the contrary notwithstanding, income derived by offshore banking units authorized by the Central Bank of the Philippines from foreign currency transactions with nonresidents, other offshore banking units, local commercial banks, including branches of foreign banks that may be authorized by the Central Bank to transact business with offshore banking units shall be exempt from all taxes except net income from such transactions as may be specified by the Minister of Finance, upon recommendation of the Monetary Board, to be subject to the usual income tax payable by banks: Provided, however, That any interest income derived from foreign currency loans granted to residents other than offshore banking units or local commercial banks, including local branches of foreign banks that may be authorized by the Central Bank of the Philippines to transact business with offshore banking units, shall be subject only to a 10% final withholding tax.”

“Any income of nonresidents from transactions with said offshore banking units shall be exempt from income tax.”

“(2) Expanded Foreign Currency Deposit System. Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transaction with nonresidents, offshore banking units in the Philippines, local commercial banks including branches of foreign banks that may be authorized by the Central Bank to transact business with foreign currency deposit system units and other depository banks under the expanded foreign currency deposit system shall be exempt from all taxes, except net income from such transactions as may be specified by the Minister of Finance, upon recommendation of the Monetary Board to be subject to the usual income tax payable by banks: Provided, however, That interest income from foreign currency loans granted by such depository banks under said expanded system to residents (other than offshore banking units in the Philippines or other depository banks under the expanded system) shall be subject to a 10% final withholding tax.”

“Any income of nonresidents from transactions with depository banks under the expanded system shall be exempt from income tax.”

SEC. 8. Subparagraphs (f) and (g) of Section 30(c) (1), of the National Internal Revenue Code which were added as new subparagraphs thereto by Presidential Decree No. 1705 are hereby designated as subparagraphs (F) and (G), respectively.

SEC. 9. Paragraph (k) of Section 30 of the National Internal Revenue Code is hereby amended to read as follows:

“(k) Optional standard deduction. In lieu of the deductions allowed under this section, an individual other than a nonresident alien, may elect a standard deduction in an amount not exceeding 10% per centum 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 prescribe 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.”

SEC. 10. A new paragraph is hereby added to Section 30 of the National Internal Revenue Code to read as follows:

“Notwithstanding the provisions of the preceding paragraphs, the Minister of Finance upon recommendation of the Commissioner, may for tax audit purposes prescribe by regulations, limitations or ceilings for any of the itemized deductions under this Section.”

SEC. 11. Paragraph (b) of Section 35 of the National Internal Revenue Code is hereby amended to read as follows:

“(b) In the case of property acquired on or after March first, nineteen hundred and thirteen, the cost thereof if such property was acquired by purchase or the fair market price or value as of the date of the acquisition if the same was acquired by inheritance. If the property was acquired by gift the basis shall be the same as it would be in the hands of the donor, or the last preceding owner by whom it was not acquired by gift, except that if such basis is greater than the fair market value of the property at the time of the gift then for the purpose of determining loss the basis shall be such fair market value.”

SEC. 12. Section 35(c) of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby amended to read as follows:

“(c) Exchange of property.

“(1) General rule. Except as herein provided, upon the sale or exchange of property, the entire amount of the gain or loss, as the case may be, shall be recognized.

“(2) Exception. No gain or loss shall be recognized if in pursuance of a plan of merger or consolidation (a) a corporation which is a party to a merger or consolidation exchanges property solely for stock in a corporation which is a party to the merger or consolidation (b) a shareholder exchanges stock in a corporation which is a party to the merger or consolidation solely for the stock of another corporation also a party to the merger or consolidation, or (c) a security holder of a corporation which is a party to the merger or consolidation exchanges his securities in such corporation solely for stock or securities in another corporation, a party to the merger or consolidation. No gain or loss shall also be recognized if property is transferred to a corporation by a person in exchange for stock in such a corporation of which as a result of such exchange said person, alone or together with others, not exceeding four persons, gains control of said corporation: Provided, That stocks issued for services shall not be considered as issued in return for property.

“(3) Exchange not solely in kind.

“(a) If, in connection with an exchange described in the above exceptions, an individual, a shareholder, security holder or corporation receives not only stock or securities permitted to be received without recognition of gain or loss, but also money and/or property, the gain, if any, but not the loss, shall be recognized but in an amount not in excess of the sum of the money and the fair market value of such other property received: Provided, That as to the shareholder, if the money and or other property received has the effect of a distribution of a taxable dividend, there shall be taxed as dividend to the shareholder an amount of the gain recognized not in excess of his proportionate share of the undistributed earnings and profits of the corporation; the remainder, if any, of the gain recognized shall be treated as a capital gain.

“(b) If, in connection with the exchange described in the above exceptions, the transferor corporation received not only stock permitted to be received without the recognition of gain or loss but also money and/or other property, then (1) if the corporation receiving such money and/or other property distributed it in pursuance of the plan of merger or consolidation, no gain to the corporation shall be recognized from the exchange, but (2) if the corporation receiving such other property and/or money does not distribute it in pursuance of the plan of merger or consolidation, the gain if any, but not the loss to the corporation shall be recognized but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not distributed.

“(4) Assumption of Liability. (a) If the taxpayer, in connection with the exchanges described in the foregoing

exceptions, receives stock or securities which would be permitted to be received without the recognition of the gain if it were the sole consideration, and as a part of the consideration, another party to the exchange assumes a liability of the taxpayer, or acquires from the taxpayer property subject to a liability, then such assumption or acquisition shall not be treated as money and or other property, and shall not prevent the exchange from being within the exceptions.

“(b) If the amount of the liabilities assumed, plus the amount of the liabilities to which the property is subject, exceed the total of the adjusted basis of the property transferred pursuant to such exchange, then such excess shall be considered as a gain from the sale or exchange of a capital asset or of property which is not a capital asset, as the case may be.

“(5) Basis. (a) The basis of the stock or securities received by the transferor upon the exchange specified in the above exception shall be the same as the basis of the property, stock or securities exchanged, decreased by (1) the money received, and (2) the fair market value of the other property received, and increased by (a) the amount treated as dividend of the shareholder and (b) the amount of any gain that was recognized on the exchange: Provided, That the property received as “boot” shall have as basis its fair market value: Provided, further, That if as part of the consideration to the transferor, the transferee of property assumes a liability of the transferor or acquires from the latter property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for purposes of this paragraph be treated as money received by the transferor on the exchange: Provided, finally, That if the transferor received several kinds of stock or securities, the Commissioner of Internal Revenue is hereby authorized to allocate the basis among the several classes of stocks or securities.

“(b) The basis of the property transferred in the hands of the transferee shall be the same as it would be in the hands of the transferor, increased by the amount of the gain recognized to the transferor on the transfer.

“(6) Definitions. (a) The term “securities” means bonds and debentures but not “notes” of whatever class of duration.

“(b) The term “merger” or “consolidation”, when used in this section, shall be understood to mean: (1) the ordinary merger or consolidation or (2) the acquisition by one corporation of all or substantially all the properties of another corporation solely for stock: Provided, That for a transaction to be regarded as a merger or consolidation within the purview of this section, it must be undertaken for a bonafide business purpose and not solely for the purpose of escaping the burden of taxation: Provided, further, That in determining whether a bonafide business purpose exists each and every step of the transaction shall be considered and the whole transaction or series of transactions shall be treated as a single unit: Provided finally, That in determining whether the property transferred constitutes a substantial portion of the property of the transferor, the term “property” shall be taken to include the cash assets of the transferor.

“(c) The term “control” when used in this Section shall mean ownership of stocks in a corporation possessing at least fifty-one per cent of the total voting power of all classes of stocks entitled to vote.

“(d) The Minister of Finance upon recommendation of the Commissioner of Internal Revenue is hereby authorized to issue rules and regulations for the purpose of determining the proper amount of transferred assets which meet the standard of the phrase “substantially all” and for the proper implementation of this section.”

SEC. 13. Section 45(c) of the National Internal Revenue Code as amended by Batas Pambansa Blg. 37 and Presidential Decree No. 1705, is hereby further amended to read as follows:

“(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.”

SEC. 14. Paragraph (b) of Section 54 of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby further amended to read as follows:

“(b) Penalties for failure to render returns; for rendering false or fraudulent returns; and for non-payment of taxes withheld. The surcharges and the penalties imposed in Sections Seventy-two and Seventy-three, respectively, of this Title shall apply to failure to file returns, to filing false or fraudulent returns or failure to pay the tax required under this Section.

In case the taxes deducted and withheld are not paid within the time prescribed, there shall be added to the amount of the unpaid tax a surcharge of twenty-five per centum plus interest at the rate of twenty per centum per annum from the date the same became due until paid.

If the withholding agent is the government or any of its agencies political subdivisions or instrumentalities, or a government-owned or controlled corporation, the employee thereof responsible for the withholding and remittance of the tax shall be personally liable for the surcharge and interest imposed herein.”

SEC. 15. Paragraph (b) of Section 72 of the National Internal Revenue Code as amended by Batas Pambansa Blg. 37, is hereby amended to read as follows:

“(b) In case the return is filed with a person other than that mentioned in Sections 45 (b) and 87 (a) of this Code; and”

SEC. 16. Section 96 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 96. Surcharges for failure to render returns; filing false or fraudulent returns; delinquency in payment of taxes; and failure to deduct and withhold.

“The surcharges and penalties prescribed in Sections 72 and 73 of this Title in cases of failure to render returns and for filing false or fraudulent returns shall apply to returns required under Sections 93 and 94.

“In case the taxes deducted and withheld by the employer are not paid within the time prescribed, there shall be added a surcharge of twenty-five per centum and interest at the rate of twenty per centum per annum from the time the same became due until paid.

“If the employer, in violation of the provisions of Section 91 hereof fails to deduct and withhold the tax required, he shall be liable to pay a surcharge of twenty five per centum. However, if the failure is due to willful neglect or with intent to defraud the government, a surcharge of fifty per centum shall be imposed. Interest at the rate of twenty per centum per annum shall likewise be imposed from the time the tax is required to be withheld until the date of assessment.

“If the withholding agent is the government or any of its agencies, political subdivisions, or instrumentalities, or is a government-owned or controlled corporation, the employee or officer thereof responsible for the withholding

and/or remittance of the tax shall be personally liable for the surcharge and interest imposed herein.”

SEC. 17. Paragraph (a) of Section 97 of the National Internal Revenue Code, is hereby amended to read as follows:

“(a) Penalties for failure to file; for filing false or fraudulent returns or statements; failure to deduct and withhold; and failure to remit. Any person who fails to file a return or statement as required in this Chapter, or who renders a false or fraudulent return, or who fails to deduct and withhold or fails to remit to the Commissioner of Internal Revenue the amount withheld by such agent, shall upon conviction, for each act or omission, be fined not less than One thousand pesos nor more than Two thousand pesos and imprisoned for not more than One year.”

SEC. 18. Paragraphs (b) and (d) of Section 105 of the National Internal Revenue Code as amended by Presidential Decree No. 1705, are hereby further amended to read as follows:

“(b) Time for filing. For the purpose of determining the estate tax provided for in Section 99 of this Code, the estate tax return required under the preceding subsection (a) shall be filed within nine months after the decedent’s death; but if judicial testamentary or intestate proceedings shall be instituted for the settlement of the decedent’s estate prior to the expiration of said period, the return shall be filed within twenty-one months after the decedent’s death.

“A certified copy of the schedule of partition and the order of the court approving the same shall be furnished the Commissioner of Internal Revenue by the Clerk of Court within thirty days after the promulgation of such order.

“(d) Place of filing. Except in cases where the Commissioner of Internal Revenue permits, the return required under subsection (a) shall be filed with the Revenue District Officer, Collection Agent or duly authorized treasurer of the city or municipality in which the decedent was domiciled at the time of his death or if there be no legal residence in the Philippines, then with the Office of the Commissioner of Internal Revenue.”

SEC. 19. Paragraph (a) of Section 107 of the National Internal Revenue Code is hereby amended to read as follows:

“(a) Time of payment. The estate tax imposed by Section 99 shall be paid at the time the return is filed by the executor, administrator or the heirs.”

SEC. 20. Section 111 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 111. Interest on extended payment.

“(a) Tax shown on the return. If the time for payment of the estate tax or any part thereof is extended as provided in subsection (b) of Section 107, there shall be collected, as part of such amount, interest thereon at the rate of twenty per centum per annum from the day following the due date of the tax to the expiration of the period of the extension.

“(b) Deficiency. In case an extension for the payment of a deficiency is granted for the payment there shall be collected, as a part of the tax, interest on the part of the deficiency, the time for the payment of which is so extended, at the rate of twenty per centum per annum for the period of the extension.”

SEC. 21. Section 112 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 112. Interest on deficiency. Interest upon the amount determined as a deficiency, assessed at the same time as the deficiency, shall be paid upon notice and demand from the Commissioner of Internal Revenue, and shall be collected as a part of the tax, at the rate of twenty per centum per annum, from the due date of the tax to the date the deficiency is assessed: Provided, That the maximum amount that may be collected as interest on deficiency

shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.”

SEC. 22. Paragraphs (a) and (b) of Section 113 of the National Internal Revenue Code and paragraph (c) of the same section amended by Presidential Decree No. 1705 are hereby further amended to read as follows:

“Sec. 113. Additions to the tax in case of nonpayment.

“(a) Tax shown on the return.

“(1) Payment not extended. Where the amount of the tax imposed by this Chapter, or any part of such amount is not paid on the due date of the tax, there shall be collected as part of the tax, interest upon such unpaid amount at the rate of twenty per centum per annum, from the due date until it is paid: Provided, That the maximum amount that may be collected as interest on delinquency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.

“(2) Payment extended. Where an extension of time for payment of the amount of the tax has been granted, and the amount, the time for the payment of which has been extended, and the interest thereon determined under subsection (a) of Section 111 is not paid in full prior to the expiration of the period of the extension, interest at the rate of twenty per centum per annum, shall be collected on such unpaid amount from the date the same was originally due until it is paid.

“(b) Deficiency.

“(1) Payment not extended. Where a deficiency, or any interest assessed in connection therewith under Section 112, or any addition to the taxes provided for in Section 114 is not paid in full within thirty days from the date of the notice and demand from the Commissioner, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of twenty per centum per annum from the date of such notice and demand until it is paid: Provided, That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.

“(2) Payment extended. If the part of the deficiency the time for payment of which is extended is not paid in accordance with the terms of the extension, there shall be collected, as part of the tax, interest on such unpaid amount at the rate of twenty per centum per annum from the date the same was originally due until it is paid.

“(c) Surcharge. If any amount of tax shown on the return is not paid in full on or before the date prescribed for its payment under paragraph (a) of this section, or any amount of deficiency, or any interest assessed in connection therewith is not paid in full within the period prescribed in the assessment notice and demand required under paragraph (b) of this section, there shall be collected in addition to the interest prescribed herein and in Sections 111 and 112 as part of the tax surcharge of ten per centum of the unpaid amount.”

SEC. 23. Section 121 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 121. Rates of tax payable by donor.

“(a) In general. The tax for each calendar year shall be computed on the basis of the total net gifts made during the calendar year, in accordance with the following schedule:

If the net gift is

The tax shall be

Over

But not Over

Exempt

Plus of Excess Over

P 1,000

P1,000

1.5%

P 1,000

50,000

50,000

735

2.5%

50,000

75,000

75,000

1,360

3%

75,000

100,000

100,000

2,110

6%

100,000

150,000

150,000

5,110

9%

150,000

200,000

200,000

9,610

12%

200,000

300,000

300,000

21,610

15%

300,000

400,000

400,000

36,610

18%

400,000

500,000

500,000

54,610

21%

500,000

625,000

625,000

80,860

24%

625,000

750,000

750,000

110,860

28%

750,000

875,000

875,000

145,860

32%

875,000

1,000,000

1,000,000

185,860

36%

1,000,000

2,000,000

2,000,000

545,860

38%

2,000,000

3,000,000

3,000,000

925,860

40%

3,000,000

“(b) Tax Payable by Donor if Donee is a Stranger. When the donee or beneficiary is a stranger, the tax payable by the donor shall be either the amount computed in accordance with the preceding paragraph (a) or twenty per cent (20%) of the net gifts, whichever is higher. For the purpose of this tax, a stranger is a person who is not a:

“(ii) Brother, sister (whether by whole or half blood), spouse, ancestor, and lineal descendant, or

“(iii) A relative by consanguinity in the collateral line within the fourth degree of relationship.”

SEC. 24. Section 122 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 122. Transfer for less than adequate and full consideration. Where property is transferred for less than an adequate and full consideration in money or money’s worth, then the amount by which the fair market value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this Chapter, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.”

SEC. 25. Section 126 (a) of the National Internal Revenue Code is hereby amended to read as follows:

“(a) Time and place of payment of tax. The donor’s tax imposed by Section 121 shall be paid at the time the return is filed. The tax shall be paid by the donor to the Revenue District Officer, Collection Agent or duly authorized treasurer of the city or municipality of which the donor was domiciled at the time of the transfer or if there is no legal residence in the Philippines, with the Office of the Commissioner of Internal Revenue.”

SEC. 26. Section 128 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 128. Interest on extended payments.

“(a) Tax shown on the return. If the time for the payment of the amount determined as the tax by the donor is extended under the authority of subsection (b) of Section 126 there shall be collected, as a part of such amount, interest thereon at the rate of twenty per centum per annum from the date when such payment should have been made if no extension had been granted until the expiration of the period of the extension.

“(b) Deficiency. In case an extension for the payment of a deficiency is granted, there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended at the rate of twenty per centum per annum, for the period of the extension.

SEC. 27. Section 129 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 129. Interest on deficiency. Interest upon the amount determined as deficiency, shall be paid upon notice and demand from the Commissioner, and shall be collected as a part of the tax, at the rate of twenty per centum per annum, from the due date of the tax to the date the deficiency is assessed. Provided, That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.”

SEC. 28. Section 130 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 130. Additions to the tax in case of nonpayment.

“(a) Tax shown on the return.

“(1) Payment not extended. Where the amount of the tax determined by the donor as the tax or any part of such amount is not paid on the due date of the tax, there shall be collected as part of the tax, interest upon such unpaid amount at the rate of twenty per centum per annum, from the due date until it is paid: Provided, That the maximum amount that may be collected as interest on delinquency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.”

“(2) Payment extended. Where an extension of the time for payment of the amount so determined as the tax by the donor has been granted, and the amount, the time for the payment of which has been extended and the interest thereon determined under subsection (a) of this Section 128 is not paid in full prior to the expiration of the period of the extension, interest at the rate of twenty per centum per annum, shall be collected on such unpaid amount from the date the same was originally due until it is paid.

“(b) Deficiency.

“(1) Payment not extended. Where a deficiency, or any interest assessed in connection therewith, or any addition to the tax provided for in Section 131 is not paid in full within thirty days from the date of the notice and demand from the Commissioner, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of twenty per centum per annum, from the date of such notice and demand until it is paid: Provided, That the maximum amount that may be collected as interest on delinquency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.

“(2) Payment extended. If any part of the deficiency the time for payment of which is extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of twenty per centum per annum, from the date the same was originally due until it is paid.

“(c) Surcharge. If any amount of tax shown on the return by the donor is not paid in full on or before the date prescribed for its payment under paragraph (a) of this section, or any amount of deficiency, or any interest assessed in connection therewith is not paid in full within the period prescribed in the assessment notice and demand required under paragraph (b) of this section, there shall be collected in addition to the interest prescribed herein and in Sections 128 and 129 and as part of the tax a surcharge of ten per centum of the unpaid amount.”

SEC. 29. Section 191 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 191. Interest on delinquency. Where the amount of the tax imposed under Section One hundred ninety-two, or any part of such amount, is not paid on the due date of the tax, there shall be collected, as part of the tax, interest upon such unpaid amount at the rate of twenty per centum per annum from the due date until it is paid.”

SEC. 30. Section 193 of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby further amended to read as follows:

“Sec. 193. Payment of percentage taxes.

“(a) In general. (1) Declaration and payment of quarterly gross sales, receipts, etc. Unless otherwise specifically provided it shall be the duty of every person conducting a business on which a percentage tax is imposed under this Title, to render a quarterly declaration on a cumulative basis of the amount of his, her or its gross sales, receipts or earnings or gross value of output actually removed from the factory or mill warehouse and to compute the tax due thereon.

“(i) For each of the first three quarters of the taxable year, the tax so computed shall be decreased by the amount of tax previously paid and by the sum of the tax credits allowed under this Title for the preceding and current quarters. The tax due shall be paid not later than twenty days following the close of each of the first three quarters of the taxable year: Provided, That any person retiring from a business subject to the percentage tax shall notify the nearest Internal Revenue Officer, file his return or declaration and pay the tax due thereon within twenty days after closing his business.

“(ii) Final Annual Percentage Tax Return.

On or before the twentieth day of the second month following the close of the taxable year, every person liable to tax under this Section shall file a final percentage tax return covering the total gross sales, receipts or earnings or gross value of output actually removed from the factory or mill warehouse for the preceding calendar or fiscal year. If the sum of the total quarterly percentage tax payments made for the first three quarters and the total tax credit allowed under this Title for the preceding taxable year are not equal to the total tax due on the entire gross sales, receipts or earnings or gross value of the output for that taxable year, the taxpayer shall either:

“(a) Pay the tax still due; or

“(b) Credit to the extent allowable under this Title, the amount excess tax credits shown on the final adjustment return against the quarterly percentage tax liabilities for the succeeding taxable quarters.

“For purposes of this Section, sales on consignment shall be considered actually sold on the day of sale or sixty days after the date consigned, whichever is earlier.

“(2) Where to file. Except in cases where the Commissioner otherwise permits, the percentage tax returns required to be filed in the preceding paragraph 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.

“(3) Ad valorem penalties.

“(i) Failure to file and pay the tax. If the percentage tax return is filed with a person other than that mentioned in the preceding subparagraph, or if the percentage tax on any business is not paid within the time specified above, the amount of the tax shall be increased by twenty-five per centum, the increment to be a part of the tax and the entire unpaid amount shall be subject to interest at the rate of twenty per centum per annum.

“(ii) Willful neglect to file, or filing false or fraudulent return. In case of willful neglect to file the return within the period prescribed herein, or in case a false or fraudulent return is willfully made, there shall be added 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 its amount and the entire unpaid amount shall be subject to interest at the rate of twenty per centum per annum. The amount so added to any tax shall be collected at the time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the falsity or fraud, in which case, the amount so added shall be collected in the same manner as the tax.

“(b) Sales tax on imported articles. When the articles are imported, the percentage taxes established in Sections 194, 195, 196, 197, 198, 199 and 201 of this Code shall be paid in advance by the importer, in accordance with the regulations promulgated by the Minister of Finance and prior to the release of such articles from Bureau of Custom’s custody, based on the home consumption value or price (excluding internal excise taxes) thereof, plus ten (10%) per cent of such home consumption value or price, including postage, commission, customs’ duty and all similar charges, except freight and insurance, to be declared in an importer’s return, plus One hundred per centum of such total value in the case of articles enumerated in Sections 194 and 195; fifty per centum in the case of articles under Sections 196 and 197; and twenty-five per centum in the case of articles under Sections 198, 199 and 201. The tax imposed in this section shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to specific tax: Provided, however, That where the National Economic and Development Authority certifies to the availability of local raw materials of sufficient quantity, comparable quality and price to meet the needs of manufacturers subject to specific tax the importation of such raw materials shall be subject to the tax herein imposed.

“(c) Value-Added Tax. The provisions of this Title to the contrary notwithstanding, when public interest so requires, the President upon recommendation of the Minister of Finance, may subject to the second sale of any article taxable under this Title to a value-added tax at rates not exceeding fifty per cent (50%) based on the gross selling price or gross value of any of the article sold, bartered, exchanged or transferred, less the cost of the article.”

SEC. 30. There is hereby inserted between Title VIII and Title IX of the National Internal Revenue Code a new Title to be known as “Title VIII-A, and a new Section to be known as Section 290-B.

“Title VIII-A. Flexibility Clause.”

“Sec. 290-B. Flexibility Clause.

“(1) In general. In the interest of the national economy and general welfare and subject to the limitations herein prescribed, the President upon recommendation of the Minister of Finance, is hereby empowered to make adjustments on all internal revenue taxes where such adjustments refer to the following:

“(a) Revision of rates;

“(b) Change in the classification of articles; and

“(c) Revision of taxable base including modification of the manner of computing the tax.

“The above authority may be exercised by the President if any of the following conditions exists:

“(a) When there is a need to obviate unemployment and economic and social dislocation;

“(b) Where, due to adverse economic conditions it becomes imperative to revise tax rates and/or taxable bases;

“(c) Where, in the interest of economic development it is necessary to redirect expenditure or consumption patterns;

“(d) Where, in the light of technological and social changes, it is necessary to change the classification of certain articles on the basis of the changed concepts of essentiality or the degree of manufacturing done;

“(e) Whenever by reason of fluctuation or currency values and/or inflation or deflation, the existing taxable base and/or price levels are no longer realistic or consistent with the current price levels;

“(f) Where, it is necessary to counter adverse economic action on the part of another country.

“(2) Specific limitations on the exercise of authority to make adjustments in all internal revenue taxes;

“(a) The existing tax rates may be increased or decreased by not more than 50%;

“(b) Before any recommendation is submitted to the President by the Minister of Finance pursuant to the provisions of this Section, a public hearing shall whenever practicable be held and interested parties afforded a reasonable opportunity to be heard.”

SEC. 32. Section 295 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 295. Authority of the Commissioner to compromise, abate, and refund/credit taxes. The Commissioner may

“(1) Compromise the payment of any internal revenue tax when

“(a) A reasonable doubt as to the validity of the claim against the taxpayer exists; or

“(b) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.

“(2) Abate or cancel a tax liability, when

“(a) The tax or any portion thereof appears to be unjustly or excessively assessed; or

“(b) The administration and collection costs involved do not justify the collection of the amount due.

“All criminal violations may be compromised except: (a) those already filed in court, and (b) those involving fraud.

“The Commissioner of Internal Revenue may delegate his power to compromise internal revenue cases, to the Deputy Commissioners and the Regional Directors, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated for the purpose.

“(3) Credit or refund taxes erroneously or illegally received, penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two years after the payment of the tax or penalty.”

SEC. 33. A new section to be known as Section 319-A, is hereby inserted between Sections 319 and 320 of the National Internal Revenue Code to read as follows:

“Sec. 319-A. Protesting of assessment. When the Commissioner of Internal Revenue or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings. Within a period to be prescribed by implementing regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner shall issue an assessment based on his findings.

“Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation in such form and manner as may be prescribed by implementing regulations within thirty (30) days from receipt of the assessment; otherwise, the assessment shall become final and unappealable.

“If the protest is denied in whole or in part, the individual, association or corporation adversely affected by the decision on the protest may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision; otherwise, the decision shall become final, executory and demandable.”

SEC. 34. Section 324 of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby amended to read as follows:

“Sec. 324. Preservation of books of accounts, and other accounting records. All the books of accounts including the subsidiary books, and other accounting records, of corporations, partnerships, or persons shall be preserved by them for a period beginning from the last entry in each books until the last day prescribed by Section 318 within which the Commissioner is authorized to make an assessment. The said books and records shall be subject to examination and inspection once only in a taxable year by internal revenue officers, except in the following cases:

“(a) Fraud, irregularity or mistakes as determined by the Commissioner;

“(b) The taxpayer requests reinvestigation;

“(c) Verification of compliance with withholding tax laws and regulations;

“(d) Verification of capital gains tax liabilities; and

“(e) In the exercise of the Commissioner’s power under Section 7(b) to obtain information from other persons si

in which case, another or separate examination and inspection may be made. Examination and inspection of books of accounts and other accounting records shall be done in the taxpayer’s office or place of business or in the office of the Bureau of Internal Revenue. All corporations, partnerships or persons that retire from business shall, within ten days from the date of retirement or within such period of time as may be allowed by the Commissioner in special cases, submit their books of accounts, including the subsidiary books and other accounting records to the Commissioner or any of his deputies for examination, after which they shall be returned. Corporations and partnerships contemplating dissolutions must notify the Commissioner and shall not be dissolved until cleared of any tax liability.

“Any provision of existing general or special law to the contrary notwithstanding, the books of accounts and other pertinent records of tax-exempt organizations or entities shall be subject to examination by the Bureau of Internal Revenue for the purpose of ascertaining whether such organizations or entities are complying with the conditions under which they have been granted tax exemptions and their tax liability, if any.”

SEC. 35. Section 331 of the National Internal Revenue Code is hereby amended to read as follows:

“Sec. 331. Informer’s reward to persons instrumental in the discovery of violations of the National Internal Revenue Code and in the discovery and seizure of smuggled goods.

“(1) For violations of the National Internal Revenue Code. Any person, except an internal revenue official or employee, or other public official, or his relative within the sixth degree of consanguinity, who voluntarily gives

definite and sworn information, not yet in the possession of the Bureau of Internal Revenue, leading to the discovery of frauds upon the internal revenue laws or violations of any of the provisions thereof, thereby resulting in the recovery of revenues, surcharges and fees and/or the conviction of the guilty party and/or the imposition of any fine or penalty, shall be rewarded in a sum equivalent to fifteen per centum of the revenues, surcharges or fees recovered and/or fine or penalty imposed and collected. The same amount of reward shall also be given to an informer where the offender has offered to compromise the violation of law committed by him and his offer has been accepted by the Commissioner and in such a case, the fifteen per centum reward fixed herein shall be based on the amount agreed upon in the compromise and collected from the offender: Provided, That should no revenue, surcharges or fees be actually recovered or collected, such person shall not be entitled to a reward: Provided, further, That the information mentioned herein shall not refer to a case already pending or previously investigated or examined by the Commissioner or any of his deputies, agents or examiners, or the Minister of Finance or any of his deputies or agents; Provided, finally, That the reward provided herein shall be paid under regulations issued by the Commissioner of Internal Revenue with the approval of the Minister of Finance.

“(2) For discovery and seizure of smuggled goods. To encourage the public and law-enforcement personnel to extend full cooperation in eradicating smuggling, a cash reward equivalent to fifteen per centum of the fair market value of the smuggled and confiscated goods shall be given to persons instrumental in the discovery and seizure of such smuggled goods.”

SEC. 36. Transitional Provisions. (1) In implementing the provisions of Section 27 of Presidential Decree No. 1705, a corporation using the fiscal year as its accounting period shall pay the fixed tax beginning 1981 in accordance with the following transition rules:

(a) On or before January 31, 1981, the proportion of the fixed tax prescribed in Section 192 of the National Internal Revenue Code which the number of months beginning January 1, 1981 and ending at the close of the taxpayer's fiscal year during 1981 bears to twelve months; and,

(b) On or before last day of the first month of the fiscal year which will begin in 1981, the full amount of fixed tax prescribed under the Tax Code.

(2) In implementing Section 46 (b) of the National Internal Revenue Code, as amended by Presidential Decree No. 1705, a partnership which has been filing its income tax return on the basis of the fiscal year shall file a fractional return for less than twelve months ending December 31, 1980 in order to effect the change from fiscal year to the calendar year basis beginning 1981. A separate income tax return shall likewise be filed by an individual partner covering distributive share in the net profit of the partnership as declared in its fractional return. The said individual partners separate return shall be filed on or before April 15, 1981 and the tax due thereon, if any, shall be paid on the same date: Provided, further, That if the total amount of income tax payable by the individual partner exceeds P10,000.00, the Minister of Finance may allow payment of the tax in installment with a period not to extend beyond November 30, 1981.

SEC. 36. Repealing Clause. The provisions of Republic Act Nos. 2338 and 4713, Presidential Decree Nos. 707 and 708, Sections 158-A, 193(c), 259-A and 281-A of the National Internal Revenue Code and all laws, rules and regulations or parts thereof inconsistent with the provisions of this Decree are hereby repealed or amended accordingly.

SEC. 37. Effectivity. This Decree shall take effect upon approval except Sections 3 and 9 hereof relating to the amendments of Sections 23 and 30 (K) of the National Internal Revenue Code, respectively, which shall take effect for the taxable year 1980.

Done in the City of Manila, this 16th day of January, in the year of Our Lord, nineteen hundred and eighty-one.

(Sgd.) FERDINAND E. MARCOS

President of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA

Presidential Executive Assistant

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