

IMPOSING FINAL INCOME TAX ON SUBCONTRACTORS AND ALIEN EMPLOYEES OF SERVICE CONTRACTORS AND SUBCONTRACTORS ENGAGED IN PETROLEUM OPERATIONS IN THE PHILIPPINES UNDER PRESIDENTIAL D...

PRESIDENTIAL DECREE NO. 1354, April 21, 1978

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WHEREAS, foreign subcontractors involved in petroleum operations in the Philippines are taxable as resident foreign corporations;

WHEREAS, the said foreign subcontractors perform transitory activities during the taxable year and neither maintain regular office or fixed place of business nor keep books of accounts in the Philippines;

WHEREAS, the aliens employed by the said service contractors and by their subcontractors are likewise taxable on their income from Philippine sources;

WHEREAS, it is also difficult to determine whether the said aliens are resident aliens or nonresident aliens engaged or not engaged in trade or business in the Philippines which in turn make it difficult to determine their income tax;

WHEREAS, it is therefore necessary to simplify the method of taxing the said foreign subcontractors and the aliens involved in petroleum operations in the Philippines so as to insure the collection of whatever tax that is due from them;

WHEREAS, in order to place local or domestic subcontractors on equal footing and to make them competitive with foreign subcontractors, they should similarly be taxed as foreign subcontractors;

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

SECTION 1. Tax on subcontractors. Every subcontractor, whether domestic or foreign entering into a contract with a service contractor engaged in petroleum operations in the Philippines shall be liable to a final income tax equivalent to eight percent (8%) of its gross income derived from such contract, such tax to be in lieu of any and all taxes, whether national or local: Provided, however, that any income received from all other sources within and without the Philippines in the case of domestic subcontractors and within the Philippines in the case of foreign subcontractors shall be subject to the regular income tax imposed under the National Internal Revenue Code. The term "gross income" means all income earned or received as a result of the contract entered into by the subcontractor with a service contractor engaged in petroleum operations in the Philippines under Presidential Decree No. 87.

SECTION 2. Taxation of aliens employed by petroleum service contractors and subcontractors. Aliens who are permanent residence 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 percent (15%) of the salaries, wages, annuities, compensations, remunerations and

emoluments 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.

SECTION 3. Manner of collecting the tax. (a) Every service contractor shall deduct, withhold, and pay the tax imposed in Section 1 of this Decree from the amounts paid by the service contractor to the subcontractor under the contract entered into by and between them in the same manner and subject to the same conditions as provided in Section 54 of the National Internal Revenue Code.

(b) Every service contractor shall also deduct, withhold and pay the tax imposed in Section 2 of this Decree from the salaries, wages, annuities, compensations, remunerations and emoluments paid to (1) its alien employees and (2) the aliens employed by its foreign subcontractors in the same manner and under the same conditions as provided in Section 54 of the National Internal Revenue Code.

(c) Every domestic subcontractor shall deduct, withhold and pay the tax imposed in Section 2 of this Decree from the salaries, wages, annuities, compensations, remunerations and emoluments paid to its alien employees in the same manner and under the same conditions as provided in Section 54 of the National Internal Revenue Code.

SECTION 4. Registration of service contracts. All contracts relating to oil operations entered into between the service contractor and a subcontractor engaged in petroleum operations in the Philippines shall be registered with the Bureau of Energy Development.

SECTION 5. Additional conditions for reimbursement of operating expense. The cost of subcontracts shall be considered as part of reimburseable operating expenses of the service contractor under Presidential Decree No. 87 only if it is shown that the contract has been properly registered with the Bureau of Energy Development and the taxes due under this Decree have been withheld and paid in accordance with the provisions of Sections 53 and 54 of the National Internal Revenue Code.

SECTION 6. Repealing Clause. Any provision of existing general and special laws inconsistent with the provisions of this Decree is hereby modified, amended or repealed accordingly.

SECTION 7. Effectivity.—This Decree shall take effect upon approval.

DONE in the City of Manila, this 21st day of April, 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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