

AN ACT AMENDING SECTIONS TWENTY-FOUR TWENTY-SIX, TWENTY-NINE, THIRTY-TWO, FORTY-NINE, FIFTY-THREE, FIFTY-FOUR AND EIGHTY-FOUR (b) OF THE NATIONAL INTERNAL REVENUE CODE, AS AMEND...

REPUBLIC ACT NO. 5431, June 27, 1968

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section twenty-four of Commonwealth Act Numbered Four hundred sixty-six, as amended, otherwise known as the National Internal Revenue Code, is further amended to read as follows:

"SEC. 24. Rates of tax on corporations.— (a) Tax on domestic corporations.— A tax is hereby imposed upon the taxable net income received during each tax able year from all sources by every corporation organized in, or under the laws of the Philippines, no matter how or organized, but not including duly registered general co-partnership (compañias colectivas) general professional partnerships, private educational institutions, and building and loan associations, in accordance with the following:

Twenty-five per cent upon the amount by which the taxable net income does not exceed one hundred thousand pesos; and

“Thirty-five per cent upon the amount by which the taxable net income exceeds one hundred thousand pesos.

"Private educational institutions other than exempt under Section twenty-seven (e) of this Code shall pay a tax of ten per cent of their taxable net income

"Building and loan associations operating in accordance with the General Banking Act shall pay a tax of twelve per cent of their taxable net income.

"(b) Tax on foreign corporations.— (l) Non-resident corporations.— A foreign corporation not engaged trade or business in the Philippines including a foreign life insurance company not engaged in the life insurance business in the Philippines shall pay a tax equal to thirty-five per cent of the gross income received during each taxable year from all sources within the Philippines, as interests, dividends, rents, royalties, salaries, wages, premiums, annuities, compensations, remunerations for technical services or otherwise, emoluments or other fixed or determinate annual, periodical or casual gains, profits, and income, and capital gains: Provided, however, That premiums shall not include reinsurance premiums.

"(2) Resident corporations.— A foreign corporation en-gaged in trade or business within the Philippines shall be taxable as provided in subsection(a) of this section.

"(c) Rates of tax on life insurance companies.— Life insurance companies shall be taxable as provided in this subsection or under subsections(a) or (b), as the case may be, whichever will result in a higher tax.

" (1) Domestic life insurance companies.— A tax is hereby imposed upon the net investment income received during each taxable year from all sources, whether from within or outside the Philippines, by every life insurance company organized in, or existing under the laws of, the Philippines, but not including a purely cooperative company or association as defined in this Code, at the of eight and three-fourths per cent upon that

income domestic life insurance company shall be exempt from income tax for a period of three years from the of issuance of its certificate of authority.

"For purposes of this paragraph, the 'net investment income' of a domestic life insurance company is its gross investment income derived from sources within and outside the Philippines, less its investment expenses.

(2) Foreign life insurance companies.—A foreign life insurance company engaged in the life insurance business in the Philippines shall pay the rate of tax provided in paragraph (1) of this subsection upon the net investment income received during each taxable year from all sources within the Philippines.

"For purposes of this paragraph, the 'net investment income from all sources within the Philippines' of a foreign life insurance company engaged in the life insurance business in the Philippines is that portion of us gross world investment income which bears the same ratio to that income as their total Philippine reserve bears to their total world reserve, less that portion of their total world investment expenses which bears the same ratio to those expenses as their total Philippine investment income bears to their total world investment income.

"For purposes of paragraphs(1)and (2)of this sub-section, 'gross investment income' means income received during the taxable year from rents,dividends,interest, and income from any other business than the life insurance business conducted by the company,including net capital gains as defined in Section thirty-four of this Code; 'investment expenses' means real estate expenses, depreciation (except to the extent that property is used or connected with its underwriting business), interest paid or accrued within the taxable year on indebtedness (except on indebtedness incurred to purchase or carry obligations the interest upon which is wholly exempt from taxation under existing laws), and such investment expenses paid or accrued during the taxable year as are ordinary and necessary in the conduct of its investment the conduct of its business other than the life insurance business.

"(d) The provisions of existing special or general laws to the contrary notwithstanding, all corporate taxpayers not specifically exempt under Sections twenty-four (1) and twenty-seven of this Code shall pay the rates provided in this section.All corporations, agencies instrumentalities owned or controlled by the. Governing including the Government Service Insurance System and the Social Security System but excluding educational institutions, shall pay such rate of tax upon their taxable net income as are imposed by this section upon associations or corporations engaged in a similar business or industry."

SEC. 2. Section twenty-six of the same Act is hereby further amended to read as follows:

"SEC. 26.Tax liability of members of duly registers general co-partners kips or of general professional partnerships.—Persons carrying on business in general co--partnership (compañía colectiva) duly registered in the mercantile registry,or those exercising a common pro-fession in general partnership, shall be liable for income tax only in their individual capacity,and the share in the profits of the registered general co-partnership(compañía colectiva) or in the general professional partnership to which any taxable partner would be entitled, whether distributed or otherwise,shall be returned for taxation and the tax paid in accordance with the provisions of this Title."

SEC. 3. Section twenty-nine of the same Act is hereby amended by adding a new subsection to read as follows:

"SEC. 29. Gross Income.—

"(a)General definition.—

"(b)Exclusions from gross income.—

"(c)Dividends received domestic corporations.—In the case of dividends received by a domestic dent foreign corporation from a domestic corporation both liable to the tax rates provided in the second and third paragraphs of Section twenty-four(a), only twenty-five per cent of such dividends shall be returnable for purposes

of the tax in the same paragraphs.”

SEC. 4. Section thirty-two of the same Act is hereby tended to read as follows:

"SEC 32. Special provisions regarding income and deductions of insurance companies, whether domestic or foreign.—(a) Special deductions allowed to insurance companies.—In the case of insurance companies, whether domestic or foreign,doing business in the Philippines, the net additions,if any,required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts may be deducted from their gross income: Provided, however,That the released reserve be treated as income for the year of release: Provided, further. That domestic life insurance companies and resident foreign life insurance companies shall pay the tax imposed under Section twenty-four(a) to be entitled to the special deductions allowed under this paragraph.

"(b) Mutual insurance companies.—

"(c) Mutual marine insurance companies.—Mutual marine insurance companies shall include in their return of gross income, gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums deviously paid by them, and interest paid upon those amounts between the ascertainment and payment thereof.

“(d) Assessment insurance companies.—Assessment insurance companies, whether domestic or foreign may deduct from their gross income the actual deposit of sums with the officers of the Government of the Philippines Pursuant to law, as additions to guarantee or reserve funds."

SEC. 5. Section forty-nine of the same Act is hereby amended to read as follows:

SEC. 49. Returns of duly registered general co-partnership or general professional partnerships.—Every duly registered general co-partnership(compañia colectiva) or general professional partnership shall file, in duplicate, return of its income, except income exempt under Section twenty-nine(b)of this Title, setting forth the item the gross income and the deductions allowed by this Title,and the names and addresses and shares of the partners."

SEC.6. Section fifty-three of the same Act is hereby amended to read as follows:

"SEC. 53. Withholding of tax at source.—(a)Tax-free covenant bonds.— (1) Requirement 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 obligor 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 of any state or country, the obligor shall deduct and withhold a tax equal to twenty-five per cent 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 short error 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.

“(2)Benefit of exemptions against net income.—The deduction and withholding required in subsection (a) (1) of this section shall not be required in the case citizen, resident alien, or non resident alien engage trade or business in the Philippines,entitled to received the interest or other payment, if that individual file with the withholding agent, on or before February first, a signed notice in writing claiming the benefit of the exemption provided in Section twenty-three of this Title.

(b) Nonresident aliens and foreign corporations.— (1) Nonresident 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 determinable annual, periodical, or casual gains, profits, and income, and capital gains, of any nonresident 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 twenty-five per cent 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 cent the gross income of the corporation for the three-year period ending with the close of its 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 determined under the provisions of Section thirty-seven. Commissioner of Internal Revenue 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 is provided in subsection (b) (1) of this section, as well on remunerations for technical services or otherwise, a tax equal thirty-five per cent thereof. This tax shall be returned and paid in the same manner and subject to the same conditions as provided in Section fifty-four. 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 Philippine.”

SEC.7. Section fifty-four of the same Act is herein amended to read as follows:

"SEC.54. Returns and payment of taxes with holding source.— (a) Quarterly return and payment of taxes with-held.—Taxes deducted and withheld under Section fifty-three shall be covered by a return and paid to the Commissioner of Internal Revenue or to his collection agent in the province, city, or municipality where the withholding agent has his legal residence or principal place of business, or where the withholding agent is a corporation, where the principal office is located. The taxes deducted and withheld by the withholding agent shall be held as a special fund in trust for the Government until paid to the collecting officers. The Commissioner of Internal Revenue may, with the approval of the Secretary of Finance, require these withholding agents to pay deposit the taxes deducted and withheld at more frequent intervals when necessary to protect the interest of the Government. The return shall be filed and the payment made within twenty-five days from the close of each calendar quarter.

"(b) Annual statements of income payments made taxes withheld.—Every withholding agent required to deduct and withhold taxes under Section fifty-three shall furnish each income recipient, in respect to his : during the calendar year, on or before January first of the succeeding year, a written statement showing the income payments made by the withholding agent during the calendar year, and the amount of the tax deducted and withheld therefrom.

"(c) Annual returns.—Every withholding agent required to deduct and withhold taxes under Section fifty-three shall submit to the Commissioner of Internal Revenue a statement of the total amount withheld during the year, with copies of the statement referred to in subsection (b) of this section, on or before January thirty-first of succeeding year. This return, if made and filed in accordance with regulations approved by the Secretary of Finance, shall be sufficient compliance with the requirements of Section seventy-seven of this Title in respect to the income payments.

"The Commissioner of internal Revenue may, by regulations, grant to any withholding agent a reasonable extension of time to furnish and submit the return required in this subsection.

"(d) Verification of returns.—The Commissioner of Internal Revenue may, by regulations, require that any return, statement, or other document required to be filed under this section or under regulations approved by

the Secretary of Finance, shall contain, or be verified by, a written declaration that it is made under the penalties of perjury, and this declaration shall be in lieu of any oath otherwise required.

"(e) Income of recipient.—Income upon which any tax is required to be withheld at the source under Section fifty-three shall be included in the return of its recipient but any amount of tax so withheld shall be credited the amount of income tax as computed in his return. If the income tax collected at source exceeds the tax due on his return, the excess shall be refunded to him subject to the provisions of Section three hundred nine; if the income tax collected at source is less than tax due on his return, the difference shall be paid in accordance with the provisions of Section fifty-one.

"(f) Tax paid by recipient.—If a tax required under Section fifty-three to be deducted and withheld is paid by the recipient of the income, it shall not be recollected from the withholding agent; nor in cases in which, tax is so paid shall, any penalty be imposed upon or collected from the recipient of the income or the holding agent for failure to return or pay the tax the failure was fraudulent and for the purpose of evading payment."

SEC. 8. Subsection (b) of Section eighty-four of same Act is hereby amended to read as follows:

"SEC. 84. Definitions.—When used in this Title

"(b) The term 'corporation' includes partnerships, no matter how created or organized, joint stock companies joint accounts (cuentas en participacion) associations or insurance companies, but does not include duly registered general co-partnerships (compañías colectivas) or general professional partnerships. General professional partnerships are partnerships formed by persons for the purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business."

SEC. 9. All special laws, acts and parts thereof, which are inconsistent with the provisions of this Act are hereby amended or repealed.

SEC. 10. The provisions of this Act shall apply to income for taxable years beginning after June thirty, nineteen hundred sixty-eight.

Approved, June 27, 1968.

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