

PROVIDING FOR THE TAX TREATMENT OF INTERCOMPANY DIVIDENDS, AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE FOR THE PURPOSE

PRESIDENTIAL DECREE NO. 369, January 09, 1974

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WHEREAS, it is imperative to adopt measures responsive to the requirements of a developing economy foremost of which is the financing of economic development programs;

WHEREAS, nonresident foreign corporations with investments in the Philippines are taxed on their earnings from dividends at the rate of 35%;

WHEREAS, in order to encourage more capital investment for large projects an appropriate tax need be imposed on dividends received by nonresident foreign corporations in the same manner as the tax imposed on interest on foreign loans;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby order and decree as follows:

SECTION 1. The first paragraph of subsection (b) of Section 24 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"(b) Tax on foreign corporations. — (1) Nonresident corporation. — A foreign corporation not engaged in 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 35% of the gross income received during its taxable year from all sources within the Philippines, as interest (except interest on foreign loans which shall be subject to 15% tax), dividends, rents, royalties, salaries, wages, premiums, annuities, compensations, remunerations for technical services or otherwise, emoluments or other fixed or determinable, annual, periodical or casual gains, profits, and income, and capital gains: Provided, however, That premiums shall not include reinsurance premiums: Provided, further, That cinematographic film owners, lessors, or distributors, shall pay a tax of 15% on their gross income from sources within the Philippines: Provided, still further, That on dividends received from a domestic corporation liable to tax under this Chapter, the tax shall be 15% of the dividends received, which shall be collected and paid as provided in Section 53(d) of this Code, subject to the condition that the country in which the nonresident foreign corporation is domiciled shall allow a credit against the tax due from the nonresident foreign corporation, taxes deemed to have been paid in the Philippines equivalent to 20% which represents the difference between the regular tax (35%) on corporations and the tax (15%) on dividends as provided in this Section: Provided, finally, That regional or area headquarters established in the Philippines by multinational corporations and which headquarters do not earn or derive income from the Philippines and which act as supervisory, communication and coordinating centers for their affiliates, subsidiaries or branches in the Asia-Pacific Region shall not be subject to tax."

SEC. 2. Subsection (d) of Section 24 of the National Internal Revenue Code, as amended by Presidential Decree

No. 299-A, is hereby further amended to read as follows:

"(d) Rate of tax on certain dividends. — Dividends received by a domestic or resident foreign corporation from a domestic corporation liable to tax under this Chapter shall be subject to tax at 8.75% on the total amount thereof, which shall be collected and paid as provided in Sections 53 and 54 of this Code."

SEC. 3. Subsection (d) of Section 53 of the National Internal Revenue Code, as amended by Presidential Decree No. 299-A, is hereby further amended to read as follows:

"(d) Withholding tax on certain dividends. — The tax imposed under Section 24 (b) (1) and (d) 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."

SEC. 4. The Commissioner of Internal Revenue shall promulgate the rules and regulations to implement this Decree subject to the approval of the Secretary of Finance.

SEC. 5. Effectivity. — This Decree shall take effect on January 1, 1974.

Done in the City of Manila, this 9th day of January, in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.) ROBERTO V. REYES

Assistant Executive Secretary

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