

AMENDING PRESIDENTIAL DECREE NO. 1352

PRESIDENTIAL DECREE NO. 1395, May 31, 1978

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WHEREAS, Presidential Decree No. 1352 was issued in accordance with the policy enunciated under Presidential Decree No. 776 to rationalize and harmonize the fiscal incentives granted under various existing laws for purposes of conserving government revenues;

WHEREAS, in line with such policy, it is necessary to clarify and/or amend the provisions thereof; and

WHEREAS, the importations of government agencies or instrumentalities are governed by Presidential Decree No. 1177 and therefore need not be subject to the provisions hereof;

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

SECTION 1. Presidential Decree No. 1352 is hereby amended to read as follows:

"SECTION 1. All importations which are at present totally or partially exempt from customs duties and/or internal revenue tax under the provisions of any general or special law shall be subject to a five (5%) percent customs duty and five (5%) percent internal revenue tax, subject to the same limitations and conditions prescribed under such law, if any.

"In the case of importations enjoying partial exemption, the said duty and tax shall be imposed on the exempt portion in addition to the duty and tax due on the taxable portion.

"The duty and tax imposed herein shall be computed in accordance with the applicable provisions of the Tariff and Customs Code of the Philippines, as amended, and the National Internal Revenue Code of 1977, as amended, respectively.

"The customs duty and internal revenue tax imposed under this section shall not apply to the following importations:

"1. Those which are exempt in pursuance of or in compliance with international treaties or commitments, such as the ADB-RP Host Agreement (1966); the 1947 Convention on Privileges and Immunities of the United Nations and its specialized agencies; the United States Agency for International Development-RP Agreement; the 1947 Military Bases Agreement; and other similar treaties or commitments;

"2. Those which are exempt under the following Presidential Decrees:

"(a) Presidential Decree No. 66;

"(b) Presidential Decree No. 87;

"(c) Presidential Decree No. 529;

"(d) Presidential Decree No. 215;

"(e) Presidential Decree No. 666; and

"(f) Presidential Decree No. 972.

"3. Importations of machinery, equipment and spare parts shipped with such machinery and equipment made by enterprises registered with the appropriate government agency, on or before April 21, 1978, under any tax incentive law, subject to the following conditions:

"(a) That the importation has been authorized by the appropriate government agency for the prosecution of specific projects already approved by the said agency as of April 21, 1978; and

"(b) That the herein exemption shall not be authorized beyond December 31, 1981.

"SEC. 2. The duty and tax imposed herein shall be paid before release of the imported articles from customs' custody.

"Where the corresponding tax incentive law authorized a deferral of the duty and internal revenue tax due from registered non-pioneer enterprises, the same privilege may be extended to registered pioneer enterprises by the appropriate implementing government agency.

"SEC. 3. Unless otherwise provided by law, in the case of importations subjected to the five (5%) percent customs duty and five (5%) percent internal revenue tax herein imposed which are subsequently sold, transferred or exchanged to non-exempt persons or entities, the purchaser shall be considered the importer thereof and shall be liable for the difference between the full customs duty and internal revenue tax due thereon based on the depreciated value of the article at time of sale, transfer or exchange and the five (5%) percent customs duty and five (5%) percent internal revenue tax previously paid. The duty and tax due on such article shall constitute a lien on the article itself, superior to all other charges or lien irrespective of the possessor thereof.

"SEC. 4. The pertinent provisions of the following laws are hereby repealed or amended accordingly:

"(a) Presidential Decree No. 218, as amended by Presidential Decree No. 348;

"(b) Presidential Decree No. 413;

"(c) Presidential Decree No. 440;

"(d) Presidential Decree No. 535;

"(e) Presidential Decree No. 538;

"(f) Presidential Decree No. 634;

"(g) Presidential Decree No. 992;

"(h) Presidential Decree No. 1159;

"(i) Republic Act No. 720;

"(j) Republic Act No. 1370;

"(k) Republic Act No. 2640;

"(l) Republic Act No. 3470, as amended;

"(m) Republic Act No. 5186, as amended;

"(n) Republic Act No. 6135, as amended; and

"(o) Other general and special laws, and special charters granting franchises.

"SEC. 5. The President may, in the interest of national economic development, upon recommendation of the Fiscal Incentives Review Board, restore any exemption benefit withdrawn under this Decree."

SEC. 2. The Secretary of Finance shall, upon the recommendation of the Commissioner of Customs and in consultation with the appropriate government agency, promulgate the necessary rules and regulations for the effective implementation of the provisions of this Decree.

SEC. 3. All laws, rules and regulations or parts thereof in sistent with the provisions of this Decree are hereby

repealed or amended accordingly.

SEC. 4. This Decree shall take effect upon approval. However, any duty and internal revenue tax already paid on importations mentioned in paragraph 3 of Section 1 hereof shall be recomputed in accordance with the provisions of this Decree.

DONE in the City of Manila this 31st day of May, 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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