

DECLARING THE BANKING INDUSTRY AS INDISPENSABLE TO THE GROWTH OF NATIONAL ECONOMY AND FOR OTHER PURPOSES.

PRESIDENTIAL DECREE NO. 1738, September 17, 1980

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WHEREAS, it is recognized that the attainment of development goals for industry and agriculture depends, to a large extent, on the capability of banks to sustain the investment and credit requirements of industrial and agricultural projects;

WHEREAS, to insure that funds are available for investment and credit requirements, there is a need to increase the resources of banks; and

WHEREAS, to create the ideal climate conducive to the increased capitalization of banks, certain changes in the fiscal regime appear warranted;

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

SECTION 1. The banking industry is hereby declared as indispensable to the growth of national economy and, the provisions of the National Internal Revenue Code to the contrary notwithstanding, gain realized from the following sales or exchanges of property for a period of five years from the date of approval of this Decree shall not be subject to tax:

- Gains arising from merger or consolidation whereby: (i) a bank, a non-bank financial intermediary or a finance company exchanges property solely for stock in another bank, a non-bank financial intermediary or a corporation organized primarily for the purpose of owning equity in banks and (ii) a shareholder exchanges stocks in a bank, a non-bank financial intermediary or a finance company solely for the stocks of another bank, a non-bank financial intermediary or a corporation organized primarily for the purpose of owning equity in banks: Provided, That the shares of stocks which are subject of the exchanges are not disposed of, transferred, assigned or conveyed, except in cases of transmission on account of death, within a period of five (5) years from the date of issue; otherwise all the taxes due including interest on the gains realized from the original transfer, sale or disposition of the assets shall immediately become due and payable, subject to the provisions of Section 51 (d) of the National Internal Revenue Code.

- Gains arising from the disposition of property, real or personal, that corresponds to the portion of the proceeds of the sale that is invested, within six (6) months from the date the gains were realized, in new issues of capital stock of banks, non-bank financial intermediaries existing as of the date approval of this Decree, or a corporation organized primarily for the purpose of owning equity in banks; Provided, (i) That the disposition and the investment of the proceeds thereof are registered with the Central Bank and the Bureau of Internal Revenue; and (ii) that the shares of stock representing the investments are not disposed of, transferred, assigned or conveyed, except in cases of transmission on account of death, within a period of five (5) years from the date of issue otherwise all the taxes due including interest on the gains realized from the original transfer, sale or disposition of the assets shall immediately become due and payable, subject to the provisions of Section 51 (d) of the National

Internal Revenue Code: Provided, further, That the final scheduler income tax income tax under the National Internal Revenue Code paid on gains from the disposition of real estate, that corresponds to the proceeds of the sale that is invested, shall be refunded by the Bureau of Internal Revenue within six (6) months from the date of payment but subject to the same conditions as in (i) and (ii) above.

- Gains realized from exchange of property, real or personal, for new issues of capital stock in banks or non-bank financial intermediaries existing as of the date of approval of this Decree, or a corporation organized primarily for the purpose of owning equity in banks if as a result of such exchange, the paid-in capital of such institution is increased: Provided, That the shares of stocks are not disposed of, transferred, assigned or conveyed, except in case of transmission on account of death within a period of five (5) years from the date of issue; otherwise all the taxes due including interest on the gains realized from the original sale or disposition of the assets shall immediately become due and payable, subject to the provisions of Section 51(d) of the National Internal Revenue Code.

For purposes of paragraphs (a), (b), and (c) above –

- Every original share of capital stock issued shall be stamped on its face with the words “EXEMPT UNDER PRESIDENTIAL DECREE NO.”, and no bank, non-bank financial intermediary or a corporation organized primarily for the purpose of owning equity in banks shall cause the transfer of ownership of the same in its stock and transfer book within five (5) years counted from the date of issue, without evidence of tax payment inclusive of interest. Any bank or corporate official who shall cause the transfer of ownership of shares of stock in its stock and transfer book contrary to the provisions of this Decree, shall be punished by a fine of not less than Five Thousand pesos and imprisonment of not less than two (2) years.

- a bank or a non-bank financial intermediary resulting from a consolidation or merger effective after April 1, 1980 of an existing bank, a non-bank financial intermediary or a corporation organized primarily for the purpose of owning equity in banks shall also be considered as a bank, non-bank financial intermediary or a corporation primarily organized for the purpose of owning equity in banks as of the date of approval of this Decree.

- a corporation organized primarily for the purpose of owning equity in banks must register and be authorized by the Central Bank of the Philippines.

SEC. 2. For purposes of this Decree, the following definitions of terms shall apply:

- The term “bank” means every banking institution as defined in Section 2 of the General Banking Act, Republic Act No. 337, as amended. A bank may either be a commercial bank, a thrift bank, a rural bank or a specialized government bank.

- The term “non-bank” financial intermediary” means financial intermediary as defined in Section 2-D(c) of the General Banking Act, Republic Act No. 337, as amended, authorized by the Central Bank of the Philippines to perform quasi-banking functions.

- The term “quasi-banking functions” means borrowing funds, for the borrower’s own account, through the issuance, endorsement or acceptance of debt instruments of any kind other than deposits, or through the issuance of participations, certificates of assignment, or similar instrument with recourse, trust certificated, or of repurchase agreements, from twenty or more lenders at any one time, for purposes of relending or purchasing of receivables and other similar obligations: Provided, however, That commercial, industrial, and other non-financial companies, which borrow funds through any of these means for the limited purpose of financing their own needs or the needs of their agents or dealers, shall not be considered as performing quasi-banking functions.

- The term “finance companies” refers to corporations or partnerships other than a bank, or insurance company

primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial or agricultural enterprises whether by granting direct loans or by discounting or factoring commercial papers or accounts receivables for profit, buying and selling contracts, leases, chattel mortgages and other evidences of indebtedness arising out of one or more of the steps in the distribution and sale of commodities.

SEC. 3. The Ministry of Finance, upon the recommendation of the Bureau of Internal Revenue and in consultation with the Central Bank of the Philippines, shall promulgate the implementing rules and regulations which shall include appropriate provisions for an independent appraisal of the property sold, transferred or exchange under the provisions of this Decree.

SEC. 4. This Decree shall take effect immediately.

Done in the City of Manila, this 17th day of September, in the year of Our Lord, nineteen hundred and eighty.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JOAQUIN T. VENUS, JR.
Presidential Assistant

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