

AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE TO PROVIDE FOR SALES TAX ON SUBSEQUENT SALES AND TO SIMPLIFY TAX ADMINISTRATION.

PRESIDENTIAL DECREE NO. 2006, December 31, 1985

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WHEREAS, it is necessary to reduce the tax imposed on second sale and to make the tax burden more equitably distributed at every stage of subsequent sale;

WHEREAS, a tax on subsequent sale will simplify tax administration and insure voluntary tax compliance; and

WHEREAS, there is a need to alleviate the tax burden on the agricultural sector in order to hasten the economic development of the country.

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

SECTION 1. Section 162 of the Tax Code, as amended, is hereby further amended to read as follows:

"SEC. 162. Returns and payment of sales and other taxes, (a) Return of gross sales, receipts, etc. and payment of taxes. (1) Persons liable to pay miller's sales tax on original sales and other percentage taxes.—Every person liable to pay any percentage tax imposed under this Title, other than the sales tax on subsequent sale, shall file a quarterly return of the amount of his gross sales, receipts or earnings or gross value of output actually removed from the factory or mill warehouses and pay the tax due thereon within twenty days after the end of each taxable quarter.

"(2) Persons liable to sales tax on subsequent sale. —Every person liable to pay sales tax on subsequent sale shall file a monthly return of his gross sales and pay the tax due thereon within ten days after the end of each month."

"(3) Persons retiring from business.— Any person retiring from a business subject to percentage tax shall notify the nearest internal revenue officer, file his return and pay the tax due thereon within twenty days after closing his business.

"(4) Exception. —The Commissioner may, by regulations prescribe:

"(i) The time for filing the return at intervals other than the time prescribed in the preceding paragraphs for a particular class or classes of taxpayer after considering such factors as volume of sales, financial condition, adequate measures of security, and such other relevant information required to be submitted under the pertinent provisions of this Code; and

"(ii) The manner and time of payment of sales and other percentage taxes other than as hereinabove prescribed, including a scheme of tax prepayment."

"(5) Presumption of sales.— (i) Sales on consignment. —For purposes of this Section, sales on consignment shall be considered actually sold on the day of sale or sixty days after the date consigned, whichever is earlier.

"(ii) Determination of correct sales or receipt. —When it is found that a person has failed to issue receipts or invoices, or when no return is filed, or when there is reason to believe that the books of accounts or other records do not correctly reflect the declarations made or to be made in a return required to be filed under the provisions of this Code, the commissioner, after taking into account the sales, receipt or other taxable base of other persons engaged in similar businesses under similar situations or circumstances, or after considering other relevant information may prescribe a minimum amount of such gross receipts, sales and taxable base and such amount so prescribed shall be prima facie correct for purposes of determining the correct sales tax liabilities of such person.

"(b) Where to file. —(1) Persons subject to miller's or sales tax on original sale. —Every miller, manufacturer, producer or importer shall file the required return with the Revenue District Officer, Collection Agent or duly authorized Treasurer of the city or municipality where such taxpayer has his principal place of business.

"(2) Persons subject to sales tax on subsequent sale.— Every person subject to sales tax on subsequent sale shall file a separate return with the Revenue District Officer, Collection Agent or duly authorized Treasurer of the city or municipality where each and every separate branch or distinct place of business is located: Provided, That a taxpayer may elect to file a consolidated return for all the branches or places of business located within the same revenue district with the Revenue District Officer concerned.

"(3) Persons subject to other percentage taxes.— Any person other than those mentioned in paragraphs (a) and (b) above who is required to file a percentage tax return under this Title shall, at his option, file either a separate return with the Revenue District Officer, Collection Agent or duly authorized Treasurer of the city or municipality where each separate or distinct place of business is located, or a consolidated return with the same officers mentioned herein where such taxpayer has his principal place of business.

"The foregoing provisions notwithstanding, the Commissioner may in a meritorious case and upon request of the taxpayer, allow the filing of the return, with any other authorized revenue officer.

"(c) Imported articles. — When the articles are imported, the percentage taxes established in Sections 163, 164 AND 165 (a) (1) (2) (3) of this Code shall be paid in advance by the importer prior to the release of such articles from customs custody, based on the total value used by the Bureau of Customs in determining tariff and customs duties, including customs duties and other charges. On the original sale, barter, exchange or transfer of such imported articles by the importer himself, there shall be levied, assessed and collected a sales tax at the same rate on the gross value in money of the articles so sold, bartered, exchanged or transferred: Provided, That the tax paid in advance by the importer shall be credited against the sales tax due on the original sale. The tax required to be paid herein shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to excise tax under Title IV of this Code: Provided, however, That where the National Economic and Development Authority certifies to the availability of local raw materials of sufficient quantity, comparable quality and price to meet the needs of manufacturers subject to excise tax, the importation of such raw materials shall be subject to the tax herein imposed."

SEC. 2. Section 165(A) (3) of the Tax Code, as amended, is hereby further amended to read as follows:

"(3) Essential articles.—10% of the gross selling price or gross value in money of the following articles so sold, bartered, exchanged, or transferred:

"(a) Processed meat, beverages, vegetables, milk and dairy products, fish and other sea foods;

"(b) Wheat flour; 121

" (c) Bread and ordinary bakery products;

"(d) Medicine;

"(e) Laundry soap and detergents;

"(f) Writing pads, notebooks and ordinary lead pencils;

"(g) Cement, hollow blocks, lumber, roofing materials, steel bars, sand and gravel;

" (h) Fish, poultry, swine and cattle feeds; and "(i) Fertilizer."

SEC. 3. Section 165(A) (4) of the Tax Code, is hereby amended by reducing the one percent (1 %) sales tax on agricultural products to zero percent (0%).

SEC. 4. Section 165(B) of the Tax Code, as amended, is hereby further amended to read as follows:

"(B) On every subsequent sale of articles.— Except as provided in Section 167 of the Tax Code, there shall be levied, assessed and collected on every subsequent sale, barter, exchange or similar transaction for nominal or valuable consideration intended to transfer ownership of or title to any article a tax equivalent to 1.5% of the gross selling price or gross value in money of the article so sold, bartered, exchanged or transferred, such tax to be paid by the seller or transferor thereof: Provided, however, That the subsequent sale of agricultural products in their original state shall be subject to 0% rate.

"Unless the tax under this subsection is billed to the purchaser as a separate item in the invoice, the amount intended to cover the sales tax shall be considered as part of the gross selling price of the article."

SEC. 5. Section 166(a) of the Tax Code is hereby further amended to read as follows:

"SEC. 166. Credits against sales tax.—(a) Creditable taxes.— Any excise, sales or miller's tax paid under Title IV and Title V of this Code, on domestically manufactured, processed, produced or imported raw materials, part, accessory or other article locally purchased or imported by the manufacturer for conversion into or intended to form part of any finished product for sale shall be credited against the sales tax due on the original sale of the finished product, except agricultural products: Provided, however, That the amount of sales tax on domestically purchased raw materials, part or accessory, is separately indicated in the sales invoice.

"In the case of purchase of raw materials, parts and accessories by a manufacturer from a duly registered and accredited dealer, the amount of tax passed on to the dealer as well as the tax on subsequent sale, if indicated as separate items in dealers or sales invoice shall be allowed as credits against the sales tax due on the finished product. Any advance sales tax paid on imported articles shall be allowed as credits against the sales tax due on the original sale of such imported articles.

SEC. 6. Section 167 of the Tax Code, as amended, is hereby further amended to read as follows:

"SEC. 167. Articles and transactions not subject to sales tax. —The following shall be exempt from the sales tax imposed in Sections 163, 164 and 165.

"(a) Original sale of a manufacturer, producer or importer of articles subject to excise tax imposed under Title IV and miller's tax under Section 168 of this Code;

"(b) Subsequent sale of manufactured oils and other fuels, except lubricating oil, processed gas, grease, wax and petrolatum;

"(c) Subsequent sale of any newspaper magazine review or bulletin which appears at regular intervals, with a fixed price for subscription and sale and which is not devoted principally to publication of advertisements:

"(d) .22 caliber firearms and cartridges as well as other forms of ammunition sold and delivered directly to the Armed forces of the Philippines or any government instrumentality or agency engaged in maintaining peace and order for their use or issue:

"e. Articles, shipped or exported by the manufacturer, producer, or trader, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the articles so exported. Any excise, sales or advance sales tax paid under this Title or Title IV on domestically manufactured or imported raw materials used in the manufacture and forming part of the finished products subject to tax under Sections 163, 164 and 165IA) (1) (2) and (3) of the Tax Code shall be allowed as a tax credit against any internal revenue tax liability directly due from the manufacturer exporting said products: Provided, That the amount of the tax on locally purchased raw material, part, or accessory, or other article is indicated as a separate item in the sales invoice of the supplier from whom it was last purchased: and Provided, further, That the direct exporter shall file an application for tax credit within one year from the close of the taxable year in which the export was effected. In case finished products are exported by an export trader other than the manufacturer, the entire amount of sales and excise taxes separately indicated in the sales invoice of the immediate seller of the finished products exported shall be allowed to be credited against other tax liabilities of the export trader subject to the filing of an application as herein prescribed;

"(f) Sales by 'registered export producers' to (1) other 'export producers', (2) 'registered export traders' or (3) foreign tourists or travelers, which are considered as 'export sales';

"(g) Sales by manufacturers, producers or traders direct to foreign tourists and paid for in convertible foreign currency if the articles so sold are actually brought out of the Philippines by the buyers upon their departure; and

"(h) Those that may be granted by the President upon recommendation of the National Economic Development Authority in the interest of economic development."

SEC. 7. Sec. 181 of the Tax Code, as amended, is hereby further amended to read as follows:

"SEC. 181. Persons subject to tax to issue receipts or sales or commercial invoices; contents of receipts or invoices.—All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at twenty-five pesos or more, issue receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, That in the case of sales, receipts or transfers in the amount of one hundred pesos or more, or regardless of amount, where the sale or transfer is made by producers, manufacturers, importers and persons subject to percentage tax on subsequent sales; or, where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer, or client. The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three years from the date of the invoice or receipt, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

"The Commissioner of Internal Revenue may, in meritorious cases, exempt any person subject to internal revenue tax from compliance with the provisions of this section."

SEC. 8. Paragraph (2) (a) of Section 241 as amended, is hereby further amended to read as follows:

"SEC. 241. Flexibility clause.

"(2) Specific limitations on the exercise of authority to make adjustments in all internal revenue taxes.

"(a) The existing tax rates may be increased or decreased by not more than 50%: Provided, however, That in the case of the sales tax on agricultural products sold in their original state or where such agricultural products have undergone simple processes, the existing rates may be increased to not more than 3 %."

SEC. 9. Section 319(c) of the Tax Code, as amended, is hereby further amended to read as follows:

"(c) Five percent (5 %) of the total tax collected on subsequent sale under Section 165(B) of this Code shall accrue to the city or municipality in which the tax is collected, and mother five percent (5%) of the total annual tax collected on said subsequent sales shall also accrue to te Ministry of Education, Culture and Sports."

SEC. 10. The Bureau of Internal Revenue shall update the data and information of persons liable to the sales tax on original and subsequent sale. For purposes of this Section, all persons liable to the sales tax on original and subsequent sales who have not yet registered then-businesses in accordance with P.D. 1991 shall re-register their business in a manner and form within a period to be prescribed by the Commissioner after the effectivity of this Decree.

SEC. 11. The Minister of Finance shall, upon recommendation of the Commissioner of Internal Revenue, issue the necessary regulations for the implementation of this Decree.

SEC. 12. All laws, decrees, executive orders, and regulations and other issuances or parts thereof which are inconsistent with this Decree are hereby repealed, amended or modified accordingly.

SEC. 13. Effectivity.—The provisions of this Decree shall take effect on January 1, 1986.

DONE in the City of Manila, this 31st day of December, in the year of Our Lord, nineteen hundred and eighty-five.

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

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant

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