

AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE

PRESIDENTIAL DECREE NO. 1705, August 01, 1980

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WHEREAS, in the light of the experience of the Bureau of Internal Revenue in enforcing, the provisions of the National Internal Revenue Code, it is necessary to make further amendments in order to strengthen the enforcement powers of the said Bureau;

WHEREAS, it is necessary to simplify compliance procedures and make it easy for taxpayers to comply with revenue laws;

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 decree and order:

SEC. 1. The phrase "Secretary of Finance" appearing in any section of the National Internal Revenue Code is hereby amended to read as "Minister of Finance."

SEC. 2. Section 7 of the National Internal Revenue Code is hereby amended to read as follows:

"(a) From Government Officers or Agencies. — When it comes to the knowledge of the Commissioner of Internal Revenue that certain offices of the .National and local governments such as the Office of the Register of Deeds, the Securities Exchange Commission, the Philippine Patent Office, those of mayors and treasurers, the Government Service Insurance System, the Social Security System, the Philippine Medical Care Commission and others, possess valuable information for discovery of potential taxpayers, the Commissioner or his deputies shall obtain that information upon proper request from the offices concerned. It shall be the duty of those offices to furnish the desired information within thirty days from receipt of the request of the Commissioner of Internal Revenue or his deputies.

(b) From other persons. — For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any Internal Revenue Tax or collecting, any such liability the Commissioner is authorized:

"(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry."

"(2) To summon any person having possession, custody, or care of books of accounts containing entries, or of any information relating to the tax liability of any person to appear before the Commissioner or his authorized representative at a time and place named in the summons and to produce such books, papers, records, or other data, and to give to such testimony; and

"(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

"Any person who neglects or refuse to obey such summons, or to produce books, papers, records or other data, or to give testimony, as required, shall be liable to the penalties prescribed by Section 337 hereof;

SEC. 3. Section 16 of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 16. Power of Commissioner of Internal Revenue to make assessments. — (a) FAILURE TO SUBMIT REQUIRED REPORTS, STATEMENTS, ETC. When a report required by law as a basis for the assessment of any national internal revenue tax shall not be forthcoming within the time fixed by law or regulation, or when there is reason to believe that any such report is false, incomplete, or erroneous, the Commissioner of Internal Revenue shall assess the proper tax on the best evidence obtainable.

"(b) AUTHORITY TO CONDUCT SURVEILLANCE. — The Commissioner of Internal Revenue may place the business operations of any person, natural or juridical, under observation or surveillance for a period of two months to be determined under regulations to be prescribed by the MINISTER of Finance if there are reasons to believe that such person is not declaring his correct income and receipts for internal revenue tax purposes. The findings for this period may be used as a basis for assessing the taxes for the other months of the same or different taxable years and such assessment shall be considered prima facie correct.

"(c) AUTHORITY TO TERMINATE TAXABLE PERIOD. — When it shall come to the knowledge of the Commissioner of Internal Revenue that a taxpayer is retiring from the business subject to taxation, or intends to leave the Philippines, or remove his property therefrom, or hide or conceal his property, or perform an act tending to obstruct the proceedings for collecting the tax for the past or current quarter or year or render the same totally or partly ineffective unless such proceedings are begun immediately, the Commissioner of Internal Revenue shall declare the tax period of such taxpayer terminated at any time and shall send the taxpayer a notice of such decision, together with a request for the immediate payment of the tax for the tax period so declared terminated and the tax for the preceding year or quarter, or such portion thereof as may be unpaid, and said taxes shall be due and payable immediately and shall be subject to all the penalties hereafter prescribed, unless paid within the time fixed in the request of the Commissioner of Internal Revenue.

"(d) Protest of Assessments. — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed on the best evidence obtainable in accordance with subsection (a) hereof, he shall first notify the taxpayer of his findings. Within a period to be prescribed by implementing regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner shall issue an assessment based on his findings.

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation in such form and manner as may be prescribed by implementing regulations within thirty (30) days from receipt of the assessment; otherwise, the assessment shall become final and unappealable.

If the protest is denied in whole or in part, the person, association or corporation adversely affected by the decision on the protest may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision; otherwise, the decision shall become final, executory and demandable.

SEC. 4. Section 24 (b) (2) of the National Internal Revenue Code is hereby amended to read as follows:

"(2) Resident corporations. — (a) In general. — A corporation organized, authorized, or existing under the laws of any foreign country, engaged in trade or business within the Philippines, shall be taxable as provided in subsection (a) of this section upon the total net income derived in the preceding taxable year from all sources within the Philippines: Provided, however, That international carriers shall pay a tax of two and one-half percent (2½%) on their gross Philippine billings: "Gross Philippine Billings" include gross revenue realized from uplifts anywhere in the world by any international carrier doing business in the Philippines of passage documents sold therein, whether for passenger, excess baggage or mail, provided the cargo or mail originates from the Philippines. The gross revenue realized from the said cargo or mail include the gross freight charge up to final destination. Gross revenue from chartered flights originating from the Philippines shall likewise form part of "Gross Philippine Billings" regardless of the place of sale or payment of the passage documents. For purposes of determining the taxability of revenues from chartered flights, the term "originating from the Philippines" shall include flight of passengers who stay in the Philippines from more than forty-eight (48)

hours prior to embarkation.

"(b) Tax on branch profits remittances. — Any profit remitted abroad by a branch office to its mother company shall be subject to a tax of fifteen percent (15%) (Except those registered with the Export Processing Zone Authority); Provided, that, any profit remitted by a branch office to its mother company authorized to engage in petroleum operations in the Philippines shall be subject to tax at seven and one-half per cent (7.5%); and provided, further that fixed or determinable annual periodical gains, profits, and income or certain gains described in Section 24 (b) (1) or 53 (b) (2) of this code shall not be considered as branch profits unless the same are effectively connected with the conduct of a trade or business in the Philippines by foreign corporation."

SEC. 5. Section 26 of the National Internal Revenue Code is hereby amended to read as follows:

SEC. 26. Tax liability of members of general professional partnerships. — Persons exercising a common profession in general partnership shall be liable for income tax only in their individual capacity, and the share in the NET profits of 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.

"(b) In determining his distributive share in the net income of the partnership, each partner —

"(1) Shall take into account separately his distributive share of the partnership's income, gain, loss deduction, or credit to the extent provided by the pertinent provisions or this code, and

"(2) Shall be deemed to have elected the itemized deductions, unless he declares his distributive share of the gross income undiminished by his share of the deductions,"

SEC. 6. Section 30 (c) of the National Internal Revenue Code is hereby amended by adding new subparagraphs (f) and (g) to read as follows:

(f) Taxes paid on articles imported by the taxpayer where such importation is not connected with this trade or business.

(g) Excess electric energy consumption tax imposed by Batas Pambansa Blg. 36."

SEC. 7. Section 35 (c) (2) of the National Internal Revenue Code is hereby amended to read as follows:

"(2) Exception. — No gain or loss shall be recognized if in pursuance of a plan of merger or consolidation, exchanges property solely for stock in a corporation which is (a) a corporation which is a party to the merger or consolidation, (b) a shareholder exchanges stock in a corporation which is a party to the merger or consolidation solely for the stock of another corporation, also a party to the merger or consolidation, or (c) a security holder of a corporation which is a party to merger or consolidation exchanges his securities in such corporation solely for stock or securities in another corporation, a party to the merger or consolidation. No gain or loss shall be recognized if property is transferred to a corporation by a person in exchange for stock in such a corporation of which as a result of such exchange said person, alone or together with others, not exceeding four persons, gains control of said corporation: Provided, That stocks issued for services shall not be considered as issued in return for property."

SEC. 8. Section 45 (c) of the National Internal Revenue Code is hereby amended to read as follows:

When to file. — The return of the following individuals shall be filed on or before the eighteenth day of March of each year, covering income of the preceding taxable year:

(a) Residents of the Philippines, whether citizen or aliens whose income have been derived solely from salaries, wages, interests, dividends, allowances, commissions, bonuses, fees, pensions, or any combination

thereof.

“(b) The return of all other individuals not mentioned above, including non-resident citizens shall be filed on or before the fifteenth day of April of each year covering income of the preceding taxable year.”

SECTION 9. Section. 46 (b) of the National Internal Revenue Code is hereby amended to read, as follows:

"(b) fiscal year of corporations. — Every corporation (other than partnerships, no matter how created or organized) may designate the last day of any month in the year as the day of the closing of its fiscal year, and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the Commissioner of Internal Revenue at any time not less than thirty days prior to the fifteenth day of April of the year in which its return would be filed if made upon, the basis of the calendar year."

SEC. 10. Paragraphs (a) (1) and (a) (2), (d) and (e) of Section 51 of the National Internal Revenue Code are hereby amended to read as follows:

"SEC. 51. Payment and assessment of income tax. — (a) payment of tax. — (1) In general. — The total amount of tax imposed by this Title shall be paid at the time the return is filed. Such tax shall be paid by the person subject thereto.

If the return is filed after the time prescribed by law (including cases in which an extension of time for filing the return has been granted under section forty-seven of this Code), there shall be paid at the time of such filing the tax or installment which would have been payable on or before such time if the return had been filed within the time prescribed by law, and the remaining installment shall be paid at the time at which, and in the amount in which, it would have been payable if the return had been so filed, subject to the payment of interest of twenty per centum per annum from the original due date.

In the case of tramp vessels, the shipping agents and/or the husbanding agents, and in their absence, the captains thereof are required to file the return herein provided and pay the tax due thereon before their departure. Upon failure of the said agents or captains to file the return and pay the tax, the Bureau of Customs is hereby authorized to hold the vessel and prevent its departure until proof of payment of the tax is presented or a sufficient bond is filed to answer for the tax due.

“(2) Installment payment. — When the tax due is in the excess of two thousand pesos, the taxpayer other than a corporation taxable under section twenty-four, self-employed individuals who may be required to pay estimated income tax under Chapter X, and the withholding agents required to deduct and withhold the tax under Sections 53 and 54, all of this Title, may elect to pay the tax in two equal installments, in which case, the first installment shall be paid at the time the return is filed and the second installment, on or before the eighteenth day of July following the close of the calendar year. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid "becomes due and payable, together with the delinquency penalties."

“(d) Interest on deficiency. — Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the Commissioner and shall be collected as part of the tax at the rate of twenty per centum per annum from the date prescribed for the payment of the tax, (or, if the tax is paid in installment from the date prescribed for the payment of the first installment) to the date the deficiency is assessed; Provided, That the maximum amount that may be collected as interest on the deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding."

"(e) Additions to the tax in case of nonpayment. — (1) Tax shown on the return. — Where the amount

determined by the taxpayer as the tax imposed by this Title or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of twenty per centum per annum from the date prescribed for its payment until it is paid: Provided, That the maximum amount that may be collected as interest on deficiency shall in no case exceed, the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding."

(2) Deficiency. — Where a deficiency, or any interest assessed in connection therewith under paragraph (d) of this section, or any addition to the taxes provided for in Section seventy-two of this Code is not paid in full within thirty days from the date of notice and demand from the Commissioner of Internal Revenue, there shall be collected upon the unpaid amount as part of the tax, interest at the rate of twenty per centum per annum from the date of such notice and demand until it is paid: Provided, That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding."

"(3) Surcharge.— If any amount of tax shown on the return is not paid in full on or before the date prescribe for its payment under paragraph (a) of this Section, or any amount of deficiency, and any interest assessed in connection therewith, is not paid in full within the period prescribed in the assessment notice and demand required under paragraph (b) of this Section, there shall be collected in addition to the interest prescribed herein and in paragraph, (d) above and as part of the tax a surcharge of ten per centum of the amount of tax unpaid."

SEC. 11. Paragraph (c) of Section 53 of the National Internal Revenue Code is hereby amended to read, as follows:

"(c) Resident individuals and corporations. — Dividends received by individuals residing in the Philippines from a domestic corporation, as well as royalties (except payments of any kind to mining claim - owners or lessees of mining rights pursuant to any kind of agreement) received by such individuals and domestic and/or resident foreign corporation from any person whether natural or juridical shall be subject to withholding tax at source at the rate of 10% thereof. A tax shall be withheld by the payer-corporation and/or person and paid in the same manner and subject to the same conditions as provided in Section 54 of the National Internal Revenue Code: Provided, however, That the tax withheld under this subparagraph shall be credited against the income tax liability of the recipient-taxpayer for the taxable year."

SEC. 12. Paragraph (b) of Section 54 of the National Internal Revenue Code is hereby amended to read as follows:

(b) Penalties for failure to render returns for rendering false or fraudulent returns for non-payment of taxes withheld. — The surcharges prescribed in Section seventy-three of this Title in cases of failure to render returns, for filing false or fraudulent returns and for failure to pay tax shall apply to failure to file returns or pay the tax required under this Section. In case the taxes deducted and withheld are not paid within the time prescribed, there shall be added to the amount of the unpaid tax a surcharge of twenty-five per centum plus interest at the rate of twenty per centum per annum from the date the same became due until paid. If the employer is the government or any of its agencies political subdivisions or instrumentalities or is a government owned or controlled corporation, the employee thereof responsible for the withholding and remittance of the tax shall be personally liable for the surcharge imposed herein."

SEC. 13. Section 83 of the National Internal Revenue Code is hereby amended by adding a new paragraph to read as follows:

"(d) Net income of a partnership deemed constructively received by partners. — The net income declared by a partnership for a taxable year which is subject to tax under Section 24 (a) of this Code, after deducting the corporate income tax imposed therein, shall be deemed to have been actually or constructively received by the

partners in the same taxable year and shall be taxed to then in their individual capacity, whether actually distributed or not."

SEC 14. Chapter X of Title II of the National Internal Revenue Code is hereby amended as follows:

"CHAPTER X. — QUARTERLY CORPORATE INCOME TAX

ANNUAL DECLARATION AND QUARTERLY PAYMENTS OF INCOME TAXES.

SEC. 84. DECLARATION OF INCOME TAX TO INDIVIDUALS.

"(a) IN GENERAL. Except as otherwise provided in this Section, every individual subject to income tax under Sections 21 and 22 (a) of this title, receiving self-employment income whether it constitutes the sole source of his income or in combination with salaries, wages, and other fixed or determinable income shall make and file a declaration of this estimated income for current taxable year on or before April 15 of the same taxable year. In general, self-employment income consist of the earnings derived by the individual from the practice of profession or conduct of trade or business carried on by him as a sole proprietor or by a partnership of which he is a member. Non-resident Filipino citizens, with respect to income from without the Philippines, and non-resident aliens not engaged in trade or business in the Philippines, are not required to render a declaration of estimated income tax. The declaration shall contain such pertinent information as the Minister of Finance may be forms and/or regulations prescribed. An individual may make amendments of a declaration filed during the taxable year under the regulations prescribed by the Minister of finance.

"(b) Return .and payment of estimated income tax by individuals. — The amount of estimated tax (as defined in paragraph (c) with respect to which a declaration is required under paragraph (a) shall be paid in four installment. The first installment shall be paid at the time of the declaration and the second and third shall be paid on August 15 and November 15 of the current year respectively. The fourth installment shall be paid on or before April 15 of the following calendar year when the final income tax return is due to be filed.

"(c) definition of Estimated Tax. — In the case of an individual, the term "Estimated Tax" means the amount which the individual declared as income tax in his final and annual income tax return for the preceding taxable year, minus the sum of the credits allowed under this title, against the said tax. If, during the current taxable year, the taxpayer reasonably expect to pay a bigger income tax, he shall file an amended declaration during any interval of installment payment dates."

"SEC. 85. Declaration of Corporation Quarterly Income Tax. — Every corporation shall file in duplicate a quarterly summary declaration of its gross income and deductions on a cumulative basis for the preceding quarter or quarters upon which the income tax, as provided in Title II of this Code shall be levied, collected and paid. The tax so computed shall be decreased by the .amount of tax previously paid or assessed during the preceding quarters and shall be paid not later than sixty (60) days from, the close of each of the first three (3) quarters of the taxable year, whether calendar or fiscal year."

"SEC. 86. Final Adjustment Return. — Every corporation liable to tax under Section 24 shall file a final adjustment return covering the total net income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable net income or that year the corporation shall either:

"(a) Pay the excess tax still due; or

"(b) Be refunded the excess amount paid, as the case may be

"In case the corporation is entitled to a refund of the excess estimated quarterly income taxes paid, the refundable amount shown on its final adjustment return may be credited, against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable year."

"SEC. 87. (a) Place of Filing. — The quarterly income tax declaration required in Section 85 and the final adjustment return required in Section 86 shall be filed with the Revenue District Officer, or the Collection Agent or duly authorized treasurer of the municipality having jurisdiction over the location of the principal office of the corporation filing the return or place where its main books of accounts and other data from which the return is prepared are kept."

"(b) Time of filing the income tax return. — The corporate quarterly" declaration shall be filed within sixty (60) days following the close of each of the first three quarters of the taxable year. The final adjustment return shall be filed on or before the 15th day of April or on or before the 15th day of the 4th month following the close of the fiscal year, as the case may be."

"(c) Time of payment of the income tax. — The income tax due on the corporate quarterly returns and the final income tax returns computed in accordance with Sections 85 and 66 shall be paid at the time the declaration or return is filed in a manner prescribed by the Commissioner of Internal Revenue."

SEC. 88. Civil Penalties (a) Individuals. — (1) Addition to the tax. — In the case of underpayment of Estimated tax, there shall be added to the tax an amount of the underpayment (determined under subsection (b) (2) for the period of the underpayment (determined under subsection (b) (3).

"(2) Amount of Underpayment. — For purposes of subsection (b) (1), the amount of the underpayment shall be the excess of —

- The amount of the installment which would be required to be paid if the estimated tax were equal to 80% of the tax shown on the return for the taxable year or, if no return was filed, 80% of the tax for such year, over,

- (B) The amount if any, of the installment paid on or before the last day prescribed for such payment.

"(3) For purposes of applying subsections (a) (1) and (a) (2) —

"(A) The estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit for taxes withheld at source on wages, dividend and interest, and

"(B) The amount of the creditable taxes for the taxable year shall be deemed a payment of estimated tax, and, an equal part of such amount shall be deemed on each installment date for such taxable year, unless all amounts were actually withheld, in which case the amounts so withheld, shall be deemed payments of estimated tax on the dates which such amounts were actually withheld.

"(4) Period of Underpayment. — The period of underpayment shall run from the date the installment was required to be paid to whichever of the following: dates is the earlier.

"(A) The 15th day of March following the close of the taxable year.

"(B) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent that such payment exceeds the amount of the installment determined under subsection (2) (A) for such installment date.

"(b) Corporations. — (1) deficiency, defined. — As used, and in respect of the tax referred to in Section 85, the term "Deficiency" means:

"(i) The amount by which eighty per centum of the tax referred to in Section 85 exceeds the amount shown by the taxpayer as the tax on its quarterly return, including tax credit allowable;

"(ii) If no amount is shown by the taxpayer as tax on its return, or if no return is filed by the taxpayer, and the taxpayer has tax credit allowable against such tax; or

"(iii) If no amount is shown by the taxpayer as tax on its return, and the taxpayer has no tax credit allowable, eight per centum of the estimated tax referred to in Section

"(2) (i) Interest. — Interest upon the amount determined as a deficiency shall be assessed at the same time as a deficiency; and shall be paid upon notice and demand from the Commissioner of Internal Revenue; and shall be collected as part of the tax at the rate of twenty per centum per annum from the date prescribed for the payment of the tax to the date the deficiency is assessed: Provided, That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period not later than, the fifteenth day of April or the fifteenth day of the fourth month following; the close of the taxable year: Provided, further, That no interest on deficiency quarterly income tax shall be assessed at any time after assessment of the annual income tax due for the taxable year.

“(ii) Addition to estimated tax in case of non payment — (1) Tax shown on the quarterly return. — Where the amount shown by the taxpayer as tax on its quarterly return or part of such amount, is not paid on or before the date prescribed for its payment, these shall be collected, as part of the tax interest upon such unpaid amount at the rate of twenty per centum per annum from the date prescribed for its payment until it is paid but not later than the fifteenth day of April or the fifteenth day of the fourth month following the close of the taxable year.

"(2) Deficiency. — Where the deficiency, or interest on deficiency, assessed under subsection (a) of this Section, or part thereof, is not paid in full within thirty days from the date of receipt by the taxpayer of the notice and demand from the Commissioner of Internal Revenue, there shall be collected upon such unpaid amount, as part of the tax, interest at the rate of twenty per centum per annum from the date of receipt by the taxpayer of such notice and demand until it is paid not later than the fifteenth day of April or the fifteenth day of the fourth month following the close of the taxable year.

"SEC. 89. Declaration under penalties of perjury. — (1) The declaration and return required under this Chapter shall, in lieu of an oath, contain a written declaration that they are made under the penalties of perjury.

"(2) Any person who willfully files a declaration or return containing information which is not true and correct as to every material matter shall, upon conviction, be subject to the penalties prescribed for perjury under the Revised Penal Code."

SEC. 15. The provisions of Sections 84 and 88 (a) of the National Internal Revenue Code as amended by this Act, shall take effect only upon promulgation of implementing rules and regulations by the Minister of Finance. The other provisions of the Act shall take effect upon approval hereof.

SEC. 16. Section 100 of the National Internal Revenue Code-is hereby amended to read as follows:

"(b) Transfer in contemplation of death. — To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, or of which he has at any time made a transfer, by trust or otherwise, under which he has retained for his life or for any period which does not ascertainable without reference to his death or for any period which does not in fact and before his death (1) the possession or enjoyment of, or the right to the income from the property, or (2) the right, either alone or in conjunction with any person, to designate the person who shall possess or enjoy property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth."

SEC 17. Section 101 (d) of the National Internal Revenue Code is hereby emended to read as follows:

"(d) Miscellaneous provisions. — No deduction shall be allowed in the case of a non-resident not a citizen of the Philippines unless the executor, administrator, or anyone of the heirs, as the case may be, includes in the return required to be filed under Section 105 the value at the time of his death of that part of the gross estate of

the nonresident not situated in the Philippines,"

SEC. 18. Section 105 (d) of the National Internal Revenue Code is hereby amended to read as follows:

"(d) Place of filing. — Except in cases where the Commissioner permits, the return required under subsection (a) shall be filed with the Revenue District Officer, Collection Agent or duly Authorized Treasurer of the municipality in which the decedent was domiciled at the time of his death or if there be no legal residence in the Philippines, then with the Office of the Commissioner of Internal Revenue."

SEC 19. Section 113 (c) of the National Internal Revenue Code is hereby amended to read as follows:

"(c) Surcharge. — If any amount of tax included in the notice and demand from the Commissioner of Internal Revenue shown on the Return is not paid in full on or before the date prescribed for its payment under paragraph (a) of this section, or any amount of deficiency, or any interest assessed in connection therewith is not paid in full within the period prescribed in the assessment notice and demand required under paragraph (b) of this Section, there shall be collected in addition to the interest prescribed herein and in Sections 111 and 112 and as part of the tax surcharge of ten per centum of the unpaid amount."

SEC. 20. Section 114 of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 114. Ad Valorem Penalties. — (a) Failure to file return, etc. — The Commissioner shall add to the tax twenty-five per centum (25%) of its amount:

"(i) In case of any failure to make and file return within the time prescribed by law or by the Commissioner except that when a return is voluntarily and without notice from the Commissioner filed after such time, and it is shown that the failure to file it was due to a reasonable cause, no such addition shall be made to the tax:

"(ii) In case, the return is filed with a person other than that mentioned in Section 105 (d) of this Code.

"(b) False or Fraudulent Return. — In case a false or fraudulent return is made, the Commissioner of Internal Revenue shall add to the tax or to the deficiency tax, in case any payment has been made the basis of such return before the discovery of the falsity or fraud, a surcharge of fifty per centum of its amount shall be added to the tax."

SEC. 21. The second paragraph of Section 118 of the National Internal Revenue Code is hereby amended to read as follows:

"If a bank has knowledge of the death of a person who maintained a bank deposit account alone, or jointly with another, it shall not allow any withdrawal from the said deposit account, unless the Commissioner has certified that the taxes imposed thereon by this Title have been paid, Provided, however, that the administrator of the estate or any one of the heirs of the decedent may upon authorization by the Commissioner of Internal Revenue, withdraw an amount not exceeding P10,000 without the said certification. For this purpose, all withdrawal slips shall contain a statement to the effect that all of the joint depositors are still living at the time of withdrawal by any one of the joint depositors and such statement shall be under oath by the said depositors."

SEC 22. Section 125(b) of the National Internal Revenue Code is hereby amended to read as follows:

"(b) Time and place of filing. — The return of the donor required in this section shall be filed within thirty days after the date the gift is made and, except in cases where the Commissioner permits the return shall be filed with the Revenue District Officer, Collection Agent or duly authorized Treasurer of the municipality in which the donor was domiciled, at the time of the transfer or if there be no legal residence in the Philippines, then with the Office of the Commissioner of Internal Revenue."

SEC. 23. Section 131 of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 131. Ad valorem penalties. (a) Failure to return, etc. — The Commissioner shall add to the tax twenty five per centum (25%) of each amount:

- In case of any failure to make and file a return within the time prescribed by law or by the Commissioner except that when a return is voluntarily and without notice from the Commissioner filed after such time, and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect no such addition shall be made to the tax;

- In case the return is filed with a person other than that mentioned in Section 125(b) of this Code.

(b) In case a false or fraudulent return is made, the Commissioner of Internal Revenue shall add to the tax or to the deficiency tax, in case any payment has been made on the basis of such return before the discovery of the falsity or fraud, a surcharge of fifty per centum of its amount shall be added to the tax.

SEC. 24. Section 158-A of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 158-A. — Flexibility Clause. (a) In general. — In the interest of the national economy and general welfare, and subject to the limitations herein prescribed, the President upon the recommendation of the Minister of Finance and the National Economic and Development Authority, is hereby empowered to revise the rates of specific taxes and whenever necessary, readjust the statutory maximum wholesale and retail prices of cigars and cigarettes, respectively.

"The foregoing authority may be exercised by the President if any of the following conditions exist:

"(1) Where, in the interest of economic development, it is necessary to redirect expenditure or consumption patterns;

"(2) Whenever by reason of fluctuation of currency values and/or inflation or deflation, the existing taxable base and rates levels are no longer realistic or consistent with current price levels;

"(3) When it is necessary to counter adverse action on the part of another country.

(b) Specific limitations on the exercise of authority granted.

"(1) The existing rates of specific taxes and the maximum wholesale and retail prices of cigars and cigarettes, respectively, may be increased by not more than 50% or decrease by not more than 10%.

"(2) Before any recommendation is submitted to the President by the Minister of Finance and the National Economic and Development Authority pursuant to the provisions of this section, a public hearing shall whenever practicable be held and interested parties afforded a reasonable opportunity to be heard."

SEC. 25. Section 181 of the National Internal Revenue Code is hereby amended to read, as follows:

"SEC. 181. Unlawful use of denatured alcohol. — Any person who, for the purpose of manufacturing any beverage uses denatured alcohol or alcohol withdrawn under bond for industrial uses or alcohol misrepresented to be denatured to be unfit for oral intake, or who knowingly sells or offers for sale any beverage made in whole or in part from such alcohol, or who uses such alcohol for the manufacture of liquid medicinal preparations taken internally, or knowingly sells or offers for sale such preparations containing as an ingredient such alcohol, shall on conviction be fined not less than ten thousand pesos and imprisoned for not less than five years. If the violator is an alien, he shall be liable, for deportation.

"Any person who shall unlawfully recover, or attempt to recover by redistillation or other process any denatured alcohol or who knowingly uses, sells or offers for sale, conceals or otherwise disposes of alcohol so recovered or redistilled shall be subject to the same penalties imposed under the foregoing paragraph of this section."

"Any internal revenue officer may destroy any emptied container upon which an internal-revenue stamp or official taxpaid label is found still undestroyed."

SEC. 26. Section 186 of the National Internal Revenue Code is hereby amended to read as follows:

SEC. 186. Shipment or removal of liquor or tobacco products under false name or brand or as limitation of any existing trade name or brand. — Any person who ships, transports or removes spiritous, compounded or fermented liquors, wines, or any manufactured products of tobacco under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the cash or package containing the same, or as an imitation of any existing trade name or brand, or causes such act be done, shall on conviction be subject to a fine of not less than ten thousand pesos and imprisonment of not less than five years; and in addition, the article or articles so transported or removed shall be forfeited. If the violator is an alien, he shall be liable for deportation."

SEC. 27. Section 190 of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 190. Time for, payment of fixed taxes. — All fixed taxes shall be payable annually, on or before the last day of the first month of the taxable year adopted by the taxpayer for income tax purposes. Any person first beginning a business must pay the tax before engaging therein.

"If the privilege tax is not paid within the time specified, the amount of the tax shall be increased by twenty-five per centum, the increment to be part of the tax.

SEC. 28. The first paragraph of Section 192(2) of the National Internal Revenue Code is hereby amended to read as follows:

"(2) Person not subject to percentage tax. — Every person who is not required to pay the percentage tax prescribed under this Title shall pay for each taxable year in which the person shall engage in business a fixed annual tax based upon his gross annual sales during the preceding taxable year, as follows"

SEC. 29. Paragraphs (a), (b) and (d) of Section 193 of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 193. Payment of percentage taxes. — In General — (1) Declaration and payment of quarterly gross sales, receipts, etc. — Unless otherwise specifically provided, it shall be the duty of every person conducting a business on which a percentage tax is imposed under this Title, to make a quarterly declaration on a cumulative basis of the amount of his, her or its gross sales, receipts or earnings or gross value of output actually removed from the factory or mill warehouse, the tax so computed shall be decreased by the amount of tax previously paid or assessed and by the sum of the tax credits against the tax allowed under this title for the preceding and current quarter and shall be paid not later than twenty days of each calendar or fiscal quarter as the case may be: Provided, That any person retiring from a business subject to the percentage tax shall notify the nearest internal revenue officer, file his return or declaration and pay the tax due thereon within 20 days after closing his business.

For purposes of this section, sales on consignment shall considered actually sold on the day of sale or sixty days after the date consigned, whichever is earlier, of twenty per centum per annum, The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax has been paid before the discovery of the falsity or fraud, in which case, the amount so added shall be collected in the same manner as the tax."

"(b) Sales tax on imported articles. — When the articles are imported, the percentage taxes established in Sections 194, 195, 196, 197, 198, 199 and 201 of this Code shall be paid in advance by the importer, in accordance with the regulations promulgated by the Minister of Finance and prior to the release of such articles

from customs custody, based on the home consumption value or price (excluding internal excise taxes) thereof, plus ten (10) per cent of such home consumption value or price, including postage, commission, customs duty and all similar charges, except freight and insurance, TO BE DECLARED IN AN IMPORTER'S RETURN, plus one hundred per centum of such total value in the case of articles enumerated in Sections 194 and 195; fifty per centum in the case of articles under Sections 196 and 197; and twenty five per centum in the case of articles under Sections 198, 199 and 201. The tax imposed in this section shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to specific tax; 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 specific tax the importation of such raw materials shall be subject to the tax herein imposed.

“(d) Value-Added Tax. — The provision of this Title to the contrary notwithstanding, when public interest so requires, the President, upon recommendation of the Ministry of Finance, may subject the second sale of any article taxable under this Title to a value-added tax at rates not exceeding twenty per cent (20%) based on either the:

1. gross selling price or gross value of any of the article sold, bartered, exchanged or transferred, but the amount of tax credits (tax credit method); or
2. the gross selling price or gross value of any of the articles sold, bartered, exchanged or transferred; less the cost of raw materials (cost deduction method).”

(2) Final annual percentage tax return. — On or before the twentieth day of February following the close of the taxable year, every person liable to tax under this section shall file a final percentage tax return covering the total gross sales, receipts or earnings or gross value of output for the preceding calendar or fiscal year. If the sum of the quarterly percentage tax payments made and the tax credit allowed under this title during the taxable year are not equal to the total tax due on the entire gross sales, receipts or earnings or gross value of output for that year, the taxpayer shall either:

- (a) pay the excess tax still due; or
- (b) credit to the extent allowable under this Title, the amount of excess tax credits shown on its final adjustment return against the quarterly percentage tax liabilities for the taxable quarters of the succeeding taxable year.”

(3) Where to file. — Except in cases where the Commissioner otherwise permits, the percentage tax return required to be filed in the preceding paragraph shall be filed with the Revenue District Officer, collection agent, or duly authorized treasurer of the municipality in which such person has his legal residence or principal place of business in the Philippines.

(4) Ad Valorem Penalties. — (i.) Failure to file and pay the tax. — If the percentage tax return is filed with a person other than that mentioned in the preceding subparagraph, or if the percentage tax on any business is not paid within the time specified above, the amount of the tax shall be increased by twenty-five per centum, the increment to be a part of the tax and the entire unpaid amount shall be subject to the interest at the rate of twenty per centum per annum.

“(ii) Willful neglect to file, or false or fraudulent return. In case of willful neglect to file the return within the period prescribed herein, or in case a false or fraudulent return is willfully made, there shall be added to the tax or to the deficiency tax in case any payment has been made on the basis of such return before the discovery of the falsity or fraud, a surcharge of fifty per centum of its amount and the entire unpaid amount shall be subject to interest at the rate.

SEC. 30. Section 292 of the National Internal Revenue Code is hereby amended by adding thereto a new paragraph to read as follows:

"Forfeiture of refund. — A refund check or warrant issued in accordance with the pertinent provisions of this Code which shall remain unclaimed or uncashed within five (5) years from the date the said warrant or check was mailed or delivered shall be forfeited in favor of the government and the amount thereof shall revert to the General Fund."

SEC. 31. Section 324 of the National Internal Revenue Code is hereby amended to read as follows:

"SEC. 324. Preservation of books of accounts, and other accounting records. — All books of accounts including the subsidiary book's, and other accounting records, of corporations, partnerships, or persons shall be preserved by them for a period beginning from the last entry in each book until the last day prescribed by Section 318 within which the Commissioner is authorized to make an assessment. The said books and records shall be subject to examination and inspection only once in a taxable year by internal revenue officers, except in the following cases:

- Fraud, irregularity or mistakes as determined by the Commissioner;
 - The taxpayer requests reinvestigation;
 - Verification of compliance withholding tax laws and regulations; and
 - Verification of capital gains tax.
- in which case, another or separate examination and inspection may be made. Examination and inspection of books of account and other accounting record shall be done in the taxpayer's office or place of business or in the office of the Bureau of Internal Revenue. All corporations, partnerships or persons that retire from business shall, within ten days from the date of retirement or with such period of time as may be allowed by the Commissioner in special cases, submit their books of accounts, including the subsidiary books and other accounting records to the Commissioner or any of his deputies for examination, after which they shall be returned. Corporations and partnerships contemplating dissolution must notify the Commissioner and shall not be dissolved until cleared of any tax liability.

SEC. 32. Section 330 of the National Internal Revenue Code is hereby amended to read as follows:

SECTION 330. Statutory offenses of officials and employees. — (a) Those charged within the enforcement of the provisions of this Code. Every official, agent or employee of the Bureau of Internal Revenue or any other agency of the government charged with the enforcement of the provisions of this Code, who is guilty of any delinquency hereinbelow specified, or who falls within any of the classes hereinbelow indicated, shall be punished with a fine of not less than five thousand pesos nor more than fifty thousand pesos and imprisonment for not less than one year nor more than ten years:

- Those guilty of extortion or willful oppression under color of law.
- Those who knowingly demand other or greater sums than are authorized by law or received any fees, compensation or reward, except as by law prescribed, for the performance of any duty.
- Those who willfully neglect to give receipts, as by law required, for any sums collected in the performance of duty or who willfully neglect to perform, any other duties enjoined by law.
- Those who conspire or collude with another or others to defraud the revenues or otherwise violate the law.
- Those who willfully make opportunity for any person to defraud the revenues, or who do or omit to do any act with intent to enable any other person to defraud the revenues.
- Those who negligently or designedly permit the violation of the law by any other person.

- Those who make or sign any false entry or entries in any books, or make or sign any false certificate or return in any case where the law requires the making by them of such entry, certificates or return.
- Those who, having knowledge or information of violation of this Code or of any fraud committed on the revenues collectible by the Bureau of Internal Revenue, fail to report such knowledge or information to their superior officer or to report as otherwise required by law.
- Those who, without the authority of law, demand or accept or attempt to collect, directly or indirectly; as payment; otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law.

(b) Withholding agents under the provisions of this Code or Regulations promulgated thereunder. — Every officer or employee of the government of the Republic of the Philippines, or any of its agencies and instrumentalities, its political subdivisions, as well as government-owned or controlled corporations who, under the provisions of this Code or regulations promulgated thereunder, is charged with the duty to deduct and withhold any internal revenue tax and to remit the same in accordance with the provisions of this Code and other laws is guilty of any delinquency hereinbelow specified shall be punished by a fine of not less than five thousand pesos (P5,000) and imprisonment of not less than one year nor more than two years.

- Those who fail or cause the failure to deduct and withhold any internal revenue tax under any of the withholding tax laws and implementing regulations,
- Those who fail or cause the failure to remit taxes deducted and withheld, within the time prescribed by law and implementing regulations,
- Those who fail or cause the failure to file return or statement within the time prescribed, or render or furnish a false or fraudulent return or statement required under the withholding tax laws and regulations.

SEC. 33. Effectivity. — This Decree shall take effect upon approval, except; that the Minister of Finance upon recommendation of the Commissioner of Internal Revenue shall promulgate rules and regulations to implement the transitional effectivity of Section 27, Section 28 and Section 29 of this Act.

Done in the City of Manila, this 1st day of August, in the year of Our Lord, nineteen hundred and eighty.

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

By the President:

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

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