

[PRESIDENTIAL DECREE No. 1773, January 16, 1981]

AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE.

WHEREAS, the taxpaying public has been persistently and incessantly clamoring for upward adjustment of the personal and additional exemptions;

WHEREAS, inflation has increased the cost of living and has effectively pushed otherwise nontaxable, low-income individuals beyond the threshold of exemption, thereby justifying the demand for increase in personal and additional exemptions;

WHEREAS, it is also necessary to re-structure and improve the progressivity of the graduated income tax rates in order to make the tax system more equitable not only as a source of revenue but also as a social instrument for redistribution of wealth and income;

WHEREAS, it is necessary to amend further certain provisions of the National Internal Revenue Code in order to strengthen the enforcement powers of the Bureau of Internal Revenue;

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:

SECTION 1. Section 7 of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby further amended to read as follows:

"Power of the Commissioner of Internal Revenue to Obtain Information, Examine, Summon and Take Testimony.

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

"(b) From other persons. For the purpose of ascertaining the correctness of any return where none has been made, determining the liability of any person for any internal revenue tax or collecting any such liability, the Commissioner or his authorized representative is empowered.

"(1) To examine any book, paper, or record, 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 specified in the summons and to produce such books, papers, records, or other data, and to give 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 refuses to obey such summons, or to produce books, papers, records or other data, or give testimony, as required, shall be liable to the penalties prescribed by Section 337 hereof."

SEC. 2. Section 16 of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby further amended to read as follows:

"Sec. 16. Power of the 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 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 or quarters of the same or different taxable years and such assessment shall be deemed 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 tax or intends to leave the Philippines, or remove his property therefrom, or hide or conceal his property, or perform any act tending the proceedings for the collection of 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 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 demand made by the Commissioner of Internal Revenue.

SEC. 3. Paragraphs (a), (b) and (c) of Section 23 of the National Internal Revenue Code are hereby amended to read as follows:

"(a) Personal exemptions of single individuals. The sum of Three thousand pesos, if the person making the return is a single person or a married person judicially decreed as legally separated from his or her spouse.

"(b) Personal exemption of married persons or heads of family. The sum of Six thousand pesos, if the person making the return is a married man or a married woman, or Four thousand five hundred pesos if the person making the return is the head of a family: Provided, That only one exemption of Six thousand pesos shall be

made from the aggregate income of both husband and wife when not legally separated. For the purpose of this section, the term "head of the family" means an unmarried man or woman with one or both parents, or with one or more brothers or sisters, or with one or more legitimate, recognized natural, or adopted children living with and dependent upon him or her for their chief support where such brothers, sisters, or children are not more than twenty-one years of age, unmarried, and not gainfully employed, or where such children are incapable of self-support because of mental or physical defect.

"(c) Additional exemption for dependents. The sum of Two thousand pesos for each legitimate, recognized natural or adopted child wholly dependent upon and living with the taxpayer if such dependents are not more than twenty-one years of age, unmarried and not gainfully employed or incapable of self-support because of mental or physical defect. The additional exemption under this subsection shall be allowed only if the person making the return is either married or head of the family: Provided, however, That the total number of dependents for which additional exemptions may be claimed shall not exceed four dependents: Provided, further, That an additional exemption of One thousand pesos shall be allowed for each child who otherwise qualified as dependent prior to January 1, 1980."

SEC. 4. Section 23 is further amended by inserting a new paragraph between paragraphs (d) and (e) to be known as paragraph (e) and making the existing paragraph (e) as paragraph (f). The new paragraph shall read as follows:

"Sec. 23(e). Allowances for Adjustment. Upon the recommendation of the Minister of Finance, the President may, not often than once every three years, adjust the personal and additional exemptions taking into account, among others, the movements in consumer price indices, levels of minimum wages, and bare subsistence levels."

SEC. 5. Paragraph (a) of Section 24 (b) (2) of the National Internal Revenue Code, as amended by Presidential Decree No. 1705 is hereby renumbered as paragraph (i) and paragraph (b) of the same Sub-section is hereby renumbered as paragraph (ii) and amended to read as follows:

"(ii) Tax on branch profits remittances. Any profit remitted abroad by a branch to its head office shall be subject to a tax of fifteen per cent (15%) (except those registered with the Export Processing Zone Authority): Provided, That any profit remitted by a branch to its head office 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 interests, dividends, rents, royalties, including remunerations for technical services, salaries, wages, premiums, annuities, emoluments or other fixed or determinable annual, periodical or casual gains, profits, income, and capital gains received by a foreign corporation during each taxable year from all sources within the Philippines shall not be considered as branch profits unless the same are effectively connected with the conduct of its trade or business in the Philippines."

SEC. 6. Paragraph (e) of Section 24 of the National Internal Revenue Code is hereby amended to read as follows:

"(e) Corporate Development Tax. In addition to the tax imposed in subsection (a) of this Section, an additional tax in an amount equivalent to 10% of the same taxable net income shall be paid by a domestic or a resident foreign corporation which qualifies as a closely-held corporation as defined herein: The term "closely-held

corporation" means any corporation, (a) at least 50% in value of the outstanding stock or (b) at least 50% of the total combined voting power of all classes of stock entitled to vote, at any time during the taxable year, is owned directly or indirectly by or for not more than five persons, natural or juridical. For the purpose of determining whether an individual indirectly owns shares of stock in a corporation, the attribution rules prescribed by paragraphs (b) and (c) of Section 66 of this Code shall be applied.

The additional corporate income tax imposed in this Subsection shall be collected and paid at the same time and in the same manner as the tax imposed in subsection (a) of this Section.

"The foregoing provisions shall not apply to banks, non-bank financial intermediaries or corporations organized primarily, and authorized by the Central Bank of the Philippines to hold shares of stock of banks unless (A) More than twenty (20%) per cent of all classes of stock entitled to vote of such corporation is held by (1) persons related to each other within the third degree of consanguinity or affinity, or (2) a corporation, the majority of the shares are owned by such related persons or (3) two or more corporations the majority of the shares are owned by the same person or so related persons."

SEC. 7. Section 24(f) of the same Code is hereby amended to read as follows:

"(f) Tax on transactions by offshore banking units and under the expanded foreign currency deposits system.

"(1) Offshore Banking Units. The provisions of any law to the contrary notwithstanding, income derived by offshore banking units authorized by the Central Bank of the Philippines from foreign currency transactions with nonresidents, other offshore banking units, local commercial banks, including branches of foreign banks that may be authorized by the Central Bank to transact business with offshore banking units shall be exempt from all taxes except net income from such transactions as may be specified by the Minister of Finance, upon recommendation of the Monetary Board, to be subject to the usual income tax payable by banks: Provided, however, That any interest income derived from foreign currency loans granted to residents other than offshore banking units or local commercial banks, including local branches of foreign banks that may be authorized by the Central Bank of the Philippines to transact business with offshore banking units, shall be subject only to a 10% final withholding tax."

"Any income of nonresidents from transactions with said offshore banking units shall be exempt from income tax."

"(2) Expanded Foreign Currency Deposit System. Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transaction with nonresidents, offshore banking units in the Philippines, local commercial banks including branches of foreign banks that may be authorized by the Central Bank to transact business with foreign currency deposit system units and other depository banks under the expanded foreign currency deposit system shall be exempt from all taxes, except net income from such transactions as may be specified by the Minister of Finance, upon recommendation of the Monetary Board to be subject to the usual income tax payable by banks: Provided, however, That interest income from foreign currency loans granted by such depository banks under said expanded system to residents (other than offshore banking units in the

Philippines or other depository banks under the expanded system) shall be subject to a 10% final withholding tax.”

“Any income of nonresidents from transactions with depository banks under the expanded system shall be exempt from income tax.”

SEC. 8. Subparagraphs (f) and (g) of Section 30(c) (1), of the National Internal Revenue Code which were added as new subparagraphs thereto by Presidential Decree No. 1705 are hereby designated as subparagraphs (F) and (G), respectively.

SEC. 9. Paragraph (k) of Section 30 of the National Internal Revenue Code is hereby amended to read as follows:

“(k) Optional standard deduction. In lieu of the deductions allowed under this section, an individual other than a nonresident alien, may elect a standard deduction in an amount not exceeding 10% per centum of his gross income. Unless the taxpayer signifies in his return his intention to elect the optional standard deduction, he shall be considered as having availed himself of the deductions allowed in the preceding subsection. The Minister of Finance shall prescribe the manner of the election. Such election when made in the return shall be irrevocable for the taxable year for which the return is made.”

SEC. 10. A new paragraph is hereby added to Section 30 of the National Internal Revenue Code to read as follows:

“Notwithstanding the provisions of the preceding paragraphs, the Minister of Finance upon recommendation of the Commissioner, may for tax audit purposes prescribe by regulations, limitations or ceilings for any of the itemized deductions under this Section.”

SEC. 11. Paragraph (b) of Section 35 of the National Internal Revenue Code is hereby amended to read as follows:

“(b) In the case of property acquired on or after March first, nineteen hundred and thirteen, the cost thereof if such property was acquired by purchase or the fair market price or value as of the date of the acquisition if the same was acquired by inheritance. If the property was acquired by gift the basis shall be the same as it would be in the hands of the donor, or the last preceding owner by whom it was not acquired by gift, except that if such basis is greater than the fair market value of the property at the time of the gift then for the purpose of determining loss the basis shall be such fair market value.”

SEC. 12. Section 35(c) of the National Internal Revenue Code as amended by Presidential Decree No. 1705 is hereby amended to read as follows:

“(c) Exchange of property.

“(1) General rule. Except as herein provided, upon the sale or exchange of property, the entire amount of the gain or loss, as the case may be, shall be recognized.

“(2) Exception. No gain or loss shall be recognized if in pursuance of a plan of merger or consolidation (a) a corporation which is a party to a merger or consolidation exchanges property solely for stock in 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