

[PRESIDENTIAL DECREE NO. 1739, September 17, 1980]

PROVIDING FISCAL INCENTIVES BY AMENDING CERTAIN PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AND FOR OTHER PURPOSES

WHEREAS, studies and surveys indicate the need for more long-term funds to support the investment and credit requirements of industry and agriculture; and

WHEREAS, the laws restructuring the banking system to allow it to re-channel its resources to long-term investments require a complementary change in the applicable tax structure to provide adequate incentives for long-term funds;

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

SECTION 1. Section 20 of the National Internal Revenue Code is hereby amended by adding the following definitions as follows:

"SEC. 20 (v) The term "bank" means every banking institution as defined in Section 2 of the General Banking Act, Republic Act 337, as amended. A bank may either be a commercial bank, a thrift bank, a development bank, a rural bank or a specialized government bank.

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

(x) The term "quasi-banking activities" means borrowing funds from twenty or more personal or corporate lenders at any one time, through the issuance, endorsement or acceptance of debt instrument of any kind other than deposits for the borrower's own accounts, or through the issuance certificates of assignment or similar instruments, with recourse, or of repurchase agreements for purposes of relending or purchasing receivable 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."

SEC. 2. Section 21 of the same Code is hereby amended by adding a new paragraph to read as follows:

"SEC. 21. *Rates of tax on citizens or residents. –*

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Interest from Philippine Currency bank deposits and yield from deposit substitutes whether received by citizens of the Philippines to the final tax as follows:

(a) 15% of the interest on savings deposits, and (b) 20% of the interest of time deposits and yield from deposit substitutes, which shall be collected and paid as *provided* in Sections 53 and 54 of this Code: *Provided, That* no tax shall be imposed

if the aggregate amount of the interest on all Philippine Currency deposit accounts maintained by a depositor alone or together with another in any one bank at any time during the taxable period does not exceed Eight Hundred Pesos (P800.00) a year or Two Hundred Pesos (P200.00) per quarter; *Provided, further,* That if the recipient of such interest is exempt from income taxation, no tax shall be imposed and that, if the recipient is enjoying preferential income tax treatment then preferential tax rates income tax treatment then the preferential tax rates so *provided* shall be imposed."

SEC. 3. Section 24 of the same Code is hereby amended by adding a new subsection (cc) between subsections (c) and (d) to read as follows:

"(cc). Rates of tax on interest from deposits and yield from deposit substitutes. Interest on the Philippine Currency bank deposits and yield from deposit substitutes received by domestic or resident foreign corporations shall be subject to a final tax on the total amount thereof as follows: (a) 15% of the interest on savings deposits; and (b) 20% of the interest on time deposits and yield from deposit substitutes which shall be collected and paid as *provided* in Sections 53 and 54 of this Code: *Provided,* That if the recipient of such interest is exempt from income taxation, no tax shall be imposed and that, if the recipient is enjoying preferential income tax treatment, then the preferential tax rates so *provided* shall be imposed.

SEC. 4. Section 24(e) of the same Code is hereby amended by adding a new paragraph to read as follows:

"SEC. 24(e). *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 stocks of bank unless – (A) more than twenty (20%) per cent of all classes of stock entitled to vote of such corporation is held by: (i) persons related to each other within the third degree of consanguinity or affinity, or (ii) a corporation the majority of shares are owned by the same person or so related persons."*

SEC. 5. Section 25 of the same Code is hereby amended to read as follows:

"SEC. 25. *Additional tax on corporations improperly accumulating profits or surplus. – (a) Imposition of tax. – If any corporations is formed or availed of for the purpose of preventing the imposition of the tax upon its shareholders or members or the shareholders or members of another corporation, through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, there levied and assessed against such corporation, for each taxable year, a tax equal to 25% of the undistributed portion of its accumulated profits or surplus which shall be in addition to the tax imposed by Section 24, and shall be computed, collected and paid in the same manner and subject to the same provisions of law, including penalties, as that tax.*

"(b) Prima facie evidence. – The fact that any corporation is a mere holding company shall be prima facie evidence of a purpose to avoid the tax upon its shareholders or members. Similar presumption will lie in the case of an investment company where at any time during the taxable

year more than fifty per centum in value of its outstanding stock is owned, directly or indirectly, by one person.

"(c) *Evidence determinative of purpose.* – That fact that the earnings or profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid the tax upon its shareholders or members unless the corporation, by clear preponderance of evidence, shall prove the contrary.

"(d) *Exception.* – The provisions of this section shall not apply to banks, nonblank financial intermediaries, corporations organized primarily, and authorized by the Central Bank of the Philippines to hold shares of stock of banks, insurance companies, or personal holding companies, whether domestic or foreign.

SEC. 6. Paragraph (1) of Section 27 of the same Code is hereby deleted.

SEC. 7. Sub-paragraph (b) (8) (D) of Section 29 of the same Code is hereby amended to read as follows:

"**SEC. 29(b) (8) (D).** Interest earned on Philippine Currency bank deposits and yield from deposit substitutes subjected to the final tax under Sections 21 and 24 of this Code."

SEC. 8. Section 34(g). The provisions of paragraph (b) of this section to the contrary notwithstanding, net capital gains realized during each taxable year by individuals or corporations from sale or exchange of shares of stock shall be taxed at the rate of 10%: *Provided, however,* That net capital gains realized from the sale defined in Section 96 of the Corporation Code of the Philippines, shall be subject to tax as follows:

Not over P50, 000	10%
Over 50,000	20%

Capital losses sustained from the sale shares of stock in a close corporation shall be allowed to be offset against capital gains from sale or exchange of shares of stock in any corporation.

Capital losses sustained from the sale or exchange of shares of stock in a corporation not qualifying as a close corporation shall be allowed to be offset only against capital gains from sale of stock in a corporation not qualifying as a close corporation.

The capital gains tax herein imposed shall be paid in a manner *provided* for by regulations to be promulgated by the Minister of Finance.

SEC. 9. Section 53(e) of the same Code is hereby amended to read as follows:

"**SEC. 53(e)** *Withholding of the final tax on interest on bank deposits and yield from deposit substitutes.* –

(1) Withholding of final tax. Every bank or non-bank financial intermediary shall deduct and withhold from the interest on bank deposits or yield from deposit substitute a final bank equal to fifteen