

[PRESIDENTIAL DECREE NO. 1657, December 19, 1979]

AMENDING SECTIONS 3, 4, 5, 8 AND 11 OF PRESIDENTIAL DECREE NO. 1167

WHEREAS, there are various incentives administered by a number of government agencies which incentives may be availed of by Filipino construction contractors undertaking overseas projects;

WHEREAS, it is highly desirable for efficient administration that all incentives available to overseas construction projects or export of construction services be administered by a single government agency;

WHEREAS, experience in implementation so far has indicated the need for organizational adjustments and the importance of flexibility in altering or modifying some incentives to make them more responsive to changes occurring in the overseas markets and the domestic economy.

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

SECTION 1. Section 3 subsection (c) of Presidential Decree No. 1167 is hereby amended to read as follows:

"c. "Overseas Project" shall mean a construction or consultancy project undertaken by a contractor or consultant outside the territorial boundaries of the Philippines; the term shall include overseas works which are in support of and necessary to construction undertakings."

SEC. 2. Section 3 of Presidential Decree No. 1167 is hereby further amended by the addition of subsection "f" which shall read as follows:

"f. "Gross Contract Price" shall refer to income, revenues, or receipts derived by a contractor from an overseas project."

SEC. 3. Section 4 of Presidential Decree No. 1167 is hereby amended to read as follows:

"Sec. 4. Incentives for Filipino Overseas Contractors. — A duly registered Filipino contractor who is engaged in an overseas project shall be granted, at his option, the incentives *provided* in subsections (a) and (b) or in subsection (c), or in subsection (d) of this section.

a. *Tax credit* — (1) Taxes paid by the Filipino contractor to foreign governments on income derived from overseas projects subject, however, to the limitation of Section 30 (c) 4 (a) and (b) of the National Internal Revenue Code;

(2) Tax credit for taxes withheld on interest payments on foreign loans incurred directly and exclusively for overseas projects: *Provided*, That (i) no such credit is enjoyed by the lender-remittee in his country; and (ii) the overseas contractor has assumed the liability for payment of the tax due from the lender-remittee; and

(3) Tax credit equivalent to the sales taxes paid on domestically manufactured or produced materials or products which are purchased by the overseas contractor and actually exported by him to be used in his overseas projects: *Provided*, That the sales taxes are indicated as a separate item on the sales invoice of the manufacturer or producer.

b. *Deduction From Gross Overseas Income — (1) Accelerated depreciation —* At the option of the Filipino contractor and in accordance with the procedures established by the Bureau of Internal Revenue fixed assets actually used in overseas operation may be: (i) depreciated to the extent of not more than twice as fast as the normal rate of depreciation if expected life thereof is ten (10) years or less; or (ii) depreciated over any number of years, between five (5) years and expected life if the latter is more than ten (10) years. Such depreciation cost as may be chosen by the said taxpayer shall be allowed as a deduction from the taxable income: *Provided*, That he notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this Section will be used by him;

(2) *Additional deduction of labor training expenses.* — An additional deduction from taxable income of one-half of the value of labor training expenses incurred for improving the performance and efficiency of unskilled labor: *Provided*, That such training program is duly approved by the Department of Labor: *Provided, further*, That such deduction shall not exceed ten percent (10%) of the direct labor wage; and

(3) *Net operating loss carry-over —* A net operating loss incurred on overseas projects in any year of operation may be carried over as a deduction from taxable income earned from overseas projects, within the three (3) years immediately following the year of such loss: *Provided*, That the loss carried over is computed net of incentives herein granted: *Provided, further*, That no impairment of loans or guarantees extended by the Philippine Government or any of its instrumentalities has occurred or will occur as a result of overseas construction operations during the taxable year. The net operating loss shall be computed in accordance with the procedures established by the Bureau of Internal Revenue and shall be allowed only for purposes of income declaration in the Philippines.

c. In lieu of the income tax payable as a result of the application of the incentives provided for in the preceding subsections, the Filipino contractor may elect to pay a one and one-half percent (1-1/2%) tax on his gross contract price less any portion subcontracted to another registered Filipino contractor.

d. A registered contractor may for the first five (5) years from registration with the Philippine Overseas Construction Board or with the Board of Investments as service exporter under R.A. 6135, whichever was earlier, be entitled to deduct from its taxable income an amount equivalent to fifty percent (50%) of its total export fees during the year in which the incentive is claimed: *Provided*, That to be entitled to this deduction, the registered contractor must have remitted or repatriated to the Philippines in acceptable currencies its total export fees earned during the year in which the incentive is claimed less reasonable costs and expenses incurred or payable in foreign currencies, under such Rules and Regulations as the Monetary Board may prescribe; *Provided, further*, That contractors registered with the Board of Investments as service