

[PRESIDENTIAL DECREE NO. 1158-A, June 03, 1977]

AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE OF 1939 FOR INCORPORATION IN THE CONSOLIDATION AND CODIFICATION OF ALL EXISTING REVENUE LAWS UNDER PRESIDENTIAL DECREE NO. 1158.

WHEREAS, the national government is in dire need of funds to finance its socio-economic program designed to upgrade the living standards of our people;

WHEREAS, it is necessary to amend further certain provisions of the said Code to make it more responsive to current conditions;

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:

SECTION 1. Section 24 of the National Internal Revenue Code is hereby amended to read as follows:

"Sec. 24. Rates of tax on corporations.-(a) Tax on domestic corporations.-A tax is hereby imposed upon the taxable net income received during each taxable year from all sources by every corporation organized in, or existing under the laws of the Philippines, and partnerships, no matter how created or organized, but not including general professional partnerships, in accordance with the following:

"Twenty-five per cent upon the amount by which the taxable net income does not exceed one hundred thousand pesos; and

"Thirty-five per cent upon the amount by which the taxable net income exceeds one hundred thousand pesos.

*"Private educational institutions, whether stock or non-stock shall pay a tax of ten per cent of their taxable net income from the operation of the school, related school activities, and on their passive investment income consisting of interest, dividends, royalties, and the like: *Provided, however,* That dividends received by a private educational institution, whether stock or non-stock, from a domestic or resident foreign corporation shall be subject to the inter-corporate dividends tax under subsection (e) hereof.*

*"(b) Tax on foreign corporation.-(1) Non-resident corporations.-A foreign corporation not engaged in trade or business in the Philippines shall pay a tax equal to thirty five percent of the gross income received during each taxable year from all sources within the Philippines, as interest, dividends, rents, royalties, salaries, premiums, annuities, remunerations for technical services, emoluments or other fixed or determinable annual, periodical or casual gains, profits and income, and capital gains: *Provided, however,* That-*

"(i) Premiums shall not include reinsurance premiums;

"(ii) Interest on foreign loans shall be subject to fifteen per cent tax;

"(iii) On dividends received from a domestic corporation liable to tax under this Chapter, the tax shall be 15 % of the dividends received, which shall be collected and paid as provided in Section 53(d) of this Code, subject to the condition that the country in which the non-resident foreign corporation is domiciled shall allow a credit against the tax due from the non-resident foreign corporation, taxes deemed to have been paid in the Philippines equivalent to 20% which represents the difference between the regular tax (35%) on corporations and the tax (15%) on dividends as provided in this Section;

"(iv) Cinematographic film owners, lessors, or distributors shall pay a tax of twenty-five per cent of their gross income from all sources within the Philippines. For purposes of this paragraph, the gross income of cinematographic film owners, lessors, or distributors shall include film rentals and all items of gross income under Section 29(a)

"(v) Rentals, lease and charter fees payable to non resident owners of vessels chartered by Philippine nationals as the term is defined under Section 3(c) of Presidential Decree No. 474, and which charter or lease has been duly approved by the Maritime Industry Authority, shall be subject to 4.5 % final tax, the return and payment of which shall be in accordance with Section 53 and 54 of this Code;

"(vi) Regional or area headquarters established in the Philippines by multi-national corporations and which headquarters do not earn or derive income from the Philippines and which act as supervisory, communications and coordinating centers for their affiliates, subsidiaries, or branches in the Asia-Pacific Region shall not be subject to tax.

"(2) *Resident corporations.*-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 received 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 per cent on their gross Philippine billings: *Provided, further* That any profit remitted abroad by a branch office to its mother company shall be subject to tax of fifteen per cent (except those registered with the Export Processing Zone Authority).

"(c) *Rate of tax on certain dividends.*-Dividends received by a domestic

or resident foreign corporation from a domestic corporation liable to tax under this Code-

"(1) Shall be subject to a final tax at 10% on the total amount thereof, which shall be collected and paid as provided in Sections 53 and 54 of this Code; and

"(2) Shall not be included in the determination of the gross income of the recipient corporation:

"Provided, however, That interest paid or incurred on indebtedness abroad by a domestic or resident foreign corporation, which indebtedness was incurred to provide funds for investment in a domestic corporation shall be allowed as a deduction from the intercorporate dividends before computing the 10% final tax. Any excess of the interest herein allowed as deduction from intercorporate dividends may be deducted from the other gross income of the recipient corporation, subject to the provisions of Section 30 (b) of this Code.

"The above deduction of interest from intercorporate dividends shall be allowed only if the recipient domestic or resident foreign corporation submits an authenticated copy of the foreign loan agreement stipulating the end-use of the loan proceeds and such other information as may be required for its determination.

"The Secretary of Finance, upon recommendation of the Commissioner of Internal Revenue, shall promulgate rules and regulations to implement the provisions of this paragraph.

"(d) *Tax on mutual life insurance companies.*-Mutual life insurance companies organized in and existing under the laws of the Philippines shall pay a tax of 10% of their gross investment income consisting of interest, dividends, rents, net capital gains and income from any other business than life insurance derived from all sources. Foreign mutual life insurance companies authorized to carry business in the Philippines shall pay the same rate of tax on the same items of gross investment income derived from sources within the Philippines.

"(e) *Corporate development tax.*-In addition to the tax imposed in subsection (a) of this Section, an additional tax in an amount equivalent to 5% of the same taxable net income shall be paid by a domestic or a resident foreign corporation: *Provided,* That this additional tax shall be imposed only if the net income exceeds 10% of the net worth, in case of a domestic corporation, or net assets in the Philippines, in case of a resident foreign corporation: *Provided, however,* That a closely-held corporation as defined hereinbelow shall be subject to the said additional income tax regardless of the rate of return on its net worth. The term "closely-held corporation" means any corporation, (a) 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 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.

" (f) *Tax on transaction by offshore banking units and under the expanded foreign currency deposit systems.*-(1) *Offshore banking units.*- The provisions of any law to the contrary notwithstanding, the transactions of offshore banking units authorized by the Central Bank with non-residents and other offshore banking units shall be subject to a five per cent (5%) tax on the net income from such transactions which shall be in lieu of all taxes on the said transactions: *Provided, however,* That transactions of offshore banking units with local commercial banks, including branches of foreign banks that may be authorized by the Central Bank to transact business with offshore banking units, shall likewise be subject to the same tax, except net income from such transactions as may be specified by the Secretary of Finance, upon recommendation of the Monetary Board, to be subject to the usual income tax payable by banks. Any income of non-residents from transactions with said offshore banking units shall be exempt from any tax.

" In case of transaction with residents (other than other 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), interest income from loans granted to such residents shall be subject only to a ten percent (10%) withholding tax and final tax.

" (2) *Expanded foreign currency deposit system.*-The net income derived by a depository bank from foreign currency transactions with nonresidents, offshore banking units in the Philippines and other depository banks under the expanded foreign currency deposit system under the rules and regulations of the Central Bank shall be subject to a five per cent (5%) tax which shall be in lieu of all taxes on said transactions, except net income from such transactions as may be specified by the Secretary of Finance, upon recommendation of the Monetary Board, to be subject to the usual income tax payable by banks.

" 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 ten per cent (10%) withholding tax as a final tax.

" Income of non-residents not engaged in trade or business in the Philippines from foreign currency loans to depository banks under the expanded system shall be exempt from income tax.

" (g) The provisions of existing special or general laws to the contrary

notwithstanding, all corporate taxpayers not specifically exempt under Section 27 of this Code shall pay the rates provided in this Section. All corporations, agencies or instrumentalities owned or controlled by the Government, including the Government Service Insurance System and the Social Security System but excluding educational institutions, shall pay such rate of tax upon their taxable net income as are imposed by this section upon associations or corporations engaged in a similar business or industry."

SEC. 2. Subparagraph (b) of Section 29 of the National Internal Revenue Code is hereby amended to read as follows:

" (b) *Exclusions from gross income.*-The following items shall not be included in gross income and shall be exempt from taxation under this Title:

" (1) *Life insurance.*-The proceeds of life insurance policies paid to beneficiaries upon death of the insured, whether in a single sum or otherwise, but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

" (2) *Amount received by insured as return of premium.*-The amount received by the insured, as return of premium or premiums paid by him under life insurance, endorsement, or annuity contracts, either during the terms or at the maturity of the term mentioned in the contract or upon surrender of the contract.

" (3) *Gifts, bequest, and devises.*-The value of property acquired by gift, bequests, devise, or descent; but the income from such property shall be included in gross income.

" (4) *Interest on Government securities.*-Interest upon the obligations of the Government of the Republic of the Philippines or any political subdivision thereof, but in the case of such obligations issued after the approval of this Code, only to the extent provided in the act authorizing the issue thereof.

" (5) *Compensation for injuries or sickness.*-Amounts received through Accident or Health Insurance or under Workmen's Compensation Acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness.

" (6) *Income exempt under treaty.*-Income of any kind, to the extent required by any treaty obligation binding upon the Government of the Philippines.

" (7) *Retirement benefits, pensions, gratuities, etc.*-(A) Retirement benefits received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer: Provided, That the retiring official or