

[PRESIDENTIAL DECREE NO. 1705, August 01, 1980]

AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE

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) ***Protesting 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