

**[ REPUBLIC ACT NO. 9337, May 24, 2005 ]**

**AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SEC. 1. Section 27 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

*"SEC. 27. Rates of Income Tax on Domestic Corporations. —*

*"(A) In General. — Except as otherwise provided in this Code, an income tax of thirty-five percent (35%) is hereby imposed upon the taxable income derived during each taxable year from all sources within and without the Philippines by every corporation, as defined in Section 22(B) of this Code and taxable under this Title as a corporation, organized in, or existing under the laws of the Philippines: Provided, That effective January 1, 2009, the rate of income tax shall be thirty percent (30%).*

*"In the case of corporations adopting the fiscal-year accounting period, the taxable income shall be computed without regard to the specific date when specific sales, purchases and other transactions occur. Their income and expenses for the fiscal year shall be deemed to have been earned and spent equally for each month of the period.*

*"The corporate income tax rate shall be applied on the amount computed by multiplying the number of months covered by the new rate within the fiscal year by the taxable income of the corporation for the period, divided by twelve."*

*"Provided, further, That the President, upon the recommendation of the Secretary of Finance, may, effective January 1, 2000, allow corporations the option to be taxed at fifteen percent (15%) of gross income as defined herein, after the following conditions have been satisfied:*

*"(1) A tax effort ratio of twenty percent (20%) of Gross National Product (GNP);*

*"(2) A ratio of forty percent (40%) of income tax collection to total tax revenues;*

*"(3) A VAT tax effort of four percent (4%) of GNP; and*

“(4) A 0.9 percent (0.9%) ratio of the Consolidated Public Sector Financial Position (CPSFP) to GNP.

“The option to be taxed based on gross income shall be available only to firms whose ratio of cost of sales to gross sales or receipts from all sources does not exceed fifty-five percent (55%).

“The election of the gross income tax option by the corporation shall be irrevocable for three (3) consecutive taxable years during which the corporation is qualified under the scheme.

“For purposes of this Section, the term ‘**gross income**’ derived from business shall be equivalent to gross sales less sales returns, discounts and allowances and cost of goods sold. ‘Cost of goods sold’ shall include all business expenses directly incurred to produce the merchandise to bring them to their present location and use.

“For a trading or merchandising concern, ‘**cost of goods sold**’ shall include the invoice cost of the goods sold, plus import duties, freight in transporting the goods to the place where the goods are actually sold, including insurance while the goods are in transit.

“For a manufacturing concern, ‘**cost of goods manufactured and sold**’ shall include all costs of production of finished goods, such as raw materials used, direct labor and manufacturing overhead, freight cost, insurance premiums and other costs incurred to bring the raw materials to the factory or warehouse.

“In the case of taxpayers engaged in the sale of service, ‘**gross income**’ means gross receipts less sales returns, allowances and discounts.

“(B) *Proprietary Educational Institutions and Hospitals.* — Proprietary educational institutions and hospitals which are nonprofit shall pay a tax of ten percent (10%) on their taxable income except those covered by Subsection (D) hereof: Provided, That if the gross income from unrelated trade, business or other activity exceeds fifty percent (50%) of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed in Subsection (A) hereof shall be imposed on the entire taxable income. For purposes of this Subsection, the term ‘**unrelated trade, business or other activity**’ means any trade, business or other activity, the conduct of which is not substantially related to the exercise or performance by such educational institution or hospital of its primary purpose or function. A ‘**proprietary educational institution**’ is any private school maintained and administered by private individuals or groups with an issued permit to operate from the Department of Education, Culture and Sports (DECS), or the Commission on Higher Education (CHED), or the Technical Education and Skills Development Authority (TESDA), as the case may be, in accordance with existing laws and regulations.

“(C) *Government-owned or -Controlled Corporations, Agencies or*

*Instrumentalities.* — The provisions of existing special or general laws to the contrary notwithstanding, all corporations, agencies, or instrumentalities owned or controlled by the Government, except the Government Service and Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), and the Philippine Charity Sweepstakes Office (PCSO), shall pay such rate of tax upon their taxable income as are imposed by this Section upon corporations or associations engaged in a similar business, industry, or activity.

“(D) *Rates of Tax on Certain Passive Incomes.* —

“(1) *Interest from Deposits and Yield or any other Monetary Benefit from Deposit Substitutes and from Trust Funds and Similar Arrangements, and Royalties.* — A final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest on currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements received by domestic corporations, and royalties, derived from sources within the Philippines: *Provided, however,* That interest income derived by a domestic corporation from a depository system shall be subject to a final income tax at the rate of seven and one-half percent (7 1/2%) of such interest income.

“(2) *Capital Gains from the Sale of Shares of Stock Not Traded in the Stock Exchange.* — A final tax at the rates prescribed below shall be imposed on net capital gains realized during the taxable year from the sale, exchange or other disposition of shares of stock in a domestic corporation except shares sold or disposed of through the stock exchange:

“Not over P100,000 .....	5%
“Amount in excess of P100,000 .....	10%

“(3) *Tax on Income Derived under the Expanded Foreign Currency Deposit System.* — Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with nonresidents, offshore banking units in the Philippines, local commercial banks including branches of foreign banks that may be authorized by the Bangko Sentral ng Pilipinas (BSP) 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 Secretary of Finance, upon recommendation by the Monetary Board to be subject to the regular 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 final tax at the rate of ten percent (10%).

"Any income of nonresidents, whether individuals or corporations, from transactions with depository banks under the expanded system shall be exempt from income tax.

"(4) *Intercorporate Dividends*. — Dividends received by a domestic corporation from another domestic corporation shall not be subject to tax.

"(5) *Capital Gains Realized from the Sale, Exchange or Disposition of Lands and/or Buildings*. — A final tax of six percent (6%) is hereby imposed on the gain presumed to have been realized on the sale, exchange or disposition of lands and/or buildings which are not actually used in the business of a corporation and are treated as capital assets, based on the gross selling price or fair market value as determined in accordance with Section 6(E) of this Code, whichever is higher, of such lands and/or buildings.

"(E) *Minimum Corporate Income Tax on Domestic Corporations*. —

"(1) *Imposition of Tax*. — A minimum corporate income tax of two percent (2%) of the gross income as of the end of the taxable year, as defined herein, is hereby imposed on a corporation taxable under this Title, beginning on the fourth taxable year immediately following the year in which such corporation commenced its business operations, when the minimum income tax is greater than the tax computed under Subsection (A) of this Section for the taxable year.

"(2) *Carry Forward of Excess Minimum Tax*. — Any excess of the minimum corporate income tax over the normal income tax as computed under Subsection (A) of this Section shall be carried forward and credited against the normal income tax for the three (3) immediately succeeding taxable years.

"(3) *Relief from the Minimum Corporate Income Tax Under Certain Conditions*. — The Secretary of Finance is hereby authorized to suspend the imposition of the minimum corporate income tax on any corporation which suffers losses on account of prolonged labor dispute, or because of *force majeure*, or because of legitimate business reverses.

"The Secretary of Finance is hereby authorized to promulgate, upon recommendation of the Commissioner, the necessary rules and regulations that shall define the terms and conditions under which he may suspend the imposition of the minimum corporate income tax in a meritorious case.

"(4) *Gross Income Defined*. — For purposes of applying the minimum corporate income tax provided under Subsection (E) hereof, the term 'gross income' shall mean gross sales less sales returns, discounts and allowances and cost of goods sold. 'Cost of goods sold' shall include all business expenses directly incurred to

produce the merchandise to bring them to their present location and use.

“For a trading or merchandising concern, '**cost of goods sold**' shall include the invoice cost of the goods sold, plus import duties, freight in transporting the goods to the place where the goods are actually sold including insurance while the goods are in transit.

“For a manufacturing concern, '**cost of goods manufactured and sold**' shall include all costs of production of finished goods, such as raw materials used, direct labor and manufacturing overhead, freight cost, insurance premiums and other costs incurred to bring the raw materials to the factory or warehouse.

“In the case of taxpayers engaged in the sale of service, '**gross income**' means gross receipts less sales returns, allowances, discounts and cost of services. '**Cost of services**' shall mean all direct costs and expenses necessarily incurred to provide the services required by the customers and clients including (A) salaries and employee benefits of personnel, consultants and specialists directly rendering the service and (B) cost of facilities directly utilized in providing the service such as depreciation or rental of equipment used and cost of supplies: *Provided, however,* That in the case of banks, '**cost of services**' shall include interest expense.”

SEC. 2. Section 28(A)(1) and (B)(1) and (5)(b) of the same Code, as amended, are hereby further amended to read as follows:

“SEC. 28. *Rates of Income Tax on Foreign Corporations.* —

“(A) *Tax on Resident Foreign Corporations.* —

“(1) *In General.* — Except as otherwise provided in this Code, a corporation organized, authorized, or existing under the laws of any foreign country, engaged in trade or business within the Philippines, shall be subject to an income tax equivalent to thirty-five percent (35%) of the taxable income derived in the preceding taxable year from all sources within the Philippines: *Provided,* That effective January 1, 2009, the rate of income tax shall be thirty percent (30%).

“In the case of corporations adopting the fiscal-year accounting period, the taxable income shall be computed without regard to the specific date when sales, purchases and other transactions occur. Their income and expenses for the fiscal year shall be deemed to have been earned and spent equally for each month of the period.

“The corporate income tax rate shall be applied on the amount computed by multiplying the number of months covered by the new rate within the fiscal year by the taxable income of the corporation for the period, divided by twelve.