ASPECTS OF ASEAN LAW

RECENT CHANGES IN THE PHILIPPINE LAW ON INCOME TAXATION

INTRODUCTION

Every country in the modern world aspires to economic development to satisfy the needs of its people. To succeed in doing so, it employs the economic bases of national power by making available financial, human, natural and other resources to those in a position to control the factors of production within its territorial jurisdiction. At the command of every decision-maker in the governmental effort aimed at the accomplishment of the objective of augmenting inadequate economic resources are the policy instruments in the monetary, fiscal, and investment areas of national development. The application of any combination of these measures, according to established theory, will result in growth for the economy.

The exercise of the power of taxation can be characterized as the employment of the fiscal instruments for economic development. It may thus be said that the power may be used by the sovereign not only for the raising of public revenues but also for the regulation of economic, financial and related activities. As in most other countries, the taxing power is being used by the Philippine Government for the attainment of politico-economic goals. Consequently, the law is continually being amended to conform to changing conditions, whether domestic or international.

SCOPE OF AMENDMENTS

The fields of taxation may be categorized as international, national, and local or municipal. The basic statute relating to national taxation in the Philippines is Commonwealth Act No. 466, as amended, otherwise known as the National Internal Revenue Code. The taxes thereunder are classified as: income tax, transfer tax, and business tax.

In the field of income taxation, many changes and innovations were introduced in recent months by the Government. They involve amendments relating not only to the subject and object of income taxation but also to the procedure and manner of collection of the public revenues so necessary for the efficient operation of the governmental machinery through which the people derive the benefits of living in an organized society.

Subject and Object of Taxation

In the context in which it is presently employed, the term "object of taxation" refers to that which is being taxed, whereas the term "subject of taxation" means the person, whether natural or juridical, legally obliged to pay the tax. The "subject" of income taxation relates to the classes of income taxpayers, as determined in accordance with the provisions of the National Internal Revenue Code. The "object" of income taxation, on the other hand, deals with the items which may possibly be included in the income tax return and, therefore, made liable for the income tax.

Classes of Income Taxpayers

Historically and under the provisions of the National Internal Revenue Code, income taxpayers are classified as: individuals and corporations.

Individuals

In the case of individual taxpayers, the following outline may be employed to arrive at taxable income and the amount of income tax:

Gross income
<u>Less: deductions</u>
Net income
<u>Less: personal and additional exemptions</u>
Taxable income
<u>Multiplied: by tax rates for individuals</u>
Amount of individual income tax
<u>Less: tax credit, if any, and tax withheld, if any</u>
Balance due to, or refundable from, the Government

Gross income is arrived at by considering all of the items mentioned in section 29(a) of the Revenue Code.[1] The exclusions[2] under

[1] Section 29(a): *General definition.* — "Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind in whatever form paid, or from professions, vocations, trades, businesses, commerce, sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interests, rents, dividends, securities, or the transaction of any business carried on for gain or profit, or gains, profits, and income derived from any source whatever.

[2] Section 29(b): *Exclusions from gross income.* — The following items shall not be included in gross income and shall be exempt from taxation under this Title: (II — INCOME TAX):

(1) Life insurance. — The proceeds of life insurance policies paid to beneficiaries upon the 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 a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the terms mentioned in the contract or upon surrender of the contract.

(3) Gifts, bequests, and devices.—The value of property acquired by gift, bequests, denial, 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

section 29(b) as well as all kinds of exemptions under the different statutes are completely disregarded and not reported in the income tax return. The deductions[3] allowed by section 30 are then subtracted from the amount of the gross income in order to arrive at the net income. After personal and additional exemptions[4] are subtracted from the net income, the difference is the taxable income. When the tax rates enumerated in the Code are applied to the taxable income, the product is the amount of the individual income tax.

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) Miscellaneous items. — (A) Income received from their investments in the Philippines in loans, stock, bonds, or other domestic securities, or from interest on their deposits in banks in the Philippines by (1) foreign governments (2) financing institutions owned, controlled, or enjoying re-financing from them and (3) international or regional financing institutions established by governments.

(B) Income derived from any public utility or from the exercise of any essential governmental function accruing to the Government of the Philippines or to any political subdivision thereof.

(C) Income derived as rewards under Republic Act Numbered Twenty-three hundred and thirty eight.

[3] Section 30: Deductions from gross income. In computing net income there shall be allowed as deduction —

(a) Expenses;
(b) Interest;
(c) Taxes;
(d) Losses;
(e) Bad debts;
(f) Depreciation;
(g) Depletion of oil and gas wells and mines;
(h) Charitable and other contributions;
(i) Pension trusts.

[4] Section 23: *Amount of Personal Exemptions Allowable to Individuals.*— For the purpose of the tax provided for in this Title, there shall be allowed in the nature of a deduction from the amount of net income the following personal exemptions:

(a) *Personal exemption of single individuals.* — The sum of one thousand eight hundred pesos, if the person making the return is a single person or a married person legally separated from his or her spouse.

(b) *Personal exemption of married persons or heads of family.* — The sum of three thousand pesos, if the person making the return is a married man or a married woman or the head of the family: Provided, that only one exemption of three thousand pesos shall be made from the aggregate income of both husband and wife when not legally separated. For the purpose of this section, the term "head of family" includes an unmarried man or woman with one or both parents, or one or more brothers or sisters, or one or more legitimate, recognized natural, or adopted children living with and dependent upon him or her for their chief support where such brothers, sisters, or children are not more than twenty-one years of age, unmarried, and not gainfully employed, or where such children are incapable of self-support because mentally or physically defective.

(c) *Additional exemption for dependents.* — The sum of one thousand pesos for each legitimate, recognized natural, or adopted child, wholly dependent upon and living with the taxpayer if such dependents are not more than twenty-one years of age, unmarried, and not gainfully employed or incapable of self-support because mentally or physically defective. The additional exemption under this subsection shall be allowed only if the person making the return is the head of the family; Provided, however, that the total number of dependents for which additional exemptions may be claimed shall not exceed four dependents.

(d) *Change of status.* — If the taxpayer marries or should have additional dependents as defined in subsection (c) above during the taxable year the taxpayer may claim the corresponding personal exemptions in full for such year.

Under certain conditions and limitations enumerated in section 30(c) of the Revenue Code,[5] a tax credit is allowed for income taxes, war-profits taxes, and excess-profits taxes paid to a foreign country. Together with taxes withheld from the individual, they may be subtracted from the amount of the individual's income tax in order to arrive at the amount of the balance to be paid to, or refunded from, the Government.

If the taxpayer should die during the taxable year, his estate may still claim the personal and additional deductions for himself and his dependents as if he died at the close of such year.

If the spouse or any of the dependents should die or become twenty-one years old during the taxable year, the taxpayer may still claim the same exemptions as if they died, or as if such dependents become twenty-one years old at the close of such year.

(e) *Personal exemptions allowable to a non-resident alien individual.* — A non-resident alien individual engaged in trade or business in the Philippines shall be entitled to personal exemption in an amount equal to the exemptions allowed by the income tax law in the country of which he is a subject or citizen to citizens of the Philippines not residing in such country, but not to exceed the amount fixed in this section as exemption for citizens or residents of the Philippines; Provided, that said non-resident alien file a true and accurate return of the total income received by him from all sources in the Philippines, as required by this Title.

[5] Section 30: *Deductions from gross income.* — In computing net income there shall be allowed as deduction:

(c) Taxes

(1) *In general.* — Taxes paid or accrued within the taxable year, except —

(A) x x x x x

(B) Income, war-profits, and excess-profits taxes imposed by the authority of any foreign country; but this deduction shall be allowed in the case of a taxpayer who does not signify in his return his desire to have to any extent the benefits of paragraph (3) of this subsection [relating to credits for taxes of foreign countries].

(C) x x x x x

(D) x x x x x

(2) *Limitations on deductions.* —

(A) In the case of a non-resident alien individual and a foreign corporation, the deductions for taxes provided in paragraph (1) of this subsection (c) shall be allowed only if and to the extent that they are connected with income from sources within the Philippines; and

(B) In the case of citizen of a foreign country residing in the Philippines whose income from sources within such foreign country is not taxable under this Title, only that portion of the taxes paid to such foreign country which corresponds to his net income taxable under this Title shall be allowed as deduction.

(3) *Credit against tax for taxes of foreign countries.* — If the taxpayer signifies in his return his desire to have the benefits of this paragraph, the tax imposed by this Title shall be credited with —

(A) *Citizen and domestic corporation.* — In the case of a citizen of the Philippines and of a domestic corporation, the amount of any income, war-profits and excess-profits taxes paid or accrued during the taxable year to any foreign country;

(B) *Alien resident of the Philippines.* — In the case of an alien resident of the Philippines, the amount of any such taxes paid or accrued during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the Philippines residing in such country; and

(C) *Partnership and estates.* — In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country, if his distributive share of the income of such partnership or trust is reported for taxation under this Title;

Corporations

For corporations, the treatment is a little bit different owing to the fact that personal and additional exemptions are not considered; thus:

Gross income

Less: deductions

Net income

Multiplied: by tax rates for corporations

Amount of corporate income tax

Less: tax credit, if any, and tax withheld, if any

Balance due to, or refundable from, the Government

It is to be noted that in the case of corporations, the net income is the same as the taxable income.

ON INCLUSIONS AND EXCLUSIONS

Receipts

The following outline may be used as a guide in the determination of what is taxable and what is not:

Receipts, or their equivalents, are of two kinds:

A. Return of capital; and

B. Income, which may be categorized as:

1. Inclusions, or items subject to tax:
   - a. income from services;
   - b. income from business;
   - c. income from sales or dealings in property —
     - i) ordinary gains;
     - ii) capital gains;
   - d. income from investments, such as interest, rents, dividends; and
   - e. income from any source whatever, whether legal, illegal, moral or immoral;

(D) *Non-resident aliens and foreign corporations.* — Non-resident alien individuals and foreign corporations shall not be allowed the credits against the tax for the taxes of foreign countries allowed under this paragraph.

(4) *Limitations on credit.* — The amount of the credit taken under this section shall be subject to each of the following limitations:

(A) The amount of the credit in respect to the tax paid or accrued to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources within such country taxable under this Title bears to his entire net income for the same taxable year; and

(B) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the Philippines taxable under this Title bears to his entire net income for the same taxable year.

2. Exclusions, or items exempt from tax:
   a. under the National Internal Revenue Code;
   b. under special laws;
   c. by judicial decisions.

It is evident from the foregoing that all the wealth which flows into the hands of the taxpayer may be characterized as receipts or their equivalents. Two of these are not taxable, to wit: return of capital; and exclusions. The total of the inclusions amount to the gross income.

Exclusions under the Revenue Code

No amendments to the provisions of the Revenue Code on inclusions have been introduced in the last few years. However, there have been changes involving exclusions and exemptions under the provisions of the National Internal Revenue Code and other laws. Section 29 (b) of the Revenue Code has been amended to read as follows:

> The following items shall not be included in gross income and shall be exempt from taxation under this Title:
>
> (7) MISCELLANEOUS ITEMS. (A) Income received from their investments in the Philippines in loans, stocks, bonds, or other domestic securities, or from interest on their deposits in banks in the Philippines by (1) foreign governments, (2) financing institutions owned, controlled or enjoying refinancing from them, and (3) international or regional financing institutions established by governments.

The net effect of the amendment is to expand the coverage of the exemption under section 29(b)(7)(A). Prior to the amendment, the income of foreign governments received from their investments in the Philippines in stock, bonds or other domestic securities was exempt from income taxation. The amendment adds to the list of exclusions the income of foreign governments from their investments in the Philippines in the form of loans. Moreover, the benefit of exemption is extended to: (1) financing institutions owned, controlled, or enjoying, refinancing from foreign governments; and (2) international or regional financing institutions established by governments.

It may be worth noting that under the original provision, the term "foreign governments" was understood to include "agencies". Thus, the Export-Import Bank of Washington was considered an independent agency of the United States Government, the same having been re-incorporated by the Congress of the United States under the Export-Import Bank Act of 1945. Consequently, notes executed by Philippine banks or corporations, evidencing obligations to repay loans extended to them by the Export-Import Bank, fell within the meaning of the term "other domestic securities" used in section 29(b)(7)(A). Interest on loans extended by the latter to Philippine banks was considered income of a foreign government from its investment in domestic securities. Such being the case, the said interest is exempt from Philippine income tax.[6]

Rules on Capital Gains

Under the provisions of section 34 in relation to section 29 (a) of the Revenue Code, capital gains are to be included in gross income

[6] B.I.R. Ruling No. 529, S. 1959.

and, therefore, subject to income tax. At times, the tax on capital gains is referred to as the capital gains tax, although in reality it is the income tax on capital gains.

Three sources of law on income taxation provide exemptions to the general rule of taxability of capital gains. These include: (1) Republic Act No. 5186, otherwise known as the Investment Incentives Law, as amended by Presidential Decrees Nos. 92 and 485; (2) Republic Act No. 6141, popularly referred to as the Stock Transfer Tax Act, as amended by Presidential Decree No. 10 and later by Presidential Decree No. 779; and (3) Presidential Decree No. 27 as supplemented by Presidential Decree No. 57.

1) *Investment Incentives Law*

Capital gains are exempt from income taxation in three situations under the Investment Incentives Law. In one, the exemption is granted to an investor in a registered enterprise. As to the remaining two, the exemption is extended to a Philippine national investing in a pioneer enterprise.

i) *Capital Gains Tax Exemption of Investor in Registered Enterprise*

Under section 5 of Republic Act No. 5186, an investor, with respect to his investment in a registered enterprise, shall be granted exemption from income tax on that portion of the gains realized from the sale, disposition, or transfer of capital assets (as defined in the Revenue Code)[7] that corresponds to the portion of the proceeds of the sale that is invested in new issues of capital stock of a registered enterprise within six months from the date the gains are realized. It is required, however, that: (1) the sale, disposition or transfer and the investment of the proceeds be registered with the Board of Investments and the Bureau of Internal Revenue; and (2) the shares of stock representing the investment be not disposed of, transferred, assigned or conveyed for a period of five years from the date the investment is made. If such shares of stock are disposed of within the said period of five years, all taxes due on the gains realized from the original transfer, sale, or disposition of the capital assets shall immediately become due and payable.

The rule under the Revenue Code is that capital gains are taxable whether received by individuals or by corporations. By providing that such capital gains shall be exempt from taxation if invested in the capital stock of a registered enterprise, the legislature attempts to induce taxpayers deriving capital gains to put their money in productive enterprises instead of disposing of it for some other purposes, such as consumption spending. It must be noted, however, that what must be invested is the proceeds of the sale of the capital assets, and not merely the gains from such sales.

[7] The term "capital assets" has been defined in section 34 of the National Internal Revenue Code to mean property held by the taxpayer (whether or not connected with his trade or business), but does not include (1) stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or (2) property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or (3) property, used in the trade or business, of a character which is subject to the allowance for depreciation provided in subsection (f) of section 30, or (4) real property used in the trade or business of the taxpayer.

ii) *Capital Gains Tax Exemption of Philippine National Investing in Pioneer Enterprise*

Section 6 of Republic Act No. 5186 gives to Philippine nationals investing in a pioneer enterprise exemption from income tax on the portion of the gains realized from the sale, disposition, or transfer of capital assets (as defined in the Revenue Code) that corresponds to the portion of the proceeds of the sale that is invested in new issues of capital stock of, or in the purchase of stock owned by, foreigners in pioneer enterprises, within six months from the date the gains are realized.

The capital gains tax exemption is allowed to a Philippine national investing in pioneer enterprises to the same extent and under the same conditions as the capital gains tax exemption allowed an investor in a registered enterprise, except that the investor in the pioneer enterprise is not allowed to dispose of the shares representing his investment within a period of three years from the date of investment, whereas the investor in the registered enterprise is prohibited from disposing of his investment within a period of five years.

The investment by a Philippine national in shares of stock acquired from aliens in the case of pioneer enterprises is covered by this incentive. For investors in registered enterprises, the income tax exemption for capital gains applies only to investment in new issues of capital stock. In cases of violation of the prohibition against disposition within the prescribed periods in either case, all taxes due on the gains realized from the original disposition of capital assets immediately become due and payable.

iii) *Capital Gains Tax Exemption on Disposition of Stock Dividends*

The third exemption from capital gains tax under the Investment Incentives Law relates to the exemption of gains from the disposition of stock dividends.

Following American precedents,[8] Philippine case law exempts a receipt of stock dividends from the payment of income taxes.[9] However, when shares of stock representing stock dividends are disposed of, the gain derived therefrom becomes subject to income tax. To this rule of taxability of gains derived from the disposition of stock dividends, the Investment Incentives Law grants an exemption for Philippine nationals investing in pioneer enterprises. Thus, it is provided that exemption from income tax on all gains realized from the sale, disposition, or transfer of stock dividends received from a pioneer enterprise shall be allowed, provided that the sale, disposition or transfer occurs within seven years from the date of registration of the enterprise.

2) *Stock Transfer Tax Act*

Republic Act No. 6141 amended the National Internal Revenue Code with the insertion of section 195-B, the first paragraph of which provides that there shall be levied, assessed, collected and paid on

[8] *Eisner* v. *Macomber,* 252 U.S. 189, 40 S. Ct. 189, 64 L. Ed. 521, 9 A.L.R. 1570 (1920).
[9] *Fischer* v. *Trinidad,* 43 Phil. 973 (1922).

every sale, exchange, transfer, or similar transaction intended to convey ownership of, or title to, any share or shares of stock, a tax equivalent to two per centum of the gross selling price of the share or shares of stock, sold, or of the gross value in money of the share or shares of stock, exchanged, or transferred, which shall be paid by the seller or transferor.

The foregoing imposition is a percentage tax on stock transactions, although it does not apply to:

(1) the issuance by a corporation of shares of stock, whether original or additional issues;

(2) the donation of any share or shares of stock made to any educational or charitable corporation, institution, foundation, trust or philanthropic organization or research institution or organization, as defined in and subject to the conditions imposed by section 110 of the Revenue Code;[10]

(3) the exchange of any share or shares of stock effected pursuant to a plan for merger or consolidation under paragraph 2(b) of section 35 of the Revenue Code;

(4) the transfer of shares of stock by testate or intestate succession; and

(5) the sale, exchange, or transfer of shares acquired before the coming into effect of Republic Act No. 6141, in which case the pertinent provisions of the Revenue Code shall apply.

The income tax liability of the seller or transferor is affected by the percentage tax on stock transactions. Under the original provisions of Republic Act No. 6141, any capital gain arising from a stock transaction on which the percentage tax on stock transactions has been paid shall not be taken into account in computing the net capital gain or loss under section 34 of the Revenue Code if (1) both the acquisition and the disposition of the said stock by the taxpayer are effected after the coming into effect of Republic Act No. 6141, and (2) the sale, exchange, or transfer is *bona fide,* and the consideration for the transaction represents the substantial fair market value of the stock. However, any capital loss arising from such a transaction shall be taken into account in computing the net capital gain, except that

[10] Section 112: *Exemption of certain gifts.* — The following gifts or donations shall be exempt from the tax provided for in this Chapter (II, Title III):

x x x

(3) Gifts in favor of an educational and/or charitable or religious corporation, institution, foundation, trust or philanthropic organization or research institution or organization; Provided, however, that not more than thirty per centum of said gifts shall be used by such donee for administration purposes.

For the purposes of this exemption, a non-profit educational and/or charitable corporation, institution, foundation, trust or philanthropic organization and/or research institution or organization is a school, college or university and/or charitable corporation, foundation, trust or philanthropic organization and/or research institution, or organization, incorporated as a non-stock entity, paying no dividends, governed by trustees who receive no compensation, and devoting all its income, whether students' fees, or profits, donations, subsidies or other forms of philanthropy, to the accomplishment and promotion of the purposes enumerated in its articles of incorporation.

there shall be no capital loss carry-over. The collection of the stock transfer tax is effective until December 31, 1975. It is evident that under Republic Act No. 6141, if the tax on stock transactions is paid, there is a non-recognition of gain although there is a recognition of loss.

By 1976, capital gains arising from stock transactions shall be subject to tax under a new subsection of section 34 of the National Internal Revenue Code, which shall read as follows:

> SEC. 34(g): Gains from sale, barter, or exchange of shares of stock derived from sources within the Philippines shall be taxed under the following schedules:

Not over P10.000	P10%
Over P10.000 but not over P15,000	12%
Over P15,000 but not over P20,000	14%
Over P20,000 but not over P35,000	17%
Over P35,000 but not over P50,000	20%
Over P50,000	25%

> Provided, however, that non-resident investors buying and/or selling shares of stock of Philippine corporations listed in the dollar or any acceptable foreign currency board of any stock exchange shall be subject only to the 1/4 of 1% stock transaction tax.

By express provision, the two per cent tax on stock transactions imposed by Republic Act No. 6141 is not an allowable deduction from gross income. This is, therefore, another exception to the general rule that all taxes paid or accrued within the taxable year are deductible from gross income for income tax purposes. Presidential Decree No. 10 in turn amended the provisions of Republic Act No. 6141 by providing that the percentage tax on stock transactions shall be reduced from two per centum to one-fourth of one per centum.

3) *Land Reform Decree*

Presidential Decree No. 27 emancipated all tenant farmers of private agricultural lands primarily devoted to rice and corn as of October 21, 1972 by declaring that the tenant-farmer shall be deemed owner of a portion constituting a family-size farm of five hectares if not irrigated and three hectares if irrigated. For the purpose of determining the cost of the land to be transferred to the tenant-farmer pursuant to Presidential Decree No. 27, the value of the land shall be equivalent to two and one-half times the average harvest of three normal crop years immediately preceding the promulgation of the Decree. The total cost of the land, including interest at the rate of six per centum per annum shall be paid by the tenant in fifteen years through fifteen equal annual amortizations.

In order to ease the burden of taxation on the part of the landowner, Presidential Decree No. 57 was promulgated as a supplement to Presidential Decree No. 27. The later Presidential Decree provides that the landowner shall be exempt from capital gains tax on the proceeds of the amortizations paid him by the tenant-purchaser, and likewise from income tax due on the accruing interest paid as an addition to the total cost of the land. Evidently, the landowner, under the provisions of Presidential Decree No. 27, will be exempt from income tax on: (1) the capital gains derived from the amortizations of the selling price over the original or adjusted basis of the property; and (2) the interest of six per centum per annum on the purchase price of the property.

Exclusion of Social Security Benefits

Republic Act No. 1161 exempts from any tax, assessment, fee or charge all the contributions collected, and payments of benefits made, by the social security system. Moreover, such payments are not liable to attachment, garnishment, or levy either before or after receipt by the person or persons entitled thereto, except to pay any debt of the covered employee to the system. This exemption under Republic Act No. 1161 was expanded in coverage by the provisions of Presidential Decree No. 220, which states:

> That provisions of any existing law to the contrary notwithstanding, social security benefits, retirement gratuities, pensions and other similar benefits received by retiring employees and workers, whether received from Philippine or foreign government agencies and other institutions, private or public, shall be exempt from the payment of income tax.

It must be noted that under Republic Act No. 1161, the exemption applied only to benefits under the social security system of the Philippines.

ON DEDUCTIONS

It is a settled rule that tax deductions are a matter of legislative grace, and a particular deduction can be allowed only where there is a clear provision in the statute for the deduction claimed. Moreover, deductions may be claimed only by those permitted by the law to do so.

Who May Claim Deductions

The following are allowed to claim deductions from gross income:

1. citizens of the Philippines;
2. resident aliens;
3. non-resident aliens engaged in trade or business in the Philippines;
4. domestic corporations; and
5. resident foreign corporations.

Non-resident aliens engaged in trade or business in the Philippines as well as resident foreign corporations are entitled to deductions only under certain conditions specified in the law.

Who May not Claim Deductions

The following, on the other hand, are not allowed to take advantage of tax deductions:

1. non-resident aliens not engaged in trade or business in the Philippines; and
2. non-resident foreign corporations.

Kinds of Deductions

By virtue of the operation of an amendment introduced by Presidential Decree No. 69 deductions are now classified into three kinds, namely (1) the optional standard deduction; (2) itemized deductions; and (3) the standard deduction for a working wife.

The optional standard deduction is allowed only to individuals. Even then, not all individuals may avail themselves of the optional standard deduction. Only citizens of the Philippines and resident aliens are authorized to do so. The optional standard deduction permissible is five thousand pesos or an amount equivalent to ten per cent of the gross income of the taxpayer, whichever is the lesser.

The itemized deductions are so called because they must be specifically set forth in the income tax return or in the accompanying statements. They include: (1) expenses; (2) interest; (3) taxes; (4) losses; (5) bad debts; (6) depreciation; (7) depletion; (8) charitable contributions; and (9) contributions to pension trusts.

The standard deduction for a working wife was introduced by Presidential Decree No. 69. As inserted in the Revenue Code, the law now provides that if the gross income reported in the return filed by the taxpayer includes that received by his wife, a standard deduction of ten per cent of the gross income received by his wife but not exceeding P500 shall be allowed as a deduction from their combined gross income, regardless of whether the taxpayer claims itemized deductions under subsections (a) to (j), or the optional standard deduction under subsection (k) of section 30 of the Code.

The obvious purpose of the amendment in allowing the deduction is to favour the wife who works. In this connection, however, the query might be posed: should the deduction be allowed if the wife is the only one who derives income and she is the one who files the return? A literal reading of the law will give a negative answer. It seems, however, that in the interest of fairness and equity, that wife should also be allowed the standard deduction in the same manner as the wife in the situation where the husband is the one who files the return.

Depletion Allowance

As far as the itemized deductions are concerned, an amendment was introduced by Presidential Decree No. 69 with respect to the depletion allowance. Section 30(g)(1) now reads as follows:

> In General.... Based on the following percentages, there shall be a depletion allowance based on the gross income but in no case to exceed thirty-five per centum of the net income or of the net profit, whichever is lower for the calendar year 1973 and fiscal year beginning July 1, 1973 and twenty-five per centum for the calendar year 1974 and fiscal year beginning July 1, 1974....

It is to be noted that in the original provision the depletion allowance was "based on the gross income but in no case to exceed fifty per centum of the net income or of the net profit, whichever is lower ...."

Another amendment affecting the depletion allowance was effected by the insertion of the following paragraph under section 30(g) of the Code:

> Beginning calendar year 1975 and fiscal year beginning July 1, 1975, depletion allowance shall be in accordance with the following:
>
> (1) In general, (a) In the case of oil and gas wells, a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) In the case of mines, a reasonable allowance for depletion thereof to exceed the market value in the mine of the product thereof, which has been mined and sold during the year for which the return and computation are made. The allowance shall be made under rules and regulations to be prescribed by the Secretary of Finance: Provided, that when the allowances shall equal the capital invested, no further allowance shall be made.

Charitable Contributions

Under Presidential Decree No. 373, all monetary contributions and the equivalent monetary value of works of art, antiques, manuscripts, books, or other articles of cultural, historical, or scientific significance, donated to the National Museum, the National Library and the National Historical Institute, are tax exempt and are deductible from the taxable income of the donor. These donations are considered as donations to charitable institutions, and are additions to the list of donations deductible in full in computing the net income of the donor as provided for in section 30, paragraph (h) of the National Internal Revenue Code.

In a similar manner, Presidential Decree No. 507 exempts from the donor's and estate taxes all gifts, bequests, donations and/or contributions to social welfare, cultural and charitable institutions, no part of the net income of which inures to the benefit of any individual; and these donations are deductible in full in computing the taxable net income of the donor, provided, however, that not more than thirty per centum of said gifts and bequests shall be used by such donee for administration purposes.

ON PERSONAL AND ADDITIONAL EXEMPTIONS

Personal exemption is allowed the taxpayer on account of his personal status. Additional exemptions are permitted because of the status of the dependants of the taxpayer. The personal and additional exemptions reduce the amount of the net income, and are allowed in lieu of personal, living, and family expenses.[11]

Kinds of Personal Exemptions

There are two kinds of personal exemptions under the Revenue Code, namely: (1) the personal exemption of P1800; and (2) the personal exemption of P3,000.

[11] Personal, living, and family expenses are not deductible because the philosophy of the law is that the taxpayer had already been granted a personal exemption of P1,800.00 in the case of a single person or a married person legally separated from his or her spouse, and the sum of P3,000.00 in the case of a married man or a married woman or the head of a family, and the further sum of P1,000.00 for each legitimate, recognized natural or adopted child wholly dependent upon and living with the taxpayer.

The personal exemption of P1800 may be claimed by: (1) a single individual; or (2) a married person legally separated from his or her spouse.

On the other hand, the personal exemption of P3,000 is available to: (1) a married man; (2) a married woman; or (3) a head of family.

The term "head of family" has a technical meaning. Under the provisions of section 23 (b) of the Revenue Code, as amended by Presidential Decree No. 69, "head of family" includes an unmarried man or woman with one or both parents, or one or more brothers or sisters, or one or more legitimate, recognized natural, or adopted children living with and dependent upon him or her for their chief support, where such brothers, sisters or children are not more than twenty-one years of age, unmarried and not gainfully employed, or where such children are incapable of self-support because they are mentally or physically defective. Under the provisions of the Revenue Code prior to the issuance of Presidential Decree No. 69, the age requirement for the dependant in order that the unmarried man or woman may qualify as "head of family" was twenty-three. The reduction from twenty-three to twenty-one years of age limits the effective coverage of who may qualify as head of family.

For Whom Additional Exemptions may be Claimed

The additional exemption for dependants is in the amount of P1,000 for each legitimate, recognized natural, or adopted child, wholly dependent upon and living with the taxpayer. Section 23 (c) of the Revenue Code, requires, however, that the dependant should not be more than twenty-one years of age, unmarried, and not gainfully employed or incapable of self-support because mentally or physically defective. As in the case of the definition of the term "head of family", the age requirement for the dependant has been reduced from twenty-three to twenty-one. The evident purpose of the amendment is to limit qualified dependants to those who are not more than twenty-one years of age.

Another feature of the amendment of section 23 (c) of the Revenue Code is that the total number of dependants for whom the additional exemption may be claimed may not exceed four. Prior to the amendment, no legal limitation was imposed upon the total number of dependants for whom additional exemptions may be claimed. This provision is one clear evidence of the intention of the Government to reduce or limit the growth of population by discouraging taxpayers from having more children.

Change of Status

Section 23 (d) of the Code deals with changes of status. Under the third paragraph of the said section 23(d), if a dependant should become twenty-one years old during the taxable year, the taxpayer may still claim the same exemption as if the dependant became twenty-one years old at the close of such year. Under the old provision, the age requirement was twenty-three.

ON THE TAXABILITY OF INDIVIDUALS

Individual taxpayers used to be classified into: (1) citizens of the Philippines, whether residing therein or abroad; (2) resident aliens; (3) non-resident aliens engaged in trade or business in the Philippines; and (4) non-resident aliens not engaged in trade or business within the Philippines.

Because of the changes affecting sections 21 and 22 of the Revenue Code, individual taxpayers are now classified as:

(1) citizens of the Philippines residing therein;

(2) resident aliens;

(3) non-resident citizens of the Philippines deriving income from sources within the Philippines only;

(4) non-resident citizens of the Philippines deriving income from sources outside of the Philippines only;

(5) non-resident citizens deriving income from sources both within and without the Philippines;

(6) non-resident aliens engaged in trade or business within the Philippines; and

(7) non-resident aliens not engaged in trade or business within the Philippines.

Citizens of the Philippines residing therein as well as resident aliens remain taxable in the same manner and to the same extent as before the amendment; that is, they are taxable on their entire net income from sources both within and without the Philippines at the peso rates found in section 21 of the Revenue Code.

Non-resident citizens of the Philippines deriving income from sources within the Philippines only are taxable on their entire net income from sources within the Philippines at the peso rates embodied in section 21 of the Revenue Code.

Non-resident citizens of the Philippines deriving income from sources without the Philippines only are taxable on their adjusted gross income from sources outside the Philippines at the dollar rates found in section 21, after deducting from the gross income the following: (a) an allowance for personal exemption in the amount of two thousand dollars (U.S.$2,000), if the person making the return is a single person or a married person legally separated from his or her spouse; or four thousand dollars (U.S.$4,000.00), if the person making the return is a married man or a head of the family, as defined in section 23 of the Cade; and (b) the total amount of the national income tax actually paid to the government of the foreign country of his residence.

It follows that the amount of income tax of non-resident citizens from all sources without the Philippines may be computed in accordance with the following formula:

Gross income from sources outside the Philippines

Less: (1) income tax paid to country of residence

(2) personal exemptions

Adjusted gross income

Multiplied: by the dollar rates

Amount of income tax due to the Philippine government.

The Philippine income tax on the adjusted gross income shall be computed in accordance with the following schedule (rates):

(1) If the amount subject to tax (gross amount of the income) is not over $6,000 . . . . 1%

(2) Over $6,000.00 but not over $20,000 . . . . 2%

(3) Over $20,000.00 . . . . 3%

If a non-resident citizen of the Philippines derives income from sources both within and without the Philippines, then he shall be taxable as follows: (1) on his income from sources within the Philippines, he shall be taxable at the peso rates found in section 21 on the basis of his entire net income and, (2) on his income from sources outside of the Philippines, he shall be taxable at the dollar rates found in section 21 on the basis of his adjusted gross income. Section 21 of the Revenue Code, as amended, defines a non-resident citizen as one who establishes to the satisfaction of the Commissioner of Internal Revenue the fact of his physical presence abroad for an uninterrupted period which includes an entire taxable year.

Non-resident aliens engaged in trade or business within the Philippines remain taxable on their entire net income but only from sources within the Philippines at the peso rates found in section 21. Under section 22 of the Revenue Code, a non-resident alien individual who shall come to the Philippines and stay therein for an aggregate period of more than one hundred and eighty days during any calendar year shall be deemed a non-resident alien doing business in the Philippines.

Non-resident aliens not engaged in trade or business within the Philippines are taxable on their gross income derived from sources within the Philippines only at the flat rate of 30%.

Finally, aliens employed by regional or area headquarters of multinational corporations established in the Philippines are liable to tax upon their gross income received as salaries, wages, annuities, compensation, remuneration and emoluments from such regional or area headquarters at a rate equal to fifteen per centum of such gross income.

ON THE TAXABILITY OF CORPORATIONS

Under section 24 of the Revenue Code, the term "corporations" for purposes of the income tax law includes not only private corporations [12] organized under the Corporation Law, Act No. 1459, but also *sociedades anonimas*,[13] joint stock companies, *cuentas en participation,* joint ventures, and similar entities. The term, however, does not include general professional partnerships.

[12] A corporation is an artificial being created by operation of law, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence. It is an artificial being, invisible, intangible and existing only in contemplation of law. A private corporation, as defined in section 3 of the Corporation Law, is that which is formed for some private purpose, benefit, aim or end. It may be either a stock or a non-stock corporation.

[13] *Sociedades anonimas* are Spanish forms of corporations.

On the other hand, section 26 of the Revenue Code imposes income tax liability on persons exercising a common profession in general partnership only in their individual capacity. Prior to the amendment of the said section, persons carrying on business in general co-partnerships (*compania colectiva*) were also taxable in their individual capacity.

As to dividends received by a private educational institution, whether stock or non-stock, from a domestic or resident foreign corporation, the rate of tax on such dividends has been increased by Presidential Decree No. 778 from 8.75% to 10% of the gross amount thereof; and the said dividends are not to be included in the determination of gross income.

Section 24(b)(1) of the Revenue Code dealing with non-resident corporations was amended by Presidential Decree No. 69 with the addition of a second proviso that cinematographic film owners, lessors or distributors shall pay a tax of fifteen per cent of their gross income. Presidential Decree No. 778 adds that the gross income of these cinematographic film owners, lessors, or distributors shall include film rentals and all items of gross income under section 29(a) of the Revenue Code.

On the other hand, Presidential Decree No. 131 also amended Section 24(b)(1) of the Revenue Code by the imposition of a tax of fifteen per centum on interest on foreign loans earned beginning January 1, 1973. Presidential Decree No. 131 did not really impose a new tax on interest. What it did was to reduce the rate of tax on interest earned by non-resident corporations from 35% to 15%. The reason for the reduction is found in the Presidential Decree itself. After recognizing that the economic development of the country necessitates the raising of funds from domestic and foreign sources, it proceeds to declare that in order to attract loans from foreign countries, an appropriate tax on their income in the form of interest earned and remitted abroad, should be levied.

Presidential Decree No. 369 likewise amends section 24(b)(1) of the Revenue Code by providing further that regional or area headquarters established in the Philippines by multi-national corporations (which headquarters do not earn or derive income from the Philippines and which act as supervisory, communication and co-ordinating centres for their affiliates, subsidiaries or branches in the Asia-Pacific Region) shall not be subject to tax.

At the same time, section 24(b) (2) dealing with resident foreign corporations was amended with the addition of a proviso that international carriers shall pay a tax of two and one-half per cent on their gross Philippine billings. Presidential Decree No. 778 adds a further proviso under section 24(b) (2) that any profit remitted abroad by a branch office to its mother company shall be subject to a tax of 20% (except those registered with the Export Processing Zone Authority).

ON TAX RETURNS

Section 45(a) (2) of the Revenue Code has been amended to read as follows: "Regardless of amount, every non-resident alien engaged in trade or business in the Philippines shall file an income tax return." The amendment now recognizes the fact that the Philippines, as a taxing authority, has no way of compelling a non-resident alien not engaged in trade or business in the Philippine to file an income tax return, even though he derives income from sources within the Philippines.

Amendments involving the mechanics for the filing of income tax returns were also accomplished through changes in the provisions of the Revenue Code. The income tax return is required to be filed in duplicate setting forth specifically the gross amount of income from all sources, except that of non-resident aliens engaged in trade or business in the Philippines which shall contain only income derived from sources within the Philippines.

Under section 45(b) of the Revenue Code, as amended, the return is filed with the Commissioner, Regional Director, Revenue District Officer, Collection Agent, duly authorized treasurer of the municipality, or authorized agent banks in which such person has his legal residence or place of business in the Philippines, or if there is no legal residence or place of business in the Philippines, then with the Commissioner in Manila.

Under section 45(c), residents of the Philippines, whether citizens or aliens, whose income has been derived solely from salaries, wages, interest, dividends, allowances, commissions, fees, bonuses, pensions or any combination thereof, shall be filed on or before the fifteenth day of March of each year, covering such income of the preceding taxable year. The same section 45(c) of the Revenue Code now requires residents of the Philippines, whether citizens or aliens, who have no income or whose income is below one thousand eight hundred pesos or who did not have any transaction in any business carried on for gain or profit during the preceding year, but are nevertheless required to file an income tax return [14] under paragraph 3 of subsection (a)

[14] Notwithstanding the provisions of the preceding paragraph (section 45(a)(2)), a Filipino citizen, whether residing in the Philippines or abroad, or a resident alien, or a non-resident alien engaged in trade or business in the Philippines shall file an income tax return if he falls under any of the following categories, regardless of whether he derives any income or not for the taxable year, if, during that taxable year, he —

(A) Is an official or employee of the government or has a contract with the Government of the Republic of the Philippines, or any of its agencies or instrumentalities, including government-owned or controlled corporations, regardless of the nature of his appointment or duration of his employment;
(B) Is a professional as defined hereinbelow;
(C) Is a registered or beneficial owner, or mortgagee of any real property;
(D) Is a registered or beneficial owner or mortgagee of any motor vehicle;
(E) Is a registered or beneficial owner, or mortgagee of any share of stock or security of a corporation, or any interest in a firm or partnership;
(F) Has travelled abroad, except children below eighteen years of age;
(G) Has filed a certificate of candidacy for any public office except barrio officials and municipal councillors;
(H) Is engaged in trade or commerce.

For purposes of this section, an individual is deemed a professional if, during a taxable year, he passes any government examination for the practice of a profession given by a board of examiners or by the Supreme Court, or remains a registered member of any profession covered by such examination, regardless of whether or not, during that taxable year he actually practises his profession.

of section 45, to file their income tax returns on or before the fifteenth day of February of each year. All other individuals not mentioned in section 45(c)(1)(A), including non-residents, shall file their returns on or before the fifteenth day of April of each year covering income of the preceding taxable year.

As far as corporate returns are concerned, section 46 of the Revenue Code requires every corporation subject to income tax, except foreign corporations not engaged in trade or business in the Philippines, to render in duplicate a true and accurate return of its annual net income in the form and manner prescribed by the Commissioner with the approval of the Secretary of Finance. The corporate return is filed with the Commissioner, Regional Director, Revenue District Officer, Collection Agent, duly authorized treasurer of the municipality, or authorized agent-banks in which is located the principal office of the corporation where its books of accounts and other data from which the return is prepared are kept, or in the case of a foreign corporation which has no office of any kind or agency in the Philippines, with the Commissioner in Manila. All such returns shall as received be transmitted forthwith by the officer receiving them to the Commissioner.

Taxable corporations now file quarterly returns. Within 60 days after the end of each of the first three quarters of the taxable year, calendar or fiscal, the corporation has to file income tax returns and pay the corresponding tax of 25% on the first P25,000 and of 35% on the excess thereof. Then, a final adjusted return shall be filed on or before the fifteenth day of the fourth month following the close of the taxable year, whether calendar or fiscal.[15]

ON PAYMENTS

Time for Payment

Under section 51 (a) (1) of the Revenue Code, as amended, the total amount of the income tax shall be paid at the time the return is filed. If, however, the return is filed after the time prescribed by law, there shall be paid in addition interest at fourteen per cent per annum from the original due date. Prior to this, the rate of interest was only twelve per cent per annum.

The following provision has been recently added to section 51 (a) of the Revenue Code:

> In the case of tramp vessels, the shipping agents and/or 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. On failure 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.

Payment in Instalments

Instalment payments are allowed under section 51 (a) (2) of the Revenue Code as amended, when the tax due is in excess of one thousand pesos. The taxpayer other than a corporation taxable under

[15] Revenue Regulations No. 11-72.

section 24 may elect to pay the tax in two equal instalments, the first of which shall be paid at the time the return is filed but not later than April 15 following the close of the taxable year and the second, on or before the fifteenth day of July. If any instalment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid becomes due and payable together with the delinquency penalties. Before the amendment was introduced, instalment payments could be made if the tax due was in excess of five hundred pesos.

For non-resident citizens, section 51 (a) (3) allows instalment payments as follows:

> When the tax due from a non-resident citizen is in excess of two hundred dollars (US$200.00), the taxpayer may elect to pay the tax in two equal instalments, in which case, the first instalment shall be paid at the time the return is filed and the second instalment, on or before the fifteenth day of July following the close of the calendar year. If any instalment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid becomes due and payable together with the delinquency penalties."

ON WITHHOLDING AT SOURCE

Kinds of Withholding at Source

Three types of withholding tax at source are provided for in section 53 of the Revenue Code, to wit:

1. a withholding tax of thirty per cent of the interest or other payments upon bonds, mortgages, deeds of trust, or other similar obligations of domestic or resident foreign corporations containing a contract or proviso by which the obligor agrees to pay any portion of the tax imposed upon the obligee or to reimburse the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the Philippines, or of any state or country;
2. a withholding tax of thirty per cent of the amount of any fixed or determinable annual, casual, or periodical gains, profits and income, and capital gains, of any non-resident alien not engaged in trade or business within the Philippines; and,
3. a withholding tax of thirty-five per cent of the amount of any fixed or determinable annual, casual periodical gains, profits and income as well as remuneration for technical services or otherwise, payable to foreign corporations not engaged in trade or business within the Philippines.

With respect to the withholding tax on dividends under section 53, the requirement is that:

> The tax imposed by section 34(b)(1) and (d) of this Code on dividends shall be withheld by the payor corporation and paid in the same manner and subject to the same conditions as provided in section 54 of this Code.[16]

Presidential Decree No. 69 increased the amount to be withheld on the first two kinds of withholding tax from twenty-five to thirty per cent. On the other hand, Presidential Decree No. 131 reduced

[16] Presidential Decree No. 30, as amended by Presidential Decree No. 50.

the rate of withholding tax on interest on foreign loans earned beginning January 1, 1973 by non-resident foreign corporations from 35% to 15%. Presidential Decree No. 69 also provided for additional cases of withholding tax at source. Section 53 (c) of the Revenue Code now provides that the President of the Republic of the Philippines may, upon the recommendation of the Secretary of Finance, require the withholding of tax on the same items of income payable to persons (natural or juridical) residing in the Philippines by the same persons mentioned in paragraph (b)(1) at the rate of ten per cent thereof, which shall be credited against the income tax liability of the taxpayers for the taxable year.

Allocation of Proceeds of Withholding at Source

Insofar as the disposition of the proceeds of the withholding tax at source is concerned, Presidential Decree No. 163 was promulgated to amend section 360 of the National Internal Revenue Code. After declaring that the completion of public works projects will contribute to the growth of the economy of the nation, and that the withholding tax at source paid by non-resident foreign corporations and individuals not residing in the Philippines can be made available for the execution of these public works projects, Presidential Decree No. 163 prescribes guidelines for the allocation of the amount of the withholding tax. As thus amended, section 360 of the Revenue Code provides that from the net proceeds of the withholding tax at source which have accrued and are payable during the current fiscal year, 30 per centum shall be set aside to a special account in the general fund for the purpose of financing public works projects to be determined by the President of the Philippines or his duly authorized representative, and 70 per centum shall accrue to the general fund of the National Government.

ON WITHHOLDING ON WAGES

Supplement A to Title II of the Revenue Code was promulgated to ensure collection of income tax on wages. The withholding of the tax is a method of collection commonly referred to as the "Pay-as-you-go" or "pay-as-you-earn" system whereby the income tax is taken currently upon the receipt of the income. It applies to all individuals deriving income from wages. The employer is constituted the withholding agent.

The basic requirement is that every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with a withholding table to be prepared by the Secretary of Finance. As amended by Presidential Decree No. 69, Article 2 of Supplement A now provides that any excess of the tax withheld over the tax due from the taxpayer shall be refunded or credited within three months from the date of filing of the income tax return of the taxpayer or from the fifteenth day of April, whichever is later. Refunds or credits made after such time shall earn interest at the rate of six per centum per annum starting after the lapse of the three-month period to the date the refund or credit is made. They shall be made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of counter-signature by the Auditor-General or the latter's duly authorized representative, as an exception to the requirement prescribed by section 621 of the Revised Administrative Code.

Supplement A above on withholding on wages is applicable to the 15% tax on gross salaries of employees employed by regional or area headquarters of multinational corporations.

ON CORPORATE INCOME TAX WITHHOLDING

Presidential Decree No. 30 amended the National Internal Revenue Code by the addition of "Supplement B" to Title II, thereby placing corporations on a tax withholding system, otherwise known as the "system of income tax withholding on non-wage income". The avowed purpose of the adoption of the new system is to "ensure the continuous and even flow of revenue collection in order to provide ready financing for essential Government operations and projects."

The basic requirement of Supplement B is that a declaration of the estimated net taxable income for each quarter of the taxable year shall be filed by:

1. every individual subject to income tax but receiving income other than that subject to withholding tax under Supplement A of Title II of the Revenue Code; and
2. every corporation subject to income tax.

The declaration is a summary declaration of the gross income, deductions, personal and additional exemptions in the case of individuals, and net taxable income for the preceding quarter. The same is required to be filed and the income tax due thereon paid not later than sixty days from the close of each of the first three quarters of the taxable year, whether calendar or fiscal. In view of the fact that the summary declaration is to be filed only for the first three quarters of the taxable year, it is provided likewise that on or before the fifteenth day of April or on or before the fifteenth day of the fourth month following the close of the fiscal year, every taxpayer covered by Supplement B shall file an "adjustment return" covering the net taxable income of the preceding calendar or fiscal year, and if the quarterly tax payments made during that year are not equal to the total tax due on the entire net taxable income of that year, the taxpayer shall, as the case may be, either pay the excess tax due or be refunded the excess amount paid.

Because the filing of the quarterly returns and of the adjustment return may prove burdensome to the taxpayer, a proviso was added to Article 1 of Supplement B that individuals and corporations that have paid the estimated income tax and have filed adjustment returns shall be exempt from filing the regular income tax returns required by sections 45 and 46 of the Revenue Code.[17]

Both the declaration and return required under Supplement B should contain, in lieu of an oath, a written declaration that they are made under the penalties of perjury.

As in the case of the provisions of the Revenue Code proper, in the case of deficiency or non-payment of the estimated tax, civil

[17] As added by Presidential Decree No. 299-A and amended by Presidential Decree No. 369.

penalties are provided for in Supplement B in the form of interest at the rate of fifteen per cent per annum.

CONCLUSIONS

The amendments effected on the law of income taxation in the Philippines are intended to make the collection of income taxes an easier administrative task. Without doubt, there has been a tendency to give incentives to non-resident alien individuals as well as to foreign corporations. That attitude, however, is probably to be expected of a developing country eager to attract business and foreign investments.

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