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REPUBLIC OF THE PHILIPPINES

BUREAU OF INTERNAL REVENUE

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NIRC OUTLINE

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As amended by Republic Act (RA) No. 10963 (TRAIN), RA 11256, RA 11346, RA 11467 and RA 11534 (CREATE)

TITLE I**ORGANIZATION AND FUNCTION OF THE BUREAU OF INTERNAL REVENUE**

(As Last Amended by RA 10963) ^[1]

SEC. 1. *Title of the Code.* - This Code shall be known as the National Internal Revenue Code of 1997. ^[2]

SEC. 2. *Powers and Duties of the Bureau of Internal Revenue.* - The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance and its powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. The Bureau shall give effect to and administer the supervisory and police powers conferred to it by this Code or other laws.

SEC. 3. *Chief Officials of the Bureau of Internal Revenue.* - The Bureau of Internal Revenue shall have a chief to be known as Commissioner of Internal Revenue, hereinafter referred to as the Commissioner, and four (4) assistant chiefs to be known as Deputy Commissioners.

SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals. ^[3]

SEC. 5. Power of the Commissioner to Obtain Information, and to Summon, Examine, and Take Testimony of Persons. - In ascertaining the correctness of any return, or in making a return when none has been made, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability, or in evaluating tax compliance, the Commissioner is authorized:

(A) To examine any book, paper, record, or other data which may be relevant or material to such inquiry;

(B) To obtain on a regular basis from any person other than the person whose internal revenue tax liability is subject to audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the Bangko Sentral ng Pilipinas and government-owned or -controlled corporations, any information such as, but not limited to, costs and volume of production, receipts or sales and gross incomes of taxpayers, and the names, addresses, and financial statements of corporations, mutual fund companies, insurance companies, regional operating headquarters of multinational companies, joint accounts, associations, joint ventures of consortia and registered partnerships, and their members; Provided, That the Cooperative Development Authority shall submit to the Bureau a tax incentive report, which shall include information on the income tax, value added tax, and other tax incentives availed of by cooperatives registered and enjoying incentives under Republic Act No. 6938, as amended: **Provided, further, That the information submitted by the Cooperative Development Authority to the Bureau shall be submitted to the Department of Finance and shall be included in the database created under Republic Act No. 10708, otherwise known as "The Tax Incentives Management and Transparency Act (TIMTA)."** ^[59]

(C) To summon the person liable for tax or required to file a return, or any officer or employee of such person, or any person having possession, custody, or care of the books of accounts and other accounting records containing entries relating to the business of the person liable for tax, or any other person, to appear before the Commissioner or his duly authorized representative at a time and place specified in the summons and to produce such books, papers, records, or other data, and to give testimony;

(D) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry; and

(E) To cause revenue officers and employees to make a canvass from time to time of any revenue district or region and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owning or having the care, management or possession of any object with respect to which a tax is imposed.

The provisions of the foregoing paragraphs notwithstanding, nothing in this Section shall be construed as granting the Commissioner the authority to inquire into bank deposits other than as provided for in Section 6(F) of this Code.

SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. -

(A) Examination of Return and Determination of Tax Due. After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax, **notwithstanding any law requiring the prior authorization of any government agency or instrumentality** ^[5]: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

The tax or any deficiency tax so assessed shall be paid upon notice and demand from the Commissioner or from his duly authorized representative.

Any return, statement of declaration filed in any office authorized to receive the same shall not be withdrawn: Provided, That within three (3) years from the date of such filing, the same may be modified, changed, or amended: Provided, further, That no notice for audit or investigation of such return, statement or declaration has in the meantime been actually served upon the taxpayer.

(B) Failure to Submit Required Returns, Statements, Reports and other Documents. - 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 laws or rules and regulations or when there is reason to believe that any such report is false, incomplete or erroneous, the Commissioner shall assess the proper tax on the best evidence obtainable.

In case a person fails to file a required return or other document at the time prescribed by law, or willfully or otherwise files a false or fraudulent return or other document, the Commissioner shall make or amend the return from his own knowledge and from such information as he can obtain through testimony or otherwise, which shall be prima facie correct and sufficient for all legal purposes.

(C) Authority to Conduct Inventory-taking, Surveillance and to Prescribe Presumptive Gross Sales and Receipts. - The Commissioner may, at any time during the taxable year, order inventory-taking of goods of any taxpayer as a basis for determining his internal revenue tax liabilities, or may place the business operations of any person, natural or juridical, under observation or surveillance if there is reason to believe that such person is not declaring his correct income, sales or receipts for internal revenue tax purposes. The findings may be used as the basis for assessing the taxes for the other months or quarters of the same or different taxable years and such assessment shall be deemed prima facie correct.

When it is found that a person has failed to issue receipts and invoices in violation of the requirements of Sections 113 and 237 of this Code, or when there is reason to believe that the books of accounts or other records do not correctly reflect the declarations made or to be made in a return required to be filed under the provisions of this Code, the Commissioner, after taking into account the sales, receipts, income or other taxable base of other persons engaged in similar businesses under similar situations or circumstances or after considering other relevant information may prescribe a minimum amount of such gross receipts, sales and taxable base, and such amount so prescribed shall be prima facie correct for purposes of determining the internal revenue tax liabilities of such person.

(D) Authority to Terminate Taxable Period. - When it shall come to the knowledge of the Commissioner that a taxpayer is retiring from business subject to tax, or is intending to leave the Philippines or to remove his property therefrom or to hide or conceal his property, or is performing any act tending to obstruct the proceedings for the collection of the tax for the past or current quarter or year or to render the same totally or partly ineffective unless such proceedings are begun immediately, the Commissioner 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 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 demand made by the Commissioner.

(E) Authority of the Commissioner to Prescribe Real Property Values. –The Commissioner is hereby authorized to divide the Philippines into different zones or areas and shall, upon **mandatory** ^[5] consultation with competent appraisers both from the private and public sectors, **and with prior notice to affected taxpayers** ^[5], determine the fair market value of real properties located in each zone or area, subject to automatic adjustment once every three (3) years through rules and regulations issued by the Secretary of Finance based on the current Philippine valuation standards: Provided, That no adjustment in zonal valuation shall be valid unless published in a newspaper of general circulation in the province, city or municipality concerned, or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in two (2) other conspicuous public places therein: Provided, further, That the basis of any valuation, including the records of consultations done, shall be public records open to the inquiry of any taxpayer. ^[5] For purposes of computing any internal revenue tax, the value of the property shall be, whichever is the higher of:

- (1) The fair market value as determined by the Commissioner; or
- (2) The fair market value as shown in the schedule of values of the Provincial and City Assessors.

(F) Authority of the Commissioner to Inquire into Bank Deposit Accounts and Other Related information held by Financial Institutions. ^[6] - Notwithstanding any contrary provision of Republic Act No. 1405, Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act of the Philippines, and other general or special laws, the Commissioner is hereby authorized to inquire into the bank deposits and other related information held by financial institutions of:

- (1) A decedent to determine his gross estate; and
- (2) Any taxpayer who has filed an application for compromise of his tax liability under Section 204(A)(2) of this Code by reason of financial incapacity to pay his tax liability.

In case a taxpayer files an application to compromise the payment of his tax liabilities on his claim that his financial position demonstrates a clear inability to pay the tax assessed, his application shall not be considered unless and until he waives in writing his privilege under Republic Act No. 1405, Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act of the Philippines, or under other general or special laws, and such waiver shall constitute the authority of the Commissioner to inquire into the bank deposits of the taxpayer.

- (3) A specific taxpayer or taxpayers subject of a request for the supply of tax information from a foreign tax authority pursuant to an international convention or agreement on tax matters to which the Philippines is a signatory or a party of: Provided, That the information obtained from the banks and other financial institutions may be used by the Bureau of Internal Revenue for tax assessment, verification, audit and enforcement purposes.

In case of a request from a foreign tax authority for tax information held by banks and financial institutions, the exchange of information shall be done in a secure manner to ensure confidentiality thereof under such rules and regulations as may be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

The Commissioner shall provide the tax information obtained from banks and financial institutions pursuant to a convention or agreement upon request of the foreign tax authority when such requesting foreign tax authority has provided the following information to demonstrate the foreseeable relevance of the information to the request:

- (a) The identity of the person under examination or investigation;
- (b) A statement of the information being sought, including its nature and the form in which the said foreign tax authority prefers to receive the information from the Commissioner;
- (c) The tax purpose for which the information is being sought;
- (d) Grounds for believing that the information requested is held in the Philippines or is in the possession or control of a person within the jurisdiction of the Philippines;
- (e) To the extent known, the name and address of any person believed to be in possession of the requested information;
- (f) A statement that the request is in conformity with the law and administrative practices of the said foreign tax authority, such that if the requested information was within the jurisdiction of the said foreign tax authority then it would be able to obtain the information under its laws or in the normal course of administrative practice and that it is in conformity with a convention or international agreement; and
- (g) A statement that the requesting foreign tax authority has exhausted all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

The Commissioner shall forward the information as promptly as possible to the requesting foreign tax authority. To ensure a prompt response, the Commissioner shall confirm receipt of a request in writing to the requesting tax authority and shall notify the latter of deficiencies in the request, if any, within sixty (60) days from receipt of the request.

If the Commissioner is unable to obtain and provide the information within ninety (90) days from receipt of the request, due to obstacles encountered in furnishing the information or when the bank or financial institution refuses to furnish the information, he shall immediately inform the requesting tax authority of the same, explaining the nature of the obstacles encountered or the reasons for refusal.

The term "**foreign tax authority**," as used herein, shall refer to the tax authority or tax administration of the requesting State under the tax treaty or convention to which the Philippines is a signatory or a party of.

(G) Authority to Accredite and Register Tax Agents. - The Commissioner shall accredit and register, based on their professional competence, integrity and moral fitness, individuals and general professional partnerships and their representatives who prepare and file tax returns, statements, reports, protests, and other papers with or who appear before, the Bureau for taxpayers. Within one hundred twenty (120) days from January 1, 1998, the Commissioner shall create national and regional accreditation boards, the members of which shall serve for three (3) years, and shall designate from among the senior officials of the Bureau, one (1) chairman and two (2) members for each board, subject to such rules and regulations as the Secretary of Finance shall promulgate upon the recommendation of the Commissioner.

Individuals and general professional partnerships and their representatives who are denied accreditation by the Commissioner and/or the national and regional accreditation boards may appeal such denial to the Secretary of Finance, who shall rule on the appeal within sixty (60) days from receipt of such appeal. Failure of the Secretary of Finance to rule on the Appeal within the prescribed period shall be deemed as approval of the application for accreditation of the appellant.

(H) Authority of the Commissioner to Prescribe Additional Procedural or Documentary Requirements. - The Commissioner may prescribe the manner of compliance with any documentary or procedural requirement in connection with the submission or preparation of financial statements accompanying the tax returns.

SEC. 7. Authority of the Commissioner to Delegate Power. - The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with the rank equivalent to a division chief or higher, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner: Provided, however, That the following powers of the Commissioner shall not be delegated:

- (a) The power to recommend the promulgation of rules and regulations by the Secretary of Finance;
- (b) The power to issue rulings of first impression or to reverse, revoke or modify any existing ruling of the Bureau;
- (c) The power to compromise or abate, under Sec. 204 (A) and (B) of this Code, any tax liability: Provided, however, That assessments issued by the regional offices involving basic deficiency taxes of Five hundred thousand pesos (P500,000) or less, and minor criminal violations, as may be determined by rules and regulations to be promulgated by the Secretary of finance, upon recommendation of the Commissioner, discovered by regional and district officials, may be compromised by a regional evaluation board which shall be composed of the Regional Director as Chairman, the Assistant Regional Director, the heads of the Legal, Assessment and Collection Divisions and the Revenue District Officer having jurisdiction over the taxpayer, as members; and
- (d) The power to assign or reassign internal revenue officers to establishments where articles subject to excise tax are produced or kept.

SEC. 8. Duty of the Commissioner to Ensure the Provision and Distribution of Forms, Receipts, Certificates, and Appliances, and the Acknowledgment of Payment of Taxes.

(A) Provision and Distribution to Proper-Officials. - Any law to the contrary notwithstanding, it shall be the duty of the Commissioner, among other things, to prescribe, provide, and distribute to the proper officials the requisite licenses; internal revenue stamps; unique, secure and non-removable identification markings (hereafter called unique identification markings), such as codes or stamps, be affixed to or form part of all unit packets and packages and any outside packaging of cigarettes and bottles of distilled spirits; labels and other forms; certificates; bonds; records; invoices; books; receipts; instruments; appliances and apparatus used in administering the laws falling within the jurisdiction of the Bureau. For this purpose, internal revenue stamps, or other markings and labels shall be caused by the Commissioner to be printed with adequate security features.

Internal revenue stamps, whether of a bar code or fuson design, or other markings shall be firmly and conspicuously affixed or printed on each pack of cigars and cigarettes and bottles of distilled spirits subject to excise tax in the manner and form as prescribed by the Commissioner, upon approval of the Secretary of Finance.

To further improve tax administration, cigarette and alcohol manufacturers shall be required to install automated volume-counters of packs and bottles to deter over-removals and misdeclaration of removals.

(B) Receipts for Payment Mode. - It shall be the duty of the Commissioner or his duly authorized representative or an authorized agent bank to whom any payment of any tax is made under the provisions of this Code to acknowledge the payment of such tax, expressing the amount paid and the particular account for which such payment was made in a form and

manner prescribed therefor by the Commissioner.

SEC. 9. *Internal Revenue Districts.* - With the approval of the Secretary of Finance, the Commissioner shall divide the Philippines into such number of revenue districts as may from time to time be required for administrative purposes. Each of these districts shall be under the supervision of a Revenue District Officer.

SEC. 10. *Revenue Regional Director.* - Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional director shall, within the region and district offices under his jurisdiction, among others:

- (a) Implement laws, policies, plans, programs, rules and regulations of the department or agencies in the regional area;
- (b) Administer and enforce internal revenue laws, and rules and regulations, including the assessment and collection of all internal revenue taxes, charges and fees;
- (c) Issue Letters of authority for the examination of taxpayers within the region;
- (d) Provide economical, efficient and effective service to the people in the area;
- (e) Coordinate with regional offices or other departments, bureaus and agencies in the area;
- (f) Coordinate with local government units in the area;
- (g) Exercise control and supervision over the officers and employees within the region; and
- (h) Perform such other functions as may be provided by law and as may be delegated by the Commissioner.

SEC. 11. *Duties of Revenue District Officers and Other Internal Revenue Officers.* - It shall be the duty of every Revenue District Officer or other internal revenue officers and employees to ensure that all laws, and rules and regulations affecting national internal revenue are faithfully executed and complied with, and to aid in the prevention, detection and punishment of frauds of delinquencies in connection therewith.

It shall be the duty of every Revenue District Officer to examine the efficiency of all officers and employees of the Bureau of Internal Revenue under his supervision, and to report in writing to the Commissioner, through the Regional Director, any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer of which he may obtain knowledge, with a statement of all the facts and any evidence sustaining each case.

SEC. 12. *Agents and Deputies for Collection of National Internal Revenue Taxes.* - The following are hereby constituted agents of the Commissioner:

- a) The Commissioner of Customs and his subordinates with respect to the collection of national internal revenue taxes on imported goods;
- b) The head of the appropriate government office and his subordinates with respect to the collection of energy tax; and
- c) Banks duly accredited by the Commissioner with respect to receipt of payments internal revenue taxes authorized to be made thru banks.

Any officer or employee of an authorized agent bank assigned to receive internal revenue tax payments and transmit tax returns or documents to the Bureau of Internal Revenue shall be subject to the same sanctions and penalties prescribed in Sections 269 and 270 of this Code.

SEC. 13. Authority of a Revenue Officer. - Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.

SEC. 14. Authority of Officers to Administer Oaths and Take Testimony. - The Commissioner, Deputy Commissioners, Service Chiefs, Assistant Service Chiefs, Revenue Regional Directors, Assistant Revenue Regional Directors, Chiefs and Assistant Chiefs of Divisions, Revenue District Officers, special deputies of the Commissioner, internal revenue officers and any other employee of the Bureau thereunto especially deputized by the Commissioner shall have the power to administer oaths and to take testimony in any official matter or investigation conducted by them regarding matters within the jurisdiction of the Bureau.

SEC. 15. Authority of Internal Revenue Officers to Make Arrests and Seizures. - The Commissioner, the Deputy Commissioners, the Revenue Regional Directors, the Revenue District Officers and other internal revenue officers shall have authority to make arrests and seizures for the violation of any penal law, rule or regulation administered by the Bureau of Internal Revenue. Any person so arrested shall be forthwith brought before a court, there to be dealt with according to law.

SEC. 16. Assignment of Internal Revenue Officers Involved in Excise Tax Functions to Establishments Where Articles subject to Excise Tax are Produced or Kept. - The Commissioner shall employ, assign, or reassign internal revenue officers involved in excise tax functions, as often as the exigencies of the revenue service may require, to establishments or places where articles subject to excise tax are produced or kept: *Provided*, That an internal revenue officer assigned to any such establishment shall in no case stay in his assignment for more than two (2) years, subject to rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

SEC. 17. Assignment of Internal Revenue Officers and Other Employees to Other Duties. - The Commissioner may, subject to the provisions of Section 16 and the laws on civil service, as well as the rules and regulations to be prescribed by the Secretary of Finance upon the recommendation of the Commissioner, assign or reassign internal revenue officers and employees of the Bureau of Internal Revenue, without change in their official rank and salary, to other or special duties connected with the enforcement or administration of the revenue laws as the exigencies of the service may require: *Provided*, That internal revenue officers assigned to perform assessment or collection function shall not remain in the same assignment for more than three (3) years; *Provided, further*, That assignment of internal revenue officers and employees of the Bureau to special duties shall not exceed one (1) year.

SEC. 18. Reports of Violation of Laws. - When an internal revenue officer discovers evidence of a violation of this Code or of any law, rule or regulations administered by the Bureau of Internal Revenue of such character as to warrant the institution of criminal proceedings, he shall immediately report the facts to the Commissioner through his immediate superior, giving the name and address of the offender and the names of the witnesses if possible: *Provided*, That in urgent cases, the Revenue Regional director or Revenue District Officer, as the case may be, may send the report to the corresponding prosecuting officer in the latter case, a copy of his report shall be sent to the Commissioner.

SEC. 19. Contents of Commissioner's Annual Report. - The Annual Report of the Commissioner shall contain detailed statements of the collections of the Bureau with specifications of the sources of revenue by type of tax, by manner of payment, by revenue region and by industry group and its disbursements by classes of expenditures.

In case the actual collection exceeds or falls short of target as set in the annual national budget by fifteen percent (15%) or more, the Commissioner shall explain the reason for such excess or shortfall.

SEC. 20. Submission of Report and Pertinent Information by the Commissioner. -

(A) Submission of Pertinent Information to Congress. - The provision of Section 270 of this Code to the contrary notwithstanding, the Commissioner shall, upon request of Congress and in aid of legislation, furnish its appropriate Committee pertinent information including but not limited to: industry audits, collection performance data, status reports in criminal actions initiated against persons and taxpayer's returns: Provided, however, That any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished the appropriate Committee of Congress only when sitting in Executive Session Unless such taxpayer otherwise consents in writing to such disclosure.

(B) Submission of Tax-Related Information to the Department of Finance. - The Commissioner shall, upon the order of the Secretary of Finance specifically identifying the needed information and justification for such order in relation to the grant of incentives under Title XIII, furnish the Secretary pertinent information on the entities receiving incentives under this Code: *Provided, however,* That the Secretary and the relevant officers handling such specific information shall be covered by the provisions of Section 270 unless the taxpayer consents in writing to such disclosure. ^[8]

(C) Report to Oversight Committee. - The Commissioner shall, with reference to Section 204 of this Code, submit to the Oversight Committee referred to in Section 290 hereof, through the Chairpersons^[9] of the Committee on Ways and Means of the Senate and House of Representatives, a report on the exercise of his powers pursuant to the said section, every six (6) months of each calendar year.

SEC. 21. Sources of Revenue. - The following taxes, fees and charges are deemed to be national internal revenue taxes:

- (a) Income tax;
- (b) Estate and donor's taxes;
- (c) Value-added tax;
- (d) Other percentage taxes;
- (e) Excise taxes;
- (f) Documentary stamp taxes; and
- (g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.

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TITLE II

TAX ON INCOME

(As Amended by RA Nos. 9294, 9337, 9504, 10021, 10026, 10653 & 10963) ^[6]

CHAPTER I**DEFINITIONS**

SEC. 22. Definitions. - When used in this Title:

(A) The term '**person**' means an individual, a trust, estate or corporation.

(B) The term '**corporation**' shall include one person corporations ^[10], partnerships, no matter how created or organized, joint-stock companies, joint accounts (*cuentas en participacion*), associations, or insurance companies, but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal and other energy operations pursuant to an operating consortium agreement under a service contract with the Government. '**General professional partnerships**' are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.

(C) The term '**domestic**', when applied to a corporation, means created or organized in the Philippines or under its laws.

(D) The term '**foreign**', when applied to a corporation, means a corporation which is not domestic

(E) The term '**nonresident citizen**' means;

(1) A citizen of the Philippines who establishes to the satisfaction of the Commissioner the fact of his physical presence abroad with a definite intention to reside therein.

(2) A citizen of the Philippines who leaves the Philippines during the taxable year to reside abroad, either as an immigrant or for employment on a permanent basis.

(3) A citizen of the Philippines who works and derives income from abroad and whose employment thereat requires him to be physically present abroad most of the time during the taxable year.

(4) A citizen who has been previously considered as nonresident citizen and who arrives in the Philippines at any time during the taxable year to reside permanently in the Philippines shall likewise be treated as a nonresident citizen for the taxable year in which he arrives in the Philippines with respect to his income derived from sources abroad until the date of his arrival in the Philippines.

(5) The taxpayer shall submit proof to the Commissioner to show his intention of leaving the Philippines to reside permanently abroad or to return to and reside in the Philippines as the case may be for purpose of this Section.

(F) The term '**resident alien**' means an individual whose residence is within the Philippines and who is not a citizen thereof.

(G) The term '**nonresident alien**' means an individual whose residence is not within the Philippines and who is not a citizen thereof.

(H) The term '**resident foreign corporation**' applies to a foreign corporation engaged in trade or business within the Philippines.

- (I) The term '**nonresident foreign corporation**' applies to a foreign corporation not engaged in trade or business within the Philippines.
- (J) The term '**fiduciary**' means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person.
- (K) The term '**withholding agent**' means any person required to deduct and withhold any tax under the provisions of Section 57.
- (L) The term '**shares of stock**' shall include shares of stock of a corporation, warrants and/or options to purchase shares of stock, as well as units of participation in a partnership (except general professional partnerships), joint stock companies, joint accounts, joint ventures taxable as corporations, associations and recreation or amusement clubs (such as golf, polo or similar clubs), and mutual fund certificates.
- (M) The term '**shareholder**' shall include holders of a share/s of stock, warrant/s and/or option/s to purchase shares of stock of a corporation, as well as a holder of a unit of participation in a partnership (except general professional partnerships) in a joint stock company, a joint account, a taxable joint venture, a member of an association, recreation or amusement club (such as golf, polo or similar clubs) and a holder of a mutual fund certificate, a member in an association, joint-stock company, or insurance company.
- (N) The term '**taxpayer**' means any person subject to tax imposed by this Title.
- (O) The terms '**including**' and '**includes**', when used in a definition contained in this Title, shall not be deemed to exclude other things otherwise within the meaning of the term defined.
- (P) The term '**taxable year**' means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this Title. '**Taxable year**' includes, in the case of a return made for a fractional part of a year under the provisions of this Title or under rules and regulations prescribed by the Secretary of Finance, upon recommendation of the commissioner, the period for which such return is made.
- (Q) The term '**fiscal year**' means an accounting period of twelve (12) months ending on the last day of any month other than December.
- (R) The terms '**paid or incurred**' and '**paid or accrued**' shall be construed according to the method of accounting upon the basis of which the net income is computed under this Title.
- (S) The term '**trade or business**' includes the performance of the functions of a public office.
- (T) The term '**securities**' means shares of stock in a corporation and rights to subscribe for or to receive such shares. The term includes bonds, debentures, notes or certificates, or other evidence or indebtedness, issued by any corporation, including those issued by a government or political subdivision thereof, with interest coupons or in registered form.
- (U) The term '**dealer in securities**' means a merchant of stocks or securities, whether an individual, partnership or corporation, with an established place of business, regularly engaged in the purchase of securities and the resale thereof to customers; that is, one who, as a merchant, buys securities and re-sells them to customers with a view to the gains and profits that may be derived therefrom.

(V) The term '**bank**' means every banking institution, as defined in Section 2 of Republic Act No. 337, ^[7] as amended, otherwise known as the "**General banking Act.**" A bank may either be a commercial bank, a thrift bank, a development bank, a rural bank or specialized government bank.

(W) The term '**non-bank financial intermediary**' means a financial intermediary, as defined in Section 2(D)(C) of Republic Act No. 337, ^[5] as amended, otherwise known as the "**General Banking Act,**" authorized by the Bangko Sentral ng Pilipinas (BSP) to perform quasi-banking activities.

(X) The term '**quasi-banking activities**' means borrowing funds from twenty (20) or more personal or corporate lenders at any one time, through the issuance, endorsement, or acceptance of debt instruments of any kind other than deposits for the borrower's own account, or through the issuance of certificates of assignment or similar instruments, with recourse, or of repurchase agreements for purposes of relending or purchasing receivables and other similar obligations: Provided, however, That commercial, industrial and other non-financial companies, which borrow funds through any of these means for the limited purpose of financing their own needs or the needs of their agents or dealers, shall not be considered as performing quasi-banking functions.

(Y) The term '**deposit substitutes**' shall mean an alternative from of obtaining funds from the public (the term '**public**' means borrowing from twenty (20) or more individual or corporate lenders at any one time) other than deposits, through the issuance, endorsement, or acceptance of debt instruments for the borrowers own account, for the purpose of relending or purchasing of receivables and other obligations, or financing their own needs or the needs of their agent or dealer. These instruments may include, but need not be limited to bankers' acceptances, promissory notes, repurchase agreements, including reverse repurchase agreements entered into by and between the Bangko Sentral ng Pilipinas (BSP) and any authorized agent bank, certificates of assignment or participation and similar instruments with recourse: *Provided, however,* That debt instruments issued for interbank call loans with maturity of not more than five (5) days to cover deficiency in reserves against deposit liabilities, including those between or among banks and quasi-banks, shall not be considered as deposit substitute debt instruments.

(Z) The term '**ordinary income**' includes any gain from the sale or exchange of property which is not a capital asset or property described in Section 39(A)(1). Any gain from the sale or exchange of property which is treated or considered, under other provisions of this Title, as '**ordinary income**' shall be treated as gain from the sale or exchange of property which is not a capital asset as defined in Section 39(A)(1). The term '**ordinary loss**' includes any loss from the sale or exchange of property which is not a capital asset. Any loss from the sale or exchange of property which is treated or considered, under other provisions of this Title, as '**ordinary loss**' shall be treated as loss from the sale or exchange of property which is not a capital asset.

(AA) The term '**rank and file employees**' shall mean all employees who are holding neither managerial nor supervisory position as defined under existing provisions of the Labor Code of the Philippines, as amended.

(BB) The term '**mutual fund company**' shall mean an open-end and close-end investment company as defined under the Investment Company Act. ^[6]

(CC) The term '**trade, business or profession**' shall not include performance of services by the taxpayer as an employee.

(DD) The term '**regional or area headquarters**' shall mean a branch established in the Philippines by multinational companies and which headquarters do not earn or derive income from the Philippines and which act as supervisory, communications and coordinating center for their affiliates, subsidiaries, or branches in the Asia-Pacific Region and other foreign markets.

(EE) The term '**regional operating headquarters**' shall mean a branch established in the Philippines by multinational companies which are engaged in any of the following services: general administration and planning; business planning and coordination; sourcing and procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communications; and business development.

(FF) The term '**long-term deposit or investment certificate**' shall refer to certificate of time deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments with a maturity period of not less than five (5) years, the form of which shall be prescribed by the Bangko Sentral ng Pilipinas (BSP) and issued by banks only (not by non-bank financial intermediaries and finance companies) to individuals in denominations of Ten thousand pesos (P10,000) and other denominations as may be prescribed by the BSP.

(GG) The term '**statutory minimum wage**' shall refer to the rate fixed by the Regional Tripartite Wage and Productivity Board, as defined by the Bureau of Labor and Employment Statistics (BLES) of the Department of Labor and Employment (DOLE). ^[7]

(HH) The term "**minimum wage earner**" shall refer to a worker in the private sector paid the statutory minimum wage or to an employee in the public sector with compensation income of not more than the statutory minimum wage in the non-agricultural sector where he/she is assigned. ^[5]

(II) The term 'offshore gaming licensee' shall refer to the offshore gaming operator, whether organized abroad or in the Philippines, duly licensed and authorized, through a gaming license, by the Philippine Amusement and Gaming Corporation or any special economic zone authority or freeport authority to conduct offshore gaming operations, including the acceptance of bets from offshore customers, as provided for on their respective charters.

"Notwithstanding any law to the contrary, no offshore gaming license shall hereinafter be issued by the Aurora Pacific Economic Zone and Freeport Authority. All offshore licensees whose license was issued by the Aurora Pacific Economic Zone and Freeport Authority shall be transferred, regulated and monitored by the Philippine Amusement and Gaming Corporation. "For purpose of this Section, an offshore gaming licensee shall be considered engaged in doing business in the Philippines. ^[11]

(JJ) The term 'offshore gaming licensee-gaming agent' shall refer to the representative in the Philippines of an offshore-based operator who shall act as a resident agent for the mere purpose of receiving summons, notices and other legal processes for the offshore gaming licensee and to comply with disclosure requirements of the Securities and Exchange Commission. The offshore gaming licensee gaming agent shall not be involved with the business operations of the offshore gaming licensee and shall derive no income therefrom." ^[11]

CHAPTER II

GENERAL PRINCIPLES

SEC. 23. General Principles of Income Taxation in the Philippines. - Except when otherwise provided in this Code:

(A) A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines;

(B) A nonresident citizen is taxable only on income derived from sources within the Philippines;

(C) An individual citizen of the Philippines who is working and deriving income from abroad as an overseas contract worker is taxable only on income derived from sources within the Philippines: *Provided*, That a seaman who is a citizen of the Philippines and who receives compensation for services rendered abroad as a member of the complement of a vessel engaged exclusively in international trade shall be treated as an overseas contract worker;

(D) An alien individual, whether a resident or not of the Philippines, is taxable only on income derived from sources within the Philippines;

(E) A domestic corporation is taxable on all income derived from sources within and without the Philippines; and

(F) A foreign corporation, whether engaged or not in trade or business in the Philippines, is taxable only on income derived from sources within the Philippines.

CHAPTER III

TAX ON INDIVIDUALS

SEC. 24. Income Tax Rates. -

(A) Rates of Income Tax on Individual Citizen and Individual Resident Alien of the Philippines.-

(1) An income tax is hereby imposed

(a) On the taxable income defined in Section 31 of this Code, other than income subject to tax under Subsections (B), (C) and (D) of this Section, derived for each taxable year from all sources within and without the Philippines be every individual citizen of the Philippines residing therein;

(b) On the taxable income defined in Section 31 of this Code, other than income subject to tax under Subsections (B), (C) and (D) of this Section, derived for each taxable year from all sources within the Philippines by an individual citizen of the Philippines who is residing outside of the Philippines including overseas contract workers referred to in Subsection(C) of Section 23 hereof; and

(c) On the taxable income defined in Section 31 of this Code, other than income subject to tax under Subsections (B), (C) and (D) of this Section, derived for each taxable year from all sources within the Philippines by an individual alien who is a resident of the Philippines.

(2) Rates of Tax on Taxable Income of Individuals. - The tax shall be computed in accordance with and at the rates established in the following schedule: ^[12]

(a) Tax Schedule Effective January 1, 2018 until December 31, 2022 ^[4]:

Not over P250,000..... 0%

Over P250,000 but not over P400,000.....	20% of the excess over P250,000
Over P400,000 but not over P800,000.....	P30,000 + 25% of the excess over P400,000
Over P800,000 but not over P2,000,000.....	P130,000 + 30% of the excess over P800,000
Over P2,000,000 but not over P8,000,000.....	P490,000 + 32% of the excess over P2,000,000
Over P8,000,000	P2,410,000 + 35% of the excess over P8,000,000

Tax Schedule Effective January 1, 2023 and onwards:

Not over P250,000.....	0%
Over P250,000 but not over P400,000.....	15% of the excess over P250,000
Over P400,000 but not over P800,000.....	P22,500 + 20% of the excess over P400,000
Over P800,000 but not over P2,000,000.....	P102,500 + 25% of the excess over P800,000
Over P2,000,000 but not over P8,000,000.....	P402,500 + 30% of the excess over P2,000,000
Over P8,000,000	P2,202,500 + 35% of the excess over P8,000,000

For married individuals, the husband and wife, subject to the provision of Section 51 (D) hereof, shall compute separately their individual income tax based on their respective total taxable income: Provided, That if any income cannot be definitely attributed to or identified as income exclusively earned or realized by either of the spouses, the same shall be divided equally between the spouses for the purpose of determining their respective taxable income.

Provided, That minimum wage earners as defined in Section 22(HH) of this Code shall be exempt from the payment of income tax on their taxable income: Provided, further, That the holiday pay, overtime pay, night shift differential pay and hazard pay received by such minimum wage earners shall likewise be exempt from income tax.

(b) Rate of Tax on Income of Purely Self-employed Individuals and/or Professionals Whose Gross Sales or Gross Receipts and Other Non-operating Income Does Not Exceed the Value-added Tax(VAT) Threshold as Provided in Section 109(BB). – Self-employed individuals and/or professionals shall have the option to avail of an eight percent (8%) tax on gross sales or gross receipts and other non-operating income in excess of Two hundred fifty thousand pesos (P250,000) in lieu of the graduated income tax rates under Subsection (A) (2)(a) of this Section and the percentage tax under Section 116 of this Code.^[13]

(c) Rate of Tax for Mixed Income Earners. – Taxpayers earning both compensation income and income from business or practice of profession shall be subject to the following taxes:

- (1) All Income from Compensation – The rate prescribed under Subsection (A)(2)(a) of this Section.

(2) All Income from Business or Practice of Profession –

(a) If Total Gross Sales and/or Gross Receipts and Other Non-Operating Income Do Not Exceed the VAT Threshold as Provided in Section 109(BB) of this Code. – The rates prescribed under Subsection (A)(2)(a) of this Section on taxable income, or eight percent (8%) income tax based on gross sales or gross receipts and other non-operating income in lieu of the graduated income tax rates under Subsection (A)(2)(a) of this Section and the percentage tax under Section 116 of this Code.

(b) If Total Gross Sales and/or Gross Receipts and Other Non-operating Income Exceeds the VAT Thresholds Provided in Section 109(BB) of this Code. – The rates prescribed under Subsection (A)(2)(a) of this Section. ^[13]

(B) Rate of Tax on Certain Passive Income: -

(1) Interests, Royalties, Prizes, and Other Winnings. – A final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements; royalties, except on books, as well as other literary works and musical compositions, which shall be imposed a final tax of ten percent (10%); prizes (except prizes amounting to Ten thousand pesos (P10,000) or less which shall be subject to tax under Subsection (A) of Section 24; and other winnings (except winning amounting to Ten thousand pesos (P10,000) or less ^[13] from Philippine Charity Sweepstakes and Lotto which shall be exempt ^[13]), derived from sources within the Philippines: Provided, however, That interest income received by an individual taxpayer (except a nonresident individual) from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax at the rate of fifteen percent (15%) ^[14] of such interest income ^[4]: Provided, further, That interest income from long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP) shall be exempt from the tax imposed under this Subsection: Provided, finally, That should the holder of the certificate pre-terminate the deposit or investment before the fifth (5th) year, a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the long-term deposit or investment certificate based on the remaining maturity thereof:

Four (4) years to less than five (5) years - 5%;

Three (3) years to less than (4) years - 12%; and

Less than three (3) years - 20%

(2) Cash and/or Property Dividends. - A final tax at the rate of ten percent (10%) ^[15] shall be imposed upon the cash and/or property dividends actually or constructively received by an individual from a domestic corporation or from a joint stock company, insurance or mutual fund companies and regional operating headquarters of multinational companies, or on the share of an individual in the distributable net income after tax of a partnership (except a general professional partnership) of which he is a partner, or on the share of an individual in the net income after tax of an association, a joint account, or a joint venture or consortium taxable as a corporation of which he is a member or co-venturer:

(C) Capital Gains from Sale of Shares of Stock not Traded in the Stock Exchange. - The provisions of Section 39(B) notwithstanding, a final tax at the rate of fifteen percent (15%) ^[16] is hereby imposed upon the net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation, except shares sold, or disposed of through the stock exchange.

(D) Capital Gains from Sale of Real Property. –

(1) In General. - The provisions of Section 39(B) notwithstanding, a final tax of six percent (6%) based on the gross selling price or current fair market value as determined in accordance with Section 6(E) of this Code, whichever is higher, is hereby imposed upon capital gains presumed to have been realized from the sale, exchange, or other disposition of real property located in the Philippines, classified as capital assets, including pacto de retro sales and other forms of conditional sales, by individuals, including estates and trusts: Provided, That the tax liability, if any, on gains from sales or other dispositions of real property to the government or any of its political subdivisions or agencies or to government-owned or controlled corporations shall be determined either under Section 24 (A) or under this Subsection, at the option of the taxpayer;

(2) Exception. - The provisions of paragraph (1) of this Subsection to the contrary notwithstanding, capital gains presumed to have been realized from the sale or disposition of their principal residence by natural persons, the proceeds of which is fully utilized in acquiring or constructing a new principal residence within eighteen (18) calendar months from the date of sale or disposition, shall be exempt from the capital gains tax imposed under this Subsection: Provided, That the historical cost or adjusted basis of the real property sold or disposed shall be carried over to the new principal residence built or acquired: Provided, further, That the Commissioner shall have been duly notified by the taxpayer within thirty (30) days from the date of sale or disposition through a prescribed return of his intention to avail of the tax exemption herein mentioned: Provided, still further, That the said tax exemption can only be availed of once every ten (10) years: Provided, finally, That if there is no full utilization of the proceeds of sale or disposition, the portion of the gain presumed to have been realized from the sale or disposition shall be subject to capital gains tax. For this purpose, the gross selling price or fair market value at the time of sale, whichever is higher, shall be multiplied by a fraction which the unutilized amount bears to the gross selling price in order to determine the taxable portion and the tax prescribed under paragraph (1) of this Subsection shall be imposed thereon.

SEC. 25. Tax on Nonresident Alien Individual. –

(A) Nonresident Alien Engaged in trade or Business Within the Philippines. –

(1) In General. - A nonresident alien individual engaged in trade or business in the Philippines shall be subject to an income tax in the same manner as an individual citizen and a resident alien individual, on taxable income received from all sources within the Philippines. A nonresident alien individual who shall come to the Philippines and stay therein for an aggregate period of more than one hundred eighty (180) days during any calendar year shall be deemed a 'nonresident alien doing business in the Philippines'. Section 22 (G) of this Code notwithstanding.

(2) Cash and/or Property Dividends from a Domestic Corporation or Joint Stock Company, or Insurance or Mutual Fund Company or Regional Operating Headquarter or Multinational Company, or Share in the Distributable Net Income of a Partnership (Except a General Professional Partnership), Joint Account, Joint Venture Taxable as a Corporation or Association, Interests, Royalties, Prizes, and Other Winnings. - Cash and/or property dividends from a domestic corporation, or from a joint stock company, or from an insurance or mutual fund company or from a regional operating headquarter of multinational company, or the share of a nonresident alien individual in the distributable net income after tax of a partnership (except a general professional partnership) of which he is a partner, or the share of a nonresident

alien individual in the net income after tax of an association, a joint account, or a joint venture taxable as a corporation of which he is a member or a co-venturer; interests; royalties (in any form); and prizes (except prizes amounting to Ten thousand pesos (P10,000.00) or less which shall be subject to tax under Subsection (B)(1) of Section 24) and other winnings (except winnings amounting to Ten thousand pesos (P10,000.00) or less from ^[17] Philippine Charity Sweepstakes Office (PCSO) games which shall be exempt ^[17]); shall be subject to an income tax of twenty percent (20%) on the total amount thereof: *Provided, however,* That royalties on books as well as other literary works, and royalties on musical compositions shall be subject to a final tax of ten percent (10%) on the total amount thereof: *Provided, further,* That cinematographic films and similar works shall be subject to the tax provided under Section 28 of this Code: *Provided, furthermore,* That interest income from long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP) shall be exempt from the tax imposed under this Subsection: *Provided, finally,* That should the holder of the certificate pre-terminate the deposit or investment before the fifth (5th) year, a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the long-term deposit or investment certificate based on the remaining maturity thereof: ^[45]

Four (4) years to less than five (5) years - 5%;

Three (3) years to less than four (4) years - 12%; and

Less than three (3) years - 20%.

(3) Capital Gains. - Capital gains realized from sale, barter or exchange of shares of stock in domestic corporations not traded through the local stock exchange, and real properties shall be subject to the tax prescribed under Subsections (C) and (D) of Section 24.

(B) Nonresident Alien Individual Not Engaged in Trade or Business Within the Philippines.- There shall be levied, collected and paid for each taxable year upon the entire income received from all sources within the Philippines by every nonresident alien individual not engaged in trade or business within the Philippines as interest, cash and/or property dividends, rents, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodic or casual gains, profits, and income, and capital gains, a tax equal to twenty-five percent (25%) of such income. Capital gains realized by a nonresident alien individual not engaged in trade or business in the Philippines from the sale of shares of stock in any domestic corporation and real property shall be subject to the income tax prescribed under Subsections (C) and (D) of Section 24.

(C) Alien Individual Employed by Regional or Area Headquarters and Regional Operating Headquarters of Multinational Companies. - There shall be levied, collected and paid for each taxable year upon the gross income received by every alien individual employed by regional or area headquarters and regional operating headquarters established in the Philippines by multinational companies as salaries, wages, annuities, compensation, remuneration and other emoluments, such as honoraria and allowances, from such regional or area headquarters and regional operating headquarters, a tax equal to fifteen percent (15%) of such gross income: *Provided, however,* That the same tax treatment shall apply to Filipinos employed and occupying the same position as those of aliens employed by these multinational companies. For purposes of this Chapter, the term 'multinational company' means a foreign firm or entity engaged in international trade with affiliates or subsidiaries or branch offices in the Asia-Pacific Region and other foreign markets.

(D) Alien Individual Employed by Offshore Banking Units. - There shall be levied, collected and paid for each taxable year upon the gross income received by every alien individual employed by offshore banking units established in the Philippines as salaries, wages, annuities, compensation, remuneration and other emoluments, such as honoraria and allowances, from such off-shore banking units, a tax equal to fifteen percent (15%) of such gross income: Provided, however, That the same tax treatment shall apply to Filipinos employed and occupying the same positions as those of aliens employed by these offshore banking units.

(E) Alien Individual Employed by Petroleum Service Contractor and Subcontractor. ^[10] - An Alien individual who is a permanent resident of a foreign country but who is employed and assigned in the Philippines by a foreign service contractor or by a foreign service subcontractor engaged in petroleum operations in the Philippines shall be liable to a tax of fifteen percent (15%) of the salaries, wages, annuities, compensation, remuneration and other emoluments, such as honoraria and allowances, received from such contractor or subcontractor: Provided, however, That the same tax treatment shall apply to a Filipino employed and occupying the same position as an alien employed by petroleum service contractor and subcontractor.

Any income earned from all other sources within the Philippines by the alien employees referred to under Subsections (C), (D) and (E) hereof shall be subject to the pertinent income tax, as the case may be, imposed under this Code.

(F) The preferential tax treatment provided in Subsections (C), (D), and (E) of this Section shall not be applicable to regional headquarters (RHQs), regional operating headquarters (ROHQs), offshore banking units (OBUs) or petroleum service contractors and subcontractors registering with the Securities and Exchange Commission (SEC) after January 1, 2018: ^[18] VETOED by the President ^[19]

(NOTE: The amendments introduced by the TRAIN Law on Section 6(F) was vetoed by the President. The veto message reads:

"I am constrained to veto the provision under Section 6(F) of the enrolled bill that effectively maintains the special tax rate of 15% of gross income for the aforementioned employees, to wit:

'Provided, However, That Existing RHQs/ROHQs, OBUs or Petroleum Service Contractors and Subcontractors Presently Availing of Preferential Tax Rates For Qualified Employees Shall Continue To Be Entitled To Avail Of The Preferential Tax Rate For Present And Future Qualified Employees.'

While I understand the laudable objective of the proposal, the provision is violative of the Equal Protection Clause under Section 1, Article III of the 1987 Constitution, as well as the rule of equity and uniformity in the application of the burden of taxation:

Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

In line with this, the overriding consideration is the promotion of fairness of the tax system for individuals performing similar work. Given the significant reduction in the personal income tax, the employees of these forms should follow the regular tax rates applicable to other individual taxpayers.)

(G) Alien Individuals Employed by an Offshore Gaming Licensee and Service Providers. – Alien individuals regardless of residency and who are employed and assigned in the Philippines, regardless of the term and class of working or employment permit or visa, by ban offshore gaming licensee or its service provider as defined in Section 22(II) and Section 27(G) of this

Code, shall pay a final withholding tax of twenty-five percent (25%) on their gross income as computed in the succeeding paragraph: *Provided, however,* That the minimum final withholding tax due for any taxable month from said persons shall not be lower than Twelve thousand five hundred pesos (P12,500.00).

"In computing the tax provided in this Section, gross income shall include, whether in cash or in kind, basic salary/wages , annuities, compensation, remuneration and other emoluments, such as honoraria and allowances, received from such service provider or offshore gaming licensee: *Provided,* That all offshore gaming licensees and service providers shall submit to the Bureau of Internal Revenue the original copy of notarized contract of employment clearly stating therein the annual salary and other benefits and entitlement of the concerned alien.

"The tax imposed herein shall be withheld and remitted in accordance with the provision of this Code and failure to do so shall be governed by this Code. In addition, the alien concerned may be barred from reentering the Philippines, or blacklisted as a foreign employee by the Department of Labor and Employment, Bureau of Immigration, and other relevant agencies.

"For the efficient assessment, verification, and administration of taxes imposed in this Section, the Bureau of Immigration, the Department of Labor and Employment, the Bureau of Internal Revenue, the Securities and Exchange Commission, the Philippine Amusement and Gaming Corporation and any special economic zone authority, tourism zone authority, freeport authority, as provided for in their respective charters, shall issue joint and consolidated rules and regulations, including the issuance of a gaming employment license by the concerned agency, for the implementation of free and efficient exchange of information among the said agencies in relation to the proper payment of taxes by persons covered under this Section. For this purpose, the data sharing and reporting system as well as the joint inspection team created under Joint Memorandum Circular No. 1, Series of 2019, entitled, 'Rules and Procedures Governing Foreign Nationals Intending to Work in the Philippines shall be institutionalized.

"All foreign employees of offshore gaming licensees and their service providers, regardless of nature of employment, shall have a tax identification number. All offshore gaming licensees and service providers that employ or engage a foreign national without the foregoing shall be liable for affine of Twenty thousand pesos (P20,000.00) for every foreign national without such tax identification number and, in proper instances, revocation of their primary and other licenses obtained from government agencies and/or perpetual or temporary ban in employing or engaging foreign nationals for their operations: *Provided,* That the foreign national concerned shall still pay, and the employee shall remit, any corresponding taxes, penalties, interests and surcharges due in accordance with this Code.

"Any income earned from all other sources within the Philippines by the alien employee referred to under this Subsection shall be subject to the pertinent income tax imposed under this Code. ^[20]

SEC. 26. Tax Liability of Members of General Professional Partnerships. - A general professional partnership as such shall not be subject to the income tax imposed under this Chapter. Persons engaging in business as partners in a general professional partnership shall be liable for income tax only in their separate and individual capacities.

For purposes of computing the distributive share of the partners, the net income of the partnership shall be computed in the same manner as a corporation.

Each partner shall report as gross income his distributive share, actually or constructively received, in the net income of the partnership.

CHAPTER IV**TAX ON CORPORATIONS****SEC. 27. Rates of Income tax on Domestic Corporations. –**

(A) In General. - Except as otherwise provided in this Code, an income tax rate of twenty-five percent (25%) effective July 1, 2020 ^[21], 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. ^[22]

Provided, That corporations with net taxable income not exceeding Five million pesos (P5,000,000.00) and with total assets not exceeding One hundred million pesos (P100,000,000.00), excluding land on which the particular business entity's office, plant, and equipment are situated during the taxable year for which the tax is imposed, shall be taxed at twenty percent (20%). ^[23]

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. ^[22]

(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 beginning July 1, 2020 until June 30, 2023, the tax rate herein imposed shall be one percent (1%): *Provided, further*, That ^[24] 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. 'Proprietary' means a private hospital ^[21] or any private school maintained and administered by private individuals or groups with an issued permit to operate from the Department of Education (DepEd), ^[21] 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 Insurance System (GSIS), the Social Security System (SSS), the Home Development Mutual Fund (HDMF) ^[25], the Philippine Health Insurance Corporation (PHIC), and the local water districts ^[26] 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. ^[45]

(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 bank under the expanded foreign currency deposit system shall be subject to a final income tax at the rate of fifteen percent (15%) ^[27] of such interest income. ^[4]

(2) Capital Gains from the Sale of Shares of Stock Not Traded in the Stock Exchange. - A final tax at the rate of fifteen percent (15%) ^[28] 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. ^[4]

(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 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%). ^[20]

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 shall not be subject to tax under this Title: *Provided*, That for foreign-sourced dividends to be exempt, the funds from such dividends actually received or remitted into the Philippines are reinvested in the business operations of the domestic corporation in the Philippines within the next taxable year from the time the foreign-sourced dividends were received and shall be limited to funding the working capital requirements, capital expenditures, dividend payments, investment in domestic subsidiaries, and infrastructure project: *Provided, further*, That the domestic corporation holds directly at least twenty percent (20%) of the outstanding shares of the foreign corporation and has held the shareholdings for a minimum of two (2) years at the time of the dividend distribution. ^[29]

(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 of 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: Provided, That effective July 1, 2020 until June 30, 2023, the rate shall be one percent (1%). ^[21]

(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 regulation 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.

(F) Offshore Gaming Licensees - The provisions of existing special or general laws to contrary notwithstanding, the non-gaming revenues of Philippine-based offshore gaming licensees as duly licensed by the Philippine Amusement and Gaming Corporation or any special economic zone authority or tourism zone authority or freeport authority shall be subject to an income tax equivalent to twenty-five percent (25%) of the taxable income derived during each taxable year from all sources within and without the Philippines. ^[30]

(G) Accredited Service Providers to Offshore Gaming Licensees. - Unless otherwise provided in this Code, accredited service providers to offshore gaming licensees shall not be subject to the gaming tax imposed by Section 125-A but shall pay such rate of tax as imposed in Section 27(A) of this Code, and shall be subject to all other applicable local and national taxes.

“For purposes of this Section, an accredited service provider to an offshore gaming licensee (‘service provider’) shall be a juridical person that is duly created or organized within or outside the Philippines or a natural person, regardless of citizenship or residence, which provides ancillary services to an offshore gaming licensee as defined by Section 22 (II) of this Code or to any gaming licensee or operator with licenses from other jurisdictions. Such ancillary services may include, but shall not be limited to, customer and technical relations and support, information technology, gaming software, data provision, payment solutions and live studio streaming services. ^[30]

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 twenty-five percent (25%) ^[31] of the taxable income derived in the preceding taxable year from all sources within the Philippines effective July 1, 2020. ^[31]

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. ^[31]

(2) Minimum Corporate Income Tax on Resident Foreign Corporations. - A minimum corporate income tax of two percent (2%) of gross income, as prescribed under Section 27(E) of this Code, shall be imposed, under the same conditions, on a resident foreign corporation taxable under paragraph (1) of this Subsection: Provided, That effective July 1, 2020 until June 30, 2023, the rate shall be one percent (1%). ^[31]

(3) International Carrier. – An international carrier doing business in the Philippines shall pay a tax of two and one-half percent (2 1/2 %) on its ‘Gross Philippine Billings’ as defined hereunder:

(a) International Air Carrier. – ‘Gross Philippine Billings’ refers to the amount of gross revenue derived from carriage of persons, excess baggage, cargo, and mail originating from the Philippines in a continuous and uninterrupted flight, irrespective of the place of sale or issue and the place of payment of the ticket or passage document: Provided, That tickets revalidated, exchanged and/or indorsed to another international airline form part of the Gross Philippine Billings if the passenger boards a plane in a port or point in the Philippines: Provided, further, That for a flight which originates from the Philippines, but transshipment of passenger takes place at any part outside the Philippines on another airline, only the aliquot portion of the cost of the ticket corresponding to the leg flown from the Philippines to the point of transshipment shall form part of Gross Philippine Billings.

(b) International Shipping. – ‘Gross Philippine Billings’ means gross revenue whether for passenger, cargo or mail originating from the Philippines up to final destination, regardless of the place of sale or payments of the passage or freight documents.

Provided, That international carriers doing business in the Philippines may avail of a preferential rate or exemption from the tax herein imposed on their gross revenue derived from the carriage of persons and their excess baggage on the basis of an applicable tax treaty or international agreement to which the Philippines is a signatory or on the basis of

reciprocity such that an international carrier, whose home country grants income tax exemption to Philippine carriers, shall likewise be exempt from the tax imposed under this provision. ^[32]

(4) Tax on Branch Profits Remittances. - Any profit remitted by a branch to its head office shall be subject to a tax of fifteen (15%) which shall be based on the total profits applied or earmarked for remittance without any deduction for the tax component thereof (except those activities which are registered with the Philippine Economic Zone Authority). The tax shall be collected and paid in the same manner as provided in Sections 57 and 58 of this Code: Provided, that interests, dividends, rents, royalties, including remuneration for technical services, salaries, wages premiums, annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits, income and capital gains received by a foreign corporation during each taxable year from all sources within the Philippines shall not be treated as branch profits unless the same are effectively connected with the conduct of its trade or business in the Philippines.

(5) Regional or Area Headquarters and Regional Operating Headquarters of Multinational Companies. -

(a) Regional or area headquarters as defined in Section 22(DD) shall not be subject to income tax.

(b) Regional operating headquarters as defined in Section 22(EE) shall pay a tax of ten percent (10%) of their taxable income: Provided, That effective January 1, 2022, regional operating headquarters shall be subject to the regular corporate income tax. ^[33]

(6) Tax on Certain Incomes Received by a Resident Foreign Corporation. -

(a) Interest from Deposits and Yield or any other Monetary Benefit from Deposit Substitutes, Trust Funds and Similar Arrangements and Royalties. - Interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements and royalties derived from sources within the Philippines shall be subject to a final income tax at the rate of twenty percent (20%) of such interest: Provided, however, That interest income derived by a resident foreign corporation from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax at the rate of fifteen percent (15%) ^[34] of such interest income.

(b) 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.

(c) Capital Gains from Sale of Shares of Stock Not Traded in the Stock Exchange. - A final tax at the rate of fifteen percent (15%) ^[35] is hereby imposed upon the net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation except shares sold or disposed

of through the stock exchange.

(d) Intercorporate Dividends. - Dividends received by a resident foreign corporation from a domestic corporation liable to tax under this Code shall not be subject to tax under this Title.

(7) Offshore Gaming Licensees. – The provisions of existing special or general laws to the contrary notwithstanding, the non-gaming revenues derived within the Philippines of foreign-based offshore gaming licensees as defined and duly licensed by the Philippine Amusement and Gaming Corporation or any special economic zone authority or tourism zone authority or freeport authority shall be subject to an income tax equivalent to twenty-five percent (25%) of the taxable income derived during each taxable year. ^[20]

(B) Tax on Nonresident Foreign Corporation. -

(1) In General. - Except as otherwise provided in this Code, a foreign corporation not engaged in trade or business in the Philippines, effective January 1, 2021, shall pay a tax equal to twenty-five percent (25%) ^[37] of the gross income received during each taxable year from all sources within the Philippines, such as interests, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains subject to tax under subparagraph 5(c). ^[37]

(2) Nonresident Cinematographic Film Owner, Lessor or Distributor. - A cinematographic film owner, lessor, or distributor shall pay a tax of twenty-five percent (25%) of its gross income from all sources within the Philippines.

(3) Nonresident Owner or Lessor of Vessels Chartered by Philippine Nationals. – A nonresident owner or lessor of vessels shall be subject to a tax of four and one-half percent (4 1/2%) of gross rentals, lease or charter fees from leases or charters to Filipino citizens or corporations, as approved by the Maritime Industry Authority.

(4) Nonresident Owner or Lessor of Aircraft, Machineries and Other Equipment. - Rentals, charters and other fees derived by a nonresident lessor of aircraft, machineries and other equipment shall be subject to a tax of seven and one-half percent (7 1/2%) of gross rentals or fees.

(5) Tax on Certain Incomes Received by a Nonresident Foreign Corporation. -

(a) Interest on Foreign Loans. - A final withholding tax at the rate of twenty percent (20%) is hereby imposed on the amount of interest on foreign loans contracted on or after August 1, 1986;

(b) Intercorporate Dividends. - A final withholding tax at the rate of fifteen percent (15%) is hereby imposed on the amount of cash and/or property dividends received from a domestic corporation, which shall be collected and paid as provided in Section 57(A) of this Code, subject to the condition that the country in which the nonresident foreign corporation is domiciled, shall allow a credit against the tax due from the nonresident foreign corporation taxes deemed to have been paid in the Philippines equivalent to fifteen percent (15%), ^[38] which represents the difference between the regular income tax and the fifteen percent (15%) tax on dividends as provided in this subparagraph: Provided, That effective July 1, 2020, ^[38] the credit against the tax due shall be equivalent to the difference between the regular income tax rate provided in Section 28(B)(1) of this Code ^[38] and the fifteen percent (15%) tax on dividends;

(c) Capital Gains from Sale of Shares of Stock not Traded in the Stock Exchange. - A final tax at the rate of fifteen percent (15%) ^[35] is hereby imposed upon the net capital gains realized during the taxable year from the sale, barter, exchange or other disposition of shares of stock in a domestic corporation, except shares sold, or disposed of through the stock exchange.

SEC. 29. REPEALED ^[39]

SEC. 30. Exemptions from Tax on Corporations. - The following organizations shall not be taxed under this Title in respect to income received by them as such:

- (A) Labor, agricultural or horticultural organization not organized principally for profit;
- (B) Mutual savings bank not having a capital stock represented by shares, and cooperative bank without capital stock organized and operated for mutual purposes and without profit;
- (C) A beneficiary society, order or association, operating for the exclusive benefit of the members such as a fraternal organization operating under the lodge system, or mutual aid association or a nonstock corporation organized by employees providing for the payment of life, sickness, accident, or other benefits exclusively to the members of such society, order, or association, or nonstock corporation or their dependents;
- (D) Cemetery company owned and operated exclusively for the benefit of its members;
- (E) Nonstock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;
- (F) Business league chamber of commerce, or board of trade, not organized for profit and no part of the net income of which inures to the benefit of any private stock-holder, or individual;
- (G) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
- (H) A nonstock and nonprofit educational institution;
- (I) Government educational institution;
- (J) Farmers' or other mutual typhoon or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses; and
- (K) Farmers', fruit growers', or like association organized and operated as a sales agent for the purpose of marketing the products of its members and turning back to them the proceeds of sales, less the necessary selling expenses on the basis of the quantity of produce finished by them;

Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code.

CHAPTER V**COMPUTATION OF TAXABLE INCOME**

SEC. 31. *Taxable Income Defined.* -The term 'taxable income' means the pertinent items of gross income specified in this Code, less the deductions, if any, authorized for such types of income by this Code or other special laws. ^[40]

CHAPTER VI**COMPUTATION OF GROSS INCOME****SEC. 32. *Gross Income.*** -

(A) *General Definition.* - Except when otherwise provided in this Title, gross income means all income derived from whatever source, including (but not limited to) the following items:

- (1) Compensation for services in whatever form paid, including, but not limited to fees, salaries, wages, commissions, and similar items;
- (2) Gross income derived from the conduct of trade or business or the exercise of a profession;
- (3) Gains derived from dealings in property;
- (4) Interests;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Annuities;
- (9) Prizes and winnings;
- (10) Pensions; and
- (11) Partner's distributive share from the net income of the general professional partnership.

(B) Exclusions from Gross Income. - The following items shall not be included in gross income and shall be exempt from taxation under this Title:

(1) Life Insurance. - The proceeds of life insurance policies paid to the heirs or 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 premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

(3) Gifts, Bequests, and Devises. - The value of property acquired by gift, bequest, devise, or descent: Provided, however, That income from such property, as well as gift, bequest, devise or descent of income from any property, in cases of transfers of divided interest, shall be included in gross income.

(4) Compensation for Injuries or Sickness. - amounts received, through Accident or Health Insurance or under Workmen's Compensation Acts, as compensation for personal injuries or sickness, plus the amounts of any damages received, whether by suit or agreement, on account of such injuries or sickness.

(5) Income Exempt under Treaty. - Income of any kind, to the extent required by any treaty obligation binding upon the Government of the Philippines.

(6) Retirement Benefits, Pensions, Gratuities, etc.-

(a) Retirement benefits received under Republic Act No. 7641 and those received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer: Provided, That the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty (50) years of age at the time of his retirement: Provided, further, That the benefits granted under this subparagraph shall be availed of by an official or employee only once. For purposes of this Subsection, the term 'reasonable private benefit plan' means a pension, gratuity, stock bonus or profit-sharing plan maintained by an employer for the benefit of some or all of his officials or employees, wherein contributions are made by such employer for the officials or employees, or both, for the purpose of distributing to such officials and employees the earnings and principal of the fund thus accumulated, and wherein it is provided in said plan that at no time shall any part of the corpus or income of the fund be used for, or be diverted to, any purpose other than for the exclusive benefit of the said officials and employees.

(b) Any amount received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer because of death sickness or other physical disability or for any cause beyond the control of the said official or employee.

(c) The provisions of any existing law to the contrary notwithstanding, social security benefits, retirement gratuities, pensions and other similar benefits received by resident or nonresident citizens of the Philippines or aliens who come to reside permanently in the Philippines from foreign government agencies and other institutions, private or public.

(d) Payments of benefits due or to become due to any person residing in the Philippines under the laws of the United States administered by the United States Veterans Administration.

(e) Benefits received from or enjoyed under the Social Security System in accordance with the provisions of Republic Act No. 8282.

(f) Benefits received from the GSIS under Republic Act No. 8291, including retirement gratuity received by government officials and employees.

(7) Miscellaneous Items. –

(a) Income Derived by Foreign Government. - Income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by (i) foreign governments, (ii) financing institutions owned, controlled, or enjoying refinancing from foreign governments, and (iii) international or regional financial institutions established by foreign governments.

(b) Income Derived by the Government or its Political Subdivisions. - 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) Prizes and Awards. - Prizes and awards made primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civic achievement but only if:

(i) The recipient was selected without any action on his part to enter the contest or proceeding; and

(ii) The recipient is not required to render substantial future services as a condition to receiving the prize or award.

(d) Prizes and Awards in sports Competition. - All prizes and awards granted to athletes in local and international sports competitions and tournaments whether held in the Philippines or abroad and sanctioned by their national sports associations.

(e) 13th Month Pay and Other Benefits. - Gross benefits received by officials and employees of public and private entities: Provided, however, That the total exclusion under this subparagraph shall not exceed Ninety thousand pesos (P90,000) ^[41] which shall cover: ^[4]

(i) Benefits received by officials and employees of the national and local government pursuant to Republic Act No. 6686;

(ii) Benefits received by employees pursuant to Presidential Decree No. 851, as amended by Memorandum Order No. 28, dated August 13, 1986;

(iii) Benefits received by officials and employees not covered by Presidential Decree No. 851, as amended by Memorandum Order No. 28, dated August 13, 1986; and

(iv) Other benefits such as productivity incentives and Christmas bonus.

(f) GSIS, SSS, Medicare and Other Contributions. - GSIS, SSS, Medicare and Pag-Ibig contributions, and union dues of individuals.

(g) Gains from the Sale of Bonds, Debentures or other Certificate of Indebtedness. - Gains realized from the same or exchange or retirement of bonds, debentures or other certificate of indebtedness with a maturity of more than five (5) years.

(h) Gains from Redemption of Shares in Mutual Fund. - Gains realized by the investor upon redemption of shares of stock in a mutual fund company as defined in Section 22 (BB) of this Code.

(i) Income Derived from the Sale of Gold Pursuant to Republic Act No. 7076. – Income derived from the following transactions pursuant to Republic Act No. 7076, otherwise known as the “People’s Small-scale Mining Act of 1991”:

(1) The sale of gold to the Bangko Sentral ng Pilipinas by registered small-scale miners, as defined under Republic Act. No. 7076, and accredited traders; and

(2) The sale of gold by registered small-scale miners to accredited traders for eventual sale to the Bangko Sentral ng Pilipinas. ^[42]

SEC. 33. Special Treatment of Fringe Benefit. -

(A) Imposition of Tax. – Effective January 1, 2018 and onwards, a final tax of thirty-five percent (35%) ^[43] is hereby imposed on the grossed-up monetary value of fringe benefit furnished or granted to the employee (except rank and file employees defined herein) by the employer, whether an individual or a corporation (unless the fringe benefit is required by the nature of, or necessary to the trade, business or profession of the employer, or when the fringe benefit is for the convenience or advantage of the employer). The tax herein imposed is payable by the employer which tax shall be paid in the same manner as provided for under Section 57 (A) of this Code. The grossed-up monetary value of the fringe benefit shall be determined by dividing the actual monetary value of the fringe benefit by sixty-five percent (65%) effective January 1, 2018 and onwards: ^[44] Provided, however, That fringe benefit furnished to employees and taxable under Subsections (B), (C), (D) and (E) of Section 25 shall be taxed at the applicable rates imposed thereat: Provided, further, That the grossed -up monetary value of the fringe benefit shall be determined by dividing the actual monetary value of the fringe benefit by the difference between one hundred percent (100%) and the applicable rates of income tax under Subsections (B), (C), (D), and (E) of Section 25.

(B) Fringe Benefit Defined. - For purposes of this Section, the term 'fringe benefit' means any good, service or other benefit furnished or granted in cash or in kind by an employer to an individual employee (except rank and file employees as defined herein) such as, but not limited to, the following:

(1) Housing;

(2) Expense account;

(3) Vehicle of any kind;

(4) Household personnel, such as maid, driver and others;

(5) Interest on loan at less than market rate to the extent of the difference between the market rate and actual rate granted;

- (6) Membership fees, dues and other expenses borne by the employer for the employee in social and athletic clubs or other similar organizations;
- (7) Expenses for foreign travel;
- (8) Holiday and vacation expenses;
- (9) Educational assistance to the employee or his dependents; and
- (10) Life or health insurance and other non-life insurance premiums or similar amounts in excess of what the law allows.

(C) Fringe Benefits Not Taxable. - The following fringe benefits are not taxable under this Section:

- (1) Fringe benefits which are authorized and exempted from tax under special laws;
- (2) Contributions of the employer for the benefit of the employee to retirement, insurance and hospitalization benefit plans;
- (3) Benefits given to the rank and file employees, whether granted under a collective bargaining agreement or not; and
- (4) De minimis benefits as defined in the rules and regulations to be promulgated by the Secretary of

Finance, upon recommendation of the Commissioner.

The Secretary of Finance is hereby authorized to promulgate, upon recommendation of the Commissioner, such rules and regulations as are necessary to carry out efficiently and fairly the provisions of this Section, taking into account the peculiar nature and special need of the trade, business or profession of the employer.

CHAPTER VII

ALLOWABLE DEDUCTIONS

SEC. 34. Deductions from Gross Income. ^[45] - Except for taxpayers earning compensation income arising from personal services rendered under an employer-employee relationship where no deductions shall be allowed under this Section, in computing taxable income subject to income tax under Sections 24(A); 25(A); 26; 27(A), (B), and (C); and 28(A)(1), there shall be allowed the following deductions from gross income: ^[45]

(A) Expenses. -

(1) Ordinary and Necessary Trade, Business or Professional Expenses.-

(a) In General. - There shall be allowed as deduction from gross income all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to, the development, management, operation and/or conduct of the trade, business or exercise of a profession, including:

(i) A reasonable allowance for salaries, wages, and other forms of compensation for personal services actually rendered, including the grossed-up monetary value of fringe benefit furnished or granted by the employer to the employee: Provided, That the final tax imposed under Section 33 hereof has been paid;

(ii) A reasonable allowance for travel expenses, here and abroad, while away from home in the pursuit of trade, business or profession;

(iii) A reasonable allowance for rentals and/or other payments which are required as a condition for the continued use or possession, for purposes of the trade, business or profession, of property to which the taxpayer has not taken or is not taking title or in which he has no equity other than that of a lessee, user or possessor;

(iv) A reasonable allowance for entertainment, amusement and recreation expenses during the taxable year, that are directly connected to the development, management and operation of the trade, business or profession of the taxpayer, or that are directly related to or in furtherance of the conduct of his or its trade, business or exercise of a profession not to exceed such ceilings as the Secretary of Finance may, by rules and regulations prescribe, upon recommendation of the Commissioner, taking into account the needs as well as the special circumstances, nature and character of the industry, trade, business, or profession of the taxpayer: Provided, That any expense incurred for entertainment, amusement or recreation that is contrary to law, morals public policy or public order shall in no case be allowed as a deduction.

(v)) An additional deduction from taxable income of one-half of the value of labor training expenses incurred for skills development of enterprise-based trainees enrolled in public senior high schools, public higher education institutions, or public technical and vocational institutions and duly covered by an apprenticeship agreement under Presidential Decree No. 442, Series of 1974, or the "Labor Code of the Philippines", as amended, shall be granted to enterprises: Provided, further, That for the additional deduction for enterprise-based training of students from public educational institutions, the enterprise shall secure proper certification from the DepEd, TESDA, or CHED: Provided, finally, That such deduction shall not exceed ten percent (10%) of direct labor wage. ^[46]

(b) Substantiation Requirements. - No deduction from gross income shall be allowed under Subsection (A) hereof unless the taxpayer shall substantiate with sufficient evidence, such as official receipts or other adequate records: (i) the amount of the expense being deducted, and (ii) the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of the trade, business or profession of the taxpayer.

(c) Bribes, Kickbacks and Other Similar Payments. - No deduction from gross income shall be allowed under Subsection (A) hereof for any payment made, directly or indirectly, to an official or employee of the national government, or to an official or employee of any local government unit, or to an official or employee of a government-owned or -controlled corporation, or to an official or employee or representative of a foreign government, or to a private corporation, general professional partnership, or a similar entity, if the payment constitutes a bribe or kickback.

(2) Expenses Allowable to Private Educational Institutions. - In addition to the expenses allowable as deductions under this Chapter, a private educational institution, referred to under Section 27 (B) of this Code, may at its option elect either: (a) to deduct expenditures otherwise considered as capital outlays of depreciable assets incurred during the taxable

year for the expansion of school facilities or (b) to deduct allowance for depreciation thereof under Subsection (F) hereof.

(B) Interest. -

(1) In General. - The amount of interest paid or incurred within a taxable year on indebtedness in connection with the taxpayer's profession, trade or business shall be allowed as deduction from gross income: Provided, however, That the taxpayer's otherwise allowable deduction for interest expense shall be reduced by twenty percent (20%) of the interest income subjected to final tax: **Provided, finally, That if the interest income tax is adjusted in the future, the interest expense reduction rate shall be adjusted accordingly based on the prescribed standard formula as defined in the rules and regulations to be promulgated by the Secretary of Finance, upon the recommendation of the Commissioner of Internal Revenue.** ^[45]

(2) Exceptions. - No deduction shall be allowed in respect of interest under the succeeding subparagraphs:

(a) If within the taxable year an individual taxpayer reporting income on the cash basis incurs an indebtedness on which an interest is paid in advance through discount or otherwise: Provided, That such interest shall be allowed as a deduction in the year the indebtedness is paid: *Provided, further,* That if the indebtedness is payable in periodic amortizations, the amount of interest which corresponds to the amount of the principal amortized or paid during the year shall be allowed as deduction in such taxable year;

(b) If both the taxpayer and the person to whom the payment has been made or is to be made are persons specified under Section 36 (B); or

(c) If the indebtedness is incurred to finance petroleum exploration.

(3) Optional Treatment of Interest Expense. - At the option of the taxpayer, interest incurred to acquire property used in trade business or exercise of a profession may be allowed as a deduction or treated as a capital expenditure.

(C) Taxes.-

(1) In General. - Taxes paid or incurred within the taxable year in connection with the taxpayer's profession, trade or business, shall be allowed as deduction, except:

(a) The income tax provided for under this Title;

(b) Income taxes imposed by 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) Estate and donor's taxes; and

(d) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

Provided, That taxes allowed under this Subsection, when refunded or credited, shall be included as part of gross income in the year of receipt to the extent of the income tax benefit of said deduction.

(2) Limitations on Deductions. - In the case of a nonresident alien individual engaged in trade or business in the Philippines and a resident 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.

(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 income taxes paid or incurred during the taxable year to any foreign country; and

(b) Partnerships and Estates. - In the case of any such individual who is a member of a general professional partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the general professional partnership or the estate or trust paid or incurred 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.

An alien individual and a foreign corporation 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 incurred to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's taxable income from sources within such country under this Title bears to his entire taxable 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 taxable income from sources without the Philippines taxable under this Title bears to his entire taxable income for the same taxable year.

(5) Adjustments on Payment of Incurred Taxes. - If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner; who shall re-determine the amount of the tax for the year or years affected, and the amount of tax due upon such re-determination, if any, shall be paid by the taxpayer upon notice and demand by the Commissioner, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer. In the case of such a tax incurred but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as he may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such redetermination. The bond herein prescribed shall contain such further conditions as the Commissioner may require.

(6) Year in Which Credit Taken. - The credits provided for in Subsection (C)(3) of this Section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year which the taxes of the foreign country were incurred, subject, however, to the conditions prescribed in Subsection (C)(5) of this Section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country accrued, the credits for all subsequent years shall be taken upon the same basis and no portion of any such taxes shall be allowed as a deduction in the same or any succeeding year.

(7) Proof of Credits. - The credits provided in Subsection (C)(3) hereof shall be allowed only if the taxpayer establishes to the satisfaction of the Commissioner the following:

- (a) The total amount of income derived from sources without the Philippines;
- (b) The amount of income derived from each country, the tax paid or incurred to which is claimed as a credit under said paragraph, such amount to be determined under rules and regulations prescribed by the Secretary of Finance; and
- (c) All other information necessary for the verification and computation of such credits.

(D) Losses. -

(1) In General. - Losses actually sustained during the taxable year and not compensated for by insurance or other forms of indemnity shall be allowed as deductions:

- (a) If incurred in trade, profession or business;
- (b) Of property connected with the trade, business or profession, if the loss arises from fires, storms, shipwreck, or other casualties, or from robbery, theft or embezzlement.

The Secretary of Finance, upon recommendation of the Commissioner, is hereby authorized to promulgate rules and regulations prescribing, among other things, the time and manner by which the taxpayer shall submit a declaration of loss sustained from casualty or from robbery, theft or embezzlement during the taxable year: *Provided, however,* That the time limit to be so prescribed in the rules and regulations shall not be less than thirty (30) days nor more than ninety (90) days from the date of discovery of the casualty or robbery, theft or embezzlement giving rise to the loss.

- (c) No loss shall be allowed as a deduction under this Subsection if at the time of the filing of the return, such loss has been claimed as a deduction for estate tax purposes in the estate tax return.

(2) Proof of Loss. - In the case of a nonresident alien individual or foreign corporation, the losses deductible shall be those actually sustained during the year incurred in business, trade or exercise of a profession conducted within the Philippines, when such losses are not compensated for by insurance or other forms of indemnity. The secretary of Finance, upon recommendation of the Commissioner, is hereby authorized to promulgate rules and regulations prescribing, among other things, the time and manner by which the taxpayer shall submit a declaration of loss sustained from casualty or from robbery, theft or embezzlement during the taxable year: *Provided,* that the time to be so prescribed in the rules and regulations shall not be less than thirty (30) days nor more than ninety (90) days from the date of discovery of the casualty or robbery, theft or embezzlement giving rise to the loss; and

3) Net Operating Loss Carry-Over. - The net operating loss of the business or enterprise for any taxable year immediately preceding the current taxable year, which had not been previously offset as deduction from gross income shall be carried over as a deduction from gross income for the next three (3) consecutive taxable years immediately following the year of such loss: *Provided, however,* That any net loss incurred in a taxable year during which the taxpayer was exempt from income tax shall not be allowed as a deduction under this Subsection: *Provided, further,* That a net operating loss carry-over shall be allowed only if there has been no substantial change in the ownership of the business or enterprise in that -

(i) Not less than seventy-five percent (75%) in nominal value of outstanding issued shares., if the business is in the name of a corporation, is held by or on behalf of the same persons; or

(ii) Not less than seventy-five percent (75%) of the paid up capital of the corporation, if the business is in the name of a corporation, is held by or on behalf of the same persons.

For purposes of this subsection, the term '**net operating loss**' shall mean the excess of allowable deduction over gross income of the business in a taxable year.

Provided, That for mines other than oil and gas wells, a net operating loss without the benefit of incentives provided for under Executive Order No. 226, as amended, otherwise known as the Omnibus Investments Code of 1987, incurred in any of the first ten (10) years of operation may be carried over as a deduction from taxable income for the next five (5) years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the five (5) taxable years following the loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining four (4) years.

(4) Capital Losses. -

(a) Limitations. - Loss from sales or Exchanges of capital assets shall be allowed only to the extent provided in Section 39.

(b) Securities Becoming Worthless. - If securities as defined in Section 22 (T) become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for purposes of this Title, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(5) Losses From Wash Sales of Stock or Securities. - Losses from 'wash sales' of stock or securities as provided in Section 38.

(6) Wagering Losses. - Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(7) Abandonment Losses. -

(a) In the event a contract area where petroleum operations are undertaken is partially or wholly abandoned, all accumulated exploration and development expenditures pertaining thereto shall be allowed as a deduction: *Provided*, That accumulated expenditures incurred in that area prior to January 1, 1979 shall be allowed as a deduction only from any income derived from the same contract area. In all cases, notices of abandonment shall be filed with the Commissioner.

(b) In case a producing well is subsequently abandoned, the un-amortized costs thereof, as well as the un-depreciated costs of equipment directly used therein , shall be allowed as a deduction in the year such well, equipment or facility is abandoned by the contractor: *Provided*, That if such abandoned well is re-entered and production is resumed, or if such equipment or facility is restored into service, the said costs shall be included as part of gross income in the year of resumption or restoration and shall be amortized or depreciated, as the case may be.

(E) Bad Debts. -

(1) In General. - Debts due to the taxpayer actually ascertained to be worthless and charged off within the taxable year except those not connected with profession, trade or business and those sustained in a transaction entered into between parties mentioned under Section 36 (B) of this Code: Provided, That recovery of bad debts previously allowed as deduction in the preceding years shall be included as part of the gross income in the year of recovery to the extent of the income tax benefit of said deduction.

(2) Securities Becoming Worthless. - If securities, as defined in Section 22 (T), are ascertained to be worthless and charged off within the taxable year and are capital assets, the loss resulting therefrom shall, in the case of a taxpayer other than a bank or trust company incorporated under the laws of the Philippines a substantial part of whose business is the receipt of deposits, for the purpose of this Title, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(F) Depreciation. -

(1) General Rule. - There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including reasonable allowance for obsolescence) of property used in the trade or business. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustees in accordance with the pertinent provisions of the instrument creating the trust, or in the absence of such provisions, on the basis of the trust income allowable to each.

(2) Use of Certain Methods and Rates. - The term '**reasonable allowance**' as used in the preceding paragraph shall include, but not limited to, an allowance computed in accordance with rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, under any of the following methods:

- (a) The straight-line method;
- (b) Declining-balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in Subsection (F) (1);
- (c) The sum-of-the-years-digit method; and
- (d) Any other method which may be prescribed by the Secretary of Finance upon recommendation of the Commissioner.

(3) Agreement as to Useful Life on Which Depreciation Rate is Based. - Where under rules and regulations prescribed by the Secretary of Finance upon recommendation of the Commissioner, the taxpayer and the Commissioner have entered into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the national Government in the absence of facts and circumstances not taken into consideration during the adoption of such agreement. The responsibility of establishing the existence of such facts and circumstances shall rest with the party initiating the modification. Any change in the agreed rate and useful life of the depreciable property as specified in the agreement shall not be effective for taxable years prior to the taxable year in which notice in writing by certified mail or registered mail is served by the party initiating such change to the other party to the agreement:

Provided, however, that where the taxpayer has adopted such useful life and depreciation rate for any depreciable and claimed the depreciation expenses as deduction from his gross income, without any written objection on the part of the Commissioner or his duly authorized representatives, the aforesaid useful life and depreciation rate so adopted by the taxpayer for the aforesaid depreciable asset shall be considered binding for purposes of this Subsection.

(4) Depreciation of Properties Used in Petroleum Operations. - An allowance for depreciation in respect of all properties directly related to production of petroleum initially placed in service in a taxable year shall be allowed under the straight-line or declining-balance method of depreciation at the option of the service contractor.

However, if the service contractor initially elects the declining-balance method, it may at any subsequent date, shift to the straight-line method.

The useful life of properties used in or related to production of petroleum shall be ten (10) years or such shorter life as may be permitted by the Commissioner.

Properties not used directly in the production of petroleum shall be depreciated under the straight-line method on the basis of an estimated useful life of five (5) years.

(5) Depreciation of Properties Used in Mining Operations. - an allowance for depreciation in respect of all properties used in mining operations other than petroleum operations, shall be computed as follows:

- (a) At the normal rate of depreciation if the expected life is ten (10) years or less; or
- (b) Depreciated over any number of years between five (5) years and the expected life if the latter is more than ten (10) years, and the depreciation thereon allowed as deduction from taxable income: *Provided,* That the contractor notifies the Commissioner at the beginning of the depreciation period which depreciation rate allowed by this Section will be used.

(6) Depreciation Deductible by Nonresident Aliens Engaged in Trade or Business or Resident Foreign Corporations. - In the case of a nonresident alien individual engaged in trade or business or resident foreign corporation, a reasonable allowance for the deterioration of Property arising out of its use or employment or its non-use in the business trade or profession shall be permitted only when such property is located in the Philippines.

(G) Depletion of Oil and Gas Wells and Mines. -

(1) In General. - In the case of oil and gas wells or mines, a reasonable allowance for depletion or amortization computed in accordance with the cost-depletion method shall be granted under rules and regulations to be prescribed by the Secretary of finance, upon recommendation of the Commissioner. *Provided,* That when the allowance for depletion shall equal the capital invested no further allowance shall be granted: *Provided, further,* That after production in commercial quantities has commenced, certain intangible exploration and development drilling costs: (a) shall be deductible in the year incurred if such expenditures are incurred for non-producing wells and/or mines, or (b) shall be deductible in full in the year paid or incurred or at the election of the taxpayer, may be capitalized and amortized if such expenditures incurred are for producing wells and/or mines in the same contract area.

'**Intangible costs in petroleum operations**' refers to any cost incurred in petroleum operations which in itself has no salvage value and which is incidental to and necessary for the drilling of wells and preparation of wells for the production of petroleum: *Provided,* That said costs shall not pertain to the acquisition or improvement of property of a

character subject to the allowance for depreciation except that the allowances for depreciation on such property shall be deductible under this Subsection.

Any intangible exploration, drilling and development expenses allowed as a deduction in computing taxable income during the year shall not be taken into consideration in computing the adjusted cost basis for the purpose of computing allowable cost depletion.

(2) Election to Deduct Exploration and Development Expenditures. - In computing taxable income from mining operations, the taxpayer may at his option, deduct exploration and development expenditures accumulated as cost or adjusted basis for cost depletion as of date of prospecting, as well as exploration and development expenditures paid or incurred during the taxable year: Provided, That the amount deductible for exploration and development expenditures shall not exceed twenty-five percent (25%) of the net income from mining operations computed without the benefit of any tax incentives under existing laws. The actual exploration and development expenditures minus twenty-five percent (25%) of the net income from mining shall be carried forward to the succeeding years until fully deducted.

The election by the taxpayer to deduct the exploration and development expenditures is irrevocable and shall be binding in succeeding taxable years.

'**Net income from mining operations**', as used in this Subsection, shall mean gross income from operations less '**allowable deductions**' which are necessary or related to mining operations. '**Allowable deductions**' shall include mining, milling and marketing expenses, and depreciation of properties directly used in the mining operations. This paragraph shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation.

In no case shall this paragraph apply with respect to amounts paid or incurred for the exploration and development of oil and gas.

The term '**exploration expenditures**' means expenditures paid or incurred for the purpose of ascertaining the existence, location, extent or quality of any deposit of ore or other mineral, and paid or incurred before the beginning of the development stage of the mine or deposit.

The term '**development expenditures**' means expenditures paid or incurred during the development stage of the mine or other natural deposits. The development stage of a mine or other natural deposit shall begin at the time when deposits of ore or other minerals are shown to exist in sufficient commercial quantity and quality and shall end upon commencement of actual commercial extraction.

(3) Depletion of Oil and Gas Wells and Mines Deductible by a Nonresident Alien individual or Foreign Corporation. - In the case of a nonresident alien individual engaged in trade or business in the Philippines or a resident foreign corporation, allowance for depletion of oil and gas wells or mines under paragraph (1) of this Subsection shall be authorized only in respect to oil and gas wells or mines located within the Philippines.

(H) Charitable and Other Contributions. -

(1) In General. - Contributions or gifts actually paid or made within the taxable year to, or for the use of the Government of the Philippines or any of its agencies or any political subdivision thereof exclusively for public purposes, or to accredited domestic corporation or associations organized and operated exclusively for religious, charitable, scientific, youth and sports development, cultural or educational purposes or for the rehabilitation of veterans, or to social welfare

institutions, or to non-government organizations, in accordance with rules and regulations promulgated by the Secretary of finance, upon recommendation of the Commissioner, no part of the net ^[48] income of which inures to the benefit of any private stockholder or individual in an amount not in excess of ten percent (10%) in the case of an individual, and five percent (%) in the case of a corporation, of the taxpayer's taxable income derived from trade, business or profession as computed without the benefit of this and the following subparagraphs.

(2) Contributions Deductible in Full. - Notwithstanding the provisions of the preceding subparagraph, donations to the following institutions or entities shall be deductible in full:

(a) Donations to the Government. - Donations to the Government of the Philippines or to any of its agencies or political subdivisions, including fully-owned government corporations, exclusively to finance, to provide for, or to be used in undertaking priority activities in education, health, youth and sports development, human settlements, science and culture, and in economic development according to a National Priority Plan determined by the National Economic and Development Authority (NEDA), In consultation with appropriate government agencies, including its regional development councils and private philanthropic persons and institutions: Provided, That any donation which is made to the Government or to any of its agencies or political subdivisions not in accordance with the said annual priority plan shall be subject to the limitations prescribed in paragraph (1) of this Subsection;

(b) Donations to Certain Foreign Institutions or International Organizations. - donations to foreign institutions or international organizations which are fully deductible in pursuance of or in compliance with agreements, treaties, or commitments entered into by the Government of the Philippines and the foreign institutions or international organizations or in pursuance of special laws;

(c) Donations to Accredited Nongovernment Organizations. -The term 'nongovernment organization' means a non-profit domestic corporation:

(1) Organized and operated exclusively for scientific, research, educational, character-building and youth and sports development, health, social welfare, cultural or charitable purposes, or a combination thereof, no part of the net ^[49] income of which inures to the benefit of any private individual;

(2) Which, not later than the 15th day of the third month after the close of the accredited nongovernment organizations taxable year in which contributions are received, makes utilization directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated, unless an extended period is granted by the Secretary of Finance in accordance with the rules and regulations to be promulgated, upon recommendation of the Commissioner;

(3) The level of administrative expense of which shall, on an annual basis, conform with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, but in no case to exceed thirty percent (30%) of the total expenses; and

(4) The assets of which, in the event of dissolution, would be distributed to another non-profit domestic corporation organized for similar purpose or purposes, or to the state for public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of said court shall best accomplish the general purpose for which the dissolved organization was organized.

Subject to such terms and conditions as may be prescribed by the Secretary of Finance, the term '**utilization**' means:

(i) Any amount in cash or in kind (including administrative expenses) paid or utilized to accomplish one or more purposes for which the accredited nongovernment organization was created or organized.

(ii) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes for which the accredited nongovernment organization was created or organized.

An amount set aside for a specific project which comes within one or more purposes of the accredited nongovernment organization may be treated as a utilization, but only if at the time such amount is set aside, the accredited nongovernment organization has established to the satisfaction of the Commissioner that the amount will be paid for the specific project within a period to be prescribed in rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner, but not to exceed five (5) years, and the project is one which can be better accomplished by setting aside such amount than by immediate payment of funds.

(3) Valuation. - The amount of any charitable contribution of property other than money shall be based on the acquisition cost of said property.

(4) Proof of Deductions. - Contributions or gifts shall be allowable as deductions only if verified under the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

(I) Research and Development.-

(1) In General. - A taxpayer may treat research or development expenditures which are paid or incurred by him during the taxable year in connection with his trade, business or profession as ordinary and necessary expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as deduction during the taxable year when paid or incurred.

(2) Amortization of Certain Research and Development Expenditures. - At the election of the taxpayer and in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, the following research and development expenditures may be treated as deferred expenses:

- (a) Paid or incurred by the taxpayer in connection with his trade, business or profession;
- (b) Not treated as expenses under paragraph (1) hereof; and
- (c) Chargeable to capital account but not chargeable to property of a character which is subject to depreciation or depletion.

In computing taxable income, such deferred expenses shall be allowed as deduction ratably distributed over a period of not less than sixty (60) months as may be elected by the taxpayer (beginning with the month in which the taxpayer first realizes benefits from such expenditures).

The election provided by paragraph (2) hereof may be made for any taxable year beginning after the effectivity of this Code, but only if made not later than the time prescribed by law for filing the return for such taxable year. The method so elected, and the period selected by the taxpayer, shall be adhered to in computing taxable income for the taxable year for

which the election is made and for all subsequent taxable years unless with the approval of the Commissioner, a change to a different method is authorized with respect to a part or all of such expenditures. The election shall not apply to any expenditure paid or incurred during any taxable year for which the taxpayer makes the election.

(3) Limitations on Deduction. - This Subsection shall not apply to:

(a) Any expenditure for the acquisition or improvement of land, or for the improvement of property to be used in connection with research and development of a character which is subject to depreciation and depletion; and

(b) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, including oil or gas.

(J) Pension Trusts. - An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under Subsection (A)(1) of this Section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowed as a deduction, and (2) is apportioned in equal parts over a period of ten (10) consecutive years beginning with the year in which the transfer or payment is made.

(K) Additional Requirements for Deductibility of Certain Payments. - Any amount paid or payable which is otherwise deductible from, or taken into account in computing gross income or for which depreciation or amortization may be allowed under this Section, shall be allowed as a deduction only if it is shown that the tax required to be deducted and withheld therefrom has been paid to the Bureau of Internal Revenue in accordance with this Section 58 and 81 of this Code.

(L) Optional Standard Deduction (OSD). - In lieu of the deductions allowed under the preceding Subsections, an individual subject to tax under Section 24, other than a nonresident alien, may elect a standard deduction in an amount not exceeding forty percent (40%) of his gross sales or gross receipts, as the case maybe. In the case of a corporation subject to tax under Sections 27(A) and 28 (A)(1), it may elect a standard deduction in an amount not exceeding forty percent (40%) of its gross income as defined in Section 32 of this Code. Unless the taxpayer signifies in his return his intention to elect the optional standard deduction, he shall be considered as having availed himself of the deductions allowed in the preceding Subsections. Such election when made in the return shall be irrevocable for the taxable year for which the return is made: Provided, That an individual who is entitled to and claimed for the optional standard deduction shall not be required to submit with his tax return such financial statements otherwise required under this Code: Provided, further, That a general professional partnership and the partners comprising such partnership may avail of the optional standard deduction only once, either by the general professional partnership or the partners comprising the partnership: ^[50] Provided, finally, That except when the Commissioner otherwise permits, the said individual shall keep such records pertaining to his gross sales or gross receipts, or the said corporation shall keep such records pertaining to his gross income as defined in Section 32 of this Code during the taxable year, as may be required by the rules and regulations promulgated by the Secretary of Finance, upon, recommendation of the Commissioner.

Notwithstanding the provision of the preceding Subsections, The Secretary of Finance, upon recommendation of the Commissioner, after a public hearing shall have been held for this purpose, may prescribe by rules and regulations, limitations or ceilings for any of the itemized deductions under Subsections (A) to (J) of this Section: Provided, That for purposes of determining such ceilings or limitations, the Secretary of Finance shall consider the following factors: (1) adequacy of the prescribed limits on the actual expenditure requirements of each particular industry; and (2) effects of inflation on expenditure levels: Provided, further, That no ceilings shall further be imposed on items of expense already subject to ceilings under present law.

SEC. 35. REPEALED ^[51]**SEC. 36. Items not Deductible. -**

(A) General Rule. - In computing net income, no deduction shall in any case be allowed in respect to -

(1) Personal, living or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements, or betterments made to increase the value of any property or estate;

This Subsection shall not apply to intangible drilling and development costs incurred in petroleum operations which are deductible under Subsection (G) (1) of Section 34 of this Code.

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, individual or corporate, when the taxpayer is directly or indirectly a beneficiary under such policy.

(B) Losses from Sales or Exchanges of Property. -In computing net income, no deductions shall in any case be allowed in respect of losses from sales or exchanges of property directly or indirectly -

(1) Between members of a family. For purposes of this paragraph, the family of an individual shall include only his brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants; or

(2) Except in the case of distributions in liquidation, between an individual and corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual; or

(3) Except in the case of distributions in liquidation, between two corporations more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the same individual if either one of such corporations, with respect to the taxable year of the corporation preceding the date of the sale or exchange was under the law applicable to such taxable year, a personal holding company or a foreign personal holding company;

(4) Between the grantor and a fiduciary of any trust; or

(5) Between the fiduciary of and the fiduciary of a trust and the fiduciary of another trust if the same person is a grantor with respect to each trust; or

(6) Between a fiduciary of a trust and beneficiary of such trust.

SEC. 37. Special Provisions Regarding Income and Deductions of Insurance Companies, Whether Domestic or Foreign. -

(A) Special Deduction Allowed to Insurance Companies. - In the case of insurance companies, whether domestic or foreign doing business in the Philippines, the net additions, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts may be deducted from their gross income:

Provided, however, That the released reserve be treated as income for the year of release.

(B) Mutual Insurance Companies. - In the case of mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses, said companies shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portion of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

(C) Mutual Marine Insurance Companies. - Mutual marine insurance companies shall include in their return of gross income, gross premiums collected and received by them less amounts paid to policyholders on account of premiums previously paid by them and interest paid upon those amounts between the ascertainment and payment thereof.

(D) Assessment Insurance Companies. - Assessment insurance companies, whether domestic or foreign, may deduct from their gross income the actual deposit of sums with the officers of the Government of the Philippines pursuant to law, as additions to guarantee or reserve funds.

SEC. 38. Losses from Wash Sales of Stock or Securities. -

(A) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that within a period beginning thirty (30) days before the date of such sale or disposition and ending thirty (30) days after such date, the taxpayer has acquired (by purchase or by exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under Section 34 unless the claim is made by a dealer in stock or securities and with respect to a transaction made in the ordinary course of the business of such dealer.

(B) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities, the loss from the sale or other disposition of which is not deductible, shall be determined under rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

(C) If the amount of stock or securities acquired (or covered by the contract or option to acquire which) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities, the acquisition of which (or the contract or option to acquire which) resulted in the non-deductibility of the loss shall be determined under rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

SEC. 39. Capital Gains and Losses. -

(A) Definitions. - As used in this Title –

(1) Capital Assets. – The term 'capital assets' means property held by the taxpayer (whether or not connected with his trade or business), but does not include 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 property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business, of a character which is subject to the allowance for depreciation provided in Subsection (F) of Section 34; or real property used in trade or business of the taxpayer.

(2) Net Capital Gain. – The term ‘net capital gain’ means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.

(3) Net Capital Loss. – The term ‘net capital loss’ means the excess of the losses from sales or exchanges of capital assets over the gains from such sales or exchanges.

(B) Percentage Taken into Account – In the case of a taxpayer, other than a corporation, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net capital gain, net capital loss, and net income.

(1) One hundred percent (100%) if the capital asset has been held for not more than twelve (12) months; and

(2) Fifty percent (50%) if the capital asset has been held for more than twelve (12) months;

(C) Limitation on Capital losses. – Losses from sales or exchange capital assets shall be allowed only to the extent of the gains from such sales or exchanges. If a bank or trust company incorporated under the laws of the Philippines, a substantial part of whose business is the receipt of deposits, sells any bond, debenture, note, or certificate or other evidence of indebtedness issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, any loss resulting from such sale shall not be subject to the foregoing limitation and shall not be included in determining the applicability of such limitation to other losses.

(D) Net Capital Loss Carry-Over. – If any taxpayer, other than a corporation, sustains in any taxable year a net capital loss, such loss (in an amount not in excess of the net income for such year) shall be treated in the succeeding taxable year as a loss from the sale or exchange of a capital asset held for not more than twelve (12) months.

(E) Retirement of Bonds, Etc. - For purposes of this Title, amounts received by the holder upon the retirement of bonds, debentures, notes or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof) with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

(F) Gains or losses from Short Sales, Etc. - For purposes of this Title -

(1) Gains or losses from short sales of property shall be considered as gains or losses from sales or exchanges of capital assets; and

(2) Gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as capital gains or losses.

SEC. 40. Determination of Amount and Recognition of Gain or Loss. -

(A) Computation of Gain or Loss. - The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the basis or adjusted basis for determining gain, and the loss shall be the excess of the basis or adjusted basis for determining loss over the amount realized. The amount realized from the sale or other disposition of property shall be the sum of money received plus the fair market value of the property (other than money) received;

(B) Basis for Determining Gain or Loss from Sale or Disposition of Property. - The basis of property shall be -

- (1) The cost thereof in the case of property acquired on or after March 1, 1913, if such property was acquired by purchase; or
- (2) The fair market price or value as of the date of acquisition, if the same was acquired by inheritance; or
- (3) If the property was acquired by gift, the basis shall be the same as if it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis is greater than the fair market value of the property at the time of the gift then, for the purpose of determining loss, the basis shall be such fair market value; or
- (4) If the property was acquired for less than an adequate consideration in money or money's worth, the basis of such property is the amount paid by the transferee for the property; or
- (5) The basis as defined in paragraph (C)(5) of this Section, if the property was acquired in a transaction where gain or loss is not recognized under paragraph (C)(2) of this Section.

(C) Exchange of Property. -

(1) General Rule. - Except as herein provided, upon the sale or exchange of property, the entire amount of the gain or loss, as the case may be, shall be recognized.

(2) Exception. - No gain or loss shall be recognized on a corporation or on its stock or securities if such corporation is a party to a reorganization and exchanges property in pursuance of a plan of reorganization solely for stock or securities in another corporation that is a party to the reorganization. A reorganization is defined as:

- (a) A corporation, which is a party to a merger or consolidation, exchanges property solely for stock in a corporation, which is a party to the merger or consolidation; or
- (b) The acquisition by one corporation, in exchange solely for all or a part of its voting stock, or in exchange solely for all or part of the voting stock of a corporation which is in control of the acquiring corporation, of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation whether or not such acquiring corporation had control immediately before the acquisition; or
- (c) The acquisition by one corporation, in exchange solely for all or a part of its voting stock or in exchange solely for all or part of the voting stock of a corporation which is in control of the acquiring corporation, of substantially all of the properties of another corporation. In determining whether the exchange is solely for stock, the assumption by the acquiring corporation of a liability of the others shall be disregarded; or
- (d) A recapitalization, which shall mean an arrangement whereby the stock and bonds of a corporation are readjusted as to amount, income, or priority or an agreement of all stockholders and creditors to change and increase or decrease the capitalization or debts of the corporation or both; or
- (e) A reincorporation, which shall mean the formation of the same corporate business with the same assets and the same stockholders surviving under a new charter.

No gain or loss shall also be recognized if property is transferred to a corporation by a person, alone or together with others, not exceeding four (4) persons, in exchange for stock or unit of participation in such a corporation of which as a result of such exchange the transferor or transferors, collectively, gains or maintains control of said corporation: Provided, That stocks

issued for services shall not be considered as issued in return for property.

Sale or exchanges of property used for business for shares of stock covered under this Subsection shall not be subject to value-added tax.

In all of the foregoing instances of exchange of property, prior Bureau of Internal Revenue confirmation or tax ruling shall not be required for purposes of availing the tax exemption.

(3) Exchange Not Solely in Kind. -

(a) If, in connection with an exchange described in the above exceptions, an individual, a shareholder, a security holder or a corporation receives not only stock or securities permitted to be received without the recognition of gain or loss, but also money and/or property, the gain, if any, but not the loss, shall be recognized but in an amount not in excess of the sum of the money and fair market value of such other property received: Provided, That as to the shareholder, if the money and/or other property received has the effect of a distribution of a taxable dividend, there shall be taxed as dividend to the shareholder an amount of the gain recognized not in excess of his proportionate share of the undistributed earnings and profits of the corporation; the remainder, if any, of the gain recognized shall be treated as a capital gain.

(b) If, in connection with the exchange described in the above exceptions, the transferor corporation receives not only stock permitted to be received without the recognition of gain or loss but also money and/or other property, then (i) if the corporation receiving such money and/or other property distributes it in pursuance of the plan of merger or consolidation, no gain to the corporation shall be recognized from the exchange, but (ii) if the corporation receiving such other property and/or money does not distribute it in pursuance of the plan of merger or consolidation, the gain, if any, but not the loss to the corporation shall be recognized but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not distributed.

(4) Assumption of Liability. -

(a) If the taxpayer, in connection with the exchanges described in the foregoing exceptions, receives stock or securities which would be permitted to be received without the recognition of the gain if it were the sole consideration, and as part of the consideration, another party to the exchange assumes a liability of the taxpayer, or acquires from the taxpayer property, subject to a liability, then such assumption or acquisition shall not be treated as money and/or other property, and shall not prevent the exchange from being within the exceptions.

(b) If the amount of the liabilities assumed plus the amount of the liabilities to which the property is subject exceed the total of the adjusted basis of the property transferred pursuant to such exchange, then such excess shall be considered as a gain from the sale or exchange of a capital asset or of property which is not a capital asset, as the case may be.

(5) Basis -

(a) The basis of the stock or securities received by the transferor upon the exchange specified in the above exception shall be the same as the basis of the property, stock or securities exchanged, decreased by (1) the money received, and (2) the fair market value of the other property received, and increased by (a) the amount treated as dividend of the shareholder and (b) the amount of any gain that was recognized on the exchange: Provided, That the property received as 'boot' shall have as basis its fair market value: Provided, further, That if as part of the consideration to the transferor, the transferee of property assumes a liability of the transferor or acquires from the latter property subject to a liability,

such assumption or acquisition (in the amount of the liability) shall, for purposes of this paragraph, be treated as money received by the transferor on the exchange: *Provided, finally*, That if the transferor receives several kinds of stock or securities, the Commissioner is hereby authorized to allocate the basis among the several classes of stocks or securities.

(b) The basis of the property transferred in the hands of the transferee shall be the same as it would be in the hands of the transferor increased by the amount of the gain recognized to the transferor on the transfer.

(6) Definitions. -

(a) The term "**securities**" means bonds and debentures but not "**notes**" of whatever class or duration.

(b) The term "**merger**" or "**consolidation**", when used in this Section, shall be understood to mean: (i) the ordinary merger or consolidation, or (ii) the acquisition by one corporation of all or substantially all the properties of another corporation solely for stock: *Provided*, That for a transaction to be regarded as a merger or consolidation within the purview of this Section, it must be undertaken for a bona fide business purpose and not solely for the purpose of escaping the burden of taxation: *Provided, further*, That in determining whether a bona fide business purpose exists, each and every step of the transaction shall be considered and the whole transaction or series of transaction shall be treated as a single unit: *Provided, finally*, That in determining whether the property transferred constitutes a substantial portion of the property of the transferor, the term "**property**" shall be taken to include the cash assets of the transferor.

(c) The term "**control**", when used in this Section, shall mean ownership of stocks in a corporation after the transfer of property possessing at least fifty-one percent (51%) of the total voting power of all classes of stocks entitled to vote: *Provided*, That the collective and not the individual ownership of all classes of stocks entitled to vote of the transferor or transferors under this Section shall be used in determining the presence of control.

(d) The Secretary of Finance, upon recommendation of the Commissioner, is hereby authorized to issue rules and regulations for the purpose "**substantially all**" and for the proper implementation of this Section.

SEC. 41. Inventories. - whenever in the judgment of the Commissioner, the use of inventories is necessary in order to determine clearly the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Secretary of Finance, upon recommendation of the Commissioner, may, by rules and regulations, prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

If a taxpayer, after having complied with the terms and a conditions prescribed by the Commissioner, uses a particular method of valuing its inventory for any taxable year, then such method shall be used in all subsequent taxable years unless:

(i) With the approval of the Commissioner, a change to a different method is authorized; or

(ii) The Commissioner finds that the nature of the stock on hand (e.g., its scarcity, liquidity, marketability and price movements) is such that inventory gains should be considered realized for tax purposes and, therefore, it is necessary to modify the valuation method for purposes of ascertaining the income, profits, or loss in a more realistic manner: *Provided, however*, That the Commissioner shall not exercise his authority to require a change in inventory method more often than once every three (3) years: *Provided, further*, That any change in an inventory valuation method must be subject to approval by the Secretary of Finance.

SEC. 42. Income from Sources Within the Philippines. -

(A) Gross Income from Sources Within the Philippines. - The following items of gross income shall be treated as gross income from sources within the Philippines:

(1) Interests. - Interests derived from sources within the Philippines, and interests on bonds, notes or other interest-bearing obligation of residents, corporate or otherwise;

(2) Dividends. - The amount received as dividends:

(a) From a domestic corporation; and

(b) From a foreign corporation, unless less than fifty percent (50%) of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends or for such part of such period as the corporation has been in existence) was derived from sources within the Philippines as determined under the provisions of this Section; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period derived from sources within the Philippines bears to its gross income from all sources;

(3) Services. - Compensation for labor or personal services performed in the Philippines;

(4) Rentals and Royalties. - Rentals and royalties from property located in the Philippines or from any interest in such property, including rentals or royalties for –

(a) The use of or the right or privilege to use in the Philippines any copyright, patent, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;

(b) The use of, or the right to use in the Philippines any industrial, commercial or scientific equipment;

(c) The supply of scientific, technical, industrial or commercial knowledge or information;

(d) The supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in paragraph (a), any such equipment as is mentioned in paragraph (b) or any such knowledge or information as is mentioned in paragraph (c);

(e) The supply of services by a nonresident person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any brand, machinery or other apparatus purchased from such nonresident person;

(f) Technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; and

(g) The use of or the right to use:

(i) Motion picture films;

(ii) Films or video tapes for use in connection with television; and

(iii) Tapes for use in connection with radio broadcasting.

(5) Sale of Real Property. - Gains, profits and income from the sale of real property located in the Philippines; and

(6) Sale of Personal Property. - Gains; profits and income from the sale of personal property, as determined in Subsection (E) of this Section.

(B) Taxable Income From Sources Within the Philippines. –

(1) General Rule. - From the items of gross income specified in Subsection (A) of this Section, there shall be deducted the expenses, losses and other deductions properly allocated thereto and a ratable part of expenses, interests, losses and other deductions effectively connected with the business or trade conducted exclusively within the Philippines which cannot definitely be allocated to some items or class of gross income: Provided, That such items of deductions shall be allowed only if fully substantiated by all the information necessary for its calculation. The remainder, if any, shall be treated in full as taxable income from sources within the Philippines.

(2) Exception. - No deductions for interest paid or incurred abroad shall be allowed from the item of gross income specified in subsection (A) unless indebtedness was actually incurred to provide funds for use in connection with the conduct or operation of trade or business in the Philippines.

(C) Gross Income From Sources Without the Philippines. - The following items of gross income shall be treated as income from sources without the Philippines:

(1) Interests other than those derived from sources within the Philippines as provided in paragraph (1) of Subsection (A) of this Section;

(2) Dividends other than those derived from sources within the Philippines as provided in paragraph (2) of Subsection (A) of this Section;

(3) Compensation for labor or personal services performed without the Philippines;

(4) Rentals or royalties from property located without the Philippines or from any interest in such property including rentals or royalties for the use of or for the privilege of using without the Philippines, patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises and other like properties; and

(5) Gains, profits and income from the sale of real property located without the Philippines.

(D) Taxable Income From Sources Without the Philippines. - From the items of gross income specified in Subsection (C) of this Section, there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expense, loss or other deduction which cannot definitely be allocated to some items or classes of gross income. The remainder, if any, shall be treated in full as taxable income from sources without the Philippines.

(E) Income From Sources Partly Within and Partly Without the Philippines.- Items of gross income, expenses, losses and deductions, other than those specified in Subsections (A) and (C) of this Section, shall be allocated or apportioned to sources within or without the Philippines, under the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner. Where items of gross income are separately allocated to sources within the Philippines, there shall be deducted (for the purpose of computing the taxable income therefrom) the expenses, losses and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses or other deductions which cannot definitely be allocated to some items or classes of gross income. The remainder, if any, shall be included in full as taxable income from sources within the Philippines. In the case of gross income derived from sources partly within and partly without the Philippines, the taxable income may first be computed by deducting the expenses, losses or other

deductions apportioned or allocated thereto and a ratable part of any expense, loss or other deduction which cannot definitely be allocated to some items or classes of gross income; and the portion of such taxable income attributable to sources within the Philippines may be determined by processes or formulas of general apportionment prescribed by the Secretary of Finance. Gains, profits and income from the sale of personal property produced (in whole or in part) by the taxpayer within and sold without the Philippines, or produced (in whole or in part) by the taxpayer without and sold within the Philippines, shall be treated as derived partly from sources within and partly from sources without the Philippines.

Gains, profits and income derived from the purchase of personal property within and its sale without the Philippines, or from the purchase of personal property without and its sale within the Philippines shall be treated as derived entirely from sources within the country in which sold: Provided, however, That gain from the sale of shares of stock in a domestic corporation shall be treated as derived entirely from sources within the Philippines regardless of where the said shares are sold. The transfer by a nonresident alien or a foreign corporation to anyone of any share of stock issued by a domestic corporation shall not be effected or made in its book unless: (1) the transferor has filed with the Commissioner a bond conditioned upon the future payment by him of any income tax that may be due on the gains derived from such transfer, or (2) the Commissioner has certified that the taxes, if any, imposed in this Title and due on the gain realized from such sale or transfer have been paid. It shall be the duty of the transferor and the corporation the shares of which are sold or transferred, to advise the transferee of this requirement.

(F) Definitions. - As used in this Section the words '**sale**' or '**sold**' include '**exchange**' or '**exchanged**'; and the word '**produced**' includes '**created**', '**fabricated**', '**manufactured**', '**extracted**', '**processed**', '**cured**' or '**aged**'.

CHAPTER VIII

ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

SEC. 43. General Rule. - The taxable income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner clearly reflects the income. If the taxpayer's annual accounting period is other than a fiscal year, as defined in Section 22(Q), or if the taxpayer has no annual accounting period, or does not keep books, or if the taxpayer is an individual, the taxable income shall be computed on the basis of the calendar year.

SEC. 44. Period in which Items of Gross Income Included. - The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under Section 43, any such amounts are to be properly accounted for as of a different period. In the case of the death of a taxpayer, there shall be included in computing taxable income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

SEC. 45. Period for which Deductions and Credits Taken. - The deductions provided for in this Title shall be taken for the taxable year in which 'paid or accrued' or 'paid or incurred', dependent upon the method of accounting upon the basis of which the net income is computed, unless in order to clearly reflect the income, the deductions should be taken as of a different period. In the case of the death of a taxpayer, there shall be allowed as deductions for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly allowable in respect of such period or a prior period.

SEC. 46. Change of Accounting Period. If a taxpayer, other than an individual, changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of Section 47.

SEC. 47. Final or Adjustment Returns for a Period of Less than Twelve (12) Months.

(A) Returns for Short Period Resulting from Change of Accounting Period. - If a taxpayer, other than an individual, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year, a separate final or adjustment return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate final or adjustment return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year, a separate final or adjustment return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(B) Income Computed on Basis of Short Period. - Where a separate final or adjustment return is made under Subsection (A) on account of a change in the accounting period, and in all other cases where a separate final or adjustment return is required or permitted by rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate final or adjustment return is made.

SEC. 48. Accounting for Long-term Contracts. - Income from long-term contracts shall be reported for tax purposes in the manner as provided in this Section. As used herein, the term 'long-term contracts' means building, installation or construction contracts covering a period in excess of one (1) year. Persons whose gross income is derived in whole or in part from such contracts shall report such income upon the basis of percentage of completion. The return should be accompanied by a return certificate of architects or engineers showing the percentage of completion during the taxable year of the entire work performed under contract. There should be deducted from such gross income all expenditures made during the taxable year on account of the contract, account being taken of the material and supplies on hand at the beginning and end of the taxable period for use in connection with the work under the contract but not yet so applied. If upon completion of a contract, it is found that the taxable [net] income arising thereunder has not been clearly reflected for any year or years, the Commissioner may permit or require an amended return.

SEC. 49. Installment Basis. -

(A) Sales of Dealers in Personal Property. - Under rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year, which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(B) Sales of Realty and Casual Sales of Personality. - In the case (1) of a casual sale or other casual disposition of personal property (other than 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), for a price exceeding One thousand pesos (P1,000), or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed twenty-five percent (25%) of the selling price, the income may, under the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be returned on the basis and in the manner above prescribed in this Section. As used in this Section, the term 'initial payments' means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

(C) Sales of Real Property Considered as Capital Asset by Individuals. - An individual who sells or disposes of real property, considered as capital asset, and is otherwise qualified to report the gain therefrom under Subsection (B) may pay the capital gains tax in installments under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

(D) Change from Accrual to Installment Basis. - If a taxpayer entitled to the benefits of Subsection (A) elects for any taxable year to report his taxable income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

SEC. 50. Allocation of Income and Deductions. - In the case of two or more organizations, trades or businesses (whether or not incorporated and whether or not organized in the Philippines) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion or allocate gross income or deductions between or among such organization, trade or business, if he determined that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organization, trade or business.

CHAPTER IX

RETURNS AND PAYMENT OF TAX

SEC. 51. Individual Return. -

(A) Requirements. -

(1) Except as provided in paragraph (2) of this Subsection, the following individuals are required to file an income tax return:

- (a) Every Filipino citizen residing in the Philippines;
- (b) Every Filipino citizen residing outside the Philippines, on his income from sources within the Philippines;
- (c) Every alien residing in the Philippines, on income derived from sources within the Philippines; and
- (d) Every nonresident alien engaged in trade or business or in the exercise of profession in the Philippines.

(2) The following individuals shall not be required to file an income tax return:

- (a) An individual whose taxable income does not exceed Two hundred fifty thousand pesos (P250,000) under Section 24(A)(2)(a): ^[52] Provided, That a citizen of the Philippines and any alien individual engaged in business or practice of profession within the Philippine shall file an income tax return, regardless of the amount of gross income;
- (b) An individual with respect to pure compensation income, ^[53] as defined in Section 32 (A)(1), derived from sources within the Philippines, the income tax on which has been correctly withheld under the provisions of Section 79 of this Code: Provided, That an individual deriving compensation concurrently from two or more

employers at any time during the taxable year shall file an income tax return. ^[54]

(c) An individual whose sole income has been subjected to final withholding tax pursuant to Section 57(A) of this Code; and

(d) A minimum wage earner as defined in section 22 (HH) of this Code or an individual who is exempt from income tax pursuant to the provisions of this Code and other laws, general or special. ^[55]

(3) The foregoing notwithstanding, any individual not required to file an income tax return may nevertheless be required to file an information return pursuant to rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

(4) The income tax return shall be filed in duplicate by the following persons:

(a) A resident citizen - on his income from all sources;

(b) A nonresident citizen - on his income derived from sources within the Philippines;

(c) A resident alien - on his income derived from sources within the Philippines; and

(d) A nonresident alien engaged in trade or business in the Philippines - on his income derived from sources within the Philippines.

(5) The income tax return (ITR) shall consist of a maximum of four (4) pages in paper form or electronic form, and shall only contain the following information:

(A) Personal profile and information;

(B) Total gross sales, receipts or income from compensation for services rendered, conduct of trade or business or the exercise of profession, except income subject to final tax as provided under this Code,

(C) Allowable deductions under this Code;

(D) Taxable income as defined in Section 31 of this Code; and

(E) Income tax due and payable. ^[56]

(B) Where to File. - Except in cases where the Commissioner otherwise permits, the return shall be filed with an authorized agent bank, Revenue District Officer, Collection Agent or duly authorized Treasurer of the city or municipality in which such person has his legal residence or principal place of business in the Philippines, or if there be no legal residence or place of business in the Philippines, with the Office of the Commissioner.

(C) When to File. -

(1) The return of any individual specified above shall be filed on or before the fifteenth (15th) day of April of each year covering income for the preceding taxable year.

(2) Individuals subject to tax on capital gains;

(a) From the sale or exchange of shares of stock not traded thru a local stock exchange as prescribed under Section 24(C) shall file a return within thirty (30) days after each transaction and a final consolidated return on or before April 15 of each year covering all stock transactions of the preceding taxable year; and

(b) From the sale or disposition of real property under Section 24(D) shall file a return within thirty (30) days following each sale or other disposition.

(D) Husband and Wife. - Married individuals, whether citizens, resident or nonresident aliens, who do not derive income purely from compensation, shall file a return for the taxable year to include the income of both spouses, but where it is impracticable for the spouses to file one return, each spouse may file a separate return of income but the returns so filed shall be consolidated by the Bureau for purposes of verification for the taxable year.

(E) Return of Parent to Include Income of Children. - The income of unmarried minors derived from property received from a living parent shall be included in the return of the parent, except (1) when the donor's tax has been paid on such property, or (2) when the transfer of such property is exempt from donor's tax.

(F) Persons Under Disability. - If the taxpayer is unable to make his own return, the return may be made by his duly authorized agent or representative or by the guardian or other person charged with the care of his person or property, the principal and his representative or guardian assuming the responsibility of making the return and incurring penalties provided for erroneous, false or fraudulent returns.

(G) Signature Presumed Correct. - The fact that an individual's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by him.

SEC. 51-A. Substituted Filing of Income Tax Returns by Employees Receiving Purely Compensation Income. - Individual taxpayers receiving purely compensation income, regardless of amount, from only one employer in the Philippines for the calendar year, the income tax of which has been withheld correctly by the said employer (tax due equals tax withheld) shall not be required to file an annual income tax return. The certificate of withholding filed by the respective employers, duly stamped 'received' by the BIR, shall be tantamount to the substituted filing of income tax returns by said employees. ^[57]

SEC. 52. Corporation Returns. -

(A) Requirements. - Every corporation subject to the tax herein imposed, except foreign corporations not engaged in trade or business in the Philippines, shall render, in duplicate, a true and accurate quarterly income tax return and final or adjustment return in accordance with the provisions of Chapter XII of this Title. The income tax return shall consist of a maximum of four (4) pages in paper form or electronic form ^[58], be filed by the president, vice-president or other principal officer, and shall be sworn to by such officer and by the treasurer or assistant treasurer, and shall only contain the following information:

(1) Corporate profile and information;

(2) Gross sales, receipts or income from services rendered, conduct of trade or business, except income subject to final tax as provided under this Code,

(3) Allowable deductions under this Code;

(4) Taxable income as defined in Section 31 of this Code; and

(5) Income tax due and payable.

Provided, That the foregoing provisions shall not affect the implementation of Republic Act 10708 or TIMTA. ^[58]

(B) Taxable Year of Corporation. - A corporation may employ either calendar year or fiscal year as a basis for filing its annual income tax return: Provided, That the corporation shall not change the accounting period employed without prior approval from the Commissioner in accordance with the provisions of Section 47 of this Code.

(C) Return of Corporation Contemplating Dissolution or Reorganization. - Every corporation shall, within thirty (30) days after the adoption by the corporation of a resolution or plan for its dissolution, or for the liquidation of the whole or any part of its capital stock, including a corporation which has been notified of possible involuntary dissolution by the Securities and Exchange Commission, or for its reorganization, render a correct return to the Commissioner, verified under oath, setting forth the terms of such resolution or plan and such other information as the Secretary of Finance, upon recommendation of the commissioner, shall, by rules and regulations, prescribe.

The dissolving or reorganizing corporation shall, prior to the issuance by the Securities and Exchange Commission of the Certificate of Dissolution or Reorganization, as may be defined by rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, secure a certificate of tax clearance from the Bureau of Internal Revenue which certificate shall be submitted to the Securities and Exchange Commission.

(D) Return on Capital Gains Realized from Sale of Shares of Stock not Traded in the Local Stock Exchange. - Every corporation deriving capital gains from the sale or exchange of shares of stock not traded thru a local stock exchange as prescribed under Sections 24(C), 25(A)(3), 27(E)(2), 28(A)(8)(c) and 28 (B)(5)(c) shall file a return within thirty (30) days after each transactions and a final consolidated return of all transactions during the taxable year on or before the fifteenth (15th) day of the fourth (4th) month following the close of the taxable year.

SEC. 53. Extension of Time to File Returns. - The Commissioner may, in meritorious cases, grant a reasonable extension of time for filing returns of income (or final and adjustment returns in case of corporations), subject to the provisions of Section 56 of this Code.

SEC. 54. Returns of Receivers, Trustees in Bankruptcy or Assignees. - In cases wherein receivers, trustees in bankruptcy or assignees are operating the property or business of a corporation, subject to the tax imposed by this Title, such receivers, trustees or assignees shall make returns of net income as and for such corporation, in the same manner and form as such organization is hereinbefore required to make returns, and any tax due on the income as returned by receivers, trustees or assignees shall be assessed and collected in the same manner as if assessed directly against the organizations of whose businesses or properties they have custody or control.

SEC. 55. Returns of General Professional Partnerships. - Every general professional partnership shall file, in duplicate, a return of its income, except income exempt under Section 32(B) of this Title, setting forth the items of gross income and of deductions allowed by this Title, and the names, Taxpayer Identification Numbers (TIN), addresses and shares of each of the partners.

SEC. 56. Payment and Assessment of Income Tax for Individuals and Corporations. -

(A) Payment of Tax. -

(1) In General. - The total amount of tax imposed by this Title shall be paid by the person subject thereto at the time the return is filed. 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 of Payment. - When a tax due is in excess of Two thousand pesos (P2,000), the taxpayer other than a corporation may elect to pay the tax in two (2) 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 October 15 ^[60] following the close of the calendar year, if any installment 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. ^[4]

(3) Payment of Capital Gains Tax. - The total amount of tax imposed and prescribed under Section 24 (c), 24(D), 27(E)(2), 28(A)(8)(c) and 28(B)(5)(c) shall be paid on the date the return prescribed therefor is filed by the person liable thereto: Provided, That if the seller submits proof of his intention to avail himself of the benefit of exemption of capital gains under existing special laws, no such payments shall be required: Provided, further, That in case of failure to qualify for exemption under such special laws and implementing rules and regulations, the tax due on the gains realized from the original transaction shall immediately become due and payable, subject to the penalties prescribed under applicable provisions of this Code: Provided, finally, That if the seller, having paid the tax, submits such proof of intent within six (6) months from the registration of the document transferring the real property, he shall be entitled to a refund of such tax upon verification of his compliance with the requirements for such exemption.

In case the taxpayer elects and is qualified to report the gain by installments under Section 49 of this Code, the tax due from each installment payment shall be paid within (30) days from the receipt of such payments.

No registration of any document transferring real property shall be effected by the Register of Deeds unless the Commissioner or his duly authorized representative has certified that such transfer has been reported, and the tax herein imposed, if any, has been paid.

(B) Assessment and Payment of Deficiency Tax. - After the return is filed, the Commissioner shall examine it and assess the correct amount of the tax. The tax or deficiency income tax so discovered shall be paid upon notice and demand from the Commissioner.

As used in this Chapter, in respect of a tax imposed by this Title, the term '**deficiency**' means:

(1) The amount by which the tax imposed by this Title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amount previously abated, credited, returned or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the taxpayer upon this return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment shall first be decreased by the amounts previously abated, credited returned or otherwise repaid in respect of such tax.

SEC. 57. Withholding of Tax at Source. -

(A) Withholding of Final Tax on Certain Incomes. - Subject to rules and regulations the Secretary of Finance may promulgate, upon the recommendation of the Commissioner, requiring the filing of income tax return by certain income payees, the tax imposed or prescribed by Sections 24(B)(1), 24(B)(2), 24(C), 24(D)(1); 25(A)(2), 25(A)(3), 25(B), 25(C), 25(D), 25(E), 27(D)(1), 27(D)(2), 27(D)(3), 27(D)(5), 28 (A)(4), 28(A)(5), 28(A)(7)(a), 28(A)(7)(b), 28(A)(7)(c), 28(B)(1), 28(B)(2), 28(B)(3), 28(B)(4), 28(B)(5)(a), 28(B)(5)(b), 28(B)(5)(c); 33; and 282 of this Code on specified items of income shall be withheld by payor-corporation and/or person and paid in the same manner and subject to the same conditions as provided in Section 58 of this Code.

(B) Withholding of Creditable Tax at Source. - The Secretary of Finance may, upon the recommendation of the Commissioner, require the withholding of a tax on the items of income payable to natural or juridical persons, residing in the Philippines, by payor-corporation/persons as provided for by law, at the rate of not less than one percent (1%) but not more than thirty-two percent (32%) thereof, which shall be credited against the income tax liability of the taxpayer for the taxable year: Provided, That, beginning January 1, 2019, the rate of withholding shall not be less than one percent (1%) but not more than fifteen percent (15%) of the income payment. ^[61]

(C) Tax-free Covenant Bonds. - In any case where bonds, mortgages, deeds of trust or other similar obligations of domestic or resident foreign corporations, contain a contract or provisions by which the obligor agrees to pay any portion of the tax imposed in this Title upon the obligee or to reimburse the obligee for any portion of the tax or to pay 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 any state or country, the obligor shall deduct bonds, mortgages, deeds of trust or other obligations, whether the interest or other payments are payable annually or at shorter or longer periods, and whether the bonds, securities or obligations had been or will be issued or marketed, and the interest or other payment thereon paid, within or without the Philippines, if the interest or other payment is payable to a nonresident alien or to a citizen or resident of the Philippines.

The Department of Finance shall review, at least once every three (3) years, regulations and processes for the withholding of creditable tax under this Code, and direct the Bureau of Internal Revenue to amend rules and regulations for the same, should it be found during the review that the existing rules, regulations, and processes for the withholding of creditable tax under this Code adversely and materially impact the taxpayer.

SEC. 58. Returns and Payment of Taxes Withheld at Source. -

(A) Quarterly Returns and Payments of Taxes Withheld. - Taxes deducted and withheld under Section 57 by withholding agents shall be covered by a return and paid to, except in cases where the Commissioner otherwise permits, an authorized agent bank, Revenue District Officer, Collection Agent, or duly authorized Treasurer of the city or municipality where the withholding agent has his legal residence or principal place of business, or where the withholding agent is a corporation, where the principal office is located.

The taxes deducted and withheld by the withholding agent shall be held as a special fund in trust for the government until paid to the collecting officers.

The return for final and creditable withholding taxes shall be filed and the payment made not later than the last day of the month following the close of the quarter during which withholding was made. ^[62]

(B) Statement of Income Payments Made and Taxes Withheld. - Every withholding agent required to deduct and withhold taxes under Section 57 shall furnish each recipient, in respect to his or its receipts during the calendar quarter or year, a written statement showing the income or other payments made by the withholding agent during such quarter or year, and the amount of the tax deducted and withheld therefrom, simultaneously upon payment at the request of the payee, but not later than the

twentieth (20th) day following the close of the quarter in the case of corporate payee, or not later than March 1 of the following year in the case of individual payee for creditable withholding taxes. For final withholding taxes, the statement should be given to the payee on or before January 31 of the succeeding year.

(C) Annual Information Return. - Every withholding agent required to deduct and withhold taxes under Section 57 shall submit to the Commissioner an annual information return containing the list of payees and income payments, amount of taxes withheld from each payee and such other pertinent information as may be required by the Commissioner. In the case of final withholding taxes, the return shall be filed on or before January 31 of the succeeding year, and for creditable withholding taxes, not later than March 1 of the year following the year for which the annual report is being submitted. This return, if made and filed in accordance with the rules and regulations approved by the Secretary of Finance, upon recommendation of the Commissioner, shall be sufficient compliance with the requirements of Section 68 of this Title in respect to the income payments.

The Commissioner may, by rules and regulations, grant to any withholding agent a reasonable extension of time to furnish and submit the return required in this Subsection.

(D) Income of Recipient. - Income upon which any creditable tax is required to be withheld at source under Section 57 shall be included in the return of its recipient but the excess of the amount of tax so withheld over the tax due on his return shall be refunded to him subject to the provisions of Section 204; if the income tax collected at source is less than the tax due on his return, the difference shall be paid in accordance with the provisions of Section 56.

All taxes withheld pursuant to the provisions of this Code and its implementing rules and regulations are hereby considered trust funds and shall be maintained in a separate account and not commingled with any other funds of the withholding agent.

(E) Registration with Register of Deeds. - No registration of any document transferring real property shall be effected by the Register of Deeds unless the Commissioner or his duly authorized representative has certified that such transfer has been reported, and the capital gains or creditable withholding tax, if any, has been paid: Provided, however, That the information as may be required by rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, shall be annotated by the Register of Deeds in the Transfer Certificate of Title or Condominium Certificate of Title: Provided, further, That in cases of transfer of property to a corporation, pursuant to a merger, consolidation or reorganization, and where the law allows deferred recognition of income in accordance with Section 40, the information as may be required by rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, shall be annotated by the Register of Deeds at the back of the Transfer Certificate of Title or Condominium Certificate of Title of the real property involved: Provided, finally, That any violation of this provision by the Register of Deeds shall be subject to the penalties imposed under Section 269 of this Code.

SEC. 59. Tax on Profits Collectible from Owner or Other Persons. - The tax imposed under this Title upon gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing or as otherwise provided by law shall be assessed by personal return under rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner. The intent and purpose of the Title is that all gains, profits and income of a taxable class, as defined in this Title, shall be charged and assessed with the corresponding tax prescribed by this Title, and said tax shall be paid by the owners of such gains, profits and income, or the proper person having the receipt, custody, control or disposal of the same. For purposes of this Title, ownership of such gains, profits and income or liability to pay the tax shall be determined as of the year for which a return is required to be rendered.

CHAPTER X**ESTATES AND TRUSTS****SEC. 60. Imposition of Tax. -**

(A) Application of Tax. - The tax imposed by this Title upon individuals shall apply to the income of estates or of any kind of property held in trust, including:

- (1) Income accumulated in trust for the benefit of unborn or unascertained person or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;
- (2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;
- (3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and
- (4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(B) Exception. - The tax imposed by this Title shall not apply to employee's trust which forms part of a pension, stock bonus or profit-sharing plan of an employer for the benefit of some or all of his employees (1) if contributions are made to the trust by such employer, or employees, or both for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, and (2) if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees: Provided, That any amount actually distributed to any employee or distributee shall be taxable to him in the year in which so distributed to the extent that it exceeds the amount contributed by such employee or distributee.

(C) Computation and Payment. -

(1) In General. - The tax shall be computed upon the taxable income of the estate or trust and shall be paid by the fiduciary, except as provided in Section 63 (relating to revocable trusts) and Section 64 (relating to income for the benefit of the grantor).

(2) Consolidation of Income of Two or More Trusts. - Where, in the case of two or more trusts, the creator of the trust in each instance is the same person, and the beneficiary in each instance is the same, the taxable income of all the trusts shall be consolidated and the tax provided in this Section computed on such consolidated income, and such proportion of said tax shall be assessed and collected from each trustee which the taxable income of the trust administered by him bears to the consolidated income of the several trusts.

SEC. 61. Taxable Income. - The taxable income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that:

(A) There shall be allowed as a deduction in computing the taxable income of the estate or trust the amount of the income of the estate or trust for the taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so

allowed as a deduction shall be included in computing the taxable income of the beneficiaries, whether distributed to them or not. Any amount allowed as a deduction under this Subsection shall not be allowed as a deduction under Subsection (B) of this Section in the same or any succeeding taxable year.

(B) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the taxable income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir or beneficiary but the amount so allowed as a deduction shall be included in computing the taxable income of the legatee, heir or beneficiary.

(C) In the case of a trust administered in a foreign country, the deductions mentioned in Subsections (A) and (B) of this Section shall not be allowed: Provided, That the amount of any income included in the return of said trust shall not be included in computing the income of the beneficiaries.

SEC. 62. REPEALED ^[63]

SEC. 63. Revocable trusts. - Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested (1) in the grantor either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or (2) in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, the income of such part of the trust shall be included in computing the taxable income of the grantor.

SEC. 64. Income for Benefit of Grantor.-

(A) Where any part of the income of a trust (1) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be held or accumulated for future distribution to the grantor, or (2) may, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor, or (3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be applied to the payment of premiums upon policies of insurance on the life of the grantor, such part of the income of the trust shall be included in computing the taxable income of the grantor. `

(B) As used in this Section, the term '**in the discretion of the grantor**' means in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question.

SEC. 65. Fiduciary Returns. - Guardians, trustees, executors, administrators, receivers, conservators and all persons or corporations, acting in any fiduciary capacity, shall render, in duplicate, a return of the income of the person, trust or estate for whom or which they act, and be subject to all the provisions of this Title, which apply to individuals in case such person, estate or trust has a gross income of Twenty thousand pesos (P20,000) ^[64] or over during the taxable year. Such fiduciary or person filing the return for him or it, shall take oath that he has sufficient knowledge of the affairs of such person, trust or estate to enable him to make such return and that the same is, to the best of his knowledge and belief, true and correct, and be subject to all the provisions of this Title which apply to individuals: Provided, That a return made by or for one or two or more joint fiduciaries filed in the province where such fiduciaries reside; under such rules and regulations as the Secretary of Finance, upon recommendation of the Commissioner, shall prescribe, shall be a sufficient compliance with the requirements of this Section.

SEC. 66. *Fiduciaries Indemnified Against Claims for Taxes Paid.* - Trustees, executors, administrators and other fiduciaries are indemnified against the claims or demands of every beneficiary for all payments of taxes which they shall be required to make under the provisions of this Title, and they shall have credit for the amount of such payments against the beneficiary or principal in any accounting which they make as such trustees or other fiduciaries.

CHAPTER XI

OTHER INCOME TAX REQUIREMENTS

SEC. 67. *Collection of Foreign Payments.* - All persons, corporations, duly registered general co-partnerships (companies colectivas) undertaking for profit or otherwise the collection of foreign payments of interests or dividends by means of coupons, checks or bills of exchange shall obtain a license from the Commissioner, and shall be subject to such rules and regulations enabling the government to obtain the information required under this Title, as the Secretary of Finance, upon recommendation of the Commissioner, shall prescribe.

SEC. 68. *Information at Source as to Income Payments.* - all persons, corporations or duly registered co- partnerships (companies colectivas), in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees, acting in any trust capacity, executors, administrators, receivers, conservators and employees making payment to another person, corporation or duly registered general co-partnership (compania colectiva), of interests, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits and income, other than payment described in Section 69, in any taxable year, or in the case of such payments made by the Government of the Philippines, the officers or employees of the Government having information as to such payments and required to make returns in regard thereto, are authorized and required to render a true and accurate return to the Commissioner, under such rules and regulations, and in such form and manner as may be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, setting forth the amount of such gains, profits and income and the name and address of the recipient of such payments: Provided, That such returns shall be required, in the case of payments of interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, and in the case of collections of items, not payable in the Philippines, of interest upon the bonds of foreign countries and interest from the bonds and dividends from the stock of foreign corporations by persons, corporations or duly registered general co-partnerships (companies colectivas), undertaking as a matter of business or for profit or otherwise the collection of foreign payments of such interests or dividends by means of coupons or bills of exchange.

SEC. 69. *Return of Information of Brokers.* - Every person, corporation or duly registered general co-partnership (compania colectiva), doing business as a broker in any exchange or board or other similar place of business, shall, when required by the Commissioner, render a correct return duly verified under oath under such rules and regulations as the Secretary of Finance, upon recommendation of the Commissioner, may prescribe, showing the names of customers for whom such person, corporation or duly registered general co-partnership (compania colectiva) has transacted any business, with such details as to the profits, losses or other information which the Commissioner, may require as to each of such customers as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

SEC. 70. *Returns of Foreign Corporations.* -

(A) *Requirements.* - Under rules and regulations prescribed by the Secretary of finance, upon the recommendation of the Commissioner, any attorney, accountant, fiduciary, bank, trust company, financial institution or other person, who aids, assists, counsels or advises in, or with respect to; the formation, organization or reorganization of any foreign corporation, shall, within

thirty (30) days thereafter, file with the Commissioner a return.

(B) Form and Contents of Return. - Such return shall be in such form and shall set forth; under oath, in respect of each such corporation, to the full extent of the information within the possession or knowledge or under the control of the person required to file the return, such information as the Secretary of Finance, upon recommendation of the Commissioner, shall prescribe by rules and regulations as necessary for carrying out the provisions of this Title. Nothing in this Section shall be construed to require the divulging of privileged communications between attorney and client.

SEC. 71. Disposition of Income Tax Returns, Publication of Lists of Taxpayers and Filers. - After the assessment shall have been made, as provided in this Title, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the Office of the Commissioner and shall constitute public records and be open to inspection as such upon the order of the President of the Philippines, under rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

The Commissioner may, in each year, cause to be prepared and published in any newspaper the lists containing the names and addresses of persons who have filed income tax returns.

Income tax returns of specific taxpayers subject of a request for exchange of information by a foreign tax authority pursuant to an international convention or agreement on tax matters to which the Philippines is a signatory or a party of, shall be open to inspection upon the order of the President of the Philippines, under rules and regulations as may be prescribed by the Secretary of Finance, upon recommendation of the Commissioner. ^[65]

SEC. 72. Suit to Recover Tax Based on False or Fraudulent Returns. - When an assessment is made in case of any list, statement or return, which in the opinion of the Commissioner was false or fraudulent or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit, unless it is proved that the said list, statement or return was not false nor fraudulent and did not contain any understatement or undervaluation; but this provision shall not apply to statements or returns made or to be made in good faith regarding annual depreciation of oil or gas wells and mines.

SEC. 73. Distribution of Dividends or Assets by Corporations. -

(A) Definition of Dividends. - The term 'dividends' when used in this Title means any distribution made by a corporation to its shareholders out of its earnings or profits and payable to its shareholders, whether in money or in other property.

Where a corporation distributes all of its assets in complete liquidation or dissolution, the gain realized or loss sustained by the stockholder, whether individual or corporate, is a taxable income or a deductible loss, as the case may be.

(B) Stock Dividend. - A stock dividend representing the transfer of surplus to capital account shall not be subject to tax. However, if a corporation cancels or redeems stock issued as a dividend at such time and in such manner as to make the distribution and cancellation or redemption, in whole or in part, essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock shall be considered as taxable income to the extent that it represents a distribution of earnings or profits.

(C) Dividends Distributed are Deemed Made from Most Recently Accumulated Profits. - Any distribution made to the shareholders or members of a corporation shall be deemed to have been made from the most recently accumulated profits or surplus, and shall constitute a part of the annual income of the distributee for the year in which received.

(D) Net Income of a Partnership Deemed Constructively Received by Partners. - The taxable income declared by a partnership for a taxable year which is subject to tax under Section 27 (A) of this Code, after deducting the corporate income tax imposed therein, shall be deemed to have been actually or constructively received by the partners in the same taxable year and shall be taxed to them in their individual capacity, whether actually distributed or not.

CHAPTER XII

QUARTERLY CORPORATE INCOME TAX ANNUAL DECLARATION AND QUARTERLY PAYMENTS OF INCOME TAXES

SEC. 74. Declaration of Income Tax for Individuals. -

(A) In General. - Except as otherwise provided in this Section, every individual subject to income tax under Sections 24 and 25(A) of this Title, who is receiving self-employment income, whether it constitutes the sole source of his income or in combination with salaries, wages and other fixed or determinable income, shall make and file a declaration of his estimated income for the current taxable year on or before May 15 ^[66] of the same taxable year. In general, 'self-employment income' consists of the earnings derived by the individual from the practice of profession or conduct of trade or business carried on by him as a sole proprietor or by a partnership of which he is a member. Nonresident Filipino citizens, with respect to income from without the Philippines, and nonresident aliens not engaged in trade or business in the Philippines, are not required to render a declaration of estimated income tax. The declaration shall contain such pertinent information as the Secretary of Finance, upon recommendation of the Commissioner, may, by rules and regulations prescribe. An individual may make amendments of a declaration filed during the taxable year under the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

(B) Return and Payment of Estimated Income Tax by Individuals. - The amount of estimated income as defined in Subsection (C) with respect to which a declaration is required under Subsection (A) shall be paid in four (4) installments. The first installment shall be paid at the time of the declaration and the second and third shall be paid on August 15 and November 15 of the current year, respectively. The fourth installment shall be paid on or before May 15 ^[67] of the following calendar year when the final adjusted income tax return is due to be filed. ^[4]

(C) Definition of Estimated Tax. - In the case of an individual, the term '**estimated tax**' means the amount which the individual declared as income tax in his final adjusted and annual income tax return for the preceding taxable year minus the sum of the credits allowed under this Title against the said tax. If, during the current taxable year, the taxpayer reasonable expects to pay a bigger income tax, he shall file an amended declaration during any interval of installment payment dates.

SEC. 75. - Declaration of Quarterly Corporate Income Tax. - Every corporation shall file in duplicate a quarterly summary declaration of its gross income and deductions on a cumulative basis for the preceding quarter or quarters upon which the income tax, as provided in Title II of this Code, shall be levied, collected and paid. The tax so computed shall be decreased by the amount of tax previously paid or assessed during the preceding quarters and shall be paid not later than sixty (60) days from the close of each of the first three (3) quarters of the taxable year, whether calendar or fiscal year.

SEC. 76. - Final Adjustment Return. - Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

- (A) Pay the balance of tax still due; or
- (B) Carry-over the excess credit; or
- (C) Be credited or refunded with the excess amount paid, as the case may be.

In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.

SEC. 77. Place and Time of Filing and Payment of Quarterly Corporate Income Tax. -

(A) Place of Filing. - Except as the Commissioner otherwise permits, the quarterly income tax declaration required in Section 75 and the final adjustment return required in Section 76 shall be filed with the authorized agent banks or Revenue District Officer or Collection Agent or duly authorized Treasurer of the city or municipality having jurisdiction over the location of the principal office of the corporation filing the return or place where its main books of accounts and other data from which the return is prepared are kept.

(B) Time of Filing the Income Tax Return. - The corporate quarterly declaration shall be filed within sixty (60) days following the close of each of the first three (3) quarters of the taxable year. The final adjustment return shall be filed on or before the fifteenth (15th) day of April, or on or before the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year, as the case may be.

(C) Time of Payment of the Income Tax. - The income tax due on the corporate quarterly returns and the final adjustment income tax returns computed in accordance with Sections 75 and 76 shall be paid at the time the declaration or return is filed in a manner prescribed by the Commissioner.

CHAPTER XIII

WITHHOLDING ON WAGES

SEC. 78. Definitions. - As used in this Chapter:

(A) Wages. - The term 'wages' means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include remuneration paid:

- (1) For agricultural labor paid entirely in products of the farm where the labor is performed, or
- (2) For domestic service in a private home, or
- (3) For casual labor not in the course of the employer's trade or business, or

(4) For services by a citizen or resident of the Philippines for a foreign government or an international organization.

If the remuneration paid by an employer to an employee for services performed during one-half (1/2) or more of any payroll period of not more than thirty-one (31) consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half (1/2) of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

(B) Payroll Period. - The term '**payroll period**' means a period for which payment of wages is ordinarily made to the employee by his employer, and the term 'miscellaneous payroll period' means a payroll period other than, a daily, weekly, biweekly, semi-monthly, monthly, quarterly, semi-annual, or annual period.

(C) Employee. - The term '**employee**' refers to any individual who is the recipient of wages and includes an officer, employee or elected official of the Government of the Philippines or any political subdivision, agency or instrumentality thereof. The term 'employee' also includes an officer of a corporation.

(D) Employer. - The term '**employer**' means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

(1) If the person for whom the individual performs or performed any service does not have control of the payment of the wages for such services, the term 'employer' (except for the purpose of Subsection(A) means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership or foreign corporation not engaged in trade or business within the Philippines, the term 'employer' (except for the purpose of Subsection(A) means such person.

SEC. 79. Income Tax Collected at Source. ^[68].

(A) Requirement of Withholding. – Except in the case of a minimum wage earner as defined in Section 22(HH) of this Code, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner. ^[54]

(B) Tax Paid by Recipient. - If the employer, in violation of the provisions of this Chapter, fails to deduct and withhold the tax as required under this Chapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this Subsection shall in no case relieve the employer from liability for any penalty or addition to the tax otherwise applicable in respect of such failure to deduct and withhold

(C) Refunds or Credits. –

(1) Employer. - When there has been an overpayment of tax under this Section, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld hereunder by the employer.

(2) Employees. -The amount deducted and withheld under this Chapter during any calendar year shall be allowed as a credit to the recipient of such income against the tax imposed under Section 24(A) of this Title. Refunds and credits in cases of excessive withholding shall be granted under rules and regulations promulgated by the Secretary of Finance,

upon recommendation of the Commissioner.

Any excess of the taxes withheld over the tax due from the taxpayer shall be returned or credited within three (3) months from the fifteenth (15th) day of April. Refunds or credits made after such time shall earn interest at the rate of six percent (6%) per annum, starting after the lapse of the three-month period to the date the refund of credit is made.

Refunds shall be made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of counter-signature by the Chairman, Commission on Audit or the latter's duly authorized representative as an exception to the requirement prescribed by Section 49, Chapter 8, Subtitle B, Title 1 of Book V of Executive Order No. 292, otherwise known as the Administrative Code of 1987. ^[55]

(D) Withholding on Basis of Average Wages. ^[4] - The Commissioner may, under rules and regulations promulgated by the Secretary of Finance, authorize employers to:

- (1) Estimate the wages which will be paid to an employee in any quarter of the calendar year;
- (2) Determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and
- (3) Deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be required to be deducted and withheld during such quarter without regard to this Subsection.

(E) Nonresident Aliens. ^[4] - Wages paid to nonresident alien individuals engaged in trade or business in the Philippines shall be subject to the provisions of this Chapter.

(F) Year-end Adjustment. ^[4] - On or before the end of the calendar year but prior to the payment of the compensation for the last payroll period, the employer shall determine the tax due from each employee on taxable compensation income for the entire taxable year in accordance with Section 24(A). The difference between the tax due from the employee for the entire year and the sum of taxes withheld from January to November shall either be withheld from his salary in December of the current calendar year or refunded to the employee not later than January 25 of the succeeding year.

SEC. 80. Liability for Tax. -

(A) Employer. - The employer shall be liable for the withholding and remittance of the correct amount of tax required to be deducted and withheld under this Chapter. If the employer fails to withhold and remit the correct amount of tax as required to be withheld under the provision of this Chapter, such tax shall be collected from the employer together with the penalties or additions to the tax otherwise applicable in respect to such failure to withhold and remit.

(B) Employee. - Where an employee fails or refuses to file the withholding exemption certificate or wilfully supplies false or inaccurate information thereunder, the tax otherwise required to be withheld by the employer shall be collected from him including penalties or additions to the tax from the due date of remittance until the date of payment. On the other hand, excess taxes withheld made by the employer due to:

- (1) Failure or refusal to file the withholding exemption certificate; or
- (2) False and inaccurate information shall not be refunded to the employee but shall be forfeited in favor of the Government.

SEC. 81. Filing of Return and Payment of Taxes Withheld. - Except as the Commissioner otherwise permits, taxes deducted and withheld by the employer on wages of employees shall be covered by a return and paid to an authorized agent bank; Collection Agent, or the duly authorized Treasurer of the city or municipality where the employer has his legal residence or principal place of business, or in case the employer is a corporation, where the principal office is located.

The return shall be filed and the payment made within twenty-five (25) days from the close of each calendar quarter: Provided, however, That the Commissioner may, with the approval of the Secretary of Finance, require the employers to pay or deposit the taxes deducted and withheld at more frequent intervals, in cases where such requirement is deemed necessary to protect the interest of the Government.

The taxes deducted and withheld by employers shall be held in a special fund in trust for the Government until the same are paid to the said collecting officers.

SEC. 82. Return and Payment in Case of Government Employees. - If the employer is the Government of the Philippines or any political subdivision, agency or instrumentality thereof, the return of the amount deducted and withheld upon any wage shall be made by the officer or employee having control of the payment of such wage, or by any officer or employee duly designated for the purpose.

SEC. 83. Statements and Returns. -

(A) Requirements. - Every employer required to deduct and withhold a tax shall furnish to each such employee in respect of his employment during the calendar year, on or before January thirty-first (31st) of the succeeding year, or if his employment is terminated before the close of such calendar year, on the same day of which the last payment of wages is made, a written statement confirming the wages paid by the employer to such employee during the calendar year, and the amount of tax deducted and withheld under this Chapter in respect of such wages. The statement required to be furnished by this Section in respect of any wage shall contain such other information, and shall be furnished at such other time and in such form as the Secretary

of Finance, upon the recommendation of the Commissioner, may, by rules and regulation, prescribe.

(B) Annual Information Returns. - Every employer required to deduct and withhold the taxes in respect of the wages of his employees shall, on or before January thirty-first (31st) of the succeeding year, submit to the Commissioner an annual information return containing a list of employees, the total amount of compensation income of each employee, the total amount of taxes withheld therefrom during the year, accompanied by copies of the statement referred to in the preceding paragraph, and such other information as may be deemed necessary. This return, if made and filed in accordance with rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, shall be sufficient compliance with the requirements of Section 68 of this Title in respect of such wages.

(C) Extension of Time. - The Commissioner, under such rules and regulations as may be promulgated by the Secretary of Finance, may grant to any employer a reasonable extension of time to furnish and submit the statements and returns required under this Section.

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TITLE III**ESTATE AND DONOR'S TAXES****CHAPTER I****ESTATE TAX**

SEC. 84. Rate of Estate Tax. - There shall be levied, assessed, collected and paid upon the transfer of the net estate as determined in accordance with Sections 85 and 86 of every decedent, whether resident or nonresident of the Philippines, a tax at the rate of six percent (6%) ^[69] based on the value of such net estate.

SEC. 85. Gross Estate. - the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated: Provided, however, that in the case of a nonresident decedent who at the time of his death was not a citizen of the Philippines, only that part of the entire gross estate which is situated in the Philippines shall be included in his taxable estate.

(A) Decedent's Interest. - To the extent of the interest therein of the decedent at the time of his death;

(B) Transfer in Contemplation of Death. - To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after death, or of which he has at any time made a transfer, by trust or otherwise, under which he has retained for his life or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from the property, or (2) the right, either alone or in conjunction with any person, to designate the person who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

(C) Revocable Transfer. -

(1) To the extent of any interest therein, of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth) by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power (in whatever capacity exercisable) by the decedent alone or by the decedent in conjunction with any other person (without regard to when or from what source the decedent acquired such power), to alter, amend, revoke, or terminate, or where any such power is relinquished in contemplation of the decedent's death.

(2) For the purpose of this Subsection, the power to alter, amend or revoke shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the alteration, amendment or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised. In such cases, proper adjustment shall be made representing the interests which would have been excluded from the power if the decedent had lived, and for such purpose if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised, on the date of death.

(D) Property Passing Under General Power of Appointment. - To the extent of any property passing under a general power of appointment exercised by the decedent: (1) by will, or (2) by deed executed in contemplation of, or intended to take effect in possession or enjoyment at, or after his death, or (3) by deed under which he has retained for his life or any period not

ascertainable without reference to his death or for any period which does not in fact end before his death (a) the possession or enjoyment of, or the right to the income from, the property, or (b) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

(E) Proceeds of Life Insurance. - To the extent of the amount receivable by the estate of the deceased, his executor, or administrator, as insurance under policies taken out by the decedent upon his own life, irrespective of whether or not the insured retained the power of revocation, or to the extent of the amount receivable by any beneficiary designated in the policy of insurance, except when it is expressly stipulated that the designation of the beneficiary is irrevocable.

(F) Prior Interests. - Except as otherwise specifically provided therein, Subsections (B), (C) and (E) of this Section shall apply to the transfers, trusts, estates, interests, rights, powers and relinquishment of powers, as severally enumerated and described therein, whether made, created, arising, existing, exercised or relinquished before or after the effectivity of this Code.

(G) Transfers for Insufficient Consideration. - If any one of the transfers, trusts, interests, rights or powers enumerated and described in Subsections (B), (C) and (D) of this Section is made, created, exercised or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the fair market value, at the time of death, of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.

(H) Capital of the Surviving Spouse. - The capital of the surviving spouse of a decedent shall not, for the purpose of this Chapter, be deemed a part of his or her gross estate.

SEC. 86. Computation of Net Estate. ^[70] - For the purpose of the tax imposed in this Chapter, the value of the net estate shall be determined:

(A) Deductions Allowed to the Estate of Citizen or a Resident. ^[71] In the case of a citizen or resident of the Philippines, by deducting from the value of the gross estate -

(1) Standard Deduction. - An amount equivalent to Five million pesos (P5,000,000.00).^[72]

(2) For claims against the estate: Provided, That at the time of indebtedness was incurred that debt instrument was duly notarized and, if the loan was contracted within three (3) years before the death of the decedent, the administrator or executor shall submit a statement showing the disposition of the proceeds of the loan.

(3) For claims of the deceased against the insolvent persons where the value of decedent's interest therein is included in the value of the gross estate.

(4) For unpaid mortgages upon, or any indebtedness in respect to, property where the value of decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate, but not including any income tax upon income received after the death of the decedent, or property taxes not accrued before his death, or any estate tax. The deduction herein allowed in the case of claims against the estate, unpaid mortgages or any indebtedness shall, when founded upon a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth. There shall also be deducted losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualties, or from robbery, theft, or embezzlement, when such losses are not compensated for by insurance or otherwise, and if at the time of the filing of

the return such losses have not been claimed as deduction for the income tax purposes in an income tax return, and provided that such losses were incurred not later than the last day for the payment of the estate tax as prescribed in Subsection (A) of Section 91.

(5) Property Previously Taxed. - An amount equal to the value specified below of any property forming part of the gross estate situated in the Philippines of any person who died within five (5) years prior to the death of the decedent, or transferred to the decedent by gift within five (5) years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise or inheritance, or which can be identified as having been acquired in exchange for property so received:

One hundred percent (100%) of the value, if the prior decedent died within one (1) year prior to the death of the decedent, or if the property was transferred to him by gift, within the same period prior to his death;

Eighty percent (80%) of the value, if the prior decedent died more than one (1) year but not more than two (2) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

Sixty percent (60%) of the value, if the prior decedent died more than two (2) years but not more than three (3) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

Forty percent (40%) of the value, if the prior decedent died more than three (3) years but not more than four (4) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

Twenty percent (20%) of the value, if the prior decedent died more than four (4) years but not more than five (5) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

These deductions shall be allowed only where a donor's tax or estate tax imposed under this Title was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate, and only to the extent that the value of such property is included in the decedent's gross estate, and only if in determining the value of the estate of the prior decedent, no deduction was allowable under paragraph (5) in respect of the property or properties given in exchange therefor. Where a deduction was allowed of any mortgage or other lien in determining the donor's tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under said Subsection shall be reduced by the amount so paid. Such deduction allowable shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (2), (3), (4) and (6) of this Subsection as the amount otherwise deductible under said paragraph (5) bears to the value of the decedent's estate. Where the property referred to consists of two or more items, the aggregate value of such items shall be used for the purpose of computing the deduction. ^[4]

(6) Transfers for Public Use. - The amount of all the bequests, legacies, devises or transfers to or for the use of the Government of the Republic of the Philippines, or any political subdivision thereof, for exclusively public purposes.

(7) The Family Home. - An amount equivalent to the current fair market value of the decedent's family home: Provided, however, That if the said current fair market value exceeds Ten million pesos (P10, 000,000),^[72] the excess shall be subject to estate tax.

(8) Amount Received by Heirs Under Republic Act No. 4917. - Any amount received by the heirs from the decedent's employee as a consequence of the death of the decedent-employee in accordance with Republic Act No. 4917: Provided, That such amount is included in the gross estate of the decedent.

(B) Deductions Allowed to Nonresident Estates. - In the case of a nonresident not a citizen of the Philippines, by deducting from the value of that part of his gross estate which at the time of his death is situated in the Philippines:

(1) Standard Deduction. - An amount equivalent to Five hundred thousand pesos (P500,000.00);^[73]

(2) That proportion of the deductions specified in paragraphs (2), (3), (4) of Subsection (A) of this Section which the value of such part bears to the value of his entire gross estate wherever situated;^[74]

(3) Property Previously Taxed.- An amount equal to the value specified below of any property forming part of the gross estate situated in the Philippines of any person who died within five (5) years prior to the death of the decedent, or transferred to the decedent by gift within five (5) years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise or inheritance, or which can be identified as having been acquired in exchange for property so received:

One hundred percent (100%) of the value if the prior decedent died within one (1) year prior to the death of the decedent, or if the property was transferred to him by gift, within the same period prior to his death;

Eighty percent (80%) of the value, if the prior decedent died more than one (1) year but not more than two (2) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

Sixty percent (60%) of the value, if the prior decedent died more than two (2) years but not more than three (3) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

Forty percent (40%) of the value, if the prior decedent died more than three (3) years but not more than four (4) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death; and

Twenty percent (20%) of the value, if the prior decedent died more than four (4) years but not more than five (5) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death.

These deductions shall be allowed only where a donor's tax, or estate tax imposed under this Title is finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the Philippines; and only if, in determining the value of the net estate of the prior decedent, no deduction is allowable under paragraph (2) of Subsection (B) of this Section, in respect of the

property or properties given in exchange therefore. Where a deduction was allowed of any mortgage or other lien in determining the donor's tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under said paragraph shall be reduced by the amount so paid. Such deduction allowable shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1) and (3) of this Subsection as the amount otherwise deductible under paragraph (2) bears to the value of that part of the decedent's gross estate which at the time of his death is situated in the Philippines. Where the property referred to consists of two (2) or more items, the aggregate value of such items shall be used for the purpose of computing the deduction.

(4) Transfers for Public Use. - The amount of all bequests, legacies, devises or transfers to or for the use of the Government of the Republic of the Philippines or any political subdivision thereof, for exclusively public purposes.

(C) Share in the Conjugal Property. - The net share of the surviving spouse in the conjugal partnership property as diminished by the obligations properly chargeable to such property shall, for the purpose of this Section, be deducted from the net estate of the decedent.

(D) Tax Credit for Estate Taxes paid to a Foreign Country. -

(1) In General. - The tax imposed by this Title shall be credited with the amounts of any estate tax imposed by the authority of a foreign country.

(2) 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 to any country shall not exceed the same proportion of the tax against which such credit is taken, which the decedent's net estate situated within such country taxable under this Title bears to his entire net estate; 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 decedent's net estate situated outside the Philippines taxable under this Title bears to his entire net estate.

SEC. 87 Exemption of Certain Acquisitions and Transmissions. --The following shall not be taxed:

(A) The merger of usufruct in the owner of the naked title;

(B) The transmission or delivery of the inheritance or legacy by the fiduciary heir or legatee to the fideicommissary;

(C) The transmission from the first heir, legatee or donee in favor of another beneficiary, in accordance with the desire of the predecessor; and

(D) All bequests, devises, legacies or transfers to social welfare, cultural and charitable institutions, no part of the net income of which inures to the benefit of any individual: Provided, however, That not more than thirty percent (30%) of the said bequests, devises, legacies or transfers shall be used by such institutions for administration purposes.

SEC. 88. Determination of the Value of the Estate. -

(A) Usufruct. - To determine the value of the right of usufruct, use or habitation, as well as that of annuity, there shall be taken into account the probable life of the beneficiary in accordance with the latest Basic Standard Mortality Table, to be approved by the Secretary of Finance, upon recommendation of the Insurance Commissioner.

(B) Properties. - The estate shall be appraised at its fair market value as of the time of death. However, the appraised value of real property as of the time of death shall be, whichever is higher of -

- (1) The fair market value as determined by the Commissioner; or
- (2) The fair market value as shown in the schedule of values fixed by the Provincial and City Assessors.

SEC. 89. REPEALED ^[75]

SEC. 90. Estate Tax Returns. ^[4]

(A) Requirements. - In all cases of transfers subject to the tax imposed herein, or regardless of the gross value of the estate, ^[76] where the said estate consists of registered or registrable property such as real property, motor vehicle, shares of stock or other similar property for which a clearance from the Bureau of Internal Revenue is required as a condition precedent for the transfer of ownership thereof in the name of the transferee, the executor, or the administrator, or any of the legal heirs, as the case may be, shall file a return under oath in duplicate, setting forth:

- (1) The value of the gross estate of the decedent at the time of his death, or in case of a nonresident, not a citizen of the Philippines, of that part of his gross estate situated in the Philippines;
- (2) The deductions allowed from gross estate in determining the estate as defined in Section 86; and
- (3) Such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct taxes.

Provided, however, That estate tax returns showing a gross value exceeding Five million pesos (P5,000,000) ^[77] shall be supported with a statement duly certified to by a Certified Public Accountant containing the following:

- (a) Itemized assets of the decedent with their corresponding gross value at the time of his death, or in the case of a nonresident, not a citizen of the Philippines, of that part of his gross estate situated in the Philippines;
- (b) Itemized deductions from gross estate allowed in Section 86; and
- (c) The amount of tax due whether paid or still due and outstanding.

(B) Time for Filing. ^[4] For the purpose of determining the estate tax provided for in Section 84 of this Code, the estate tax return required under the preceding Subsection (A) shall be filed within one (1) year ^[78] from the decedent's death.

A certified copy of the schedule of partition and the order of the court approving the same shall be furnished the Commissioner within thirty (30) days after the promulgation of such order.

(C) Extension of Time. - The Commissioner shall have authority to grant, in meritorious cases, a reasonable extension not exceeding thirty (30) days for filing the return.

(D) Place of Filing. - Except in cases where the Commissioner otherwise permits, the return required under Subsection (A) shall be filed with an authorized agent bank, or Revenue District Officer, Collection Officer, or duly authorized Treasurer of the city or municipality in which the decedent was domiciled at the time of his death or if there be no legal residence in the Philippines, with the Office of the Commissioner.

SEC. 91. Payment of Tax. -

(A) Time of Payment. - The estate tax imposed by Section 84 shall be paid at the time the return is filed by the executor, administrator or the heirs.

(B) Extension of Time. - When the Commissioner finds that the payment on the due date of the estate tax or of any part thereof would impose undue hardship upon the estate or any of the heirs, he may extend the time for payment of such tax or any part thereof not to exceed five (5) years, in case the estate is settled through the courts, or two (2) years in case the estate is settled extrajudicially.

In such case, the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the Statute of Limitations for assessment as provided in Section 203 of this Code shall be suspended for the period of any such extension.

Where the taxes are assessed by reason of negligence, intentional disregard of rules and regulations, or fraud on the part of the taxpayer, no extension will be granted by the Commissioner.

If an extension is granted, the Commissioner may require the executor, or administrator, or beneficiary, as the case may be, to furnish a bond in such amount, not exceeding double the amount of the tax and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the said tax in accordance with the terms of the extension.

(C) Payment by Installment. - In case the available cash of the estate is insufficient to pay the total estate tax due, payment by installments shall be allowed within two (2) years from the statutory date for its payment without civil penalty and interest. ^[79]

(D) Liability for Payment - The estate tax imposed by Section 84 shall be paid by the executor or administrator before delivery to any beneficiary of his distributive share of the estate. Such beneficiary shall to the extent of his distributive share of the estate, be subsidiarily liable for the payment of such portion of the estate tax as his distributive share bears to the value of the total net estate.

For the purpose of this Chapter, the term 'executor' or 'administrator' means the executor or administrator of the decedent, or if there is no executor or administrator appointed, qualified, and acting within the Philippines, then any person in actual or constructive possession of any property of the decedent.

SEC. 92. Discharge of Executor or Administrator from Personal Liability. - If the executor or administrator makes a written application to the Commissioner for determination of the amount of the estate tax and discharge from personal liability therefore, the Commissioner (as soon as possible, and in any event within one (1) year after the making of such application, or if the application is made before the return is filed, then within one (1) year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in Section 203 shall not notify the executor or administrator of the

amount of the tax. The executor or administrator, upon payment of the amount of which he is notified, shall be discharged from personal liability for any deficiency in the tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

SEC. 93. Definition of Deficiency. - As used in this Chapter, the term '*deficiency*' means:

(a) The amount by which the tax imposed by this Chapter exceeds the amount shown as the tax by the executor, administrator or any of the heirs upon his return; but the amounts so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency and decreased by the amount previously abated, refunded or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the executor, administrator or any of the heirs upon his return, or if no return is made by the executor, administrator, or any heir, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed or collected without assessment shall first be decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax.

SEC. 94. Payment before Delivery by Executor or Administrator. - No judge shall authorize the executor or judicial administrator to deliver a distributive share to any party interested in the estate unless a certification from the Commissioner that the estate tax has been paid is shown.

SEC. 95. Duties of Certain Officers and Debtors. - Registers of Deeds shall not register in the Registry of Property any document transferring real property or real rights therein or any chattel mortgage, by way of gifts inter vivos or mortis causa, legacy or inheritance, unless a certification from the Commissioner that the tax fixed in this Title and actually due thereon had been paid is shown, and they shall immediately notify the Commissioner, Regional Director, Revenue District Officer, or Revenue Collection Officer or Treasurer of the city or municipality where their offices are located, of the nonpayment of the tax discovered by them. Any lawyer, notary public, or any government officer who, by reason of his official duties, intervenes in the preparation or acknowledgment of documents regarding partition or disposal of donation inter vivos or mortis causa, legacy or inheritance, shall have the duty of furnishing the Commissioner, Regional Director, Revenue District Officer or Revenue Collection Officer of the place where he may have his principal office, with copies of such documents and any information whatsoever which may facilitate the collection of the aforementioned tax. Neither shall a debtor of the deceased pay his debts to the heirs, legatee, executor or administrator of his creditor, unless the certification of the Commissioner that the tax fixed in this Chapter had been paid is shown; but he may pay the executor or judicial administrator without said certification if the credit is included in the inventory of the estate of the deceased.

SEC. 96. Restitution of Tax Upon Satisfaction of Outstanding Obligations. - If after the payment of the estate tax, new obligations of the decedent shall appear, and the persons interested shall have satisfied them by order of the court, they shall have a right to the restitution of the proportional part of the tax paid.

SEC. 97. Payment of Tax Antecedent to the Transfer of Shares, Bonds or Rights. ^[4] There shall not be transferred to any new owner in the books of any corporation, sociedad anonima, partnership, business, or industry organized or established in the Philippines any share, obligation, bond or right by way of gift inter vivos or mortis causa, legacy or inheritance, unless a certification from the Commissioner that the taxes fixed in this Title and due thereon have been paid is shown.

If a bank has knowledge of the death of a person, who maintained a bank deposit account alone, or jointly with another, it shall allow any withdrawal from the said deposit account, subject to a final withholding tax of six percent (6%).^[80] For this purpose, all withdrawal slips shall contain a statement to the effect that all of the joint depositors are still living at the time of

withdrawal by any one of the joint depositors and such statement shall be under oath by the said depositors.

CHAPTER II

DONOR'S TAX

SEC. 98. Imposition of Tax. –

(A) There shall be levied, assessed, collected and paid upon the transfer by any person, resident or nonresident, of the property by gift, a tax, computed as provided in Section 99.

(B) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible.

SEC. 99. Rates of Tax Payable by Donor. ^[4] -

(A) **In General.** - The tax for each calendar year shall be six percent (6%) computed on the basis of the total gifts in excess of Two hundred fifty thousand pesos (P250,000) exempt gift made during the calendar year.^[81]

(B) Any contribution in cash or in kind to any candidate, political party or coalition of parties for campaign purposes shall be governed by the Election Code, as amended.

SEC. 100. Transfer for Less Than Adequate and Full Consideration. ^[4] - Where property, other than real property referred to in Section 24(D), is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the fair market value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this Chapter, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year. *Provided, however,* That a sale, exchange, or other transfer of property made in the ordinary course of business (a transaction which is a bona fide, at arm's length, free from any donative intent), will be considered as made for an adequate and full consideration in money or money's worth.^[82]

SEC. 101. Exemption of Certain Gifts. - The following gifts or donations shall be exempt from the tax provided for in this Chapter:

(A) In the Case of Gifts Made by a Resident. ^[83] -

(1) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government; and

(2) Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited nongovernment organization, trust or philanthropic organization or research institution or organization: *Provided, however,* That not more than thirty percent (30%) of said gifts shall be used by such donee for administration purposes. For the purpose of this exemption, a '**non-profit educational and/or charitable corporation, institution, accredited nongovernment organization, trust or philanthropic organization and/or research institution or organization**' is a school, college or university and/or charitable corporation, accredited nongovernment organization, 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 gifts, donation, subsidies or other forms of philanthropy, to the accomplishment and promotion of the purposes enumerated in its Articles of Incorporation. ^[4]

(B) In the Case of Gifts Made by a Nonresident not a Citizen of the Philippines. –

(1) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government.

(2) Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, foundation, trust or philanthropic organization or research institution or organization: Provided, however, That not more than thirty percent (30%) of said gifts shall be used by such donee for administration purposes.

(C) Tax Credit for Donor's Taxes Paid to a Foreign Country. –

(1) In General. - The tax imposed by this Title upon a donor who was a citizen or a resident at the time of donation shall be credited with the amount of any donor's tax of any character and description imposed by the authority of a foreign country.

(2) 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 to any country shall not exceed the same proportion of the tax against which such credit is taken, which the net gifts situated within such country taxable under this Title bears to his entire net gifts; 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 donor's net gifts situated outside the Philippines taxable under this title bears to his entire net gifts.

SEC. 102. Valuation of Gifts Made in Property. - If the gift is made in property, the fair market value thereof at the time of the gift shall be considered the amount of the gift. In case of real property, the provisions of Section 88(B) shall apply to the valuation thereof.

SEC. 103. Filing of Return and Payment of Tax. -

(A) Requirements. - any individual who makes any transfer by gift (except those which, under Section 101, are exempt from the tax provided for in this Chapter) shall, for the purpose of the said tax, make a return under oath in duplicate. The return shall set forth:

(1) Each gift made during the calendar year which is to be included in computing net gifts;

(2) The deductions claimed and allowable;

(3) Any previous net gifts made during the same calendar year;

(4) The name of the donee; and

(5) Such further information as may be required by rules and regulations made pursuant to law.

(B)Time and Place of Filing and Payment -The return of the donor required in this Section shall be filed within thirty (30) days after the date the gift is made and the tax due thereon shall be paid at the time of filing. Except in cases where the Commissioner otherwise permits, the return shall be filed and the tax paid to an authorized agent bank, the Revenue District Officer, Revenue Collection Officer or duly authorized Treasurer of the city or municipality where the donor was domiciled at the time of the transfer, or if there be no legal residence in the Philippines, with the Office of the Commissioner. In the case of gifts made by a nonresident, the return may be filed with the Philippine Embassy or Consulate in the country where he is domiciled at the time of the transfer, or directly with the Office of the Commissioner.

SEC. 104. Definitions. - For purposes of this Title, the terms 'gross estate' and 'gifts' include real and personal property, whether tangible or intangible, or mixed, wherever situated: *Provided, however,* That where the decedent or donor was a nonresident alien at the time of his death or donation, as the case may be, his real and personal property so transferred but which are situated outside the Philippines shall not be included as part of his '**gross estate**' or '**gross gift**': *Provided, further,* That franchise which must be exercised in the Philippines; shares, obligations or bonds issued by any corporation or sociedad anonima organized or constituted in the Philippines in accordance with its laws; shares, obligations or bonds by any foreign corporation eighty-five percent (85%) of the business of which is located in the Philippines; shares, obligations or bonds issued by any foreign corporation if such shares, obligations or bonds have acquired a business situs in the Philippines; shares or rights in any partnership, business or industry established in the Philippines, shall be considered as situated in the Philippines: *Provided, still further,* that no tax shall be collected under this Title in respect of intangible personal property:

(a) if the decedent at the time of his death or the donor at the time of the donation was a citizen and resident of a foreign country which at the time of his death or donation did not impose a transfer tax of any character, in respect of intangible personal property of citizens of the Philippines not residing in that foreign country, or

(b) if the laws of the foreign country of which the decedent or donor was a citizen and resident at the time of his death or donation allows a similar exemption from transfer or death taxes of every character or description in respect of intangible personal property owned by citizens of the Philippines not residing in that foreign country.

The term '**deficiency**' means:

(a) the amount by which tax imposed by this Chapter exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amount previously assessed (or Collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded or otherwise repaid in respect of such tax, or

(b) if no amount is shown as the tax by the donor, then the amount by which the tax exceeds the amounts previously assessed, (or collected without assessment) as a deficiency, but such amounts previously assessed, or collected without assessment, shall first be decreased by the amount previously abated, refunded or otherwise repaid in respect of such tax.

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TITLE IV**VALUE ADDED TAX****CHAPTER I****IMPOSITION OF TAX**

SEC. 105. *Persons Liable.* - Any person who, in the course of trade or business, sells barter, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.

The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of Republic Act No. 7716.

The phrase "***in the course of trade or business***" means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, nonprofit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.

The rule of regularity, to the contrary notwithstanding, services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in the course of trade or business.

SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* -

(A) *Rate and Base of Tax.* - There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, value-added tax equivalent to twelve percent (12%) ^[84] of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.

(1) "***Goods or Properties.***" The term "***goods***" or "***properties***" shall mean all tangible and intangible objects which are capable of pecuniary estimation and shall include:

- (a) Real properties held primarily for sale to customers or held for lease in the ordinary course of trade or business;
- (b) The right or the privilege to use patent, copyright, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;
- (c) The right or the privilege to use in the Philippines of any industrial, commercial or scientific equipment;
- (d) The right or the privilege to use motion picture films, tapes and discs; and
- (e) Radio, television, satellite transmission and cable television time.

The term "***gross selling price***" means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value-added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:^[85]

(a) Export Sales. ^[86] The term “**export sales**” means:

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(2) Sale and delivery of goods to:^[87]

(3) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(4) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;

(5) Those considered export sales under Executive Order NO. 226, otherwise known as the “Omnibus Investment Code of 1987”, and other special laws; and

(6) The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations: Provided, That the goods, supplies, equipment and fuel shall be used for international shipping or air transport operations. ^[4]

Provided, That subparagraphs (3), (4), and (5) hereof shall be subject to the twelve percent (12%) value-added tax and no longer be considered export sales subject to zero percent (0%) VAT rate upon satisfaction of the following conditions:

(1) The successful establishment and implementation of an enhanced VAT refund system that grants refunds of creditable input tax within ninety (90) days from the filing of the VAT refund application with the Bureau: Provided, That, to determine the effectivity of item no. 1, all applications filed from January 1, 2018 shall be processed and must be decided within ninety (90) days from the filing of the VAT refund application; and

(2) All pending VAT refund claims as of December 21, 2017 shall be fully paid in cash by December 31, 2019.

Provided, That the Department of Finance shall establish a VAT refund center in the Bureau of Internal Revenue (BIR) and in the Bureau of Customs (BOC) that will handle the processing and granting of cash refunds of creditable input tax.

An amount equivalent to five percent (5%) of the total VAT collection of the BIR and the BOC from the immediately preceding year shall be automatically appropriated annually and shall be treated as a special account in the General Fund or as trust receipts for the purpose of funding claims for VAT refund: Provided, That any unused fund, at the end of the year shall revert to the General Fund.

Provided, further, That the BIR and the BOC shall be required to submit to the Congressional Oversight Committee on the Comprehensive Tax Reform Program (COCCTRP) a quarterly report of all pending claims for refund and any unused fund.^[88]

(b) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate.^[4]

(c) Sales to offshore gaming licensees subject to gaming tax under Section 125-A of this Code.^[20]

(B) Transactions Deemed Sale. - The following transactions shall be deemed sale:

(1) Transfer, use or consumption not in the course of business of goods or properties originally intended for sale or for use in the course of business;

(2) Distribution or transfer to:

(a) Shareholders or investors as share in the profits of the VAT-registered persons; or

(b) Creditors in payment of debt;

(3) Consignment of goods if actual sale is not made within sixty (60) days following the date such goods were consigned; and

(4) Retirement from or cessation of business, with respect to inventories of taxable goods existing as of such retirement or cessation.

(C) Changes in or Cessation of Status of a VAT-registered Person. - The tax imposed in Subsection (A) of this Section shall also apply to goods disposed of or existing as of a certain date if under circumstances to be prescribed in rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner, the status of a person as a VAT-registered person changes or is terminated.

(D) Sales Returns, Allowances and Sales Discounts. - The value of goods or properties sold and subsequently returned or for which allowances were granted by a VAT-registered person may be deducted from the gross sales or receipts for the quarter in which a refund is made or a credit memorandum or refund is issued. Sales discount granted and indicated in the invoice at the time of sale and the grant of which does not depend upon the happening of a future event may be excluded from the gross sales within the same quarter it was given.

(E) Authority of the Commissioner to Determine the Appropriate Tax Base. - The Commissioner shall, by rules and regulations prescribed by the Secretary of Finance, determine the appropriate tax base in cases where a transaction is deemed a sale, barter or exchange of goods or properties under Subsection (B) hereof, or where the gross selling price is unreasonably lower than the actual market value.

SEC. 107. Value-Added Tax on Importation of Goods. -

(A) In General. - There shall be levied, assessed and collected on every importation of goods a value-added tax equivalent to twelve percent (12%) ^[90] based on the total value used by the Bureau of Customs in determining tariff and customs duties plus customs duties, excise taxes, if any, and other charges, such tax to be paid by the importer prior to the release of such goods from customs custody: Provided, That where the customs duties are determined on the basis of the quantity or volume of the goods, the value-added tax shall be based on the landed cost plus excise taxes, if any.

(B) Transfer of Goods by Tax-exempt Persons. - In the case of tax-free importation of goods into the Philippines by persons, entities or agencies exempt from tax where such goods are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entities, the purchasers, transferees or recipients shall be considered the importers thereof, who shall be liable for any internal revenue tax on such importation. The tax due on such importation shall constitute a lien on the goods superior to all charges or liens on the goods, irrespective of the possessor thereof.

SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. -

(A) Rate and Base of Tax. - There shall be levied, assessed and collected, a value-added tax equivalent to twelve percent (12%) ^[91] of gross receipts derived from the sale or exchange of services, including the use or lease of properties.

The phrase "**sale or exchange of services**" means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, rest houses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire another domestic common carriers by land relative to their transport of goods or cargoes; common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines; sales of electricity by generation companies, transmission by any means entity^[92], and distribution companies, including electric cooperatives;^[92] services of franchise grantees of electric utilities. telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under section 119 of this Code, and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity, and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. The phrase "**sale or exchange of services**" shall likewise include:

- (1) The lease or the use of or the right or privilege to use any copyright, patent, design or model, plan secret formula or process, goodwill, trademark, trade brand or other like property or right;
- (2) The lease of the use of, or the right to use of any industrial, commercial or scientific equipment;
- (3) The supply of scientific, technical, industrial or commercial knowledge or information;
- (4) The supply of any assistance that is ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyment of any such property, or right as is mentioned in subparagraph (2) or any such knowledge or information as is mentioned in subparagraph (3);
- (5) The supply of services by a nonresident person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any brand, machinery or other apparatus purchased from such nonresident person.

- (6) The supply of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;
- (7) The lease of motion picture films, films, tapes and discs; and
- (8) The lease or the use of or the right to use radio, television, satellite transmission and cable television time.

Lease of properties shall be subject to the tax herein imposed irrespective of the place where the contract of lease or licensing agreement was executed if the property is leased or used in the Philippines.

The term "**gross receipts**" means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax. ^[4]

(B) Transactions Subject to Zero Percent (0%) Rate - The following services performed in the Philippines by VAT- registered persons shall be subject to zero percent (0%) rate.

- (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
- (2) Services other than those mentioned in the preceding paragraph, rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
- (3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;
- (4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof: Provided, That these services shall be exclusive for international shipping or air transport operations; ^[92]
- (5) Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of total annual production;
- (6) Transport of passengers and cargo by domestic ^[92] air or sea vessels from the Philippines to a foreign country; and
- (7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.
- (8) VETOED BY THE PRESIDENT ^[93]

(9) Services rendered to offshore gaming licensees subject to gaming tax under Section 125-A of this Code by service providers, including accredited service providers as defined in Section 27 (G) of this Code.^[20]

SEC. 109. Exempt Transactions. –

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax.

(A) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of or kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.

Products classified under this paragraph shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping. Polished and/or husked rice, corn grits, raw cane sugar and molasses, ordinary salt and copra shall be considered in their original state;^[94]

(B) Sale or importation of fertilizers; seeds, seedlings and fingerlings; fish, prawn, livestock and poultry feeds, including ingredients, whether locally produced or imported, used in the manufacture of finished feeds (except specialty feeds for race horses, fighting cocks, aquarium fish, zoo animals and other animals generally considered as pets);

(C) Importation of personal and household effects belonging to the residents of the Philippines returning from abroad and nonresident citizens coming to resettle in the Philippines: Provided, That such goods are exempt from customs duties under the Tariff and Customs Code of the Philippines;

(D) Importation of professional instruments and implements, tools of trade, occupation or employment,^[95] wearing apparel, domestic animals, and personal and household effects belonging to persons coming to settle in the Philippines or Filipinos or their families and descendants who are now residents or citizens of other countries, such parties hereinafter referred to as overseas Filipinos, in quantities and of the class suitable to the profession, rank or position of the persons importing said items,^[95] for their own use and not for barter or sale, accompanying such persons, or arriving within a reasonable time:^[96] Provided, That the Bureau of Customs may, upon the production of satisfactory evidence that such persons are actually coming to settle in the Philippines and the goods are brought from their former place of abode, exempt such goods from payment of duties and taxes:^[97] Provided, further, That the vehicles, vessels, aircrafts, machineries and other similar goods for use in manufacture,^[97] shall not fall within this classification and shall therefore be subject to duties, taxes and other charges;

(E) Services subject to percentage tax under Title V;

(F) Services by agricultural contract growers and milling for others of palay into rice, corn into grits and sugar cane into raw sugar;

(G) Medical, dental, hospital and veterinary services except those rendered by professionals;

(H) Educational services rendered by private educational institutions, duly accredited by the Department of Education (DepED), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA) and those rendered by government educational institutions;^[55]

(I) Services rendered by individuals pursuant to an employer-employee relationship;

(J) Services rendered by regional or area headquarters established in the Philippines by multinational corporations which act as supervisory, communications and coordinating centers for their affiliates, subsidiaries or branches in the Asia-Pacific Region and do not earn or derive income from the Philippines;

(K) Transactions which are exempt under international agreements to which the Philippines is a signatory or under special laws, except those under Presidential Decree No. 529; ^[55]

(L) Sales by agricultural cooperatives duly registered with the Cooperative Development Authority to their members as well as sale of their produce, whether in its original state or processed form, to non-members; their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce;

(M) Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the Cooperative Development Authority;

(N) Sales by non-agricultural, non- electric and non-credit cooperatives duly registered with the Cooperative Development Authority: Provided, That the share capital contribution of each member does not exceed Fifteen thousand pesos (P15,000) and regardless of the aggregate capital and net surplus ratably distributed among the members;

(O) Export sales by persons who are not VAT-registered;

(P) Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business or real property utilized for low-cost and socialized housing as defined by Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, and other related laws, residential lot valued at One million pesos (P1,500,000) and below, house and lot, and other residential dwellings valued at Two million five hundred thousand pesos (P2,500,000) and below: Provided, That beginning January 1, 2021, the VAT exemption shall only apply to sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, sale of real property utilized for socialized housing as defined by Republic Act No. 7279, sale of house and lot, and other residential dwellings with the selling price of not more than Two million pesos (P2,000,000):^[95] Provided, further, That every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the Philippine Statistics Authority (PSA); ^[98] ^[99]

(Q) Lease of a residential unit with a monthly rental not exceeding Fifteen thousand pesos (₱15,000); ^[100]

(R) Sale, importation, printing or publication of books, and any newspaper, magazine, journal, review bulletin, or any such educational reading material covered by the UNESCO Agreement on the Importation of Educational, Scientific and Cultural Materials, including the digital or electronic format thereof: Provided, That the materials enumerated herein are not devoted principally to the publication of paid advertisements;

(S) Transport of passengers by international carriers;^[95]

(T) Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations;

- (U) Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations: Provided, That the fuel, goods, and supplies shall be used for international shipping or air transport operations; ^[95]
- (V) Services of bank, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries;
- (W) Sale or lease of goods and services to senior citizens and persons with disability, as provided under Republic Act Nos. 9994 (Expanded Senior Citizens Act of 2010) and 10754 (An Act Expanding the Benefits and Privileges of Persons With Disability), respectively; ^[95]
- (X) Transfer of property pursuant to Section 40(C)(2) of the NIRC, as amended; ^[95]
- (Y) Associations dues, membership fees, and other assessments and charges collected by homeowners' associations and condominium corporations; ^[95]
- (Z) Sale of gold to the Banko Sentral ng Pilipinas (BSP);^[101]
- (AA) Sale of or importation of prescription drugs and medicines for: ^[102]
- (i) Diabetes, high cholesterol, and hypertension beginning January 1, 2020; and ^[103]
 - (ii) Cancer, mental illness, tuberculosis, and kidney diseases beginning January 1, 2021. ^[104]
- Provided, That the DOH shall issue a list of approved drugs and medicines for this purpose within sixty (60) days from the effectivity of this Act; and ^[105]
- (BB) Sale or importation of the following beginning January 1, 2021 to December 31, 2023: ^[106]
- (i) Capital equipment, its spare parts and raw materials, necessary for the production of personal protective equipment components such as coveralls, gown, surgical cap, surgical mask, N-95 mask, scrub suits, goggles and face shield, double or surgical gloves, dedicated shoes, and shoe covers, for COVID-19 prevention; and ^[106]
 - (ii) All drugs, vaccines and medical devices specifically prescribed and directly used for the treatment of COVID-19; and ^[106]
 - (iii) Drugs for the treatment of COVID-19 approved by the Food and Drug Administration (FDA) for use in clinical trials, including raw materials directly necessary for the production of such drugs: *Provided*, That the Department of Trade and Industry (DTI) shall certify that such equipment, spare parts or raw materials for importation are not locally available or insufficient in quantity, or not in accordance with the quality or specification required: *Provided, further*, That for item (ii), within sixty (60) days from the effectivity of this Act, and every three (3) months thereafter, the Department of Health (DOH) shall issue a list of prescription drugs and medical devices covered by this provision: *Provided, finally*, That the exemption claimed under this subsection shall be subject to post audit by the Bureau of Internal Revenue or the Bureau of Customs as may be applicable. ^[106]

(CC) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of Three million pesos (P3,000,000.00). ^[107]

SEC. 110. Tax Credits. -

A. Creditable Input Tax. -

(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

(a) Purchase or importation of goods:

(i) For sale; or

(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or

(iii) For use as supplies in the course of business; or

(iv) For use as materials supplied in the sale of service; or

(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code. ^[19]

(b) Purchase of services on which a value-added tax has been actually paid.

(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person ^[8] shall be creditable:

(a) To the purchaser upon consummation of sale and on importation of goods or properties; and

(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

Provided, that the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code shall be spread evenly over the a month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000): Provided, however, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: Provided, further, That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: ^[108] Provided, finally, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or free.

(3) A VAT-registered person who is also engaged in transactions not subject to the value-added tax shall be allowed tax credit as follows:

- (a) Total input tax which can be directly attributed to transactions subject to value-added tax; and
- (b) A ratable portion of any input tax which cannot be directly attributed to either activity.

The term "**input tax**" means the value-added tax due from or paid by a VAT-registered person in the course of his trade or business on importation of goods or local purchase of goods or services, including lease or use of property, from a VAT-registered person. It shall also include the transitional input tax determined in accordance with Section 111 of this Code.

The term "**output tax**" means the value-added tax due on the sale or lease of taxable goods or properties or services by any person registered or required to register under Section 236 of this Code.

(B) Excess Output or Input Tax. - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the Vat-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Provided, however, That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.

(C) Determination of Creditable Input Tax. - The sum of the excess input tax carried over from the preceding month or quarter and the input tax creditable to a VAT-registered person during the taxable month or quarter shall be reduced by the amount of claim for refund or tax credit for value-added tax and other adjustments, such as purchase returns or allowances and input tax attributable to exempt sale.

The claim for tax credit referred to in the foregoing paragraph shall include not only those filed with the Bureau of Internal Revenue but also those filed with other government agencies, such as the Board of Investments and the Bureau of Customs.

SEC. 111. Transitional/Presumptive Input Tax Credits. –

(A) Transitional Input Tax Credits. - A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to rules and regulations prescribed by the Secretary of finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.

(B) Presumptive Input Tax Credits. - Persons or firms engaged in the processing of sardines, mackerel and milk, and in manufacturing refined sugar and cooking oil, shall be allowed a presumptive input tax, creditable against the output tax, equivalent to four percent (4%) of the gross value in money of their purchases of primary agricultural products which are used as inputs to their production.

As used in this Subsection, the term 'processing' shall mean pasteurization, canning and activities which through physical or chemical process alter the exterior texture or form or inner substance of a product in such manner as to prepare it for special use to which it could not have been put in its original form or condition.

SEC. 112. Refunds or Tax Credits of Input Tax. -

(A) Zero-rated or Effectively Zero-rated Sales. - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales. Provided, finally, That for a person making sales that are zero-rated under Section 108(B) (6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

(B) Cancellation of VAT Registration. - A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of this Code may, within two (2) years from the date of cancellation, apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes.

(C) Period within which Refund or Tax Credit of Input Taxes shall be Made. - In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days ^[109] from the date of submission of the official receipts or invoices and other documents ^[110] in support of the application filed in accordance with Subsections (A) and (B) ^[111] hereof: Provided, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: Provided, however, That failure on the part of any official, agent, or employee of the BIR to act on the application within ninety (90) days period shall be punishable under Section 269 of this Code. ^[111]

(D) Manner of Giving Refund. - Refunds shall be made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of being countersigned by the Chairman, Commission on audit, the provisions of the Administrative Code of 1987 to the contrary notwithstanding: Provided, That refunds under this paragraph shall be subject to post audit by the Commission on Audit.

CHAPTER II

COMPLIANCE REQUIREMENTS

SEC. 113. Invoicing and Accounting Requirements for VAT-Registered Persons. -

(A) Invoicing Requirements. - A VAT-registered person shall issue:

- (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
- (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

(B) Information Contained in the VAT Invoice or VAT Official Receipt. - The following information shall be indicated in the VAT invoice or VAT official receipt:

- (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN); and
- (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax. Provided, That:
 - (a) The amount of the tax shall be known as a separate item in the invoice or receipt;
 - (b) If the sale is exempt from value-added tax, the term VAT-exempt sale: shall be written or printed prominently on the invoice or receipt;
 - (c) If the sale is subject to zero percent (0%) value-added tax, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt.
 - (d) If the sale involved goods, properties or services some of which are subject to and some of which are VAT zero-rated or Vat exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be known on the invoice or receipt: Provided, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.
- (3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and
- (4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client. ^[112]

(C) Accounting Requirements. - Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance.

(D) Consequence of Issuing Erroneous VAT Invoice or VAT Official Receipt.-

- (1) If a person who is not a VAT-registered person issues an invoice or receipt showing his Taxpayer Identification Number (TIN), followed by the word "VAT";
 - (a) The issuer shall, in addition to any liability to other percentage taxes, be liable to:
 - (i) The tax imposed in Section 106 or 108 without the benefit of any input tax credit; and
 - (ii) A 50% surcharge under Section 248(B) of this Code; ^[55]
 - (b) The VAT shall, if the other requisite information required under Subsection (B) hereof is shown on the invoice or receipt, be recognized as an input tax credit to the purchaser under Section 110 of this Code.

(2) If a VAT-registered person issues a VAT invoice or VAT official receipt for a VAT-exempt transaction, but fails to display prominently on the invoice or receipt the term 'VAT exempt sale,' the issuer shall be liable to account for the tax imposed in section 106 or 108 as if Section 109 did not apply. ^[55]

(E) Transitional Period. – Notwithstanding Subsection (B) hereof, taxpayers may continue to issue VAT invoices and VAT official receipt for the period July 1, 2005 to December 31, 2005 in accordance with Bureau of Internal Revenue administrative practices that existed as of December 31, 2004.

SEC. 114. Return and Payment of Value-Added Tax. –

(A) In General. ^[4] - Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer: Provided, however, That VAT-registered persons shall pay the value-added tax on a monthly basis: Provided, finally, That beginning January 1, 2023, the filing and payment required under this Subsection shall be done within twenty-five (25) days following the close of each taxable quarter. ^[113]

Any person, whose registration has been cancelled in accordance with Section 236, shall file a return and pay the tax due thereon within twenty-five (25) days from the date of cancellation of registration: *Provided*, That only one consolidated return shall be filed by the taxpayer for his principal place of business or head office and all branches.

(B) Where to File the Return and Pay the Tax. - Except as the Commissioner otherwise permits, the return shall be filed with and the tax paid to an authorized agent bank, Revenue Collection Officer or duly authorized city or municipal Treasurer in the Philippines located within the revenue district where the taxpayer is registered or required to register.

(C) Withholding of Creditable Value-added Tax. - The Government or any of its political subdivisions, instrumentalities or agencies, including government-owned or -controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods and services which are subject to the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold a final value-added tax at the rate of five percent (5%) of the gross payment thereof: *Provided*, That beginning January 1, 2021, the VAT withholding system under this Subsection shall shift from final to creditable system: ^[113] *Provided, further*, That the payment for lease or use of properties or property rights to nonresident owners shall be subject to ten percent (12%) ^[114] withholding tax at the time of payment. *Provided, finally*, That payments for purchases of goods and services arising from projects funded by Official Development Assistance (ODA) as defined under Republic Act No. 8182, otherwise known as the Official Development Assistance Act of 1996, as amended, shall not be subject to the final withholding tax system as imposed in this Subsection. ^[113] For purposes of this Section, the payor or person in control of the payment shall be considered as the withholding agent.

The value-added tax withheld under this Section shall be remitted within ten (10) days following the end of the month the withholding was made.

SEC. 115. Power of the Commissioner to Suspend the Business Operations of a Taxpayer. - The Commissioner or his authorized representative is hereby empowered to suspend the business operations and temporarily close the business establishment of any person for any of the following violations:

(a) In the case of a VAT-registered Person. –

(1) Failure to issue receipts or invoices;

(2) Failure to file a value-added tax return as required under Section 114; or

(3) Understatement of taxable sales or receipts by thirty percent (30%) or more of his correct taxable sales or receipts for the taxable quarter.

(b) Failure of any Person to Register as Required under Section 236.

The temporary closure of the establishment shall be for the duration of not less than five (5) days and shall be lifted only upon compliance with whatever requirements prescribed by the Commissioner in the closure order.

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TITLE V

OTHER PERCENTAGE TAXES

SEC. 116. Tax on Persons Exempt from Value-Added Tax (VAT). ^[115] Any person whose sales or receipts are exempt under Section 109(CC) ^[116] of this Code from the payment of value-added tax and who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) of his gross quarterly sales or receipts: Provided, That cooperatives, ^[117] shall be exempt from the three percent (3%) gross receipts tax herein imposed: Provided, further, That effective July 1, 2020 until June 30, 2023, the rate shall be one percent (1%). ^[118]

(NOTE: *The amendment introduced by the TRAIN Law was vetoed by the President. The veto message reads:*

C. Exemptions from percentage tax of gross sales/receipts not exceeding five hundred thousand pesos (P500,000)

I am constrained to veto the provision which provides for the above under line 12 of Sec. 38 in the enrolled bill, to wit:

"And Beginning January 1, 2019, Self-Employed and Professionals With Total Annual Gross Sales And/Or Gross Receipts Not exceeding Five Hundred Thousand Pesos (P500,000)

The Proposed exemption from percentage tax will result in unnecessary erosion of revenues and would lead to abuse and leakages. The subject taxpayers under this provision are already exempted from the VAT, thus, the lower three percent percentage tax on gross sales or gross receipts is considered as their fair share in contributing to the revenue base of the country.)

SEC. 117. Percentage Tax on Domestic Carriers and Keepers of Garages. - Cars for rent or hire driven by the lessee, transportation contractors, including persons who transport passengers for hire, and other domestic carriers by land, ^[119] for the transport of passengers [except owners of *bancas*] and owners of animal-drawn two wheeled vehicle), and keepers of garages shall pay a tax equivalent to three percent (3%) of their quarterly gross receipts.

The gross receipts of common carriers derived from their incoming and outgoing freight shall not be subjected to the local taxes imposed under Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

In computing the percentage tax provided in this Section, the following shall be considered the minimum quarterly gross receipts in each particular case:

Jeepney for hire –

1. Manila and other cities P 2,400
2. Provincial 1,200

Public utility bus –

- Not exceeding 30 passengers P 3,600
- Exceeding 30 but not exceeding 50 passengers 6,000
- Exceeding 50 passengers 7,200

Taxis -

1. Manila and other cities P 3,600
2. Provincial 2,400

Car for hire (with chauffer) P 3,000

Car for hire (without chauffer) 1,800

SEC. 118 Percentage Tax on International Carriers. – ^[120]

(A) International air carriers doing business in the Philippines on their gross receipts derived from transport of cargo from the Philippines to another country shall pay a tax of three percent (3%) of their quarterly gross receipts.

(B) International shipping carriers doing business in the Philippines on their gross receipts derived from transport of cargo from the Philippines to another country shall pay a tax equivalent to three percent (3%) of their quarterly gross receipts.

SEC. 119. Tax on Franchises. - Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises on radio and/or television broadcasting companies whose annual gross receipts of the preceding year do not exceed Ten million pesos (P10,000.00), subject to Section 236 of this Code, a tax of three percent (3%) and on gas and water utilities, a tax of two percent (2%) on the gross receipts derived from the business covered by the law granting the franchise: Provided, however, That radio and television broadcasting companies referred to in this Section shall have an option to be registered as a value-added taxpayer and pay the tax due thereon: Provided, further, That once the option is exercised, said option shall not be irrevocable. ^[119]

The grantee shall file the return with, and pay the tax due thereon to the Commissioner or his duly authorized representative, in accordance with the provisions of Section 128 of this Code, and the return shall be subject to audit by the Bureau of Internal Revenue, any provision of any existing law to the contrary notwithstanding.

SEC. 120. Tax on Overseas Dispatch, Message or Conversation Originating from the Philippines. -

(A) Persons Liable. - There shall be collected upon every overseas dispatch, message or conversation transmitted from the Philippines by telephone, telegraph, telewriter exchange, wireless and other communication equipment service, a tax of ten percent (10%) on the amount paid for such services. The tax imposed in this Section shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter.

(B) Exemptions. - The tax imposed by this Section shall not apply to:

(1) Government. - Amounts paid for messages transmitted by the Government of the Republic of the Philippines or any of its political subdivisions or instrumentalities;

(2) Diplomatic Services. - Amounts paid for messages transmitted by any embassy and consular offices of a foreign government;

(3) International Organizations. - Amounts paid for messages transmitted by a public international organization or any of its agencies based in the Philippines enjoying privileges, exemptions and immunities which the Government of the Philippines is committed to recognize pursuant to an international agreement; and

(4) News Services. - Amounts paid for messages from any newspaper, press association, radio or television newspaper, broadcasting agency, or newstickers services, to any other newspaper, press association, radio or television newspaper broadcasting agency, or newsticker service or to a bona fide correspondent, which messages deal exclusively with the collection of news items for, or the dissemination of news item through, public press, radio or television broadcasting or a newsticker service furnishing a general news service similar to that of the public press.

SEC. 121. Tax on Banks and Non-Bank Financial Intermediaries Performing Quasi- Banking Functions. - There shall be collected a tax on a gross receipt derived from sources within the Philippines by all banks and non-bank financial intermediaries in accordance with the following schedule:

(a) On interest, commissions and discounts from lending activities as well as income from financial leasing, on the basis of remaining maturities of instruments from which such receipts are derived:

Maturity period is five years or less 5%

Maturity period is more than five years 1%

(b) On dividends and equity shares and net income of subsidiaries 0%

(c) On royalties, rentals of property, real or personal, profits, from exchange and all other items treated as gross income under Section 32 of this Code 7%

(d) On net trading gains within the taxable year on foreign currency, debt securities, derivatives, and other similar financial instruments. 7%

Provided, however, That in case the maturity period referred to in paragraph (a) is shortened thru pre-termination, then the maturity period shall be reckoned to end as of the date of pre-termination for purposes of classifying the transaction and the correct rate of tax shall be applied accordingly.

Provided, finally, That the generally accepted accounting principles as may be prescribed by the Bangko Sentral ng Pilipinas for the bank or nonbank financial intermediary performing quasi-banking functions shall likewise be the basis for the calculation of gross receipts. ^[121]

Nothing in this Code shall preclude the Commissioner from imposing the same tax herein provided on persons performing similar banking activities.

SEC. 122. Tax on Other Non-Bank Financial Intermediaries. ^[122] There shall be collected a tax of five percent (5%) on the gross receipts derived by other non-bank financial intermediaries doing business in the Philippines, from interests, commissions, discounts and all other items treated as gross income under this code.: *Provided,* That interests, commissions and discounts from lending activities, as well as income from financial leasing, shall be taxed on the basis of the remaining maturities of the instruments from which such receipts are derived, in accordance with the following schedule:

Maturity period is five years or less 5%

Maturity period is more than five years 1%

Provided, however, That in case the maturity period is shortened thru pre-termination, then the maturity period shall be reckoned to end as of the date of pre-termination for purposes of classifying the transaction and the correct rate of tax shall be applied accordingly.

Provided, finally, That the generally accepted accounting principles as may be prescribed by the Securities and Exchange Commission for other non-bank financial intermediaries shall likewise be the basis for the calculation of gross receipts. ^[123]

Nothing in this Code shall preclude the Commissioner from imposing the same tax herein provided on persons performing similar financing activities.

SEC. 123. Tax on Life Insurance Premiums. - There shall be collected from every person, company or corporation (except purely cooperative companies or associations) doing life insurance business of any sort in the Philippines a tax of two percent (2%) ^[124] of the total premium collected, whether such premiums are paid in money, notes, credits or any substitute for money; but premiums refunded within six (6) months after payment on account of rejection of risk or returned for other reason to a person insured shall not be included in the taxable receipts; nor shall any tax be paid upon reinsurance by a company that has already paid the tax; nor upon doing business outside the Philippines on account of any life insurance of the insured who is a nonresident, if any tax on such premium is imposed by the foreign country where the branch is established nor upon premiums collected or received on account of any reinsurance, if the insured, in case of personal insurance, resides outside the Philippines, if any tax on such premiums is imposed by the foreign country where the original insurance has been issued or perfected; nor upon that portion of the premiums collected or received by the insurance companies on variable contracts (as defined in Section 232(2) of Presidential Decree No. 612), in excess of the amounts necessary to insure the lives of the variable contract workers.

'**Cooperative companies or associations**' are such as are conducted by the members thereof with the money collected from among themselves and solely for their own protection and not for profit.

SEC. 124. Tax on Agents of Foreign Insurance Companies. - Every fire, marine or miscellaneous insurance agent authorized under the Insurance Code to procure policies of insurance as he may have previously been legally authorized to transact on risks located in the Philippines for companies not authorized to transact business in the Philippines shall pay a tax equal to twice the tax imposed in Section 123: *Provided,* That the provision of this Section shall not apply to reinsurance: *Provided,*

however, That the provisions of this Section shall not affect the right of an owner of property to apply for and obtain for himself policies in foreign companies in cases where said owner does not make use of the services of any agent, company or corporation residing or doing business in the Philippines. In all cases where owners of property obtain insurance directly with foreign companies, it shall be the duty of said owners to report to the Insurance Commissioner and to the Commissioner each case where insurance has been so effected, and shall pay the tax of five percent (5%) on premiums paid, in the manner required by Section 123.

SEC. 125. Amusement Taxes. - There shall be collected from the proprietor, lessee or operator of cockpits, cabarets, night or day clubs, boxing exhibitions, professional basketball games, Jai-Alai and racetracks, a tax equivalent to:

(a) Eighteen percent (18%) in the case of cockpits;

(b) Eighteen percent (18%) in the case of cabarets, night or day clubs;

(c) Ten percent (10%) in the case of boxing exhibitions: Provided, however, That boxing exhibitions wherein World or Oriental Championships in any division is at stake shall be exempt from amusement tax: Provided, further, That at least one of the contenders for World or Oriental Championship is a citizen[s] of the Philippines and said exhibitions are promoted by a citizen/s of the Philippines or by a corporation or association at least sixty percent (60%) of the capital of which is owned by such citizens;

(d) Fifteen percent (15%) in the case of professional basketball games as envisioned in Presidential Decree No. 871: Provided, however, That the tax herein shall be in lieu of all other percentage taxes of whatever nature and description; and

(e) Thirty percent (30%) in the case of Jai-Alai and racetracks - of their gross receipts, irrespective, of whether or not any amount is charged for admission.

For the purpose of the amusement tax, the term 'gross receipts' embraces all the receipts of the proprietor, lessee or operator of the amusement place. Said gross receipts also include income from television, radio and motion picture rights, if any. A person or entity or association conducting any activity subject to the tax herein imposed shall be similarly liable for said tax with respect to such portion of the receipts derived by him or it.

The taxes imposed herein shall be payable at the end of each quarter and it shall be the duty of the proprietor, lessee or operator concerned, as well as any party liable, within twenty (20) days after the end of each quarter, to make a true and complete return of the amount of the gross receipts derived during the preceding quarter and pay the tax due thereon.

SECTION 125-A Gaming Tax on Services Rendered by Offshore Gaming Licensees. - Any provision of existing laws, rules or regulations to the contrary notwithstanding, the entire gross gaming revenue or receipts or the agreed predetermined minimum monthly revenue or receipts from gaming, whichever is higher, shall be levied, assessed, and collected a gaming tax equivalent to (5%), in lieu of all other direct and indirect internal revenue taxes and local taxes, with respect to gaming income: Provided, That the gaming tax shall be directly remitted to the Bureau of Internal Revenue not later than the 20th day following the end of each month: Provided, further, That the Philippine Amusement and Gaming Corporation or any special economic zone authority or tourism zone authority or freeport authority may impose regulatory fees on offshore gaming licensees which shall not cumulatively exceed two percent (2%) of the gross gaming revenue or receipts derived from gaming operations and similar related activities of all offshore gaming licensees or a predetermined minimum guaranteed fee, whichever is higher:

Provided, furthermore, That for purposes of this Section, gross gaming revenue or receipts shall mean gross wages less payouts: Provided, finally, That the taking of wagers made in the Philippines and the grave failure to cooperate with the third-party auditor shall result in the revocation of the license of the offshore gaming licensee.

"The Philippine Amusement and Gaming Corporation or any special economic zone authority or tourism zone authority or freeport authority shall engage the services of a third-party audit platform that would determine the gross gaming revenues or receipts of offshore gaming licensees. To ensure that the proper taxes and regulatory fees are levied, periodic reports about the results of the operation showing, among others, the gross gaming revenue or receipts of each offshore gaming licensee shall be submitted to the Bureau of Internal Revenue by the Philippine Amusement and Gaming Corporation or any special economic zone authority or tourism zone authority or freeport authority as certified by their third-party auditor: Provided: That the third-party auditor shall be independent, reputable, internationally-known, and duly accredited as such by an accreditor similar agency recognized by industry experts: Provided, finally, That nothing herein shall prevent the Bureau of Internal Revenue and the Commission on Audit from undertaking a post-audit or independent verification of the gross gaming revenues determined by the third-party auditor. ^[20]

SEC. 126. Tax on Winnings. - Every person who wins in horse races shall pay a tax equivalent to ten percent (10%) of his winnings or '*dividends*', the tax to be based on the actual amount paid to him for every winning ticket after deducting the cost of the ticket: *Provided*, That in the case of winnings from double, *forecast/quinella* and *trifecta bets*, the tax shall be four percent (4%). In the case of owners of winning race horses, the tax shall be ten percent (10%) of the prizes.

The tax herein prescribed shall be deducted from the '*dividends*' corresponding to each winning ticket or the '*prize*' of each winning race horse owner and withheld by the operator, manager or person in charge of the horse races before paying the dividends or prizes to the persons entitled thereto.

The operator, manager or person in charge of horse races shall, within twenty (20) days from the date the tax was deducted and withheld in accordance with the second paragraph hereof, file a true and correct return with the Commissioner in the manner or form to be prescribed by the Secretary of Finance, and pay within the same period the total amount of tax so deducted and withheld.

SEC. 127. Tax on Sale, Barter or Exchange of Shares of Stock Listed and Traded through the Local Stock Exchange or through Initial Public Offering. -

(A) Tax on Sale, Barter or Exchange of Shares of Stock Listed and Traded through the Local Stock Exchange. ^[4] - There shall be levied, assessed and collected on every sale, barter, exchange, or other disposition of shares of stock listed and traded through the local stock exchange other than the sale by a dealer in securities, a tax at the rate of six-tenths of one percent (6/10 of 1%) ^[125] of the gross selling price or gross value in money of the shares of stock sold, bartered, exchanged or otherwise disposed which shall be paid by the seller or transferor.

(B) Repealed under Section 6 of Republic Act No. 11494, otherwise known as the "Bayanihan to Recover As One Act."

(C) Return on Capital Gains Realized from Sale of Shares of Stocks. -

(1) Return on Capital Gains Realized from Sale of Shares of Stock Listed and Traded in the Local Stock Exchange. - It shall be the duty of every stock broker who effected the sale subject to the tax imposed herein to collect the tax and remit the same to the Bureau of Internal Revenue within five (5) banking days from the date of collection thereof and to submit on

Mondays of each week to the secretary of the stock exchange, of which he is a member, a true and complete return which shall contain a declaration of all the transactions effected through him during the preceding week and of taxes collected by him and turned over to the Bureau Of Internal Revenue.

(2) Return on Public Offerings of Shares of Stock.- In case of primary offering, the corporate issuer shall file the return and pay the corresponding tax within thirty (30) days from the date of listing of the shares of stock in the local stock exchange. In the case of secondary offering, the provision of Subsection (C) (1) of this Section shall apply as to the time and manner of the payment of the tax.

(D) Common Provisions. - any gain derived from the sale, barter, exchange or other disposition of shares of stock under this Section shall be exempt from the tax imposed in Sections 24(C), 27(D)(2), 28(A)(8)(c), and 28(B)(5)(c) of this Code and from the regular individual or corporate income tax. Tax paid under this Section shall not be deductible for income tax purposes.

SEC. 128. Returns and Payment of Percentage Taxes. ^[126] -

(A) Returns of Gross Sales, Receipts or Earnings and Payment of Tax. ^[4] -

(1) Persons Liable to Pay Percentage Taxes. - Every person subject to the percentage taxes imposed under this Title shall file a quarterly return of the amount of his gross sales, receipts or earnings and pay the tax due thereon within twenty-five (25) days after the end of each taxable quarter: Provided, That in the case of a person whose VAT registration is cancelled and who becomes liable to the tax imposed in Section 116 of this Code, the tax shall accrue from the date of cancellation and shall be paid in accordance with the provisions of this Section.

(2) Person Retiring from Business. - Any person retiring from a business subject to percentage tax shall notify the nearest internal revenue officer, file his return and pay the tax due thereon within twenty (20) days after closing his business.

(3) Determination of Correct Sales or Receipts. - When it is found that a person has failed to issue receipts or invoices, or when no return is filed, or when there is reason to believe that the books of accounts or other records do not correctly reflect the declarations made or to be made in a return required to be filed under the provisions of this Code, the Commissioner, after taking into account the sales, receipts or other taxable base of other persons engaged in similar businesses under similar situations or circumstances, or after considering other relevant information may prescribe a minimum amount of such gross receipts, sales and taxable base and such amount so prescribed shall be prima facie correct for purposes of determining the internal revenue tax liabilities of such person.

(B) Where to File. - Except as the Commissioner otherwise permits, every person liable to the percentage tax under this Title may, at his option, file a separate return for each branch or place of business, or a consolidated return for all branches or places of business with the authorized agent bank, Revenue District Officer, Collection Agent or duly authorized Treasurer of the city or municipality where said business or principal place of business is located, as the case may be.

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TITLE VI

EXCISE TAXES ON CERTAIN GOODS ^[4]

CHAPTER I**GENERAL PROVISIONS**

SEC.129. Goods and Services Subject to Excise Taxes. - Excise taxes apply to goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition and to things imported as well as services performed in the Philippines.^[127] The excise tax imposed herein shall be in addition to the value-added tax imposed under Title IV.

For purposes of this Title, excise taxes herein imposed and based on weight or volume capacity or any other physical unit of measurement shall be referred to as 'specific tax' and an excise tax herein imposed and based on selling price or other specified value of the good or service performed ^[127] shall be referred to as 'ad valorem tax.'

SEC. 130. Filing of Return and Payment of Excise Tax on Domestic Products. -

(A) Persons Liable to File a Return, Filing of Return on Removal and Payment of Tax. -

(1) Persons Liable to File a Return.- Every person liable to pay excise tax imposed under this Title shall file a separate return for each place of production setting forth, among others the description and quantity or volume of products to be removed, the applicable tax base and the amount of tax due thereon: Provided, however, That in the case of indigenous petroleum, natural gas or liquefied natural gas, the excise tax shall be paid by the first buyer, purchaser or transferee for local sale, barter or transfer, while the excise tax on exported products shall be paid by the owner, lessee, concessionaire or operator of the mining claim.

Should domestic products be removed from the place of production without the payment of the tax, the owner or person having possession thereof shall be liable for the tax due thereon.

(2) Time for Filing of Return and Payment of the Tax. - Unless otherwise specifically allowed, the return shall be filed and the excise tax paid by the manufacturer or producer before removal of domestic products from place of production: Provided, That the excise tax on locally manufactured petroleum products and indigenous petroleum levied under Sections 148 and 151(A)(4), respectively, of this Title shall be paid within ten (10) days from the date of removal of such products for the period from January 1, 1998 to June 30, 1998; within five (5) days from the date of removal of such products for the period from July 1, 1998 to December 31, 1998; and, before removal from the place of production of such products from January 1, 1999 and thereafter: Provided, further, That the excise tax on nonmetallic mineral or mineral products, or quarry resources shall be due and payable upon removal of such products from the locality where mined or extracted, but with respect to the excise tax on locally produced or extracted metallic mineral or mineral products, the person liable shall file a return and pay the tax within fifteen (15) days after the end of the calendar quarter when such products were removed subject to such conditions as may be prescribed by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner. For this purpose, the taxpayer shall file a bond in an amount which approximates the amount of excise tax due on the removals for the said quarter. The foregoing rules notwithstanding, for imported mineral or mineral products, whether metallic or nonmetallic, the excise tax due thereon shall be paid before their removal from customs custody.

(3) Place of Filing of Return and Payment of the Tax. - Except as the Commissioner otherwise permits, the return shall be filed with and the tax paid to any authorized agent bank or Revenue Collection Officer, or duly authorized City or Municipal Treasurer in the Philippines.

(4) Exceptions. - The Secretary of Finance, upon recommendation of the Commissioner may, by rules and regulations, prescribe:

(a) The time for filing the return at intervals other than the time prescribed in the preceding paragraphs for a particular class or classes of taxpayers after considering factors such as volume of removals, adequate measures of security and such other relevant information required to be submitted under the pertinent provisions of this Code; and

(b) The manner and time of payment of excise taxes other than as herein prescribed, under a tax prepayment, advance deposit or similar schemes. In the case of locally produced or extracted minerals and mineral products or quarry resources where the mine site or place of extraction is not the same as the place of processing or production, the return shall be filed with and the tax paid to the Revenue District Office having jurisdiction over the locality where the same are mined, extracted or quarried: Provided, however, That for metallic minerals processed abroad, the return shall be filed and the tax due thereon paid to the Revenue District Office having jurisdiction over the locality where the same are mined, extracted or quarried.

(B) Determination of Gross Selling Price of Goods Subject to Ad Valorem Tax. - Unless otherwise provided, the price, excluding the value-added tax, at which the goods are sold at wholesale in the place of production or through their sales agents to the public shall constitute the gross selling price. If the manufacturer also sells or allows such goods to be sold at wholesale in another establishment of which he is the owner or in the profits of which he has an interest, the wholesale price in such establishment shall constitute the gross selling price. Should such price be less than the cost of manufacture plus expenses incurred until the goods are finally sold, then a proportionate margin of profit, not less than ten percent (10%) of such manufacturing cost and expenses, shall be added to constitute the gross selling price.

(C) Manufacturer's or Producer's Sworn Statement. - Every manufacturer or producer of goods or products subject to excise taxes shall file with the Commissioner on the date or dates designated by the latter, and as often as may be required, a sworn statement showing, among other information, the different goods or products manufactured or produced and their corresponding gross selling price or market value, together with the cost of manufacture or production plus expenses incurred or to be incurred until the goods or products are finally sold.

(D) Credit for Excise tax on Goods Actually Exported. - When goods locally produced or manufactured are removed and actually exported without returning to the Philippines, whether so exported in their original state or as ingredients or parts of any manufactured goods or products, any excise tax paid thereon shall be credited or refunded upon submission of the proof of actual exportation and upon receipt of the corresponding foreign exchange payment: Provided, That the excise tax on mineral products, except coal and coke, imposed under Section 151 shall not be creditable or refundable even if the mineral products are actually exported.

SEC. 131. Payment of Excise Taxes on Imported Articles. –

(A) Persons Liable. - Excise taxes on imported articles shall be paid by the owner or importer to the Custom Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customs house, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.

In the case of tax-free articles brought or imported into the Philippines by persons, entities, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the duty and internal revenue tax due on such

importation.

The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, created under Republic Act No. 7227; the Cagayan Special Economic Zone and Freeport, created under Republic Act No. 7922; and the Zamboanga City Special Economic Zone, created under Republic Act No. 7903, and such other freeports as may hereafter be established or created by law: Provided, further, That notwithstanding the provisions of Republic Act Nos. 9400 and 9593, importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-owned and operated duty-free shop, like the Duty-Free Philippines (DFP), shall be exempted from all applicable duties only: Provided, still further, That such articles directly imported by a government-owned and operated duty-free shop like the Duty-Free Philippines, shall be labeled 'duty-free' and 'not for resale': Provided, finally, That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles other than cigars and cigarettes, distilled spirits, fermented liquors and wines, from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory. ^[89]

Cigars and cigarettes, distilled spirits and wines within the premises of all duty-free shops which are not labeled as herein above required, as well as tax and duty-free articles obtained from a duty free shop and subsequently found in a non duty-free shop to be offered for resale shall be confiscated, and the perpetrator of such non-labeling or re-selling shall be punishable under the applicable provisions of this Code.

Articles confiscated shall be destroyed using the most environmentally friendly method available in accordance with the rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioners of Customs and Internal Revenue.

The tax due on any such goods, products, machinery, equipment or other similar articles shall constitute a lien on the article itself, and such lien shall be superior to all other charges or liens, irrespective of the possessor thereof.

(B) Rate and Basis of the Excise Tax on Imported Articles. - Unless otherwise specified imported articles shall be subject to the same rates and basis of excise taxes applicable to locally manufactured articles.

SEC. 132. Mode of Computing Contents of Cask or Package. - Every fractional part of a proof liter equal to or greater than a half liter in a cask or package containing more than one liter shall be taxed as a liter, and any smaller fractional part shall be exempt; but any package of spirits, the total content of which are less than a proof liter, shall be taxed as one liter.

CHAPTER II

EXEMPTION OR CONDITIONAL TAX-FREE REMOVAL OF CERTAIN ARTICLES

SEC. 133. Removal of Wines and distilled Spirits for Treatment of Tobacco Leaf.- Upon issuance of a permit from the Commissioner and subject to the rules and regulations prescribed by the Secretary of Finance, manufacturers of cigars and cigarettes may withdraw from bond, free of excise local and imported wines and distilled spirits in specific quantities and grades for use in the treatment of tobacco leaf to be used in the manufacture of cigars and cigarettes; but such wines and distilled spirits must first be suitably denatured.

SEC. 134. Domestic Denatured Alcohol. - Domestic alcohol of not less than one hundred eighty degrees (1800) proof (ninety percent (90%) absolute alcohol) shall, when suitably denatured and rendered unfit for oral intake, be exempt from the excise tax prescribed in Section 141: Provided, however, That such denatured alcohol shall be subject to tax under Section 106(A) of this Code: Provided, further, That if such alcohol is to be used for motive power, it shall be taxed under Section 148(d) of this Code: Provided, finally, That any alcohol, previously rendered unfit for oral intake after denaturing but subsequently rendered fit for oral intake after undergoing fermentation, dilution, purification, mixture or any other similar process shall be taxed under Section 141 of this Code and such tax shall be paid by the person in possession of such reprocessed spirits.

SEC. 135. Petroleum Products Sold to International Carriers and Exempt Entities or Agencies. - Petroleum products sold to the following are exempt from excise tax:

(a) International carriers of Philippine or foreign registry on their use or consumption outside the Philippines: Provided, That the petroleum products sold to these international carriers shall be stored in a bonded storage tank and may be disposed of only in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner;

(b) Exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use of consumption: Provided, however, That the country of said foreign international carrier or exempt entities or agencies exempts from similar taxes petroleum products sold to Philippine carriers, entities or agencies; and

(c) Entities which are by law exempt from direct and indirect taxes.

SEC. 136. Denaturation, Withdrawal and Use of Denatured Alcohol. - Any person who produces, withdraws, sells, transports or knowingly uses, or is in possession of denatured alcohol, or articles containing denatured alcohol in violation of laws or regulations now or hereafter in force pertaining thereto shall be required to pay the corresponding tax, in addition to the penalties provided for under Title X of this Code.

SEC. 137. Removal of Spirits Under Bond for Rectification.- Spirits requiring rectification may be removed from the place of production to another establishment for the purpose of rectification without prepayment of the excise tax: Provided, That the distiller removing such spirits and the rectifier receiving them shall file with the Commissioner their joint bond conditioned upon the payment by the rectifier of the excise tax due on the rectified alcohol: Provided, further, That in cases where alcohol has already been rectified either by original and continuous distillation or by re-distillation, no loss for rectification and handling shall be allowed and the rectifier thereof shall pay the excise tax due on such losses: Provided, finally, That where a rectifier makes use of spirits upon which the excise tax has not been paid, he shall be liable for the payment of the tax otherwise due thereon.

SEC. 138. Removal of Fermented Liquors to Bonded Warehouse. - Any brewer may remove or transport from his brewery or other place of manufacture to a bonded warehouse used by him exclusively for the storage or sale in bulk of fermented liquors of his own manufacture, any quantity of such fermented liquors, not less than one thousand (1,000) liters at one removal, without prepayment of the tax thereon under a permit which shall be granted by the Commissioner. Such permit shall be affixed to every package so removed and shall be cancelled or destroyed in such manner as the Commissioner may prescribe. Thereafter, the manufacturer of such fermented liquors shall pay the tax in the same manner and under the same penalty and liability as when paid at the brewery.

SEC. 139. Removal of Damaged Liquors Free of Tax. - When any fermented liquor has become sour or otherwise damaged so as to be unfit for use as such, brewers may sell and after securing a special permit from the Commissioner, under such conditions as may be prescribed in the rules and regulations prescribed by the Secretary of Finance, remove the same without

the payment of tax thereon in cask or other packages, distinct from those ordinarily used for fermented liquors, each containing not less than one hundred seventy-five (175) liters with a note of their contents permanently affixed thereon.

SEC. 140. Removal of Tobacco Products without Prepayment of Tax. - Products of tobacco entirely unfit for chewing or smoking may be removed free of tax for agricultural or industrial use, under such conditions as may be prescribed in the rules and regulations prescribed by the Secretary of Finance. Stemmed leaf tobacco, fine-cut shorts, the refuse of fine-cut chewing tobacco, scraps, cuttings, clippings, stems, or midribs, and sweepings of tobacco may be sold in bulk as raw material by one manufacturer directly to another without payment of the tax, under such conditions as may be prescribed in the rules and regulations prescribed by the Secretary of Finance.

'Stemmed leaf tobacco,' as herein used, means leaf tobacco which has had the stem or midrib removed. The term does not include broken leaf tobacco.

CHAPTER III

EXCISE TAX ON ALCOHOL PRODUCTS

SEC. 141. Distilled Spirits. - ^[36] On distilled spirits, subject to the provisions of Section 133 of this Code, an excise tax shall be levied, assessed and collected based on the following schedules:

(A) Effective January 1, 2020

(1) An ad valorem tax equivalent to twenty-two percent (22%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

(2) In addition to the ad valorem tax herein imposed, a specific tax of Forty-two pesos (P42.00) per proof liter.

(B) Effective January 1, 2021

(1) An ad valorem equivalent to twenty-two percent (22%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

(2) In addition to the ad valorem tax herein imposed, the specific tax of Forty-seven pesos (P47.00) per proof liter.

(C) Effective January 1, 2022

(1) An ad valorem equivalent to twenty-two percent (22%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

(2) In addition to the ad valorem tax herein imposed, the specific tax of Fifty-two pesos (P52.00) per proof liter.

(D) Effective January 1, 2023

(1) An ad valorem equivalent to twenty-two percent (22%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

(2) In addition to the ad valorem tax herein imposed, the specific tax of Fifty-nine pesos (P59.00) per proof liter.

(E) Effective January 1, 2024

(1) An ad valorem equivalent to twenty-two percent (22%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and

(2) In addition to the ad valorem tax herein imposed, the specific tax of Sixty-six pesos (P66.00) per proof liter.

(F) In addition to the ad valorem tax herein imposed, the specific tax imposed under this Section shall be increased by six percent (6%) every year thereafter, effective January 1, 2025, through revenue regulations to be issued by the Secretary of Finance.

Medicinal preparations, flavoring extracts, and all other preparations, except toilet preparations, of which, excluding water, distilled spirits form the chief ingredient, shall be subject to the same tax as such chief ingredient.

This tax shall be proportionally increased for any strength of the spirits taxed over proof spirits, and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirits, or transformed into any other substance either in the process of original production or by any subsequent process.

'**Spirits or distilled spirits**' is the substance known as ethyl alcohol, ethanol or spirits of wine, including all dilutions, purifications and mixtures thereof, from whatever source, by whatever process produced, and shall include whisky, brandy, rum, gin and vodka, and other similar products or mixtures.

'**Proof spirits**' is liquor containing one-half (1/2) of its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine thousandths (0.7939) at fifteen degrees centigrade (15°C). A 'proof liter' means a liter of proof spirits.

'**Net retail price**' shall mean the price at which the distilled spirit is sold on retail in at least five (5) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax. For distilled spirits which are marketed outside Metro Manila, the '**net retail price**' shall mean the price at which the distilled spirits is sold in at least five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax. This shall initially be validated by the Bureau of Internal Revenue through a price survey.

Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the Bureau of Internal Revenue, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: Provided, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: Provided, finally, That in case a particular distilled spirit is not sold in major supermarkets, the price survey can be conducted in retail outlets where said distilled spirit is sold in Metro Manila or the region, as the case maybe, upon determination of the Commissioner of the Internal Revenue.

The net retail price shall be determined by the Bureau of Internal Revenue (BIR) through a biannual price survey under oath.

The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program (COCCTRP) created under Republic Act No. 8240.

Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer liable for additional excise tax equivalent to the tax due and difference between the understated suggested net retail price and the actual net retail price.

Distilled spirits introduced in the domestic market after the effectivity of this Act shall be initially taxed according to their suggested net retail prices.

'**Suggested net retail price**' shall mean the net retail price (excluding the excise tax and the value-added tax) at which locally manufactured or imported distilled spirits are intended by the manufacturer or importer to be sold on retail in major supermarkets or retail outlets in Metro Manila for those marketed nationwide, and in other regions, for those with regional markets. At the end of three (3) months from the product launch, the Bureau of Internal Revenue shall validate the suggested net retail price of the new brand against the net retail price as defined herein and initially determine the correct tax on a newly introduced distilled spirits. After the end of nine (9) months from such validation, the Bureau of Internal Revenue shall revalidate the initially validated net retail price against the net retail price as of the time of revalidation in order to finally determine the correct tax on a newly introduced distilled spirits.

All distilled spirits existing in the market at the time of the effectivity of this Act shall be taxed according to the tax rates provided above based on the latest price survey of the distilled spirits conducted by the Bureau

of Internal Revenue.

The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240.

Manufacturers and importers of distilled spirits shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every third month thereafter, submit to the Commissioner a sworn statement of the volume of sales and removals for each particular brand of distilled spirits sold at his establishment for the three-month period immediately preceding.

Any manufacturer or importer who, in violation of this Section, misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer or importer of distilled spirits.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation.

SEC. 142. Wines. - ^[36] On wines, there shall be levied, assessed and collected effective on January 1, 2020, an excise tax equivalent to Fifty pesos (P50.00) per liter. The rate of tax imposed under this Section shall be increased by six percent (6%) every year thereafter, effective January 1, 2021, through revenue regulations issued by the Secretary of Finance.

Manufacturers and importers of wines shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales and removals for each particular brand of wines sold at his establishment for the three-month period immediately preceding.

Any manufacturer or importer who, in violation of this Section, misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer or importer of wines.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation.

Sec. 143. Fermented Liquor. - ^[36] There shall be levied, assessed and collected an excise tax on beer, lager beer, ale, porter and other fermented liquors regardless if manufactured in factories or sold and brewed at micro-breweries or small establishments such as pubs and restaurants, except tuba, basi, tapuy and similar domestic fermented liquors in accordance with the following schedule:

Effective on January 1, 2020, the tax shall be Thirty-five pesos (P35.00) per liter;

Effective on January 1, 2021, the tax shall be Thirty-seven pesos (P37.00) per liter;

Effective on January 1, 2022, the tax shall be Thirty-nine pesos (P39.00) per liter;

Effective on January 1, 2023, the tax shall be Forty-one pesos (P41.00) per liter; and

Effective on January 1, 2024, the tax shall be Forty-three pesos (P43.00) per liter.

The rates of tax imposed under this Section shall be increased by six percent (6%) every year thereafter effective on January 1, 2025, through revenue regulations issued by the Secretary of Finance.

Every brewer, manufacturer or importer of fermented liquor shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales and removals for each particular brand of fermented liquor sold at his establishment for the three-month period immediately preceding.

Any brewer, manufacturer or importer who, in violation of this Section, misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as brewer, manufacturer or importer of fermented liquor.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation.

CHAPTER IV

EXCISE TAX ON TOBACCO PRODUCTS

SEC. 144. Tobacco Products, Heated Tobacco Products, and Vapor Products. ^[36] - There shall be collected an excise tax of One peso and seventy-five centavos (P1.75) effective on January 1, 2013 on each kilogram of the following products of tobacco:

(A) Tobacco Products. - There shall be collected an excise tax of One peso and seventy-five centavos (P1.75) effective on January 1, 2013 on each kilogram of the following products of tobacco:

- (a) Tobacco twisted by hand or reduced into a condition to be consumed in any manner other than the ordinary mode of drying and curing;
- (b) Tobacco prepared or partially prepared with or without the use of any machine or instruments or without being pressed or sweetened except as otherwise provided hereunder; and
- (c) Fine-cut shorts and refuse, scraps, clippings, cuttings, stems and sweepings of tobacco except as otherwise provided hereunder.

Stemmed leaf tobacco, tobacco prepared or partially prepared with or without the use of any machine or instrument or without being pressed or sweetened, fine-cut shorts and refuse, scraps, clippings, cuttings, stems, midribs, and sweepings of tobacco resulting from the handling or stripping of whole leaf tobacco shall be transferred, disposed of, or otherwise sold, without any prepayment of the excise tax herein provided for, if the same are to be exported or to be used in the manufacture of cigars, cigarettes, or other tobacco products on which the excise tax will eventually be paid on the finished product, under such conditions as may be prescribed in the rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

On tobacco specially prepared for chewing so as to be unsuitable for use in any other manner, on each kilogram, One peso and fifty centavos (P1.50) effective on January 1, 2013.

The rates of tax imposed under this Section shall be increased by four percent. (4%) every year thereafter effective on January 1, 2014, through revenue regulations issued by the Secretary of Finance.

No tobacco products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of the excise tax due thereon if sold domestically: *Provided, however,* That tobacco products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

Tobacco products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

Manufacturers and importers of tobacco products shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of tobacco products sold for the three-month period immediately preceding.

Any manufacturer or importer who, in violation of this Section, misdeclares or misrepresents hi his or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as manufacturer or importer of cigars or cigarettes.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation.

(B) Heated Tobacco Products. ^[36] - There shall be levied, assessed and collected on heated tobacco products an excise tax at the rate prescribed below:

Effective on January 1, 2020, Twenty-five pesos (P25.00) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units;

Effective on January 1, 2021, Twenty-seven pesos and fifty centavos (P27.50) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units;

Effective on January 1, 2022, Thirty pesos (P30.00) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units; and

Effective on January 1, 2023, Thirty-two pesos and fifty centavos (P32.50) per pack of twenty (20) units or packaging combinations of not more than twenty (20) units.

The rates of tax imposed under this Subsection, shall be increased by five percent (5%) every year effective on January 1, 2024 through revenue regulations issued by the Secretary of Finance.

Heated tobacco products shall only be packed in twenties and other packaging combinations of not more than twenty (20) units.

No heated tobacco products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of the excise tax due thereon if sold domestically: Provided, however, That heated tobacco products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

Heated tobacco products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

Manufacturers, distributors, and importers of heated tobacco products shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales and removals for each particular brand of heated tobacco products sold for the three-month period immediately preceding.

Any manufacturer, distributor, or importer who, in violation of this Section, misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his/her or its permit to engage in business as manufacturer, distributor, or importer of heated tobacco products.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he/she shall be deported immediately after serving the sentence, without further proceedings for deportation.

The Food and Drug Administration (FDA) shall periodically determine and regulate, consistent with evolving medical and scientific studies, the manufacture, importation, sale, packaging, advertising, and distribution of heated tobacco products, including banning the sale to nonsmokers or persons below twenty-one (21) years old.

Selling heated tobacco products to persons below twenty-one (21) years old shall be prohibited, and shall be punished with a fine of Ten thousand pesos (P10,000.00) and imprisonment of thirty (30) days.

Unit packets and any outside wrapping of heated tobacco products and other similar products shall carry a health warning compliant with Republic Act No. 10643, otherwise known as 'The Graphic Health Warnings Law'.

Manufacturers, distributors, importers, and sellers of heated tobacco products are given a period of eighteen (18) months from the effectivity of the implementing rules and regulations (IRR) of this Act to comply with the requirements under such IRR.

Eighteen (18) months after the effectivity of this Act, no person or legal entity shall sell or commercially distribute or display any heated tobacco product without ensuring that the labels and packages, as well as any other container used in displaying the said products meet the requirements under this Act.

Any violation of the foregoing provisions on health warnings shall be punishable with the same penalties provided for in Republic Act No. 10643, otherwise known as 'The Graphic Health Warnings Law'.

The Bureau of Internal Revenue is mandated to issue a revenue regulation prescribing the floor price or the minimum price of heated tobacco product taking into account the sum of the excise and value-added taxes as provided herein.

(C) Vapor Products. ^[36] - There shall be levied, assessed and collected on vapor products an excise tax at the rates prescribed below:

(1) Nicotine Salt or Salt Nicotine. - There shall be levied, assessed and collected on any liquid substance, regardless of nicotine content, including nicotine-free liquids or any similar product, further classified as nicotine salt or salt nicotine, an excise tax based on the following schedules:

Effective on January 1, 2020, Thirty-seven pesos (P37.00) per milliliter or a fraction thereof;

Effective on January 1, 2021, Forty-two pesos (P42.00) per milliliter or a fraction thereof;

Effective on January 1, 2022, Forty-seven pesos (P47.00) per milliliter or a fraction thereof; and

Effective on January 1, 2023, Fifty-two pesos (P52.00) per milliliter or a fraction thereof.

Provided, That the rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective on January 1, 2024, through revenue regulations issued by the Secretary of Finance.

(2) Conventional 'Freebase' or 'Classic' Nicotine. - There shall be levied, assessed and collected on any liquid substance, regardless of nicotine content, including nicotine-free liquid or any similar product, further classified as conventional 'freebase' or 'classic' nicotine an excise tax based on the following schedules:

Effective on January 1, 2020, Forty-five pesos (P45.00) per ten (10) milliliters or a fraction thereof;

Effective on January 1, 2021, Fifty pesos (P50.00) per ten (10) milliliters or a fraction thereof;

Effective on January 1, 2022, Fifty-five pesos (P55.00) per ten (10) milliliters or a fraction thereof; and

Effective on January 1, 2023, Sixty pesos (P60.00) per ten (10) milliliters or a fraction thereof.

Provided, That the rates of tax imposed under this Subsection shall be increased by five percent (5%) every year effective January 1, 2024, through revenue regulations to be issued by the Secretary of Finance.

Manufacturers, distributors, and importers of vapor products shall be required to indicate on the package the actual volume in milliliters of the liquid solutions and gels.

No vapor products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of the excise tax due thereon if sold domestically: Provided, however, That vapor products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

Vapor products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

Manufacturers, distributors, and importers of vapor products shall, within thirty (30) days from the effectivity of this Act, and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales for each particular brand of vapor products sold for the three-month period immediately preceding.

Any manufacturer, distributor, or importer who, in violation of this Section, misdeclares or misrepresents in his/her or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his/her or its permit to engage in business as manufacturer, distributor, or importer of vapor products.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he/she shall be deported immediately after serving the sentence, without further proceedings for deportation.

The FDA shall periodically determine and regulate, consistent with evolving medical and scientific studies, the manufacture, importation, sale, packaging, advertising, and distribution of vapor products, including banning the sale to nonsmokers or persons below twenty-one (21) years old, and banning of flavorings.

Provided, That vapor products which exceed sixty-five milligrams of nicotine per milliliter (65mg/ml) of liquid or gel, or which does not exceed this limit but seeks to make health claims, shall be subject to additional requirements as the DOH and the FDA may impose: Provided, however, That this shall not diminish the regulatory powers of the FDA over vapor products, regardless of nicotine content.

Selling vapor products to persons below twenty-one (21) years old shall be prohibited, and shall be punished with a fine of Ten thousand pesos (P10,000.00) and imprisonment of (30) days.

The manufacture, importation, sale and distribution of vapor products with flavoring other than plain tobacco or plain menthol, shall be prohibited.

Unit packets and any outside wrapping of vapor products and other similar products shall carry a health warning compliant with Republic Act No. 10643, otherwise known as 'The Graphic Health Warnings Law'.

Manufacturers, distributors, importers, and sellers of vapor products are given a period of eighteen (18) months from the effectivity of the IRR of this Act to comply with the requirements under such IRR.

Eighteen (18) months after the effectivity of this Act, no person or legal entity shall sell or commercially distribute or display any vapor product without ensuring that the labels and packages, as well as any other container used in displaying the said products meet the requirements under this Act.

Any violation of the foregoing provisions on health warning shall be punishable with the same penalties provided for in Republic Act No. 10643, otherwise known as 'The Graphic Health Warnings Law'.

Notwithstanding the provisions of this Act on heated tobacco products and vapor products, this Act acknowledges the need for further scientific evidence on the health impact of these products.

The Bureau of Internal Revenue is mandated to issue a revenue regulation prescribing the floor price or the minimum price of vapor products taking into account the sum of the excise tax and value-added tax as provided herein.

SEC. 145. Cigars and Cigarettes. -

(A) Cigars. - There shall be levied, assessed and collected on cigars an excise tax in accordance with the following schedule:

(1) Effective on January 1, 2013

(a) An ad valorem tax equivalent to twenty percent (20%) of the net retail price (excluding the excise tax and the value-added tax) per cigar; and

(b) In addition to the ad valorem tax herein imposed, a specific tax of Five pesos (P5.00) per cigar.

(2) In addition to the ad valorem tax herein imposed, the specific tax rate of Five pesos (₱5.00) imposed under this Subsection shall be increased by five percent (5%) effective on January 1, 2024 ^[129] through revenue regulations issued by the Secretary of Finance.

'Net-retail price' shall mean the price at which the cigar is sold on retail in at least five (5) major supermarkets in Metro Manila (for brands of cigar marketed nationally), excluding the amount intended to cover the applicable excise tax and the value-added tax. For cigars which are marketed only outside Metro Manila, the **'net retail price'** shall mean the price at which the cigar is sold in at least five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax. This shall be provided by the manufacturer or importer through a sworn statement and shall be validated by the Bureau of Internal Revenue (BIR) through a price survey.

Major supermarkets, as contemplated under this Act, shall be those with the highest annual gross sales in Metro Manila or the region, as the case may be, as determined by the BIR, and shall exclude retail outlets or kiosks, convenience or sari-sari stores, and others of a similar nature: Provided, That no two (2) supermarkets in the list to be surveyed are affiliated and/or branches of each other: Provided, finally, That in case a particular cigar is not sold in major supermarkets, the price survey can be conducted in retail outlets where said cigar is sold in Metro Manila or the region, as the case may be, upon determination of the Commissioner of Internal Revenue.

The net retail price shall be validated by the BIR through a biannual price survey under oath.

The methodology and all pertinent documents used in the conduct of the latest price survey shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program created under Republic Act No. 8240. ^[130]

(B) Cigarettes Packed by Hand. - There shall be levied, assessed and collected on cigarettes packed by hand an excise tax based on the following schedules:

Effective on January 1, 2020, Forty-five pesos (₱45.00) per pack;

Effective on January 1, 2021. Fifty pesos (₱50.00) per pack;

Effective on January 1, 2022, Fifty-five pesos (₱55.00) per pack;

Effective on January 1, 2023, Sixty pesos (₱60.00) per pack;^[131]

The rates of tax imposed under this Subsection shall be increased by five percent (5%) ^[132] every year effective on January 1, 2024,^[133] through revenue regulations issued by the Secretary of Finance.

Duly registered cigarettes packed by hand shall only be packed in twenties and other packaging combinations of not more than twenty (20).^[134]

'Cigarettes packed by hand' shall refer to the manner of packaging of cigarette sticks using an individual person's hands and not through any other means such as a mechanical device, machine or equipment.

(C) Cigarettes Packed by Machine. – There shall be levied, assessed and collected on cigarettes packed by machine a tax at the rates prescribed below:

Effective on January 1, 2020, Forty-five pesos (₱45.00) per pack;

Effective on January 1, 2021, Fifty pesos (₱50.00) per pack;

Effective on January 1, 2022, Fifty-five pesos (₱55.00) per pack;

Effective on January 1, 2023, Sixty pesos (₱60.00) per pack;^[135]

The rates of tax imposed under this Subsection shall be increased by five percent (5%) ^[132] every year effective on January 1, 2024,^[133] through revenue regulations issued by the Secretary of Finance.

Duly registered cigarettes packed by machine shall only be packed in twenties and other packaging combinations of not more than twenty (20).

Understatement of the suggested net retail price by as much as fifteen percent (15%) of the actual net retail price shall render the manufacturer or importer liable for additional excise tax equivalent to the tax due and difference between the understated suggested net retail price and the actual net retail price.

No tobacco products manufactured in the Philippines and produced for export shall be removed from their place of manufacture or exported without posting of an export bond equivalent to the amount of the excise tax due thereon if sold domestically: Provided, however, That tobacco products for export may be transferred from the place of manufacture to a bonded facility, upon posting of a transfer bond, prior to export.

Tobacco products imported into the Philippines and destined for foreign countries shall not be allowed entry without posting a bond equivalent to the amount of customs duty, excise and value-added taxes due thereon if sold domestically.

Manufacturers and importers of cigars and cigarettes shall, within thirty (30) days from the effectivity of this Act and within the first five (5) days of every month thereafter, submit to the Commissioner a sworn statement of the volume of sales and removals for cigars and/or cigarettes for the three-month period immediately preceding.

Any manufacturer or importer who, in violation of this Section, misdeclares or misrepresents in his/her or its sworn statement herein required any pertinent data or information shall, upon final findings by the Commissioner that the violation was committed, be penalized by a summary cancellation or withdrawal of his/her or its permit to engage in business as manufacturer or importer of cigars or cigarettes.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the aggregate amount of deficiency taxes, surcharges and interest which may be assessed pursuant to this Section.

Selling of tobacco products at a price lower than the combined excise and value-added taxes imposed under the law shall be prohibited. The seller of such products shall be punished with a fine of not less than ten (10) times the amount of excise plus value-added taxes due but not less than Two hundred thousand pesos (₱200,000.00) nor more than Five hundred thousand pesos (500,000.00), and imprisonment of not less than four (4) years but not more than six (6) years.

The BIR is mandated to issue a revenue regulation prescribing the cigarette floor price or the minimum cigarette price taking into account the sum of the excise and value-added taxes as provided herein.

Any person liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of this Code. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If the offender is not a citizen of the Philippines, he/she shall be deported immediately after serving the sentence, without further proceedings for deportation.^[136]

SEC. 146. Inspection Fee. - For inspection made in accordance with this Chapter, there shall be collected a fee of Fifty centavos (₱0.50) for each thousand cigars or fraction thereof; Ten centavos (₱0.10) for each thousand cigarettes or fraction thereof; Ten centavos (₱0.10) for each thousand unit of heated tobacco products; One centavo (₱0.01) for each milliliter of liquid used in vapor products;^[137] Two centavos (₱0.02) for each kilogram of leaf tobacco or fraction thereof; and Three centavos (₱0.03) for each kilogram or fraction thereof, of scrap and other manufactured tobacco.

The inspection fee on leaf tobacco, scrap, cigars, cigarettes and other tobacco products as defined in Section 147 of this Code shall be paid by the wholesaler, manufacturer, producer, owner or operator of redrying plant, as the case may be, immediately before removal thereof from the establishment of the wholesaler, manufacturer, owner or operator of the redrying plant. In case of imported leaf tobacco and products thereof, the inspection fee shall be paid by the importer before removal from customs' custody.

Fifty percent (50%) of the tobacco inspection fee shall accrue to the Tobacco Inspection Fund created by Section 12 of Act No. 2613, as amended by Act No. 3179, and fifty percent (50%) shall accrue to the Cultural Center of the Philippines.

SEC. 147. Definition of Terms. - When used herein and in statements or official forms prescribed hereunder, the following terms shall have the meaning indicated:

(a) '**Cigars**' mean all rolls of tobacco or any substitute thereof, wrapped in leaf tobacco that are consumed via combustion of the tobacco.^[138]

(b) '**Cigarettes**' mean all rolls of finely-cut leaf tobacco, or any substitute therefor, wrapped in paper or in any other material that are consumed via combustion of the tobacco.^[138]

(c) '**Wholesale price**' shall mean the amount of money or price paid for cigars or cigarettes purchased for the purpose of resale, regardless of quantity.

(d) '**Retail price**' shall mean the amount of money or price which an ultimate consumer or end-user pays for cigars or cigarettes purchased.

(e) '**Heated tobacco products**' refer to tobacco products that may be consumed through heating tobacco, either electrically or through other means sufficiently to release an aerosol that can be inhaled, without burning or any combustion of the tobacco. Heated tobacco products include liquid solutions and gels that are part of the product and are heated to generate an aerosol.^[138]

(f) '**Vapor products**' shall mean electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS), which are combinations of (i) a liquid solution or gel, that transforms into an aerosol without combustion through the employment of a mechanical or electronic heating element, battery or circuit that can be used to heat such solution or gel, and includes, but is not limited to (ii) a cartridge, (iii) a tank, and (iv) the device without a cartridge or tank. It is commonly known as nicotine salt/salt nicotine, and conventional "freebase" or "classic" nicotine, and other similar products: Provided, That all vapor products shall be covered by this Act regardless of its nicotine content.^[138]

CHAPTER V

EXCISE TAX ON PETROLEUM PRODUCTS

SEC. 148. Manufactured Oils and Other Fuels. - There shall be collected on refined and manufactured mineral oils and motor fuels, the following excise taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:

Effective January 1, 2018

(a) Lubricating oils and greases, including but not limited to, basestock for lube oils and greases, high vacuum distillates, aromatic extracts, and other similar preparations, and additives for lubricating oils and greases, whether such additives are petroleum based or not, per liter and kilogram respectively, of volume capacity or weight, Eight pesos (P8.00): Provided, That lubricating oils and greases produced from basestocks and additives on which the excise tax has already been paid shall no longer be subject to excise tax: Provided, further, That locally produced or imported oils previously taxed as such but are subsequently reprocessed, re-refined or recycled shall likewise be subject to the tax imposed under this Section.^[139]

(b) Processed gas, per liter of volume capacity, Eight pesos (P8.00);^[140]

(c) Waxes and petrolatum, per kilogram, Eight pesos (P8.00);^[141]

(d) On denatured alcohol to be used for motive power, per liter of volume capacity, Eight pesos (P8.00);^[140] Provided, That unless otherwise provided by special laws, if the denatured alcohol is mixed with gasoline, the excise tax on which has already been paid, only the alcohol content shall be subject to the tax herein prescribed. For purposes of this

Subsection, the removal of denatured alcohol of not less than one hundred eighty degrees (180o) proof (ninety percent (90%) absolute alcohol) shall be deemed to have been removed for motive power, unless shown otherwise;

(e) Naphtha, regular gasoline, pyrolysis gasoline ^[142] and other similar products of distillation, per liter of volume capacity, Seven pesos (P7.00): ^[143] Provided, however, That naphtha and pyrolysis gasoline, ^[142] when used as a raw material in the reproduction of petrochemical products or in refining of petroleum products, ^[142] or as replacement fuel for natural-gas-fired-combined cycle power plant in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Finance, ^[144] per liter of volume capacity, zero (P0.00): Provided, further, That the production of petroleum products, whether or not they are classified as products of distillation and for use solely for the production of gasoline shall be exempt from excise tax: ^[142] Provided, finally, That the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section;

(f) Unleaded premium gasoline, per liter of volume capacity, Seven pesos (P7.00); ^[145]

(g) Aviation turbo jet fuel, aviation gas, ^[142] per liter of volume capacity, Four pesos (P4.00); ^[146]

(h) Kerosene, per liter of volume capacity, Three pesos (P3.00): ^[147] Provided, That kerosene, when used as aviation fuel, shall be subject to the same tax on aviation turbo jet fuel under the preceding paragraph (g), such tax to be assessed on the user thereof;

(i) Diesel fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Two pesos and fifty centavos (P2.50); ^[147]

(j) Liquefied petroleum gas, per kilogram, One peso (P1.00): ^[147] Provided, That liquefied petroleum gas when used as raw material in the production of petrochemical products, subject to the rules and regulations to be promulgated by the Secretary of Finance, shall be taxed zero (P0.00) per kilogram: ^[142] Provided, finally, That liquefied petroleum gas used for motive power shall be taxed at the equivalent rate as the excise tax on diesel fuel oil;

(k) Asphalts, per kilogram, Eight pesos (P8.00); ^[148]

(l) Bunker fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Two pesos and fifty centavos (P2.50): ^[147] Provided, however, That the excise taxes paid on the purchased basestock (bunker) used in the manufacture of excisable articles and forming part thereof shall be credited against the excise tax due therefrom; ^[142] and

(m) Petroleum coke, per metric ton, Two pesos and fifty centavos (P2.50): Provided, however, That, petroleum coke, when used as feedstock to any power generating facility, per metric ton, zero (P0.00). ^[142]

Effective January 1, 2019 ^[142]

(a) Lubricating oils and greases, including but not limited to, basestock for lube oils and greases, high vacuum distillates, aromatic extracts, and other similar preparations, and additives for lubricating oils and greases, whether such additives are petroleum based or not, per liter and kilogram respectively, of volume capacity or weight, Nine pesos (P9.00): Provided, That lubricating oils and greases produced from basestocks and additives on which the excise tax has already been paid shall no longer be subject to excise tax: Provided, further, That locally produced or imported oils previously taxed as such but are subsequently reprocessed, re-refined or recycled shall likewise be subject to the tax imposed under this Section.

(b) Processed gas, per liter of volume capacity, Nine pesos (P9.00);

(c) Waxes and petrolatum, per kilogram, Nine pesos (P9.00);

(d) On denatured alcohol to be used for motive power, per liter of volume capacity, Nine pesos (P9.00): Provided, That unless otherwise provided by special laws, if the denatured alcohol is mixed with gasoline, the excise tax on which has already been paid, only the alcohol content shall be subject to the tax herein prescribed. For purposes of this Subsection, the removal of denatured alcohol of not less than one hundred eighty degrees (180o) proof (ninety percent (90%) absolute alcohol) shall be deemed to have been removed for motive power, unless shown otherwise;

(e) Naphtha, regular gasoline, pyrolysis gasoline and other similar products of distillation, per liter of volume capacity, Nine pesos (P9.00): Provided, however, That naphtha and pyrolysis gasoline, when used as a raw material in the reproduction of petrochemical products or in refining of petroleum products, or as replacement fuel for natural-gas-fired-combined cycle power plant in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Finance, per liter of volume capacity, zero (P0.00): Provided, further, That the production of petroleum products, whether or not they are classified as products of distillation and for use solely for the production of gasoline shall be exempt from excise tax: Provided, finally, That the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section;

(f) Unleaded premium gasoline, per liter of volume capacity, Nine pesos (P9.00);

(g) Aviation turbo jet fuel, aviation gas, per liter of volume capacity, Four pesos (P4.00);

(h) Kerosene, per liter of volume capacity, Four pesos (P4.00): Provided, That kerosene, when used as aviation fuel, shall be subject to the same tax on aviation turbo jet fuel under the preceding paragraph (g), such tax to be assessed on the user thereof;

(i) Diesel fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Four pesos and fifty centavos (P4.50);

(j) Liquefied petroleum gas, per kilogram, Two pesos (P2.00): Provided, That liquefied petroleum gas when used as raw material in the production of petrochemical products, subject to the rules and regulations to be promulgated by the Secretary of Finance, shall be taxed zero (P0.00) per kilogram: Provided, finally, That liquefied petroleum gas used for motive power shall be taxed at the equivalent rate as the excise tax on diesel fuel oil;

(k) Asphalts, per kilogram, Nine pesos (P9.00);

(l) Bunker fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Four pesos and fifty centavos (P4.50): Provided, however, That the excise taxes paid on the purchased basestock (bunker) used in the manufacture of excisable articles and forming part thereof shall be credited against the excise tax due therefrom; and

(m) Petroleum coke, per metric ton, Four pesos and fifty centavos (P4.50): Provided, however, That, petroleum coke, when used as feedstock to any power generating facility, per metric ton, zero (P0.00).

Effective January 1, 2020^[149]

(a) Lubricating oils and greases, including but not limited to, basestock for lube oils and greases, high vacuum distillates, aromatic extracts, and other similar preparations, and additives for lubricating oils and greases, whether such additives are petroleum based or not, per liter and kilogram respectively, of volume capacity or weight, Ten pesos (P10.00): Provided, That lubricating oils and greases produced from basestocks and additives on which the excise tax has already been paid shall no longer be subject to excise tax: Provided, further, That locally produced or imported oils previously taxed as such but are subsequently reprocessed, re-refined or recycled shall likewise be subject to the tax imposed under this Section.

(b) Processed gas, per liter of volume capacity, Ten pesos (P10.00);

(c) Waxes and petrolatum, per kilogram, Ten pesos (P10.00);

(d) On denatured alcohol to be used for motive power, per liter of volume capacity, Ten pesos (P10.00): Provided, That unless otherwise provided by special laws, if the denatured alcohol is mixed with gasoline, the excise tax on which has already been paid, only the alcohol content shall be subject to the tax herein prescribed. For purposes of this Subsection, the removal of denatured alcohol of not less than one hundred eighty degrees (180o) proof (ninety percent (90%) absolute alcohol) shall be deemed to have been removed for motive power, unless shown otherwise;

(e) Naphtha, regular gasoline, pyrolysis gasoline and other similar products of distillation, per liter of volume capacity, Ten pesos (P10.00): Provided, however, That naphtha and pyrolysis gasoline, when used as a raw material in the reproduction of petrochemical products or in refining of petroleum products, or as replacement fuel for natural-gas-fired-combined cycle power plant in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Finance, per liter of volume capacity, zero (P0.00): Provided, further, That the production of petroleum products, whether or not they are classified as products of distillation and for use solely for the production of gasoline shall be exempt from excise tax: Provided, finally, That the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section;

(f) Unleaded premium gasoline, per liter of volume capacity, Ten pesos (P10.00);

(g) Aviation turbo jet fuel, aviation gas, per liter of volume capacity, Four pesos (P4.00);

(h) Kerosene, per liter of volume capacity, Five pesos (P5.00): Provided, That kerosene, when used as aviation fuel, shall be subject to the same tax on aviation turbo jet fuel under the preceding paragraph (g), such tax to be assessed on the user thereof;

(i) Diesel fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Six pesos (P6.00);

(j) Liquefied petroleum gas, per kilogram, Three peso (P3.00): Provided, That liquefied petroleum gas when used as raw material in the production of petrochemical products, subject to the rules and regulations to be promulgated by the Secretary of Finance, shall be taxed zero (P0.00) per kilogram: Provided, finally, That liquefied petroleum gas used for motive power shall be taxed at the equivalent rate as the excise tax on diesel fuel oil;

(k) Asphalts, per kilogram, Ten pesos (P10.00);

(l) Bunker fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Six pesos (P6.00): Provided, however, That the excise taxes paid on the purchased basestock (bunker) used in the manufacture of excisable articles and forming part thereof shall be credited against the excise tax due therefrom; and

(m) Petroleum coke, per metric ton, Six pesos (P6.00): Provided, however, That, petroleum coke, when used as feedstock to any power generating facility, per metric ton, zero (P0.00).

^[150] VETOED BY THE PRESIDENT

For the period covering 2018 to 2020, the scheduled increase in the excise tax on fuel as imposed in this Section shall be suspended when the average Dubai crude oil price based on Mean of Platts Singapore (MOPS) for three (3) months prior to the scheduled increase of the month reaches or exceeds Eighty dollars (USD 80) per barrel.

Provided, That the Department of Finance shall perform an annual review of the implementation of the excise tax on fuel and shall, based on projections provided and recommendations of the Development budget coordination Committee, as reconciled from the conditions as provided above, recommend the implementation or suspension of the excise tax on fuel: Provided, further, That the recommendation shall be given on a yearly basis: Provided, finally, That any suspension of the increase in excise tax shall not result in any reduction of the excise tax being imposed at the time of the suspension.^[142]

SEC. 148-A. Mandatory Marking of ALL Petroleum Products. ^[4] – In accordance with rules and regulations to be issued by the Secretary of Finance, in consultation with the Commissioner of Internal Revenue and Commissioner of Customs and in coordination with the Secretary of Energy, the Secretary of Finance shall require the use of an official fuel marking or similar technology on petroleum products that are refined, manufactured, or imported into the Philippines, and that are subject to the payment of taxes and duties, such as but not limited to, unleaded premium gasoline, kerosene, and diesel fuel oil after the taxes and duties thereon have been paid. The mandatory marking of all petroleum products shall be in accordance with the following:

(a) Official Markers. – There shall be a list of chemical additives and corresponding quantitative ratio as identified by the Secretary of Finance as official fuel markers. The official fuel markers shall be distinct and, to the greatest degree possible, impossible to imitate or replicate: Provided, That the official fuel marker must be unique to the Philippines and that its chemical composition and quantitative ratio must persist for at least three (3) years from their application or administration to the unmarked fuel;

(b) The person, entity, or taxpayer who owns or enters the petroleum products into the country, or the person to whom the petroleum products are consigned shall cause and accommodate the marking of the petroleum products with the official marking agent;

(c) Internal revenue or customs officers shall be on site to administer the declaration of the tax and duties imposed on the petroleum products and commence to the application of the fuel marking.

(d) Absences of Official or Dilution of the Official Market; Presumptions. – In the event that the petroleum products which do not contain the official marker or which contain the official market but are diluted beyond acceptable percentage approved by the Secretary of Finance are found in the domestic market or in the possession of anyone, or under any situation where said petroleum products are subject to duties and taxes, it shall be presumed that the same were withdrawn with the intention to evade the payment of the taxes and duties due thereon;

(e) The use of fraudulent marker on the petroleum products shall be considered prima facie evidence that the same have been withdrawn or imported without payment of taxes and duties due thereon;

(f) Engagement of Fuel Marking Provider. – The government shall engage only one fuel marking provider who shall, under the supervision and direction of the Commissioner of Internal Revenue and Customs, be responsible for providing, monitoring, and administering the fuel markers, provide equipment and devices, conduct field and confirmatory tests, and perform such other acts incident or necessary to the proper implementation of the provisions of this Act: Provided, That the fuel marking provider shall provide an end-to-end solution to the Government, including establishment and operation of testing facilities that are certified to ISO 17025;

(g) All costs pertaining to the procurement of the official markers shall be borne by the refiner. Manufacturer or importer, of petroleum products, as the case may be: Provided, That the government may subsidize the cost of official fuel markers in the first year of implementation;

(h) Fuel Marking Program Funds. – In addition to any appropriation to implement this Section and the last paragraph of Section 171 of this Act, fees or charges collected in relation to the fuel marking program may be recorded as trust receipts of the implementing agencies, and shall exclusively disbursed to defray the cost of services or equipment required to fully implement the said program, subject to rules and regulations to be issued by the DOF-DBM-COA permanent committee;

(i) The marking of petroleum products shall be mandatory within five (5) years from the effectivity of this Act; and

(j) The term '**random field test**' shall refer to periodic random inspections and test performed to establish qualitative and quantitative positive result of fuel trafficking, which are conducted on fuels found in warehouses, storage tanks, gas stations and other retail outlets, and in such other properties or equipment, including mechanisms of transportation of persons engaged in the sale, delivery, trading, transportation, distribution, or importation of fuel intended for domestic market.

The term '**confirmatory tests**' shall refer to the accurate and precise analytical test of the tested unmarked, adulterated, or diluted fuel using a device, tool or equipment which will validate and confirm the result of the field test, that is immediately conducted in an accredited testing facility that is certified to ISO 17025. ^[151]

CHAPTER VI

EXCISE TAX ON MISCELLANEOUS ARTICLES

SEC. 149. Automobiles. - There shall be levied, assessed and collected an ad valorem tax on automobiles based on the manufacturer's or importer's selling price, net of excise and value-added tax, in accordance with the following schedule:

Effective January 1, 2018^[152]

Net manufacturer's price/importer's selling	Rate
Up to Six hundred thousand pesos (P600,000)	Four percent (4%)
Over Six hundred thousand pesos (P600,000) to One Million pesos (P1,000,000)	Ten percent (10%)
Over One million pesos (P1,000,000) to Four Million pesos	Twenty percent (20%)
Over Four Million pesos (P4,000,000)	Fifty percent (50%)

Provided, That hybrid vehicles shall be subject to fifty percent (50%) of the applicable excise tax rates on automobiles under this Section: Provided, further, That purely electric vehicles and pick-ups shall be exempt from excise tax on automobiles.^[153]

As used in this Section-

(a) Automobile shall mean any four (4) or more wheeled motor vehicle regardless of seating capacity, which is propelled by gasoline, diesel, electricity or any other motive power. Provided, That for purposes of this Act, buses, trucks, cargo vans, jeeps/jeepneys ^[152] substitutes, single cab chassis and special-purpose vehicles shall not be considered as automobiles.

(b) Trucks/cargo van shall mean a motor vehicle of any configuration that is exclusively designed for the carriage of goods and with any number of wheels and axles: Provided, that pick-ups shall not be considered as trucks.^[154]

(c) Jeepney/jeepney^[152] substitutes shall mean as "**Philippine jeep or jeepney**" which are of the jitney type locally designed and manufactured generally from surplus parts and components. It shall also include jeepney substitutes that are manufactured from brand-new single cab chassis or cowl chassis and locally customized rear body that has continuous sideway row seats with open rear door and without retractable glass windows.

(d) Bus shall mean a motor vehicle of any configuration with gross vehicle weight of 4.0 tons or more with any number of wheels and axles, which is generally accepted and specifically designed for mass or public transportation.

(e) Single cab chassis shall mean a motor vehicle with complete engine power train and chassis equipped with a cab that has a maximum of two (2) doors and only one (1) row of seats.

(f) Special purpose vehicle shall mean a motor vehicle designed for specific applications such as cement mixer, fine truck, boom truck, ambulance and/or medical unit, and off-road vehicles for heavy industries and not for recreational activities.

(g) Hybrid electric vehicle shall mean a motor vehicle powered by electric energy, with or without provision for off-vehicle charging, in combination with gasoline, diesel or any other motive power. Provided, That, for purposes of this Act, a hybrid electric vehicle must be able to propel itself from a stationary condition using solely electric motor.^[153]

Provided, That in the case of imported automobiles not for sale, the tax imposed herein shall be based on the total landed value, including transaction value, customs duty and all other charges.

Automobiles used exclusively within the Freeport zone shall be exempt from excise tax.

SEC. 150. Non-essential Goods. - There shall be levied, assessed and collected a tax equivalent to twenty-percent (20%) based on the wholesale price or the value of importation used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, of the following goods:

(a) All goods commonly or commercially known as jewelry, whether real or imitation, pearls, precious and semi-precious stones and imitations thereof; goods made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical and dental instruments, silver-plated wares, frames or mountings for spectacles or eyeglasses, and dental gold or gold alloys and other precious metals used in filling, mounting or fitting the teeth); opera glasses and lorgnettes. The term '**precious metals**' shall include platinum, gold, silver and other metals of similar or greater value. The term '**imitations thereof**' shall include platings and alloys of such metals;

(b) Perfumes and toilet waters;

(c) Yachts and other vessels intended for pleasure or sports.

SEC. 150-A. Non-essential Services. - There shall be levied, assessed, and collected a tax equivalent to five percent (5%) based on the gross receipts derived from the performance of services, net of excise tax and value-added tax, on invasive cosmetic procedures, surgeries, and body enhancements directed solely towards improving, altering, or enhancing the patient's appearance and do not meaningfully promote the proper function of the body or prevent or treat illness or disease. Provided, That this tax shall not apply to procedures necessary to ameliorate a deformity arising from, or directly related to, a congenital or developmental defect or abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease, tumor, virus or infection: Provided, further, That cases or treatments covered by the National Health Insurance Program shall not be subject to this tax.^[155]

SEC. 150-B. Sweetened Beverages. -

(A) Rate and Base of Tax. - Effective January 1, 2018:

(1) A tax of Six pesos (P6.00) per liter of volume capacity shall be levied, assessed and collected on sweetened beverages using purely caloric sweeteners, and purely non-caloric sweeteners, or a mix of caloric and non-caloric sweeteners: Provided, further, That this tax rate shall not apply to sweetened beverages using high fructose corn syrup: Provided, further, That sweetened beverages using purely coconut sap sugar and purely steviol glycosides shall be exempt from this tax; and

(2) A tax of Twelve pesos (P12.00) per liter of volume capacity shall be levied, assessed, and collected on sweetened beverages using purely high fructose corn syrup or in combination with any caloric or non-caloric sweetener.

(B) Definition of Terms. - As used in this Act:

(1) *Sweetened beverages* (SBs) refer to non-alcoholic beverages of any constitution (liquid, powder, or concentrates) that are pre-packaged and sealed in accordance with the Food and Drug Administration (FDA) standards, that contain caloric and/or non-caloric sweeteners added by the manufacturers, and shall include, but not limited to the following, as described in the Food Category System from Codex Alimentarius Food Category Descriptors (Codex Stan 192-1995, Rev. 2017 or the latest) as adopted by the FDA:

- (a) Sweetened juice drinks;
- (b) Sweetened tea;
- (c) All carbonated beverages;
- (d) Flavored water;
- (e) Energy and sports drinks;
- (f) Other powdered drinks not classified as milk, juice, tea, and coffee;
- (g) Cereal and grain beverages; and
- (h) Other non-alcoholic beverages that contain added sugar.

(2) *Caloric sweetener* refers to a substance that is sweet and includes sucrose, fructose, and glucose that produces a certain sweetness;

(3) *High fructose corn syrup* refers to a sweet saccharide mixture containing fructose and glucose which is derived from corn and added to provide sweetness to beverages, and which includes other similar fructose syrup preparations; and

(4) *Non-caloric sweetener* refers to a substance that are artificially or chemically processed that produces a certain sweetness. These are substances which can be directly added to beverages, such as aspartame, sucralose, saccharin, acesulfame potassium, neotame, cyclamates and other non-nutritive sweeteners approved by the Codex Alimentarius and adopted by the FDA.

(C) Exclusions. – The following products, as described in the food category system from Codex Alimentarius Food Category Descriptors (Codex Stan 192-1995, Rev. 2017 or the latest) as adopted by the FDA, as excluded from the scope of this Act:

(1) All milk products, including plain milk, infant formula milk, follow-on milk, growing up milk, powdered milk, ready-to-drink milk and flavored milk, fermented milk, soymilk, and flavored soymilk;

(2) One Hundred Percent (100%) Natural Fruit Juices – Original liquid resulting from the pressing of fruit, the liquid resulting from the reconstitution of natural fruit juice concentrate, or the liquid resulting from the restoration of water to dehydrated natural fruit juice that do not have added sugar or caloric sweetener;

(3) One Hundred Percent (100%) Natural vegetable Juices – Original liquid resulting from the pressing of vegetables, the liquid resulting from the reconstitution of natural vegetables juice concentrate, or the liquid resulting from the restoration of water to dehydrated natural vegetable juice that do not have added sugar or caloric sweetener;

(4) Meal Replacement and Medically Indicated Beverages – Any liquid or powder drink/product for oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or as source of necessary nutrition used due to a medical condition and an oral electrolyte solution for infants and children formulated to prevent dehydration due to illness; and

(5) Ground coffee, instant soluble coffee, and pre-packaged powdered coffee products.

(D) Filing of Return and Payment of Excise Tax and Penalty. –

(1) Filing of Return and Payment of Excise Tax on Domestic and Imported Sweetened Beverages. – The provision of Sections 130 and 131 of the NIRC, as appropriate, shall apply to sweetened beverages.

(2) Penalty. – Upon final findings by the Commissioner of Internal Revenue and/or Customs that any manufacturer or importer, in violation of this Section, misdeclares or misrepresents in the sworn statement provided in Section 130(c) of the NIRC, as amended, any pertinent data or information, the penalty of summary cancellation or withdrawal of the permit to engage in business as manufacturer or importer of sweetened beverages as provided under Section 268 of the NIRC, as amended, shall be imposed.

Any corporation, association or partnership liable for any of the acts or omissions in violation of this Section shall be fined treble the amount of deficiency taxes, surcharges, and interest which may be assessed pursuant to this Section.

Any persons liable for any of the acts or omissions prohibited under this Section shall be criminally liable and penalized under Section 254 of the NIRC, as amended. Any person who willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal.

If not a citizen of the Philippines, the offender shall be deported immediately after serving the sentence without further proceedings for deportation.

(E) Specific Responsibility of the Food and Drug Administration (FDA). – Starting June 1, 2018, the FDA shall require all manufacturers and importers of sweetened beverages covered by this Act to indicate on the label the type of sweetener used, and on sweetened beverages in powder form to indicate on the label the equivalent of each serving per liter of volume capacity.

The FDA shall also conduct post-marketing surveillance of the sweetened beverages on display in supermarkets, groceries or retail stores and/or inspection of manufacturing sites to determine compliance with the requirements of this Section. Violations of the provisions of this Act, including but not limited to, mislabeling or misbranding, shall, to the extent applicable, be punishable under existing laws.

(F) Duty of the Commissioner to Ensure Payment of Taxes. – It shall be the duty of the Commissioner, among other things, to prescribe a materially unique, secure and nonremovable identifications, such as codes, stamps or other markings, to be firmly and conspicuously affixed on and form part of the label of all excisable sweetened beverages.

For this purpose, the abovementioned control measure shall be caused by the Commissioner with adequate security features to ensure the payment of excise tax on sweetened beverages.



(G) Review of Implementation of the Sweetened Beverage Tax. – At the start of the implementation of the sugar sweetened beverage tax and every year thereafter, the Department of Health, Department of Science and Technology, and Department of Finance shall review the impact of these provisions on its health objectives and to making recommendations on the tax rate on these beverages.^[156]



CHAPTER VII

EXCISE TAX ON MINERAL PRODUCTS

SEC. 151. Mineral Products. –

(A) Rates of Tax. - There shall be levied, assessed and collected on minerals, mineral products and quarry resources, excise tax as follows:

(1) On domestic or imported^[157] coal and coke, notwithstanding any incentives granted in any law or special law:

Effective January 1, 2018, Fifty pesos (P50.00) per metric ton;^[158]

Effective January 1, 2019, One hundred pesos (P100.00) per metric ton;^[159] and

Effective January 1, 2020, One hundred fifty pesos (P150.00) per metric ton.^[160]

(2) On all nonmetallic minerals and quarry resources, a tax of four percent (4%)^[161] based on the actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, in the case of importation.

Notwithstanding the provision of paragraph (4) of Subsection (A) of this Section, locally extracted natural gas and liquefied natural gas shall not be subject to the excise tax imposed herein.

(3) On all metallic minerals, a tax based on the actual market value of the gross output thereof at the time of removal, in the case of those locally extracted or produced; or the value used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, in the case of importation, in accordance with the following schedule;

(a) Copper and other metallic minerals, four percent (4%);^[161]

(b) Gold and chromite, four percent (4%).^[161]

(4) On indigenous petroleum, a tax of six percent (6%)^[162] of the fair international market price thereof, on the first taxable sale, barter, exchange or such similar transaction, such tax to be paid by the buyer or purchaser before removal from the place of production. The phrase 'first taxable sale, barter, exchange or similar transaction' means the transfer of indigenous petroleum in its original state to a first taxable transferee. The fair international market price shall be determined in consultation with an appropriate government agency;

For the purpose of this Subsection, 'indigenous petroleum' shall include locally-extracted mineral oil, hydrocarbon gas, bitumen, crude asphalt, mineral gas and all other similar or naturally associated substances with the exception of coal, peat, bituminous shale and/or stratified mineral deposits.

(B) For purposes of this Section, the term –

(1) '**Gross output**' shall be interpreted as the actual market value of minerals or mineral products or of bullion from each mine or mineral land operated as a separate entity, without any deduction from mining, milling, refining (including all expenses incurred to prepare the said minerals or mineral products in a marketable state), as well as transporting, handling, marketing or any other expenses: Provided, That if the minerals or mineral products are sold or consigned abroad by the lessee or owner of the mine under C.I.F. terms, the actual cost of ocean freight and insurance shall be deducted: provided, however, That in the case of mineral concentrate, not traded in commodity exchanges in the Philippines or abroad, such as copper concentrate, the actual market value shall be the world price quotations of the refined mineral products content thereof prevailing in the said commodity exchanges, after deducting the smelting, refining and other charges incurred in the process of converting the mineral concentrates into refined metal traded in those commodity exchanges.

(2) '**Minerals**' shall mean all naturally occurring inorganic substances (found in nature) whether in solid, liquid, gaseous or any intermediate state.

(3) '**Mineral products**' shall mean things produced and prepared in a marketable state by simple treatment processes such as washing or drying, but without undergoing any chemical change or process or manufacturing by the lessee, concessionaire or owner of mineral lands.

(4) '**Quarry resources**' shall mean any common stone or other common mineral substances as the Director of the Bureau of Mines and Geo-Sciences may declare to be quarry resources such as, but not restricted to, marl, marble, granite, volcanic cinders, basalt, tuff and rock phosphate: Provided, That they contain no metal or other valuable minerals in economically workable quantities.

(C) Notwithstanding the foregoing, gold which is sold, or eventually sold, to the Bangko Sentral ng Pilipinas, in accordance with Section 32 (B)(7)(i), shall be exempt from the payment of excise tax: Provided, however, That if the excise tax due thereon had been paid prior to the sale of gold to the Bangko Sentral ng Pilipinas, the taxpayer may file a claim for refund or credit with the Commissioner for the excise tax paid.^[163]

CHAPTER VIII

ADMINISTRATIVE PROVISIONS REGULATING BUSINESS OF PERSONS DEALING IN ARTICLES SUBJECT TO EXCISE TAX

SEC. 152. Extent of Supervision Over Establishments Producing Taxable Output. - The BIR has authority to supervise establishments where articles subject to excise tax are made or kept. The Secretary of Finance shall prescribe rules and regulations in which the process of production shall be conducted insofar as may be necessary to secure a sanitary output and to safeguard revenue, such rules and regulations to safeguard revenue may allow the appointment of third parties to monitor production and removal processes and volumes, and the exclusion of excisable goods from duty-free barter transactions. ^[164]

SEC. 153. Records to be Kept by Manufacturers; Assessment Based Thereon. - Manufacturers of articles subject to excise tax shall keep such records as required by rules and regulations recommended by the Commissioner and approved by the Secretary of Finance, and such records, whether of raw materials received into the factory or of articles produced therein, shall be deemed public and official documents for all purposes.

The records of raw materials kept by such manufacturers may be used as evidence by which to determine the amount of excise taxes due from them, and whenever the amounts of raw material received into any factory exceeds the amount of manufactured or partially manufactured products on hand and lawfully removed from the factory, plus waste removed or destroyed, and a reasonable allowance for unavoidable loss in manufacture, the Commissioner may assess and collect the tax due on the products which should have been produced from the excess.

The excise tax due on the products as determined and assessed in accordance with this Section shall be payable upon demand or within the period specified therein.

SEC. 154. Premises Subject to Approval by Commissioner. - No person shall engage in business as a manufacturer of or dealer in articles subject to excise tax unless the premises upon which the business is to be conducted shall have been approved by the Commissioner.

SEC. 155. Manufacturers and/or Importers to Provide Themselves with Counting or Metering Devices to Determine Volume of Production and Importation. - Manufacturers of cigarettes, alcoholic products, oil products and other articles subject to excise tax that can be similarly measured shall provide themselves with such necessary number of suitable counting or metering devices to determine as accurately as possible the volume, quantity or number of the articles produced by them under rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner: Provided, That the Department of Finance shall maintain a registry of all petroleum manufacturers and/or importers and the articles being manufactured and/or imported by them: Provided, further, That the Department of Finance shall mandate the creation of a real-time inventory of petroleum articles being manufactured, imported or found in storage depots of such petroleum manufacturers and/or importers: Provided, finally, that importers of finished petroleum products shall also provide themselves with Bureau-accredited metering devices to determine as accurately as possible the volume of petroleum products imported by them.^[165]

This requirement shall be complied with before commencement of operations.

SEC. 156. Labels and Form of Packages. - All articles of domestic manufacture subject to excise tax and all leaf tobacco shall be put up and prepared by the manufacturer or producer, when removed for sale or consumption, in such packages only and bearing such marks or brand as shall be prescribed in the rules and regulations promulgated by the Secretary of Finance; and goods of similar character imported into the Philippines shall likewise be packed and marked in such a manner as may be required.

SEC. 157. Removal of Articles After the Payment of Tax. - When the tax has been paid on articles or products subject to excise tax, the same shall not thereafter be stored or permitted to remain in the distillery, distillery warehouse, bonded warehouse, or other factory or place where produced. However, upon prior permit from the Commissioner, oil refineries and/or companies may store or deposit tax-paid petroleum products and commingle the same with its own manufactured products not yet subjected to excise tax. Imported petroleum products may be allowed to be withdrawn from customs custody without the prepayment of excise tax, which products may be commingled with the tax-paid or bonded products of the importer himself after securing a prior permit from the Commissioner: Provided, That withdrawals shall be taxed and accounted for on a "first-in, first-out" basis.

SEC. 158. Storage of Goods in Internal-revenue Bonded Warehouses. - An internal-revenue bonded warehouse may be maintained in any port of entry for the storing of imported or manufactured goods which are subject to excise tax. The taxes on such goods shall be payable only upon removal from such warehouse and a reasonable charge shall be made for their storage therein. The Commissioner, may, in his discretion, exact a bond to secure the payment of the tax on any goods so stored.

SEC. 159. Proof of Exportation; Exporter's Bond. - Exporters of goods that would be subject to excise tax, if sold or removed for consumption in the Philippines, shall submit proof of exportation satisfactory to the Commissioner, and, when the same is deemed necessary, shall be required to give a bond prior to the removal of the goods for shipment, conditioned upon the exportation of the same in good faith.

SEC. 160. Manufacturers' and Importers' Bond. - Manufacturers and importers of articles subject to excise tax shall post a bond subject to the following conditions:

(A) Initial Bond.- In case of initial bond, the amount shall be equal to One Hundred thousand pesos (P100,000): Provided, That if after six (6) months of operation, the amount of initial bond is less than the amount of the total excise tax paid during the period, the amount of the bond shall be adjusted to twice the tax actually paid for the period.

(B) Bond for the Succeeding Years of Operation. - The bonds for the succeeding years of operation shall be based on the actual total excise tax paid during the period the year immediately preceding the year of operation.

Such bond shall be conditioned upon faithful compliance, during the time such business is followed, with laws and rules and regulations relating to such business and for the satisfaction of all fines and penalties imposed by this Code.

SEC. 161. Records to be Kept by Wholesale Dealers. - Wholesale dealers shall keep records of their purchases and sales or deliveries of articles subject to excise tax, in such form as shall be prescribed in the rules and regulations by the Secretary of Finance. These records and the entire stock of goods subject to tax shall be subject at all times to inspection of internal revenue officers.

SEC. 162. Records to be Kept by Dealers in Leaf Tobacco. - Dealers in leaf tobacco shall keep records of the products sold or delivered by them to other persons in such manner as may be prescribed in the rules and regulations by the Secretary of Finance, such records to be at all times subject to inspection of internal revenue officers.

SEC. 163. Preservation of Invoices and Stamps. - All dealers whosoever shall preserve, for the period prescribed in Section 235, all official invoices received by them from other dealers or from manufacturers, together with the fractional parts of stamps affixed thereto, if any, and upon demand, shall deliver or transmit the same to any interval revenue officer.

SEC. 164. Information to be Given by Manufacturers, Importers, Indentors and Wholesalers of any Apparatus or Mechanical Contrivance Specially for the Manufacture of Articles Subject to Excise Tax and Importers, Indentors, Manufacturers or Sellers of Cigarette Paper in Bobbins, Cigarette Tipping Paper or Cigarette Filter Tips. - Manufacturers, indentors, wholesalers and importers of any apparatus or mechanical contrivance specially for the manufacture of articles subject to tax shall, before any such apparatus or mechanical contrivance is removed from the place of manufacture or from the customs house, give written information to the Commissioner as to the nature and capacity of the same, the time when it is to be removed, and the place for which it is destined, as well as the name of the person by whom it is to be used; and such apparatus or mechanical contrivance shall not be set up nor dismantled or transferred without a permit in writing from the Commissioner.

"A written permit from the Commissioner for importing, manufacturing or selling of apparatus or mechanical contrivance specially for the manufacture of articles subject to excise tax,^[166] cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips is required before any person shall engage in the importation, manufacture or sale of the said articles. No permit to sell said articles shall be granted unless the name and address of the prospective buyer is first submitted to the Commissioner and approved by him/her.^[167] Records, showing the stock of the said articles and the disposal thereof by sale of persons with their respective addresses as approved by the Commissioner, shall be kept by the seller, and records, showing stock of said articles and consumption thereof, shall be kept by the buyer, subject to inspection by internal revenue officers."

SEC. 165. Establishment of Distillery Warehouse. - Every distiller, when so required by the Commissioner, shall provide at his own expense a warehouse, and shall be situated in and constitute a part of his distillery premises and to be used only for the storage of distilled spirits of his own manufacture until the tax thereon shall have been paid; but no dwelling house shall be used for such purpose. Such warehouse, when approved by the Commissioner, is declared to be a bonded warehouse, and shall be known as a 'distillery warehouse'.

SEC. 166. Custody of Distillery or Distillery Warehouse. - Every distillery or distillery warehouse shall be in the joint custody of the revenue inspector, if one is assigned thereto, and of the proprietor thereof. It shall be kept securely locked, and shall at no time be unlocked or opened or remain unlocked or opened unless in the presence of such revenue inspector or other person who may be designated to act for him as provided by law.

SEC. 167. Limitation on Quantity of Spirits Removed from Warehouse. - No distilled spirits shall be removed from any distillery, distillery warehouse, or bonded warehouse in quantities of less than fifteen (15) gauge liters at any one time, except bottled goods, which may be removed by the case of not less than twelve (12) bottles.

SEC. 168. Denaturing Within Premises. - For purposes of this Title, the process of denaturing alcohol shall be effected only within the distillery premises where the alcohol to be denatured is produced in accordance with formulas duly approved by the Bureau of Internal Revenue and only in the presence of duly designated representatives of said Bureau.

SEC. 169. Recovery of Alcohol for Use in Arts and Industries. - Manufacturers employing processes in which denatured alcohol used in arts and industries is expressed or evaporated from the articles manufactured may, under rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be permitted to recover the alcohol so used and restore it again to a condition suitable solely for use in manufacturing processes.

SEC. 170. Requirements Governing Rectification and Compounding of Liquors. - Persons engaged in the rectification or compounding of liquors shall, as to the mode of conducting their business and supervision over the same, be subject to all the requirements of law applicable to distilleries: Provided, That where a rectifier makes use of spirits upon which the excise tax has been paid, no further tax shall be collected on any rectified spirits produced exclusively therefrom: Provided, further, That compounders in the manufacture of any intoxicating beverage whatever, shall not be allowed to make use of spirits upon which the excise tax has not been previously paid.

SEC. 171. Authority of Internal Revenue Officer in Searching for and Testing Taxable Articles. ^[4] - Any internal revenue officer may, in the discharge of his official duties, enter any house, building or place where articles subject to tax under this Title are produced or kept, or are believed by him upon reasonable grounds to be produced or kept, so far as may be necessary to examine, test, discover or seize the same.

He may also stop and search any vehicle or other means of transportation when upon reasonable grounds he believes that the same carries any article on which the excise tax has not been paid.

Subject to rules and regulations to be issued by the Secretary of Finance, the Commissioner of Internal Revenue or his authorized representatives may conduct periodic random field tests and confirmatory tests on fuel required to be marked under Section 148-A found in warehouses, storage tanks, gas stations and other retail outlets, and in such other properties of persons engaged in the sale, delivery, trading, transportation, distribution, or importation of fuel intended for the domestic market: Provided,

(a) Random field testing shall be conducted in the presence of revenue or customs officers, fuel marking provider, and the authorized representative of the owner of the fuel to be tested: Provided, that an employee assigned or working at the place where the random field test is conducted shall be deemed an authorized representative of the owner;

(b) All field tests shall be properly filmed or video-taped, and documented; and

(c) A sample of the randomly tested fuel shall be immediately obtained by the revenue or customs officer upon discovering that the same is unmarked, adulterated, or diluted:

Provided, further, That confirmatory fuel test certificates issued by fuel testing facilities shall be valid for any legal purpose from the date of issue, and shall constitute admissible and conclusive evidence before any court.^[168]

SEC. 172. Detention of Package Containing Taxable Articles. - Any revenue officer may detain any package containing or supposed to contain articles subject to excise tax when he has good reason to believe that the lawful tax has not been paid or that the package has been or is being removed in violation of law, and every such package shall be held by such officer in a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than seven (7) days without due process of law or intervention of the officer to whom such detention is to be reported.

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TITLE VII

DOCUMENTARY STAMP TAX ^[169]

SEC. 173. Stamp Taxes Upon Documents, Loan Agreements, Instruments and Papers. - Upon documents, instruments, loan agreements and papers, and upon acceptances, assignments, sales and transfers of the obligation, right or property incident thereto, there shall be levied, collected and paid for, and in respect of the transaction so had or accomplished, the corresponding documentary stamp taxes prescribed in the following Sections of this Title, by the person making, signing, issuing, accepting, or transferring the same wherever the document is made, signed, issued, accepted or transferred when the obligation or right arises from Philippine sources or the property is situated in the Philippines, and the same time such act is done or transaction had: Provided, That whenever one party to the taxable document enjoys exemption from the tax herein imposed, the other party who is not exempt shall be the one directly liable for the tax.

SEC. 174. Stamp Tax on Original Issue of Shares of Stock. - On every original issue, whether on organization, reorganization or for any lawful purpose, of shares of stock by any association, company or corporation, there shall be collected a documentary stamp tax of Two peso (P2.00)^[170] on each Two hundred pesos (P200), or fractional part thereof, of the par value, of such

shares of stock: Provided, That in the case of the original issue of shares of stock without par value, the amount of the documentary stamp tax herein prescribed shall be based upon the actual consideration for the issuance of such shares of stock: Provided, further, That in the case of stock dividends, on the actual value represented by each share.

SEC. 175. Stamp Tax on Sales, Agreements to Sell, Memoranda of Sales, Deliveries or Transfer of Shares or Certificates of Stock.- On all sales, or agreements to sell, or memoranda of sale, or deliveries, or transfer of shares or certificates of stock in any association, company, or corporation, or transfer of such securities by assignment in blank, or by delivery, or by any paper or agreement, or memorandum or other evidences of transfer or sale whether entitling the holder in any manner to the benefit of such stock, or to secure the future payment of money, or for the future transfer of any stock, there shall be collected a documentary stamp tax of One peso and fifty centavos (P1.50)^[171] on each Two hundred pesos (P200) or fractional part thereof, of the par value of such due-bill, certificate of obligation or stock; Provided, That only one tax shall be collected on each sale or transfer of stock from one person to another, regardless of whether or not a certificate of stock is issued, indorsed, or delivered in pursuance of such sale or transfer: and Provided, further, That in the case of stock without par value the amount of documentary stamp tax herein prescribed shall be equivalent to fifty percent (50%)^[172] of the documentary stamp tax paid upon the original issue of said stock.

SEC. 176. Stamp Tax on Bonds, Debentures, Certificate of Stock or Indebtedness Issued in Foreign Countries. - On all bonds, debentures, certificates of stock, or certificates of indebtedness issued in any foreign country, there shall be collected from the person selling or transferring the same in the Philippines, such as tax as is required by law on similar instruments when issued, sold or transferred in the Philippines.

SEC. 177. Stamp Tax on Certificates of Profits or Interest in Property or Accumulations. ^[4] - On all certificates of profits, or any certificate or memorandum showing interest in the property or accumulations of any association, company or corporation, and on all transfers of such certificates or memoranda, there shall be collected a documentary stamp tax of One peso (P1.00) ^[173] on each Two hundred pesos (P200), or fractional part thereof, of the face value of such certificate or memorandum.

SEC. 178. Stamp Tax on Bank Checks, Drafts, Certificates of Deposit not Bearing Interest, and Other Instruments. - On each bank check, draft, or certificate of deposit not drawing interest, or order for the payment of any sum of money drawn upon or issued by any bank, trust company, or any person or persons, companies or corporations, at sight or on demand, there shall be collected a documentary stamp tax of Three pesos (P3.00).^[174]

SEC. 179. Stamp Tax on All Debt Instruments.- On every original issue of debt instruments, there shall be collected documentary stamp tax of One peso and fifty centavos (P1.50)^[175] on each Two hundred pesos (P200), or fractional part thereof, of the issue price of any such debt instrument: Provided, That for such debt instruments with terms of less than one (1) year, the documentary stamp tax to be collected shall be of proportional amount in accordance with the ratio of its terms in number of days to three hundred sixty days (365): Provided, further, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan.

For purposes of this section, the term 'debt instrument' shall mean debt instrument representing borrowing and lending transactions including but not limited to debentures, certificates of indebtedness, due bills, bonds, loan agreements, including those signed abroad wherein the object of contract is located or used in the Philippines, instruments and securities issued by the government or any of its instrumentalities, deposit substitute debt instruments, certificates or other evidences of deposits that are either drawing interest significantly higher than the regular savings deposit taking into consideration the size of the deposit and the risks involved or drawing interest and having a specific maturity date, orders for payment of any sum of money otherwise than at sight or on demand, promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation.

SEC. 180. Stamp Tax on All Bills of Exchange or Drafts. ^[4] - On all bill of exchange (between points within the Philippines) or drafts, there shall be collected a documentary stamp tax of sixty centavo (P0.60)^[176] on each Two hundred peso (P200), or fractional part thereof, of the face value of any such bill of exchange or draft.

SEC. 181. Stamp Tax Upon Acceptance of Bills of Exchange and Others. - Upon any acceptance or payment of any bill of exchange or order for the payment of money purporting to be drawn in a foreign country but payable in the Philippines, there shall be collected a documentary stamp tax of Sixty centavos (P0.60)^[177] on each Two hundred pesos (P200), or fractional part thereof, of the face value of any such bill of exchange, or order, or the Philippine equivalent to such value, if expressed in foreign currency.

SEC. 182. Stamp Tax on Foreign Bills of Exchange and Letters of Credit. - On all foreign bills of exchange and letters of credit (including orders, by telegraph or otherwise, for the payment of money issued by express or steamship companies or by any person or persons) drawn in but payable out of the Philippines in a set of three (3) or more according to the custom of merchants and bankers, there shall be collected a documentary stamp tax of Sixty centavos (P0.60)^[178] on each Two hundred pesos (P200), or fractional part thereof, of the face value of any such bill of exchange or letter of credit, or the Philippine equivalent of such face value, if expressed in foreign currency.

SEC. 183. Stamp Tax on Life Insurance Policies. - On all policies of insurance or other instruments by whatever name the same may be called, whereby any insurance shall be made or renewed upon any life or lives, there shall be collected a one-time documentary stamp tax at the following rates:^[179]

If the amount of insurance does not exceed P100,000	Exempt
If the amount of insurance exceeds P100,000 but does not exceed P300,000	Php 20.00
If the amount of insurance exceeds P300,000 but does not exceed P500,000	Php 50.00
If the amount of insurance exceeds 500,000 but does not exceed 750,000	Php100.00
If the amount of insurance exceeds P750,000 but does not exceed P1,000,000	Php150.00
If the amount of insurance exceeds P1,000,000	Php200.00

SEC. 184. Stamp Tax on Policies of Insurance Upon Property. - On all policies of insurance or other instruments by whatever name the same may be called, by which insurance shall be made or renewed upon property of any description, including rents or profits, against peril by sea or on inland waters, or by fire or lightning, there shall be collected a documentary stamp tax of Fifty centavos (P0.50) on each Four pesos (P4.00), or fractional part thereof, of the amount of premium charged: Provided, however, That no documentary stamp tax shall be collected on reinsurance contracts or on any instrument by which cession or acceptance of insurance risks under any reinsurance agreement is effected or recorded.

SEC. 185. Stamp Tax on Fidelity Bonds and Other Insurance Policies. - On all policies of insurance or bonds or obligations of the nature of indemnity for loss, damage or liability made or renewed by any person, association, company or corporation transacting the business of accident, fidelity, employer's liability, plate, glass, steam, boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance), and all bonds, undertakings, or

recognizances, conditioned for the performance of the duties of any office or position, for the doing or not doing of anything therein specified, and on all obligations guaranteeing the validity or legality of any bond or other obligations issued by any province, city, municipality, or other public body or organization, and on all obligations guaranteeing the title to any real estate, or guaranteeing any mercantile credits, which may be made or renewed by any such person, company or corporation, there shall be collected a documentary stamp tax of Fifty centavos (P0.50) on each Four pesos (P4.00), or fractional part thereof, of the premium charged.

SEC. 186. Stamp Tax on Policies of Annuities and Pre-Need Plans. - On all policies of annuities, or other instruments by whatever name the same may be called, whereby an annuity may be made, transferred or redeemed, there shall be collected a documentary stamp tax of One peso (P1.00)^[180] on each Two hundred pesos (P200) or fractional part thereof, of the premium or installment payment or contract price collected. On pre-need plans, the documentary stamp tax shall be Forty centavos (P0.40)^[181] on each Two hundred pesos (P200), or fractional part thereof, of the premium or contribution collected.

SEC. 187. Stamp Tax on Indemnity Bonds. - On all bonds for indemnifying any person, firm or corporation who shall become bound or engaged as surety for the payment of any sum of money or for the due execution or performance of the duties of any office or position or to account for money received by virtue thereof, and on all other bonds of any description, except such as may be required in legal proceedings, or are otherwise provided for herein, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each Four pesos (P4.00), or fractional part thereof, of the premium charged.

SEC. 188. Stamp Tax on Certificates. - On each certificate of damages or otherwise, and on every other certificate or document issued by any customs officer, marine surveyor, or other person acting as such, and on each certificate issued by a notary public, and on each certificate of any description required by law or by rules or regulations of a public office, or which is issued for the purpose of giving information, or establishing proof of a fact, and not otherwise specified herein, there shall be collected a documentary stamp tax of Thirty pesos (P30.00).^[182]

SEC. 189. Stamp Tax on Warehouse Receipts. ^[4] - On each warehouse receipt for property held in storage in a public or private warehouse or yard for any person other than the proprietor of such warehouse or yard, there shall be collected a documentary stamp tax of Thirty pesos (P30.00).^[183] Provided, That no tax shall be collected on each warehouse receipt issued to any one person in any one calendar month covering property the value of which does not exceed Two hundred pesos (P200).

SEC. 190. Stamp Tax on Jai-Alai, Horse Racing Tickets, Lotto or Other Authorized Numbers Games. - On each jai-alai, horse race ticket, lotto, or other authorized number games, there shall be collected a documentary stamp tax of Twenty centavos (P0.20).^[184] Provided, That if the cost of the ticket exceeds One peso (P1.00), an additional tax of Twenty centavos (P0.20)^[184] on every One peso (P1.00), or fractional part thereof, shall be collected.

SEC. 191. Stamp Tax on Bills of Lading or Receipts. - On each set of bills of lading or receipts (except charter party) for any goods, merchandise or effects shipped from one port or place in the Philippines^[185] (except on ferries across rivers), or to any foreign port, there shall be collected documentary stamp tax of Two peso (P2.00),^[186] if the value of such goods exceeds One hundred pesos (P100) and does not exceed One Thousand pesos (P1,000); Twenty pesos (P20.00),^[187] if the value exceeds One thousand pesos (P1,000): Provided, however, That freight tickets covering goods, merchandise or effects carried as accompanied baggage of passengers on land and water carriers primarily engaged in the transportation of passengers are hereby exempt.

SEC. 192. Stamp Tax on Proxies. - On each proxy for voting at any election for officers of any company or association, or for any other purpose, except proxies issued affecting the affairs of associations or corporations organized for religious, charitable or literary purposes, there shall be collected a documentary stamp tax of Thirty pesos (P30.00).^[188]

SEC. 193. Stamp Tax on Powers of Attorney. - On each power of attorney to perform any act whatsoever, except acts connected with the collection of claims due from or accruing to the Government of the Republic of the Philippines, or the government of any province, city or municipality, there shall be collected a documentary stamp tax of Ten pesos (P10.00).^[189]

SEC. 194. Stamp Tax on Leases and Other Hiring Agreements. - On each lease, agreement, memorandum, or contract for hire, use or rent of any lands or tenements, or portions thereof, there shall be collected a documentary stamp tax of Six pesos (P6.00)^[190] for the first Two thousand pesos (P2,000), or fractional part thereof, and an additional Two peso (P2.00)^[191] for every One Thousand pesos (P1,000) or fractional part thereof, in excess of the first Two thousand pesos (P2,000) for each year of the term of said contract or agreement.

SEC. 195. Stamp Tax on Mortgages, Pledges and Deeds of Trust. - On every mortgage or pledge of lands, estate, or property, real or personal, heritable or movable, whatsoever, where the same shall be made as a security for the payment of any definite and certain sum of money lent at the time or previously due and owing of forborne to be paid, being payable and on any conveyance of land, estate, or property whatsoever, in trust or to be sold, or otherwise converted into money which shall be and intended only as security, either by express stipulation or otherwise, there shall be collected a documentary stamp tax at the following rates:

(a) When the amount secured does not exceed Five thousand pesos (P5,000), Forty pesos (P40.00).^[192]

(b) On each Five thousand pesos (P5,000), or fractional part thereof in excess of Five thousand pesos (P5,000), an additional tax of Twenty pesos (P20.00).^[193]

On any mortgage, pledge, or deed of trust, where the same shall be made as a security for the payment of a fluctuating account or future advances without fixed limit, the documentary stamp tax on such mortgage, pledge or deed of trust shall be computed on the amount actually loaned or given at the time of the execution of the mortgage, pledge or deed of trust, additional documentary stamp tax shall be paid which shall be computed on the basis of the amount advanced or loaned at the rates specified above: Provided, however, That if the full amount of the loan or credit, granted under the mortgage, pledge or deed of trust shall be computed on the amount actually loaned or given at the time of the execution of the mortgage, pledge or deed of trust. However, if subsequent advances are made on such mortgage, pledge or deed of trust, additional documentary stamp tax shall be paid which shall be computed on the basis of the amount advanced or loaned at the rates specified above: Provided, however, That if the full amount of the loan or credit, granted under the mortgage, pledge or deed of trust is specified in such mortgage, pledge or deed of trust, the documentary stamp tax prescribed in this Section shall be paid and computed on the full amount of the loan or credit granted.

SEC. 196. Stamp Tax on Deeds of Sale, Conveyances and Donation^[194] of Real Property. - On all conveyances, donations,^[194] deeds, instruments, or writings, other than grants, patents or original certificates of adjudication issued by the Government, whereby any land, tenement, or other realty sold shall be granted, assigned, transferred, donated^[194] or otherwise conveyed to the purchaser, or purchasers, or to any other person or persons designated by such purchaser or purchasers or donee,^[194] there shall be collected a documentary stamp tax, at the rates herein below prescribed, based on the consideration contracted to be paid for such realty or on its fair market value determined in accordance with Section 6(E) of this Code, whichever is higher: Provided, That when one of the contracting parties is the Government, the tax herein imposed shall be based on the actual consideration.

(a) When the consideration, or value received or contracted to be paid for such realty after making proper allowance of any encumbrance, does not exceed One thousand pesos (P1,000) fifteen pesos (P15.00).

(b) For each additional One thousand Pesos (P1,000), or fractional part thereof in excess of One thousand pesos (P1,000) of such consideration or value, Fifteen pesos (P15.00).

Transfers exempt from donor's tax under Section 101(a) and (b) of this Code shall be exempt from the tax imposed under this Section.^[194]

When it appears that the amount of the documentary stamp tax payable hereunder has been reduced by an incorrect statement of the consideration in any conveyance, deed, instrument or writing subject to such tax the Commissioner, provincial or city Treasurer, or other revenue officer shall, from the assessment rolls or other reliable source of information, assess the property of its true market value and collect the proper tax thereon.

SEC. 197. Stamp Tax on Charter Parties and Similar Instruments. – On every charter party, contract or agreement for the charter of any ship, vessel or steamer, or any letter or memorandum or other writing between the captain, master or owner, or other person acting as agent of any ship, vessel or steamer, and any other person or persons for or relating to the charter of any such ship, vessel or steamer, and on any renewal or transfer of such charter, contract, agreement, letter or memorandum, there shall be collected a documentary stamp tax at the following rates:

(a) If the registered gross tonnage of the ship, vessel or steamer does not exceed one thousand (1,000) tons, and the duration of the charter or contract does not exceed six (6) months, One thousand pesos (P1,000);^[195] and for each month or fraction of a month in excess of six (6) months, an additional tax of One hundred pesos (P100.00)^[196] shall be paid.

(b) If the registered gross tonnage exceeds one thousand (1,000) tons and does not exceed ten thousand (10,000) tons, and the duration of the charter or contract does not exceed six (6) months, Two thousand pesos (P2,000);^[197] and for each month or fraction of a month in excess of six (6) months, an additional tax of Two hundred pesos (P200)^[198] shall be paid.

(c) If the registered gross tonnage exceeds ten thousand (10,000) tons and the duration of the charter or contract does not exceed six (6) months, Three thousand pesos (P3,000);^[199] and for each month or fraction of a month in excess of six (6) months, an additional tax of Three hundred pesos (P300)^[200] shall be paid.

SEC. 198. Stamp Tax on Assignments and Renewals of Certain Instruments. - Upon each and every assignment or transfer of any mortgage, lease or policy of insurance, or the renewal or continuance of any agreement, contract, charter, or any evidence of obligation or indebtedness by altering or otherwise, there shall be levied, collected and paid a documentary stamp tax, at the same rate as that imposed on the original instrument.

SEC. 199. Documents and Papers Not Subject to Stamp Tax. - The provisions of Section 173 to the contrary notwithstanding, the following instruments, documents and papers shall be exempt from the documentary stamp tax:

(a) Policies of insurance or annuities made or granted by a fraternal or beneficiary society, order, association or cooperative company, operated on the lodge system or local cooperation plan and organized and conducted solely by the members thereof for the exclusive benefit of each member and not for profit.

(b) Certificates of oaths administered to any government official in his official capacity or of acknowledgment by any government official in the performance of his official duties, written appearance in any court by any government official, in his official capacity; certificates of the administration of oaths to any person as to the authenticity of any paper

required to be filed in court by any person or party thereto, whether the proceedings be civil or criminal; papers and documents filed in courts by or for the national, provincial, city or municipal governments; affidavits of poor persons for the purpose of proving poverty; statements and other compulsory information required of persons or corporations by the rules and regulations of the national, provincial, city or municipal governments exclusively for statistical purposes and which are wholly for the use of the bureau or office in which they are filed, and not at the instance or for the use or benefit of the person filing them; certified copies and other certificates placed upon documents, instruments and papers for the national, provincial, city, or municipal governments, made at the instance and for the sole use of some other branch of the national, provincial, city or municipal governments; and certificates of the assessed value of lands, not exceeding Two hundred pesos (P200) in value assessed, furnished by the provincial, city or municipal Treasurer to applicants for registration of title to land.

(c) Borrowing and lending of securities executed under the Securities Borrowing and Lending Program of a registered exchange, or in accordance with regulations prescribed by the appropriate regulatory authority: Provided, however, That any borrowing or lending of securities agreement as contemplated hereof shall be duly covered by a master securities borrowing and lending agreement acceptable to the appropriate regulatory authority and which agreement is duly registered and approved by the Bureau of Internal Revenue. (BIR).

(d) Loan agreements or promissory notes, the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) or any such amount as may be determined by the Secretary of Finance, executed by an individual for his purchase on installment for his personal use or that for his family and not for business or resale, barter or hire of a house, lot, motor vehicle, appliance or furniture: Provided, however, That the amount to be set by the Secretary of Finance shall be in accordance with a relevant price index but not to exceed ten percent (10%) of the current amount and shall remain in force at least for three (3) years.

(e) Sale, barter or exchange of shares of stock listed and traded through the local stock exchange.

(f) Assignment or transfer of any mortgage, lease or policy of insurance, or the renewal or continuance of any agreement, contract, charter, or any evidence of obligation or indebtedness, if there is no change in the maturity date or remaining period of coverage from that of the original instrument.

(g) Fixed income and other securities traded in the secondary market or through an exchange.

(h) Derivatives: Provided, That for purposes of this exemption, repurchase agreements and reverse repurchase agreements shall be treated similarly as derivatives.

(i) Interbank or interdepartmental advances within the same legal entity.

(j) All forbearances arising from sales or service contracts including credit card and trade receivables: Provided, That the exemption be limited to those executed by the seller or service provided.

(k) Bank deposit accounts without a fixed term or maturity.

(l) All contracts, deeds, documents, documents and transactions related to the conduct of business of the Bangko Sentral ng Pilipinas.

(m) Transfer of property pursuant to Section 40 (C) (2) of the National Internal Revenue Code of 1997, as amended.

(n) Interbank call loans with maturity of not more than seven (7) days to cover deficiency in reverses against deposit liabilities including those between or among banks and quasi-banks.

SEC. 200. Payment of Documentary Stamp Tax. -

(A) In General.- The provisions of Presidential Decree No. 1045 notwithstanding, any person liable to pay documentary stamp tax upon any document subject to tax under Title VII of this Code shall file a tax return and pay the tax in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

(B) Time for Filing and Payment of the Tax. - Except as provided by rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, the tax return prescribed in this Section shall be filed within ten (10) days after the close of the month when the taxable document was made, signed, issued, accepted, or transferred, and the tax thereon shall be paid at the same time the aforesaid return is filed.

(C) Where to File.- Except in cases where the Commissioner otherwise permits, the aforesaid tax return shall be filed with and the tax due shall be paid through the authorized agent bank within the territorial jurisdiction of the Revenue District Office which has jurisdiction over the residence or principal place of business of the taxpayer. In places where there is no authorized agent bank, the return shall be filed with the Revenue District Officer, collection agent, or duly authorized Treasurer of the city or municipality in which the taxpayer has his legal residence or principal place of business.

(D) Exception. - In lieu of the foregoing provisions of this Section, the tax may be paid either through purchase and actual affixture; or by imprinting the stamps through a documentary stamp metering machine, on the taxable document, in the manner as may be prescribed by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

SEC. 201. Effect of Failure to Stamp Taxable Document. - An instrument, document or paper which is required by law to be stamped and which has been signed, issued, accepted or transferred without being duly stamped, shall not be recorded, nor shall it or any copy thereof or any record of transfer of the same be admitted or used in evidence in any court until the requisite stamp or stamps are affixed thereto and cancelled.

No notary public or other office authorized to administer oaths shall add this jurat or acknowledgment to any document subject to documentary stamp tax unless the proper documentary stamps are affixed thereto and cancelled.

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TITLE VIII

REMEDIES

CHAPTER I

REMEDIES IN GENERAL

SEC. 202. Final Deed to Purchaser. - In case the taxpayer shall not redeem the property as herein provided, the Revenue District Officer shall, as grantor, execute a deed conveying to the purchaser so much of the property as has been sold, free from all liens of any kind whatsoever, and the deed shall succinctly recite all the proceedings upon which the validity of the sale depends.

SEC. 203. Period of Limitation Upon Assessment and Collection. - Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. -

The Commissioner may -

(A) *Compromise the payment of any internal revenue tax, when:*

- (1) A reasonable doubt as to the validity of the claim against the taxpayer exists; or
- (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.

The compromise settlement of any tax liability shall be subject to the following minimum amounts:

For cases of financial incapacity, a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax; and

For other cases, a minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.

Where the basic tax involved exceeds One million pesos (P1,000,000) or where the settlement offered is less than the prescribed minimum rates, the compromise shall be subject to the approval of the Evaluation Board which shall be composed of the Commissioner and the four (4) Deputy Commissioners.

(B) *Abate or cancel a tax liability, when:*

- (1) The tax or any portion thereof appears to be unjustly or excessively assessed; or
- (2) The administration and collection costs involved do not justify the collection of the amount due.

All criminal violations may be compromised except: (a) those already filed in court, or (b) those involving fraud.

(C) *Credit or refund taxes erroneously or illegally received or penalties imposed without authority*, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.^[201]

A Tax Credit Certificate validly issued under the provisions of this Code may be applied against any internal revenue tax, excluding withholding taxes, for which the taxpayer is directly liable. Any request for conversion into refund of unutilized tax credits may be allowed, subject to the provisions of Section 230 of this Code: Provided, That the original copy of the Tax Credit Certificate showing a creditable balance is surrendered to the appropriate revenue officer for verification and cancellation: Provided, further, That in no case shall a tax refund be given resulting from availment of incentives granted pursuant to special laws for which no actual payment was made.

The Commissioner shall submit to the Chairmen of the Committee on Ways and Means of both the Senate and House of Representatives, every six (6) months, a report on the exercise of his powers under this Section, stating therein the following facts and information, among others: names and addresses of taxpayers whose cases have been the subject of abatement or compromise; amount involved; amount compromised or abated; and reasons for the exercise of power: Provided, That the said report shall be presented to the Oversight Committee in Congress that shall be constituted to determine that said powers are reasonably exercised and that the Government is not unduly deprived of revenues.

CHAPTER II

CIVIL REMEDIES FOR COLLECTION OF TAXES

SEC. 205. Remedies for the Collection of Delinquent Taxes. - The civil remedies for the collection of internal revenue taxes, fees or charges, and any increment thereto resulting from delinquency shall be:

(a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts and interest in and rights to personal property, and by levy upon real property and interest in rights to real property; and

(b) By civil or criminal action.

Either of these remedies or both simultaneously may be pursued in the discretion of the authorities charged with the collection of such taxes: Provided, however, That the remedies of distraint and levy shall not be availed of where the amount of tax involve is not more than One hundred pesos (P100).

The judgment in the criminal case shall not only impose the penalty but shall also order payment of the taxes subject of the criminal case as finally decided by the Commissioner.

The Bureau of Internal Revenue shall advance the amounts needed to defray costs of collection by means of civil or criminal action, including the preservation or transportation of personal property distrained and the advertisement and sale thereof, as well as of real property and improvements thereon.

SEC. 206. Constructive Distraint of the Property of A Taxpayer. - To safeguard the interest of the Government, the Commissioner may place under constructive distraint the property of a delinquent taxpayer or any taxpayer who, in his opinion, is retiring from any business subject to tax, or is intending to leave the Philippines or to remove his property therefrom or to hide or conceal his property or to perform any act tending to obstruct the proceedings for collecting the tax due or which may be due from him.

The constructive distraint of personal property shall be affected by requiring the taxpayer or any person having possession or control of such property to sign a receipt covering the property distrained and obligate himself to preserve the same intact and unaltered and not to dispose of the same ;in any manner whatever, without the express authority of the Commissioner.

In case the taxpayer or the person having the possession and control of the property sought to be placed under constructive distraint refuses or fails to sign the receipt herein referred to, the revenue officer effecting the constructive distraint shall proceed to prepare a list of such property and, in the presence of two (2) witnesses, leave a copy thereof in the premises where the property distrained is located, after which the said property shall be deemed to have been placed under constructive distraint.

SEC. 207. Summary Remedies. –

(A) Distraint of Personal Property. - Upon the failure of the person owing any delinquent tax or delinquent revenue to pay the same at the time required, the Commissioner or his duly authorized representative, if the amount involved is in excess of One million pesos (P1,000,000), or the Revenue District Officer, if the amount involved is One million pesos (P1,000,000) or less, shall seize and distraint any goods, chattels or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property of such persons in sufficient quantity to satisfy the tax, or charge, together with any increment thereto incident to delinquency, and the expenses of the distraint and the cost of the subsequent sale.

A report on the distraint shall, within ten (10) days from receipt of the warrant, be submitted by the distraining officer to the Revenue District Officer, and to the Revenue Regional Director: Provided, That the Commissioner or his duly authorized representative shall, subject to rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, have the power to lift such order of distraint: Provided, further, That a consolidated report by the Revenue Regional Director may be required by the Commissioner as often as necessary.

(B) Levy on Real Property. - After the expiration of the time required to pay the delinquent tax or delinquent revenue as prescribed in this Section, real property may be levied upon, before simultaneously or after the distraint of personal property belonging to the delinquent. To this end, any internal revenue officer designated by the Commissioner or his duly authorized representative shall prepare a duly authenticated certificate showing the name of the taxpayer and the amounts of the tax and penalty due from him. Said certificate shall operate with the force of a legal execution throughout the Philippines.

Levy shall be affected by writing upon said certificate a description of the property upon which levy is made. At the same time, written notice of the levy shall be mailed to or served upon the Register of Deeds for the province or city where the property is located and upon the delinquent taxpayer, or if he be absent from the Philippines, to his agent or the manager of the business in respect to which the liability arose, or if there be none, to the occupant of the property in question.

In case the warrant of levy on real property is not issued before or simultaneously with the warrant of distraint on personal property, and the personal property of the taxpayer is not sufficient to satisfy his tax delinquency, the Commissioner or his duly authorized representative shall, within thirty (30) days after execution of the distraint, proceed with the levy on the taxpayer's real property.

Within ten (10) days after receipt of the warrant, a report on any levy shall be submitted by the levying officer to the Commissioner or his duly authorized representative: Provided, however, That a consolidated report by the Revenue Regional Director may be required by the Commissioner as often as necessary: Provided, further, That the Commissioner or his duly authorized representative, subject to rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, shall have the authority to lift warrants of levy issued in accordance with the provisions hereof.

SEC. 208. Procedure for Distraint and Garnishment. - The officer serving the warrant of distraint shall make or cause to be made an account of the goods, chattels, effects or other personal property distrained, a copy of which, signed by himself, shall be left either with the owner or person from whose possession such goods, chattels, or effects or other personal property were taken, or at the dwelling or place of business of such person and with someone of suitable age and discretion, to which list shall be added a statement of the sum demanded and note of the time and place of sale.

Stocks and other securities shall be distrained by serving a copy of the warrant of distraint upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the corporation, company or association, which issued the said stocks or securities.

Debts and credits shall be distrained by leaving with the person owing the debts or having in his possession or under his control such credits, or with his agent, a copy of the warrant of distraint. The warrant of distraint shall be sufficient authority to the person owning the debts or having in his possession or under his control any credits belonging to the taxpayer to pay to the Commissioner the amount of such debts or credits.

Bank accounts shall be garnished by serving a warrant of garnishment upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the bank. Upon receipt of the warrant of garnishment, the bank shall turn over to the Commissioner so much of the bank accounts as may be sufficient to satisfy the claim of the Government.

SEC. 209. Sale of Property Distrained and Disposition of Proceeds. - The Revenue District Officer or his duly authorized representative, other than the officer referred to in Section 208 of this Code shall, according to rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, forthwith cause a notification to be exhibited in not less than two (2) public places in the municipality or city where the distraint is made, specifying; the time and place of sale and the articles distrained. The time of sale shall not be less than twenty (20) days after notice to the owner or possessor of the property as above specified and the publication or posting of such notice. One place for the posting of such notice shall be at the Office of the Mayor of the city or municipality in which the property is distrained.

At the time and place fixed in such notice, the said revenue officer shall sell the goods, chattels, or effects, or other personal property, including stocks and other securities so distrained, at public auction, to the highest bidder for cash, or with the approval of the Commissioner, through duly licensed commodity or stock exchanges.

In the case of Stocks and other securities, the officer making the sale shall execute a bill of sale which he shall deliver to the buyer, and a copy thereof furnished the corporation, company or association which issued the stocks or other securities. Upon receipt of the copy of the bill of sale, the corporation, company or association shall make the corresponding entry in its books, transfer the stocks or other securities sold in the name of the buyer, and issue, if required to do so, the corresponding certificates of stock or other securities.

Any residue over and above what is required to pay the entire claim, including expenses, shall be returned to the owner of the property sold. The expenses chargeable upon each seizure and sale shall embrace only the actual expenses of seizure and preservation of the property pending the sale, and no charge shall be imposed for the services of the local internal revenue officer or his deputy.

SEC. 210. Release of Distrained Property Upon Payment Prior to Sale. - If at any time prior to the consummation of the sale all proper charges are paid to the officer conducting the sale, the goods or effects distrained shall be restored to the owner.

SEC. 211. Report of Sale to Bureau of Internal Revenue. - Within two (2) days after the sale, the officer making the same shall make a report of his proceedings in writing to the Commissioner and shall himself preserve a copy of such report as an official record.

SEC. 212. Purchase by Government at Sale Upon Distraint.- When the amount bid for the property under distraint is not equal to the amount of the tax or is very much less than the actual market value of the articles offered for sale, the Commissioner or his deputy may purchase the same in behalf of the national Government for the amount of taxes, penalties and costs due thereon.

Property so purchased may be resold by the Commissioner or his deputy, subject to the rules and regulations prescribed by the Secretary of Finance, the net proceeds therefrom shall be remitted to the National Treasury and accounted for as internal revenue.

SEC. 213. Advertisement and Sale. - Within twenty (20) days after levy, the officer conducting the proceedings shall proceed to advertise the property or a usable portion thereof as may be necessary to satisfy the claim and cost of sale; and such advertisement shall cover a period of a least thirty (30) days. It shall be effectuated by posting a notice at the main entrance of the municipal building or city hall and in public and conspicuous place in the barrio or district in which the real estate lies and by publication once a week for three (3) weeks in a newspaper of general circulation in the municipality or city where the property is located. The advertisement shall contain a statement of the amount of taxes and penalties so due and the time and place of sale, the name of the taxpayer against whom taxes are levied, and a short description of the property to be sold. At any time before the day fixed for the sale, the taxpayer may discontinue all proceedings by paying the taxes, penalties and interest. If he does not do so, the sale shall proceed and shall be held either at the main entrance of the municipal building or city hall, or on the premises to be sold, as the officer conducting the proceedings shall determine and as the notice of sale shall specify.

Within five (5) days after the sale, a return by the distraining or levying officer of the proceedings shall be entered upon the records of the Revenue Collection Officer, the Revenue District officer and the Revenue Regional Director. The Revenue Collection Officer, in consultation with the Revenue district Officer, shall then make out and deliver to the purchaser a certificate from his records, showing the proceedings of the sale, describing the property sold stating the name of the purchaser and setting out the exact amount of all taxes, penalties and interest: Provided, however, That in case the proceeds of the sale exceeds the claim and cost of sale, the excess shall be turned over to the owner of the property.

The Revenue Collection Officer, upon approval by the Revenue District Officer may, out of his collection, advance an amount sufficient to defray the costs of collection by means of the summary remedies provided for in this Code, including the preservation or transportation in case of personal property, and the advertisement and subsequent sale, both in cases of personal and real property including improvements found on the latter. In his monthly collection reports, such advances shall be reflected and supported by receipts.

SEC. 214. Redemption of Property Sold. - Within one (1) year from the date of sale, the delinquent taxpayer, or any one for him, shall have the right of paying to the Revenue District Officer the amount of the public taxes, penalties, and interest thereon from the date of delinquency to the date of sale, together with interest on said purchase price at the rate of fifteen percent (15%) per annum from the date of purchase to the date of redemption, and such payment shall entitle the person paying to the delivery of the certificate issued to the purchaser and a certificate from the said Revenue District Officer that he has thus redeemed the property, and the Revenue District Officer shall forthwith pay over to the purchaser the amount by which such property has thus been redeemed, and said property thereafter shall be free from the lien of such taxes and penalties.

The owner shall not, however, be deprived of the possession of the said property and shall be entitled to the rents and other income thereof until the expiration of the time allowed for its redemption.

SEC. 215. Forfeiture to Government for Want of Bidder. - In case there is no bidder for real property exposed for sale as herein above provided or if the highest bid is for an amount insufficient to pay the taxes, penalties and costs, the Internal Revenue Officer conducting the sale shall declare the property forfeited to the Government in satisfaction of the claim in question and within two (2) days thereafter, shall make a return of his proceedings and the forfeiture which shall be spread upon the records of his office. It shall be the duty of the Register of Deeds concerned, upon registration with his office of any such declaration of forfeiture, to transfer the title of the property forfeited to the Government without the necessity of an order from a competent court.

Within one (1) year from the date of such forfeiture, the taxpayer, or any one for him, may redeem said property by paying to the Commissioner or the latter's Revenue Collection Officer the full amount of the taxes and penalties, together with interest thereon and the costs of sale, but if the property be not thus redeemed, the forfeiture shall become absolute.

SEC. 216. Resale of Real Estate Taken for Taxes. - The Commissioner shall have charge of any real estate obtained by the Government of the Philippines in payment or satisfaction of taxes, penalties or costs arising under this Code or in compromise or adjustment of any claim therefore; and said Commissioner may, upon the giving of not less than twenty (20) days notice, sell and dispose of the same of public auction or with prior approval of the Secretary of Finance, dispose of the same at private sale. In either case, the proceeds of the sale shall be deposited with the National Treasury, and an accounting of the same shall rendered to the Chairman of the Commission on Audit.

SEC. 217. Further Distraint or Levy. - The remedy by distraint of personal property and levy on realty may be repeated if necessary until the full amount due, including all expenses, is collected.

SEC. 218. Injunction not Available to Restrain Collection of Tax. - No court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by this Code.

SEC. 219. Nature and Extent of Tax Lien. - If any person, corporation, partnership, joint-account (cuentas en participacion), association or insurance company liable to pay an internal revenue tax, neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the Government of the Philippines from the time when the assessment was made by the Commissioner until paid, with interests, penalties, and costs that may accrue in addition thereto upon all property and rights to property belonging to the taxpayer: Provided, That this lien shall not be valid against any mortgagee, purchaser or judgment creditor until notice of such lien shall be filed by the Commissioner in the office of the Register of Deeds of the province or city where the property of the taxpayer is situated or located.

SEC. 220. Form and Mode of Proceeding in Actions Arising under this Code. - Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the Bureau of Internal Revenue but no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner.

SEC. 221. Remedy for Enforcement of Statutory Penal Provisions. - The remedy for enforcement of statutory penalties of all sorts shall be by criminal or civil action, as the particular situation may require, subject to the approval of the Commissioner.

SEC. 222. Exceptions as to Period of Limitation of Assessment and Collection of Taxes.-

(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

(b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.

(c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax.

(d) Any internal revenue tax, which has been assessed within the period agreed upon as provided in paragraph (b) hereinabove, may be collected by distraint or levy or by a proceeding in court within the period agreed upon in writing before the expiration of the five (5) -year period. The period so agreed upon may be extended by subsequent written agreements made before the expiration of the period previously agreed upon.

(e) Provided, however, That nothing in the immediately preceding and paragraph (a) hereof shall be construed to authorize the examination and investigation or inquiry into any tax return filed in accordance with the provisions of any tax amnesty law or decree.

SEC. 223. Suspension of Running of Statute of Limitations. - The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter; when the taxpayer requests for a reinvestigation which is granted by the Commissioner; when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected: Provided, that, if the taxpayer informs the Commissioner of any change in address, the running of the Statute of Limitations will not be suspended; when the warrant of distraint or levy is duly served upon the taxpayer, his authorized representative, or a member of his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines.

SEC. 224. Remedy for Enforcement of Forfeitures.- The forfeiture of chattels and removable fixtures of any sort shall be enforced by the seizure and sale, or destruction, of the specific forfeited property. The forfeiture of real property shall be enforced by a judgment of condemnation and sale in a legal action or proceeding, civil or criminal, as the case may require.

SEC. 225. When Property to be Sold or Destroyed. - Sales of forfeited chattels and removable fixtures shall be effected, so far as practicable, in the same manner and under the same conditions as the public notice and the time and manner of sale as are prescribed for sales of personal property distrained for the non-payment of taxes.

Distilled spirits, liquors, cigars, cigarettes, other manufactured products of tobacco, and all apparatus used in or about the illicit production of such articles may, upon forfeiture, be destroyed by order of the Commissioner, when the sale of the same for consumption or use would be injurious to public health or prejudicial to the enforcement of the law.

All other articles subject to excise tax, which have been manufactured or removed in violation of this Code, as well as dies for the printing or making of internal revenue stamps and labels which are in imitation of or purport to be lawful stamps, or labels may, upon forfeiture, be sold or destroyed in the discretion of the Commissioner.

Forfeited property shall not be destroyed until at least twenty (20) days after seizure.

SEC. 226. Disposition of funds Recovered in Legal Proceedings or Obtained from Forfeitures. - all judgments and monies recovered and received for taxes, costs, forfeitures, fines and penalties shall be paid to the Commissioner or his authorized deputies as the taxes themselves are required to be paid, and except as specially provided, shall be accounted for and dealt with the same way.

SEC. 227. Satisfaction of Judgment Recovered Against any Internal Revenue Officer. - When an action is brought against any Internal Revenue officer to recover damages by reason of any act done in the performance of official duty, and the Commissioner is notified of such action in time to make defense against the same, through the Solicitor General, any judgment, damages or costs recovered in such action shall be satisfied by the Commissioner, upon approval of the Secretary of Finance, or if the same be paid by the person used shall be repaid or reimbursed to him.

No such judgment, damages, or costs shall be paid or reimbursed in behalf of a person who has acted negligently or in bad faith, or with willful oppression.

CHAPTER III

PROTESTING AN ASSESSMENT, REFUND, ETC.

SEC. 228. Protesting of Assessment. - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:

- (a) When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or
- (b) When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or
- (c) When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or
- (d) When the excise tax due on excisable articles has not been paid; or
- (e) When the article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

SEC. 229. Recovery of Tax Erroneously or Illegally Collected.- no suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

SEC. 230. Forfeiture of Cash Refund and of Tax Credit. –

(A) Forfeiture of Refund. - A refund check or warrant issued in accordance with the pertinent provisions of this Code, which shall remain unclaimed or uncashed within five (5) years from the date the said warrant or check was mailed or delivered, shall be forfeited in favor of the Government and the amount thereof shall revert to the general fund.

(B) Forfeiture of Tax Credit. - A tax credit certificate issued in accordance with the pertinent provisions of this Code, which shall remain unutilized after five (5) years from the date of issue, shall, unless revalidated, be considered invalid, and shall not be allowed as payment for internal revenue tax liabilities of the taxpayer, and the amount covered by the certificate shall revert to the general fund.

(C) Transitory Provision. - For purposes of the preceding Subsection, a tax credit certificate issued by the Commissioner or his duly authorized representative prior to January 1, 1998, which remains unutilized or has a creditable balance as of said date, shall be presented for revalidation with the Commissioner or his duly authorized representative or on before June 30, 1998.

SEC. 231. Action to Contest Forfeiture of Chattel. - In case of the seizure of personal property under claim of forfeiture, the owner desiring to contest the validity of the forfeiture may, at any time before sale or destruction of the property, bring an action against the person seizing the property or having possession thereof to recover the same, and upon giving proper bond, may enjoin the sale; or after the sale and within six (6) months, he may bring an action to recover the net proceeds realized at the sale.

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TITLE IX

COMPLIANCE REQUIREMENTS

CHAPTER I

KEEPING OF BOOKS OF ACCOUNTS AND RECORDS

SEC. 232. Keeping of Books of Accounts. -

(A) Corporations, Companies, Partnerships or Persons Required to Keep Books of Accounts. - All corporations, companies, partnerships or persons required by law to pay internal revenue taxes shall keep and use relevant and appropriate^[202] set of bookkeeping records duly authorized by the Secretary of Finance wherein all transactions and results of operations are shown and from which all taxes due the Government may readily and accurately be ascertained and determined any time of the year. Provided, that corporations, companies, partnerships or persons whose gross annual^[203] sales, earnings, receipts or output exceed Three Million pesos (P3,000,000),^[204] shall have their books of accounts audited and examined yearly by independent Certified Public Accountants and their income tax returns accompanied with a duly accomplished Account Information Form(AIF) which shall contain, among others, information lifted from certified balance sheets, profit and loss statements, schedules listing income-producing properties and the corresponding income therefrom and other relevant statements.

(B) Independent Certified Public Accountant Defined. - The term '**Independent Certified Public Accountant**', as used in the preceding paragraph, means an accountant who possesses the independence as defined in the rules and regulations of the Board of Accountancy promulgated pursuant to Presidential Decree No. 692, otherwise known as the Revised Accountancy Law.

SEC. 233. Subsidiary Books. - All corporations, companies, partnerships or persons keeping the books of accounts mentioned in the preceding Section may, at their option, keep subsidiary books as the needs of their business may require: Provided, That were such subsidiaries are kept, they shall form part of the accounting system of the taxpayer and shall be subject to the same rules and regulations as to their keeping, translation, production and inspection as are applicable to the journal and the ledger.

SEC. 234. Language in which Books are to be Kept; Translation. - All such corporations, companies, partnerships or persons shall keep the books or records mentioned in Section 232 hereof in native language, English or Spanish: Provided, however, That if in addition to said books or records the taxpayer keeps other books or records in a language other than a native language, English or Spanish, he shall make a true and complete translation of all the entries in such other books or records into a native language; English or Spanish, and the said translation must be made by the bookkeeper, or such taxpayer, or in his absence, by his manager, and must be certified under oath as to its correctness by the said bookkeeper or manager, and shall form an integral part of the aforesaid books of accounts. The keeping of such books or records in any language other than a native language; English or Spanish, is hereby prohibited.

SEC. 235. Preservation of Books and Accounts and Other Accounting Records. - All the books of accounts, including the subsidiary books and other accounting records of corporations, partnerships, or persons, shall be preserved by them for a period beginning from the last entry in each book until the last day prescribed by Section 203 within which the Commissioner

is authorized to make an assessment. The said books and records shall be subject to examination and inspection by internal revenue officers: Provided, That for income tax purposes, such examination and inspection shall be made only once in a taxable year, except in the following cases:

- (a) Fraud, irregularity or mistakes, as determined by the Commissioner;
- (b) The taxpayer requests reinvestigation;
- (c) Verification of compliance with withholding tax laws and regulations;
- (d) Verification of capital gains tax liabilities; and
- (e) In the exercise of the Commissioner's power under Section 5(B) to obtain information from other persons in which case, another or separate examination and inspection may be made. Examination and inspection of books of accounts and other accounting records shall be done in the taxpayer's office or place of business or in the office of the Bureau of Internal Revenue. All corporations, partnerships or persons that retire from business shall, within ten (10) days from the date of retirement or within such period of time as may be allowed by the Commissioner in special cases, submit their books of accounts, including the subsidiary books and other accounting records to the Commissioner or any of his deputies for examination, after which they shall be returned. Corporations and partnerships contemplating dissolution must notify the Commissioner and shall not be dissolved until cleared of any tax liability.

Any provision of existing general or special law to the contrary notwithstanding, the books of accounts and other pertinent records of tax-exempt organizations or grantees of tax incentives shall be subject to examination by the Bureau of Internal Revenue for purposes of ascertaining compliance with the conditions under which they have been granted tax exemptions or tax incentives, and their tax liability, if any.

CHAPTER II

ADMINISTRATIVE PROVISIONS

SEC. 236. Registration Requirements. -

(A) Requirements. ^[4] Every person subject to any internal revenue tax shall register once with the appropriate Revenue District Officer:

- (1) Within ten (10) days from date of employment, or
- (2) On or before the commencement of business, or
- (3) Before payment of any tax due, or
- (4) Upon filing of a return, statement or declaration as required in this Code.

The registration shall contain the taxpayer's name, style, place of residence, business and such other information as may be required by the Commissioner in the form prescribed therefor. Provided, That the Commissioner shall simplify the requirements of self-employed individuals and/or professionals. ^[205]

A person maintaining a head office, branch or facility shall register with the Revenue District Officer having jurisdiction over the head office, branch or facility. For purposes of this Section, the term '**facility**' may include but not be limited to sales outlets, places of production, warehouses or storage places.

(B) Annual Registration Fee - An annual registration fee in the amount of Five hundred pesos (P500) for every separate or distinct establishment or place of business, including facility types where sales transactions occur, shall be paid upon registration and every year thereafter on or before the last day of January: Provided, however, That cooperatives, individuals earning purely compensation income, whether locally or abroad, and overseas workers are not liable to the registration fee herein imposed.

The registration fee shall be paid to an authorized agent bank located within the revenue district, or to the Revenue Collection Officer, or duly authorized Treasurer of the city or municipality where each place of business or branch is registered.

(C) Registration of Each Type of Internal Revenue Tax.- Every person who is required to register with the Bureau of Internal Revenue under Subsection (A) hereof, shall register each type of internal revenue tax for which he is obligated, shall file a return and shall pay such taxes, and shall update such registration of any changes in accordance with Subsection (E) hereof.

(D) Transfer of Registration. - In case a registered person decides to transfer his place of business or his head office or branches, it shall be his duty to update his registration status by filing an application for registration information update in the form prescribed therefor.

(E) Other Updates. - Any person registered in accordance with this Section shall, whenever applicable, update his registration information with the Revenue District Office where he is registered, specifying therein any change in type and other taxpayer details.

(F) Cancellation of Registration. -

(1) General Rule. - The registration of any person who ceases to be liable to a tax type shall be cancelled upon filing with the Revenue District Office where he is registered an application for registration information update in a form prescribed therefor.

(2) Cancellation of Value-Added Tax Registration. - A VAT-registered person may cancel his registration for VAT if:

(a) He makes written application and can demonstrate to the Commissioner's satisfaction that his gross sales or receipts for the following twelve (12) months, other than those that are exempt under Section 109 (A) to (U) (sic), will not exceed One million five hundred thousand pesos (P1,500,000) or

(b) He has ceased to carry on his trade or business, and does not expect to recommence any trade or business within the next (12) months.

The cancellation of registration will be effective from the first day of the following month.

(G) Persons Required to Register for Value-Added Tax. -

(1) Any person who, in the course of trade or business, sells, barter or exchanges goods or properties, or engages in the sale or exchange of services, shall be liable to register for value-added tax if:

(a) His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Section 109(A) to (BB),^[206] have exceeded Three million pesos (P3,000,000);^[207] or

(b) There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Section 109(A) to (BB), will exceed Three million pesos (P3,000,000).^[207]

(2) Every person who becomes liable to be registered under paragraph (1) of this Subsection shall register with the Revenue District Office which has jurisdiction over the head office or branch of that person, and shall pay the annual registration fee prescribed in Subsection (B) hereof. If he fails to register, he shall be liable to pay the tax under Title IV as if he were a VAT-registered person, but without the benefit of input tax credits for the period in which he was not properly registered.

(H) Optional Registration for Value-Added Tax of Exempt Person.

(1) Any person who is not required to register for value-added tax under Subsection (G) hereof may elect to register for value-added tax by registering with the Revenue District Office that has a jurisdiction over the head office of that person, and paying the annual registration fee in Subsection (B) hereof.

(2) Any person who elects to register under this Subsection shall not be entitled to cancel his registration under Subsection (F)(2) for the next three (3) years.

Provided, That any person taxed under Section 24(A)(2)(b) and 24(A)(2)(c)(2)(a) of the NIRC who elected to pay the eight percent (8%) tax on gross sales or receipts shall not be allowed to avail of this option.^[205]

For purposes of Title IV of this code, any person who has registered value-added tax as a tax type in accordance with the provisions of Subsection (C) hereof shall be referred to as a "VAT-registered person" who shall be assigned only one Taxpayer Identification Number (TIN).

(I) Supplying of Taxpayer Identification Number (TIN). –

Any person required under the authority of this Code to make, render or file a return, statement or other document shall be supplied with or assigned a Taxpayer Identification Number (TIN) which he shall indicate in such return, statement or document filed with the Bureau of Internal Revenue for his proper identification for tax purposes, and which he shall indicate in certain documents, such as, but not limited to the following:

- (1) Sugar quedans, refined sugar release order or similar instruments;
- (2) Domestic bills of lading;
- (3) Documents to be registered with the Register of Deeds or Assessor's Office;
- (4) Registration certificate of transportation equipment by land, sea or air;
- (5) Documents to be registered with the Securities and Exchange Commission;
- (6) Building construction permits;

- (7) Application for loan with banks, financial institutions, or other financial intermediaries;
- (8) Application for mayor's permit;
- (9) Application for business license with the Department of Trade & Industry; and
- (10) Such other documents which may hereafter be required under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

In cases where a registered taxpayer dies, the administrator or executor shall register the estate of the decedent in accordance with Subsection (A) hereof and a new Taxpayer Identification Number (TIN) shall be supplied in accordance with the provisions of this Section.

In the case of a nonresident decedent, the executor or administrator of the estate shall register the estate with the Revenue District Office where he is registered: Provided, however, That in case such executor or administrator is not registered, registration of the estate shall be made with the Taxpayer Identification Number (TIN) supplied by the Revenue District Office having jurisdiction over his legal residence.

Only one Taxpayer Identification Number (TIN) shall be assigned to a taxpayer. Any person who shall secure more than one Taxpayer Identification Number shall be criminally liable under the provision of Section 275 on "Violation of Other Provisions of this Code or Regulations in General".

SEC. 237. Issuance of Receipts or Sales or Commercial Invoices. –

(A) Issuance. - All persons subject to an internal revenue tax shall, at the point^[208] of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100.00)^[209] or more, issue duly registered receipts or sales or commercial invoices, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That where the receipt is issued to cover payment made as rentals, commissions, compensations, fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: Provided, further, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.^[208]

Within five(5) years from the effectivity of this Act and upon the establishment of a system capable of storing and processing the required data, the Bureau shall require taxpayers engaged in the export of goods and services, taxpayers engaged in e-commerce, and taxpayers under the jurisdiction of the Large Taxpayers Service to issue electronic receipts or sales or commercial invoices in lieu of manual receipts or sales or commercial invoices, subject to the rules and regulations to be issued by the Secretary of Finance upon recommendation of the Commissioner and after a public hearing shall have been held for this purpose: Provided, That taxpayers not covered by the mandate of this provision may issue electronic receipts or sales or commercial invoices, in lieu of manual receipts, and sales and commercial invoices.^[210]

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period: Provided, That in case of electronic receipts or sales or commercial invoices, the digital records of the same shall be kept by the purchaser, customer or client and the issuer for the same period above stated.^[210]

The Commissioner may, in meritorious cases, exempt any person subject to internal revenue tax from compliance with the provisions of this Section.

SEC. 237-A. Electronic Sales Reporting System. – Within five (5) years from the effectivity of this Act and upon establishment of a system capable of storing and processing the required data, the Bureau shall require taxpayers engaged in the export of goods and services, and taxpayers under the jurisdiction of the Large Taxpayers Service to electronically report their sales data to the Bureau through the use of electronic point of sale systems, subject to rules and regulations to be issued by the Secretary of Finance as recommended by the Commissioner of Internal Revenue: Provided, That the machines, fiscal devices, and fiscal memory devices shall be at the expense of the taxpayer.

The date processing of sales and purchase data shall comply with the provisions of Republic Act No. 10173, otherwise known as the “Data Privacy Act” and Section 270 of the NIRC, as amended, on unlawful divulgence of taxpayer information and such other laws relating to the confidentiality of information.

The Bureau shall also establish policies, risk management approaches, actions, trainings, and technologies to protect cyber environment, organization, and data in compliance with Republic Act No. 10175 or the “Cybercrime Prevention Act of 2012.”^[211]

SEC. 238. Printing of Receipts or Sales or Commercial Invoices. - All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

All persons who print receipt or sales or commercial invoices shall maintain a logbook/register of taxpayers who availed of their printing services. The logbook/register shall contain the following information:

- (1) Names, Taxpayer Identification Numbers of the persons or entities for whom the receipts or sales or commercial invoices were printed; and
- (2) Number of booklets, number of sets per booklet, number of copies per set and the serial numbers of the receipts or invoices in each booklet.

SEC. 239. Sign to be Exhibited by Distiller, Rectifier, Compounder, Repacker and Wholesale Liquor Dealer. - Every person engaged in distilling or rectifying spirits, compounding liquors, repacking wines or distilled spirits, and every wholesale liquor dealer shall keep conspicuously on the outside of his place of business a sign exhibiting, in letters not less than six centimeters (6 cms.) high, his name or firm style, with the words 'Registered Distiller,' 'Rectifier of Spirits,' 'Compounder of Liquors,' 'Repacker of Wines or Distilled Spirits,' or 'Wholesale Liquor Dealer,' as the case may be, and his assessment number.

SEC. 240. Sign to be exhibited by manufacturer of Products of Tobacco. – Every manufacturer of cigars, cigarettes or tobacco, and every wholesale dealer in leaf tobacco or manufactured products of tobacco shall place and keep on outside of the building wherein his business is carried on, so that it can be distinctly seen, a sign stating his full name and business in letters not less than six centimeters (6 cms.) high and also giving his assessment number.

SEC. 241. *Exhibition of Certificate of Payment at Place of Business.* - The certificate or receipts showing payment of taxes issued to a person engaged in a business subject to an annual registration fee shall be kept conspicuously exhibited in plain view in or at the place where the business is conducted; and in case of a peddler or other persons not having a fixed place of business, shall be kept in the possession of the holder thereof, subject to production upon demand of any internal revenue officer.

SEC. 242. *Continuation of Business of Deceased Person.* - When any individual who has paid the annual registration fee dies, and the same business is continued by the person or persons interested in his estate, no additional payment shall be required for the residue of the term which the tax was paid: Provided, however, That the person or persons interested in the estate should, within thirty (30) days from the death of the decedent, submit to the Bureau of Internal Revenue or the Regional or Revenue District Office inventories of goods or stocks had at the time of such death.

The requirement under this Section shall also be applicable in the case of transfer of ownership or change of name of the business establishment.

SEC. 243. *Removal of Business to Other Location.* - Any business for which the annual registration fee has been paid may, subject to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be removed and continued in any other place without the payment of additional tax during the term for which the payment was made.

CHAPTER III

RULES AND REGULATIONS

SEC. 244. *Authority of Secretary of Finance to Promulgate Rules and Regulations.* - The Secretary of Finance, upon recommendation of the Commissioner, shall promulgate all needful rules and regulations for the effective enforcement of the provisions of this Code.

SEC. 245. *Specific Provisions to be Contained in Rules and Regulations.* - The rules and regulations of the Bureau of Internal Revenue shall, among other things, contain provisions specifying, prescribing or defining:

- (a) The time and manner in which Revenue Regional Directors shall canvass their respective Revenue Regions for the purpose of discovering persons and property liable to national internal revenue taxes, and the manner in which their lists and records of taxable persons and taxable objects shall be made and kept;
- (b) The forms of labels, brands or marks to be required on goods subject to an excise tax, and the manner in which the labelling, branding or marking shall be effected;
- (c) The conditions under which and the manner in which goods intended for export, which if not exported would be subject to an excise tax, shall be labelled, branded or marked;
- (d) The conditions to be observed by revenue officers respecting the institutions and conduct of legal actions and proceedings;

(e) The conditions under which goods intended for storage in bonded warehouses shall be conveyed thither, their manner of storage and the method of keeping the entries and records in connection therewith, also the books to be kept by Revenue Inspectors and the reports to be made by them in connection with their supervision of such houses;

(f) The conditions under which denatured alcohol may be removed and dealt in, the character and quantity of the denaturing material to be used, the manner in which the process of denaturing shall be effected, so as to render the alcohol suitably denatured and unfit for oral intake, the bonds to be given, the books and records to be kept, the entries to be made therein, the reports to be made to the Commissioner, and the signs to be displayed in the business or by the person for whom such denaturing is done or by whom, such alcohol is dealt in;

(g) The manner in which revenue shall be collected and paid, the instrument, document or object to which revenue stamps shall be affixed, the mode of cancellation of the same, the manner in which the proper books, records, invoices and other papers shall be kept and entries therein made by the person subject to the tax, as well as the manner in which licenses and stamps shall be gathered up and returned after serving their purposes;

(h) The conditions to be observed by revenue officers respecting the enforcement of Title III imposing a tax on estate of a decedent, and other transfers mortis causa, as well as on gifts and such other rules and regulations which the Commissioner may consider suitable for the enforcement of the said Title III;

(i) The manner in which tax returns, information and reports shall be prepared and reported and the tax collected and paid, as well as the conditions under which evidence of payment shall be furnished the taxpayer, and the preparation and publication of tax statistics;

(j) The manner in which internal revenue taxes, such as income tax, including withholding tax, estate and donor's taxes, value-added tax, other percentage taxes, excise taxes and documentary stamp taxes shall be paid through the collection officers of the Bureau of Internal Revenue or through duly authorized agent banks which are hereby deputized to receive payments of such taxes and the returns, papers and statements that may be filed by the taxpayers in connection with the payment of the tax: Provided, however, That notwithstanding the other provisions of this Code prescribing the place of filing of returns and payment of taxes, the Commissioner may, by rules and regulations, require that the tax returns, papers and statements that may be filed by the taxpayers in connection with the payment of the tax. Provided, however, That notwithstanding the other provisions of this Code prescribing the place of filing of returns and payment of taxes, the Commissioner may, by rules and regulations require that the tax returns, papers and statements and taxes of large taxpayers be filed and paid, respectively, through collection officers or through duly authorized agent banks: Provided, further, That the Commissioner can exercise this power within six (6) years from the approval of Republic Act No. 7646 or the completion of its comprehensive computerization program, whichever comes earlier: Provided, finally, That separate venues for the Luzon, Visayas and Mindanao areas may be designated for the filing of tax returns and payment of taxes by said large taxpayers.

For the purpose of this Section, 'large taxpayer' means a taxpayer who satisfies any of the following criteria:

(1) Value-Added Tax (VAT) - Business establishment with VAT paid or payable of at least One hundred thousand pesos (P100, 000) for any quarter of the preceding taxable year;

(2) Excise tax - Business establishment with excise tax paid or payable of at least One million pesos (P1, 000,000) for the preceding taxable year;

(3) Corporate Income Tax - Business establishment with annual income tax paid or payable of at least One million pesos (P1,000,000) for the preceding taxable year; and

(4) Withholding tax - Business establishment with withholding tax payment or remittance of at least One million pesos (P1,000,000) for the preceding taxable year.

Provided, however, That the Secretary of Finance, upon recommendation of the Commissioner, may modify or add to the above criteria for determining a large taxpayer after considering such factors as inflation, volume of business, wage and employment levels, and similar economic factors.

The penalties prescribed under Section 248 of this Code shall be imposed on any violation of the rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, prescribing the place of filing of returns and payments of taxes by large taxpayers.

SEC. 246. Non- Retroactivity of Rulings. - Any revocation, modification or reversal of any of the rules and regulations promulgated in accordance with the preceding Sections or any of the rulings or circulars promulgated by the Commissioner shall not be given retroactive application if the revocation, modification or reversal will be prejudicial to the taxpayers, except in the following cases:

(a) Where the taxpayer deliberately misstates or omits material facts from his return or any document required of him by the Bureau of Internal Revenue;

(b) Where the facts subsequently gathered by the Bureau of Internal Revenue are materially different from the facts on which the ruling is based; or

(c) Where the taxpayer acted in bad faith.

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TITLE X

STATUTORY OFFENSES AND PENALTIES

CHAPTER I

ADDITIONS TO THE TAX

SEC. 247. General Provisions. -

(a) The additions to the tax or deficiency tax prescribed in this Chapter shall apply to all taxes, fees and charges imposed in this Code. The Amount so added to the tax shall be collected at the same time, in the same manner and as part of the tax.

(b) If the withholding agent is the Government or any of its agencies, political subdivisions or instrumentalities, or a government-owned or controlled corporation, the employee thereof responsible for the withholding and remittance of the tax shall be personally liable for the additions to the tax prescribed herein.

(c) The term '**person**', as used in this Chapter, includes an officer or employee of a corporation who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 248. Civil Penalties. -

(A) There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:

- (1) Failure to file any return and pay the tax due thereon as required under the provisions of this Code or rules and regulations on the date prescribed; or
- (2) Unless otherwise authorized by the Commissioner, filing a return with an internal revenue officer other than those with whom the return is required to be filed; or
- (3) Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment; or
- (4) Failure to pay the full or part of the amount of tax shown on any return required to be filed under the provisions of this Code or rules and regulations, or the full amount of tax due for which no return is required to be filed, on or before the date prescribed for its payment.

(B) In case of willful neglect to file the return within the period prescribed by this Code or by rules and regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be fifty percent (50%) of the tax or of the deficiency tax, in case, any payment has been made on the basis of such return before the discovery of the falsity or fraud: Provided, That a substantial under-declaration of taxable sales, receipts or income, or a substantial overstatement of deductions, as determined by the Commissioner pursuant to the rules and regulations to be promulgated by the Secretary of Finance, shall constitute prima facie evidence of a false or fraudulent return: Provided, further, That failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return, and a claim of deductions in an amount exceeding (30%) of actual deductions, shall render the taxpayer liable for substantial under-declaration of sales, receipts or income or for overstatement of deductions, as mentioned herein.

SEC. 249. Interest. -

(A) In General. - There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the legal interest for loans or forbearance of any money in the absence of an express stipulation as set by the Banko Sentral ng Pilipinas^[212] from date prescribed for payment until the amount is fully paid: Provided, That in no case shall the deficiency and delinquency interest prescribed under Sections (B) and (C) hereof, be imposed simultaneously.^[213]

(B) Deficiency Interest. - Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof, or upon issuance of a notice and demand by the Commissioner of Internal Revenue, whichever comes earlier.^[213]

(C) Delinquency Interest. - In case of failure to pay:

- (1) The amount of the tax due on any return to be filed, or
- (2) The amount of the tax due for which no return is required, or
- (3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.²

(D) Interest on Extended Payment. - If any person required to pay the tax is qualified and elects to pay the tax on installment under the provisions of this Code, but fails to pay the tax or any installment hereof, or any part of such amount or installment on or before the date prescribed for its payment, or where the Commissioner has authorized an extension of time within which to pay a tax or a deficiency tax or any part thereof, there shall be assessed and collected interest at the rate hereinabove prescribed on the tax or deficiency tax or any part thereof unpaid from the date of notice and demand until it is paid.

SEC. 250. Failure to File Certain Information Returns.- In the case of each failure to file an information return, statement or list, or keep any record, or supply any information required by this Code or by the Commissioner on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the Commissioner, be paid by the person failing to file, keep or supply the same, One thousand pesos (1,000) for each failure: Provided, however, That the aggregate amount to be imposed for all such failures during a calendar year shall not exceed Twenty-five thousand pesos (P25,000).

SEC. 251. Failure of a Withholding Agent to Collect and Remit Tax. - Any person required to withhold, account for, and remit any tax imposed by this Code or who willfully fails to withhold such tax, or account for and remit such tax, or aids or abets in any manner to evade any such tax or the payment thereof, shall, in addition to other penalties provided for under this Chapter, be liable upon conviction to a penalty equal to the total amount of the tax not withheld, or not accounted for and remitted.

SEC. 252. Failure of a Withholding Agent to refund Excess Withholding Tax. - Any employer/withholding agent who fails or refuses to refund excess withholding tax shall, in addition to the penalties provided in this Title, be liable to a penalty to the total amount of refunds which was not refunded to the employee resulting from any excess of the amount withheld over the tax actually due on their return.

CHAPTER II

CRIMES, OTHER OFFENSES AND FORFEITURES

SEC. 253. General Provisions. -

(a) Any person convicted of a crime penalized by this Code shall, in addition to being liable for the payment of the tax, be subject to the penalties imposed herein: Provided, That payment of the tax due after apprehension shall not constitute a valid defense in any prosecution for violation of any provision of this Code or in any action for the forfeiture of untaxed articles.

(b) Any person who willfully aids or abets in the commission of a crime penalized herein or who causes the commission of any such offense by another shall be liable in the same manner as the principal.

(c) If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence without further proceedings for deportation. If he is a public officer or employee, the maximum penalty prescribed for the offense shall be imposed and, in addition, he shall be dismissed from the public service and perpetually disqualified from holding any public office, to vote and to participate in any election. If the offender is a Certified Public Accountant, his certificate as a Certified Public Accountant shall, upon conviction, be automatically revoked or cancelled.

(d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation.

(e) The fines to be imposed for any violation of the provisions of this Code shall not be lower than the fines imposed herein or twice the amount of taxes, interest and surcharges due from the taxpayer, whichever is higher.

SEC. 254. Attempt to Evade or Defeat Tax. ^[4] - Any person who willfully attempts in any manner to evade or defeat any tax imposed under this Code or the payment thereof shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine not less than Five hundred thousand pesos (P500,000) but not more than Ten million pesos (P10,000,000) and suffer imprisonment of not less than six (6) years but not more than Ten (10) years:^[214] Provided, That the conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes.

SEC. 255. Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation. - Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax make a return, keep any record, or supply correct the accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of internal revenue office wherein the same was actually filed shall, upon conviction therefore, be punished by a fine of not less than Ten thousand pesos (P10,000) but not more than Twenty thousand pesos (P20,000) and suffer imprisonment of not less than one (1) year but not more than three (3) years.

SEC. 256. Penal Liability of Corporations. - Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000).

SEC. 257. Penal Liability for Making False Entries, Records or Reports, or Using Falsified or Fake Accountable Forms. -

(A) Any financial officer or independent Certified Public Accountant engaged to examine and audit books of accounts of taxpayers under Section 232 (A) and any person under his direction who:

(1) Willfully falsifies any report or statement bearing on any examination or audit, or renders a report, including exhibits, statements, schedules or other forms of accountancy work which has not been verified by him personally or under his supervision or by a member of his firm or by a member of his staff in accordance with sound auditing practices; or

(2) Certifies financial statements of a business enterprise containing an essential misstatement of facts or omission in respect of the transactions, taxable income, deduction and exemption of his client; or

(B) Any person who:

(1) Not being an independent Certified Public Accountant according to Section 232(B) or a financial officer, examines and audits books of accounts of taxpayers; or

(2) Offers to sign and certify financial statements without audit; or

(3) Offers any taxpayer the use of accounting bookkeeping records for internal revenue purposes not in conformity with the requirements prescribed in this Code or rules and regulations promulgated thereunder; or

(4) Knowingly makes any false entry or enters any false or fictitious name in the books of accounts or record mentioned in the preceding paragraphs; or

(5) Keeps two (2) or more sets of such records or books of accounts; or

(6) In any way commits an act or omission, in violation of the provisions of this Section; or

(7) Fails to keep the books of accounts or records mentioned in Section 232 in a native language, English or Spanish, or to make a true and complete translation as required in Section 234 of this Code, or whose books of accounts or records kept in a native language, English or Spanish, and found to be at material variance with books or records kept by him in another language; or

(8) Willfully attempts in any manner to evade or defeat any tax imposed under this Code, or knowingly uses fake or falsified revenue official receipts, Letters of Authority, certificates authorizing registration, Tax Credit Certificates, Tax Debit Memoranda and other accountable forms shall, upon conviction for each act or omission, be punished by a fine not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000) and suffer imprisonment of not less than two (2) years but not more than six (6) years.

If the offender is a Certified Public Accountant, his certificate as a Certified Public Accountant shall be automatically revoked or cancelled upon conviction.

In the case of foreigners, conviction under this Code shall result in his immediate deportation after serving sentence, without further proceedings for deportation.

SEC. 258. Unlawful Pursuit of Business. - Any person who carries on any business for which an annual registration fee is imposed without paying the tax as required by law shall, upon conviction for each act or omission, be punished by a fine of not less than Five thousand pesos (P5,000) but not more than Twenty thousand pesos (P20,000) and suffer imprisonment of not less than six (6) months but not more than two (2) years: Provided, That in the case of a person engaged in the business of distilling, rectifying, repacking, compounding or manufacturing any article subject to excise tax, he shall, upon conviction for each act or omission, be punished by a fine of not less than Thirty thousand pesos (P30,000) but not more than Fifty thousand pesos (P50,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years.

SEC. 259. *Illegal Collection of Foreign Payments.* - Any person who knowingly undertakes the collection of foreign payments as provided under Section 67 of this Code without having obtained a license therefor, or without complying with its implementing rules and regulations, shall, upon conviction for each act or omission, be punished by a fine of not less than Twenty thousand pesos (P20,000) but not more than Fifty thousand pesos (P50,000) and suffer imprisonment of not less than one (1) year but not more than two (2) years.

SEC. 260. *Unlawful Possession of Cigarette Paper in Bobbins or Rolls, Etc.* ^[48] - It shall be unlawful for any person to have in his possession cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips, without the corresponding authority therefor issued by the Commissioner. Any person, importer, manufacturer of cigar and cigarettes, who has been found guilty under this Section, shall, upon conviction for each act or omission, be punished by a fine of not less than One million five hundred thousand pesos (₱1,500,000.00) but not more than Fifteen million pesos (₱15,000,000.00)^[215] and imprisonment for a term of not less than six (6) years and one (1) day but not more than twelve (12) years.

SEC. 261. *Unlawful Use of Denatured Alcohol.* - Any person who for the purpose of manufacturing any beverage, uses denatured alcohol or alcohol specially denatured to be used for motive power or withdrawn under bond for industrial uses or alcohol knowingly misrepresented to be denatured to be unfit for oral intake or who knowingly sells or offers for sale any beverage made in whole or in part from such alcohol or who uses such alcohol for the manufacture of liquid medicinal preparations taken internally, or knowingly sells or offers for sale such preparations containing as an ingredient such alcohol, shall upon conviction for each act or omission be punished by a fine of not less than Twenty thousand pesos (P20,000) but not more than One hundred thousand pesos (P100,000) and suffer imprisonment for a term of not less than six (6) years and one (1) day but not more than twelve (12) years.

Any person who shall unlawfully recover or attempt to recover by distillation or other process any denatured alcohol or who knowingly sells or offers for sale, conceals or otherwise disposes of alcohol so recovered or redistilled shall be subject to the same penalties imposed under this Section.

SEC. 262. *Shipment or Removal of Liquor or Tobacco Products Under False Name or Brand or as an Imitation of any Existing or Otherwise Known-Product Name or Brand.* ^[48] - Any person who ships, transports or removes spirituous, compounded or fermented liquors, wines or any manufactured products of tobacco under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the cask, bottle or package containing the same or as an imitation of any existing or otherwise known product name or brand or causes such act to be done, shall, upon conviction for each act or omission, be punished by a fine of not less than One million five hundred thousand pesos (₱1,500,000.00) but not more than Fifteen million pesos (₱15,000,000.00)^[215] and imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years.

SEC. 263. *Unlawful Possession or Removal of Articles Subject to Excise Tax Without Payment of the Tax.* - Any person who owns and/or is found in possession of imported articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who owns and/or is found in possession of imported tax-exempt articles other than those to whom they are legally issued shall be punished by:

- (a) A fine of not less than One hundred thousand pesos (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00)^[216] and imprisonment of not less than sixty (60) days but not more than one hundred (100) days if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act 20 (CMTA)',^[216] including duties and taxes, of the articles does not exceed Two

hundred fifty thousand pesos (P250,000.00): Provided, That if the appraised value, including duties and taxes, does not exceed Ten thousand pesos (P10,000.00), the penalty shall only be a fine in the amount of Twelve thousand pesos (P12,000.00);^[216]

(b) A fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00) ^[216] and imprisonment of not less than two (2) years but not more than four (4) years if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)'^[216] including duties and taxes, of the articles exceeds Two hundred fifty thousand pesos (P250,000.00) but does not exceed Five hundred thousand pesos (P500,000.00); ^[216]

(c) A fine of not less than Three million pesos (P3,000,000.00) but not more than Four million pesos (P4,000,000.00) ^[216] and imprisonment of not less than four (4) years but not more than six (6) years, if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)'^[216], including duties and taxes of the articles is more than Five hundred thousand pesos (P500,000.00) but does not exceed One million pesos (P1,000,000.00); ^[216]

(d) A fine of not less than Ten million pesos (P10,000,000.00) but not more than Twenty million pesos (P20,000,000.00) ^[216] and imprisonment of not less than ten (10) years but not more than twelve (12) years, if the appraised value, to be determined in the manner prescribed in Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act (CMTA)'^[216], including duties and taxes, of the articles exceeds One million pesos (P1,000,000.00);^[216]

Any person who is found in possession of locally manufactured articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who is found in possession of such articles which are exempt from excise tax other than those to whom the same is lawfully issued shall be punished with a fine of not less than (10) times the amount of excise tax due on the articles found but not less than One million pesos (P1,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years.^[216]

Any manufacturer, importer, owner or person in charge of any article subject to excise tax who removes or allows or causes the unlawful removal of any such articles from the place of production or bonded warehouse, upon which the excise tax has not been paid at the time and in the manner required, and any person who knowingly aids or abets in the removal of such articles as aforesaid, or conceals the same after illegal removal shall, for the first offense, be punished with a fine of not less than ten (10) times the amount of excise tax due on the articles but not less than Fifty million pesos (P50,000,000.00) and imprisonment of not less than five (5) years but not more than eight (8) years.^[216]

The mere unexplained possession of articles subject to excise tax, the tax on which has not been paid in accordance with law, shall be punishable under this Section.

Sec. 263-A. Selling of Heated Tobacco Products and Vapor Products at a Lower Price than the Combined Excise and Value-added Taxes. – Any person who sells heated tobacco products and vapor products at a price lower than the combined excise and value-added taxes shall be punished with a fine of ten (10) times the amount of excise tax plus value-added tax but not less than One hundred thousand pesos (P100,000.00), and imprisonment of not less than two (2) years but not more than four (4) years.

If there is a question on whether a nicotine product is a heated tobacco product or vapor product for purposes of taxation under this Section, the proper tax classification thereof shall be resolved through revenue regulations issued by the Secretary of Finance. ^[217]

SEC. 264. Failure or refusal to Issue Receipts or Sales or Commercial Invoices, Violations Related to the Printing of such Receipts or Invoices and Other Violations. -

(a) Any person who, being required under Section 237 to issue receipts or sales or commercial invoices, fails or refuses to issue such receipts or invoices, issues receipts or invoices that do not truly reflect and/or contain all the information required to be shown therein, or uses multiple or double receipts or invoices, shall, upon conviction for each act or omission, be punished by a fine of not less than One thousand pesos (P1,000) but not more than Fifty thousand pesos (P50,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years.

(b) Any person who commits any of the acts enumerated hereunder shall be penalized with a fine of not less than Five hundred thousand pesos (P500,000) but not more than Ten million pesos (Php10,000,000), and imprisonment of not less than six (6) years but not more than ten (10) years.^[218]

(1) Printing of receipts or sales or commercial invoices without authority from the Bureau of Internal Revenue; or

(2) Printing of double or multiple sets of invoices or receipts; or

(3) Printing of unnumbered receipts or sales or commercial invoices, not bearing the name, business style, Taxpayer Identification Number, and business address of the person or entity; or

(4) Printing of other fraudulent receipts or sales or commercial invoices.^[219]

SEC. 264-A. Failure to Transmit Sales Data Entered on Cash Register Machine(CRM)/ Point of Sales System (POS) Machines to the BIR's Electronic Sales Reporting System. - Any taxpayer required to transmit sales data to the Bureau's electronic sales reporting system but fails to do so, shall pay, for each day of violation, a penalty amounting to one-tenth of one percent (1/10 of 1%) of the annual net income as reflected in the taxpayer's audited financial statement for the second year preceding the current taxable year for each day of violation or Ten thousand pesos (P10,000), whichever is higher: Provided, That should the aggregate number of days of violation exceed one hundred eighty (180) days within a taxable year, an additional penalty of permanent closure of the taxpayer shall be imposed: Provided, further, That if the failure to transmit is due to force majeure or any cause beyond the control of the taxpayer the penalty shall not apply.^[220]

SEC. 264-B. Purchase, Use, Possession, Sale or Offer to Sell, Installment, Transfer, Update, Upgrade, Keeping or Maintaining of Sales Suppression Devices. - Any person who shall purchase, use, possess, sell or offer to sell, install, transfer, update, upgrade, keep, or maintain any software or device designed for, or is capable of: (a) suppressing the creation of electronic records of sale transactions that a taxpayer is required to keep under existing tax laws and/or regulations; or (b) modifying, hiding, or deleting electronic records of sales transactions and providing a ready means of access to them, shall be punished by a fine of not less than Five hundred thousand pesos (P500,000) but not more than Ten million pesos (P10,000,000), and suffer imprisonment of not less than two(2) years but not more than four(4) years: Provided, That a cumulative suppression of electronic sales record in excess of the amount of Fifty million pesos (P50,000,000) shall be considered as economic sabotage and shall be punished in the maximum penalty provided for under this provision.^[221]

SEC. 265. Offenses Relating to Stamps. - Any person who commits any of the acts enumerated hereunder shall, upon conviction thereof, be punished by a fine of not less than Ten million pesos (P10,000,000.00) but not more than Five hundred million pesos (P500,000,000.00) and imprisonment of not less than five (5) years^[222] but not more than eight (8) years:

(a) Making, importing, selling, using or possessing without express authority from the Commissioner, any die for printing or making stamps, labels, tags or playing cards;

(b) Reusing previously affixed stamps,^[223] erasing the cancellation marks of any stamp previously used, or altering the written figures or letters or cancellation marks on internal revenue stamps;

(c) Possessing false, counterfeit, restored or altered stamps, labels or tags or causing the commission of any such offense by another;

(d) Selling or offering for sale any box or package containing articles subject to excise tax with false, spurious or counterfeit stamps or labels or selling from any such fraudulent box, package or container as aforementioned; or

(e) Giving away or accepting from another, or selling, buying or using containers on which the stamps are not completely destroyed.

Provided, That the cumulative possession of false/counterfeit/recycled tax stamps in excess of the amount of Fifty million pesos (P50,000,000.00) shall be punishable by a fine of Five hundred million pesos (P500,000,000.00) or up to ten (10) times the value of the illegal stamps seized, whichever is higher, and imprisonment of not less than ten (10) years but not more than fifteen (15) years.^[223]

SEC. 265-A. Offenses Relating to Fuel Marking. - All offenses relating to fuel marking shall, in addition to the penalties imposed under Title X of the NIRC, as amended, Section 1401 of Republic Act No. 10863, otherwise known as the 'Customs Modernization and Tariff Act(CMTA)', and other relevant laws, be punishable as follows:

(a) Any person who is found to be engaged in the sale, trade, delivery, distribution or transportation of unmarked fuel in commercial quantity held for domestic use or merchandise shall, upon conviction, suffer the penalties of:

(1) For the first offense, a fine of Two million five hundred thousand pesos (P2,500,000);

(2) For the second offense, a fine of Five million pesos (P5,000,000); and

(3) For the third offense, a fine of Ten million pesos (P10,000,000) and revocation of license to engage in any trade or business.

(b) Any person who causes the removal of the official fuel marking agent from marked fuel, and the adulteration or dilution of fuel intended for sale to the domestic market, or the knowing possession, storage, transfer or offer to sale of fuel obtained as a result of such removal, adulteration or dilution shall be penalized in the same manner and extent as provided for in the preceding Subsection.

(c) Any person who commits any of the acts enumerated hereunder shall, upon conviction, be punished by a fine of not less than One million pesos (P1,000,000) but not more than Five million pesos (P5,000,000), and suffer imprisonment of not less than four (4) years but not more than eight (8) years:

- (1) Making, importing, selling, using or possessing fuel markers without express authority;
- (2) Making, importing, selling, using or possessing counterfeit fuel markers;
- (3) Causing another person or entity to commit any of the two(2) preceding acts; or
- (4) Causing the sale, distribution, supply or transport of legitimately imported, in-transit, manufactured or procured controlled precursors and essential chemicals, in diluted, mixtures or in concentrated form, to any person or entity penalized in Subsections (a), (b) or (c) hereof, including but not limited to, packaging, repackaging, labeling, relabeling or concealment of such transaction through fraud, destruction of documents, fraudulent use of permits, misdeclaration, use of front companies or mail fraud.

(d) Any person who willfully inserts, places, adds or attaches directly or indirectly, through any overt or covert act, whatever quantity of any unmarked fuel, counterfeit additive or chemical in the person, house, effects, inventory, or in the immediate vicinity of an innocent individual for the purpose of implicating, incriminating or imputing the commission of any violation of this Act shall, upon conviction, be punished by a fine of not less than Five million pesos (P5,000,000) but not more than Ten million pesos (P10,000,000), and suffer imprisonment of not less than four (4) years but not more than eight (8) years.

(e) Any person who is authorized, licensed or accredited under this Act and its implementing rules to conduct fuel tests, who issues false or fraudulent fuel test results knowingly, willfully, or through gross negligence, shall suffer the additional penalty of imprisonment ranging from one (1) year and one (1) day to two (2) years and six (6) months.

The additional penalties of revocation of the license to practice his profession in case of practitioner, and the closure of the fuel testing facility, may also be imposed at the instance of the court.^[224]

Sec. 265-B. Violations Committed by Manufacturers, Importers, Indentors, and Wholesalers of Any Apparatus or Mechanical Contrivance Specially for the Manufacture of Articles Subject to Excise Tax and Importers, Indentors, Manufacturers or Sellers of Cigarette Paper in Bobbins, Cigarette Tipping Paper or Cigarette Filter Tips. - Any violation of Section 164 of this Code, including mere possession of any apparatus or mechanical contrivance for the manufacture of cigarettes, cigarette paper, or cigarette tipping paper, for which no permit was obtained from the Commissioner shall be punishable with a fine of not less than Fifteen million pesos (P15,000,000.00) but not more than Fifty million pesos (P50,000,000.00) and imprisonment of not less than twelve (12) years but not more than twenty (20) years.^[225]

SEC. 266. Failure to Obey Summons. - Any person who, being duly summoned to appear to testify, or to appear and produce books of accounts, records, memoranda or other papers, or to furnish information as required under the pertinent provisions of this Code, neglects to appear or to produce such books of accounts, records, memoranda or other papers, or to furnish such information, shall, upon conviction, be punished by a fine of not less than Five thousand pesos (P5,000) but not more than ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than two (2) years.

SEC. 267. Declaration under Penalties of Perjury. - Any declaration, return and other statement required under this Code, shall, in lieu of an oath, contain a written statement that they are made under the penalties of perjury. Any person who willfully files a declaration, return or statement containing information which is not true and correct as to every material matter shall, upon conviction, be subject to the penalties prescribed for perjury under the Revised Penal Code.

SEC. 268. Other Crimes and Offenses. -

(A) Misdeclaration or Misrepresentation of Manufacturers Subject to Excise Tax.- Any manufacturer who, in violation of the provisions of Title VI of this Code, misdeclares in the sworn statement required therein or in the sales invoice, any pertinent data or information shall be punished by a summary cancellation or withdrawal of the permit to engage in business as a manufacturer of articles subject to excise tax.

(B) Forfeiture of Property Used in Unlicensed Business or Dies Used for Printing False Stamps, Etc.- All chattels, machinery, and removable fixtures of any sort used in the unlicensed production of articles subject to excise tax shall be forfeited. Dies and other equipment used for the printing or making of any internal revenue stamp, label or tag which is in imitation of or purports to be a lawful stamp, label or tag shall also be forfeited.

(C) Forfeiture of Goods Illegally Stored or Removed. - Unless otherwise specifically authorized by the Commissioner, all articles subject to excise tax should not be stored or allowed to remain in a distillery, distillery warehouse, bonded warehouse or other place where made, after the tax thereon has been paid; otherwise, all such articles shall be forfeited. Articles withdrawn from any such place or from customs custody or imported into the country without the payment of the required tax shall likewise be forfeited.

CHAPTER III

PENALTIES IMPOSED ON PUBLIC OFFICERS

SEC. 269. Violations Committed by Government Enforcement Officers. ^[4] Every official, agent, or employee of the Bureau of Internal Revenue or any other agency of the Government charged with the enforcement of the provisions of this Code, who is guilty of any of the offenses herein below specified shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000) and suffer imprisonment of not less than ten (10) years but not more than fifteen (15) years and shall likewise suffer an additional penalty of perpetual disqualification to hold public office, to vote, and to participate in any public election

(a) Extortion or willful oppression through the use of his office or willful oppression and harassment of a taxpayer who refused, declined, turned down or rejected any of his offers specified in paragraph (d) hereof;

(b) Knowingly demanding or receiving any fee, other or greater sums that are authorized by law or receiving any fee, compensation or reward, except as by law prescribed, for the performance of any duty;

(c) Willfully neglecting to give receipts, as by law required, for any sum collected in the performance of duty or willfully neglecting to perform any other duties enjoined by law;

(d) Offering or undertaking to accomplish, file or submit a report or assessment on a taxpayer without the appropriate examination of the books of accounts or tax liability, or offering or undertaking to submit a report or assessment less than the amount due the Government for any consideration or compensation, or conspiring or colluding with another or others to defraud the revenues or otherwise violate the provisions of this Code;

(e) Neglecting or by design permitting the violation of the law by any other person;

(f) Making or signing any false entry or entries in any book, or making or signing any false certificate or return;

- (g) Allowing or conspiring or colluding with another to allow the unauthorized retrieval, withdrawal or recall of any return, statement or declaration after the same has been officially received by the Bureau of Internal Revenue;
- (h) Having knowledge or information of any violation of this Code or of any fraud committed on the revenues collectible by the Bureau of Internal Revenue, failure to report such knowledge or information to their superior officer, or failure to report as otherwise required by law;
- (i) Without the authority of law, demanding or accepting or attempting to collect, directly or indirectly, as payment or otherwise any sum of money or other thing of value for the compromise, adjustment or settlement of any charge or complaint for any violation or alleged violation of this Code; and
- (j) Deliberate failure to act on the application for refunds within prescribed period provided under Section 112 of this Act.
[226]

Provided, That the provisions of the foregoing paragraph notwithstanding, any internal revenue officer for which a prima facie case of grave misconduct has been established shall, after due notice and hearing of the administrative case and subject to Civil Service Laws, be dismissed from the revenue service: Provided, further, That the term 'grave misconduct', as defined in Civil Service Law, shall include the issuance of fake letters of authority and receipts, forgery of signature, usurpation of authority and habitual issuance of unreasonable assessments.

SEC. 270. Unlawful Divulgence of Trade Secrets. - Except as provided in Section 6(F) and 71 of this Code and Section 26 of Republic Act No. 6388, any officer or employee of the Bureau of Internal Revenue who divulges to any person or makes known in any other manner than may be provided by law information regarding the business, income or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, shall upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years, or both.

Any officer or employee of the Bureau of Internal Revenue who divulges or makes known in any other manner to any person other than the requesting foreign tax authority information obtained from banks and financial institutions pursuant to Section 6(F), knowledge or information acquired by him in the discharge of his official duties, shall upon conviction, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years, or both.⁴

SEC. 271. Unlawful Interest of Revenue Law Enforcers in Business. - Any internal revenue officer who is or shall become interested, directly or indirectly, in the manufacture, sale or importation of any article subject to excise tax under Title VI of this Code or in the manufacture or repair or sale, of any die for printing, or making of stamps, or labels shall upon conviction for each act or omission, be punished by a fine of not less than Five thousand pesos (P5,000) but not more than Ten thousand pesos (P10,000), or suffer imprisonment of not less than two (2) years and one (1) day but not more than four (4) years, or both.

SEC. 272. Violation of Withholding Tax Provision. - Every officer or employee of the Government of the Republic of the Philippines or any of its agencies and instrumentalities, its political subdivisions, as well as government-owned or-controlled corporations, including the Bangko Sentral ng Pilipinas (BSP), who, under the provisions of this Code or rules and regulations promulgated thereunder, is charged with the duty to deduct and withhold any internal revenue tax and to remit the same in accordance with the provisions of this Code and other laws is guilty of any offense herein below specified shall, upon

conviction for each act or omission be punished by a fine of not less than Five thousand pesos (P5,000) but not more than Fifty thousand pesos (P50,000) or suffer imprisonment of not less than six (6) months and one (1) day but not more than two (2) years, or both:

- (a) Failing or causing the failure to deduct and withhold any internal revenue tax under any of the withholding tax laws and implementing rules and regulations;
- (b) Failing or causing the failure to remit taxes deducted and withheld within the time prescribed by law, and implementing rules and regulations; and
- (c) Failing or causing the failure to file return or statement within the time prescribed, or rendering or furnishing a false or fraudulent return or statement required under the withholding tax laws and rules and regulations.

SEC. 273. *Penalty for Failure to Issue and Execute Warrant.* - Any official who fails to issue or execute the warrant of distraint or levy within thirty (30) days after the expiration of the time prescribed in Section 207 or who is found guilty of abusing the exercise thereof by competent authority shall be automatically dismissed from the service after due notice and hearing.

CHAPTER IV

OTHER PENAL PROVISIONS

SEC. 274. *Penalty for Second and Subsequent Offenses.* - In the case of reincidence, the maximum of the penalty prescribed for the offense shall be imposed.

SEC. 275. *Violation of Other Provisions of this Code or Rules and Regulations in General.* - Any person who violates any provision of this Code or any rule or regulation promulgated by the Department of Finance, for which no specific penalty is provided by law, shall, upon conviction for each act or omission, be punished by a fine of not more than One thousand pesos (P1,000) or suffer imprisonment of not more than six (6) months, or both.

SEC. 276. *Penalty for Selling, Transferring, Encumbering or in any way Disposing of Property Placed under Constructive Distraint.* - Any taxpayer, whose property has been placed under constructive distraint, who sells, transfers, encumbers or in any way disposes of said property, or any part thereof, without the knowledge and consent of the Commissioner, shall, upon conviction for each act or omission, be punished by a fine of not less than twice the value of the property so sold, encumbered or disposed of but not less than Five Thousand pesos (P5,000), or suffer imprisonment of not less than two (2) years and one (1) day but not more than four (4) years, or both.

SEC. 277. *Failure to Surrender Property Placed under Distraint and Levy.*- Any person having in his possession or under his control any property or rights to property, upon which a warrant of constructive distraint, or actual distraint and levy has been issued shall, upon demand by the Commissioner or any of his deputies executing such warrant, surrender such property or right to property to the Commissioner or any of his deputies, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to surrender any of such property or right shall be liable in his own person and estate to the Government in a sum equal to the value of the property or rights not so surrendered but not exceeding the amount of the taxes (including penalties and interest) for the collection of

which such warrant had been issued, together with cost and interest if any, from the date of such warrant. In addition, such person shall, upon conviction for each act or omission, be punished by a fine of not less than Five thousand pesos (P5,000), or suffer imprisonment of not less than six (6) months and one (1) day but not more than two (2) years, or both.

SEC. 278. *Procuring Unlawful Divulgence of Trade Secrets.* - Any person who causes or procures an officer or employee of the Bureau of Internal Revenue to divulge any confidential information regarding the business, income or inheritance of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, and which it is unlawful for him to reveal, and any person who publishes or prints in any manner whatever, not provided by law, any income, profit, loss or expenditure appearing in any income tax return, shall be punished by a fine of not more than Two thousand pesos (P2,000), or suffer imprisonment of not less than six (6) months nor more than five (5) years, or both.

SEC. 279. *Confiscation and Forfeiture of the Proceeds or Instruments of Crime.* - In addition to the penalty imposed for the violation of the provisions of Title X of this Code, the same shall carry with it the confiscation and forfeiture in favor of the government of the proceeds of the crime or value of the goods, and the instruments or tools with which the crime was committed: Provided, however, That if in the course of the proceedings, it is established that the instruments or tools used in the illicit act belong to a third person, the same shall be confiscated and forfeited after due notice and hearing in a separate proceeding in favor of the Government if such third person leased, let, chartered or otherwise entrusted the same to the offender: Provided, further, That in case the lessee subleased, or the borrower, charterer, or trustee allowed the use of the instruments or tools to the offender, such instruments or tools shall, likewise, be confiscated and forfeited: Provided, finally, That property of common carriers shall not be subject to forfeiture when used in the transaction of their business as such common carrier, unless the owner or operator of said common carrier was, at the time of the illegal act, a consenting party or privy thereto, without prejudice to the owner's right of recovery against the offender in a civil or criminal action. Articles which are not subject of lawful commerce shall be destroyed.

SEC. 280. *Subsidiary Penalty.* - If the person convicted for violation of any of the provisions of this Code has no property with which to meet the fine imposed upon him by the court, or is unable to pay such fine, he shall be subject to a subsidiary personal liability at the rate of one (1) day for each Eight pesos and fifty centavos (P8.50) subject to the rules established in Article 39 of the Revised Penal Code.

SEC. 281. *Prescription for Violations of any Provision of this Code.* - All violations of any provision of this Code shall prescribe after five (5) years.

Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

The prescription shall be interrupted when proceedings are instituted against the guilty persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

The term of prescription shall not run when the offender is absent from the Philippines.

SEC. 282. *Informer's Reward to Persons Instrumental in the Discovery of Violations of the National Internal Revenue Code and in the Discovery and Seizure of Smuggled Goods.* -

(A) For Violations of the National Internal Revenue Code.- Any person, except an internal revenue official or employee, or other public official or employee, or his relative within the sixth degree of consanguinity, who voluntarily gives definite and sworn information, not yet in the possession of the Bureau of Internal Revenue, leading to the discovery of frauds upon the internal revenue laws or violations of any of the provisions thereof, thereby resulting in the recovery of revenues, surcharges and fees

and/or the conviction of the guilty party and/or the imposition of any of the fine or penalty, shall be rewarded in a sum equivalent to ten percent (10%) of the revenues, surcharges or fees recovered and/or fine or penalty imposed and collected or One Million Pesos (P1,000,000) per case, whichever is lower. The same amount of reward shall also be given to an informer where the offender has offered to compromise the violation of law committed by him and his offer has been accepted by the Commissioner and collected from the offender: Provided, That should no revenue, surcharges or fees be actually recovered or collected, such person shall not be entitled to a reward: Provided, further, That the information mentioned herein shall not refer to a case already pending or previously investigated or examined by the Commissioner or any of his deputies, agents or examiners, or the Secretary of Finance or any of his deputies or agents: Provided, finally, That the reward provided herein shall be paid under rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner.

(B) For Discovery and Seizure of Smuggled Goods. To encourage the public to extend full cooperation in eradicating smuggling, a cash reward equivalent to ten percent (10%) of the fair market value of the smuggled and confiscated goods or One Million Pesos (P1,000,000) per case, whichever is lower, shall be given to persons instrumental in the discovery and seizure of such smuggled goods.

The cash rewards of informers shall be subject to income tax, collected as a final withholding tax at a rate of ten percent (10%).

The Provisions of the foregoing Subsections notwithstanding, all public officials, whether incumbent or retired, who acquired the information in the course of the performance of their duties during their incumbency, are prohibited from claiming informer's reward.

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TITLE XI

ALLOTMENT OF INTERNAL REVENUE

CHAPTER I

DISPOSITION AND ALLOTMENT OF NATIONAL INTERNAL REVENUE IN GENERAL

SEC. 283. *Disposition of National Internal Revenue.* - National Internal revenue collected and not applied as herein above provided or otherwise specially disposed of by law shall accrue to the National Treasury and shall be available for the general purposes of the Government, with the exception of the amounts set apart by way of allotment as provided for under Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

In addition to the internal revenue allotment as provided for in the preceding paragraph, fifty percent (50%) of the national taxes collected under Sections 106, 108 and 116 of this Code in excess of the increase in collections for the immediately preceding year shall be distributed as follows:

- (a) Twenty percent (20%) shall accrue to the city or municipality where such taxes are collected and shall be allocated in accordance with Section 150 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991; and
- (b) Eighty percent (80%) shall accrue to the National Government.

SEC. 284. Allotment for the Commission on Audit. - One-half of one percent (1/2 of 1%) of the collections from the national internal revenue taxes not otherwise accruing to special accounts in the general fund of the national government shall accrue to the Commission on Audit as a fee for auditing services rendered to local government units, excluding maintenance, equipment, and other operating expenses as provided for in Section 21 of Presidential Decree No. 898.

The Secretary of Finance is hereby authorized to deduct from the monthly internal revenue tax collections an amount equivalent to the percentage as herein fixed, and to remit the same directly to the Commission on Audit under such rules and regulations as may be promulgated by the Secretary of Finance and the Chairman of the Commission on Audit.

SEC. 285. Allotment for the Bureau of Internal Revenue. - An amount equivalent to five percent (5%) of the excess of actual collections of national internal revenue taxes over the collection goal shall accrue to the special fund of the Bureau of Internal Revenue and shall be treated as receipts automatically appropriated. Said amount shall be utilized as incentive bonus for revenue personnel, purchase of necessary equipment and facilities for the improvement of tax administration, as approved by the Commissioner: Provided, That the President may, upon recommendation of the Commissioner, direct that the excess be credited to a Special Account in the National Treasury to be held in the reserve available for distribution as incentive bonus in subsequent years.

The Secretary of Finance is hereby authorized to transfer from the Treasury an amount equivalent to the percentage as herein fixed and to remit the same directly to the Bureau of Internal Revenue under such rules and regulations as may be promulgated by the Secretary of Finance.

CHAPTER II

SPECIAL DISPOSITION OF CERTAIN NATIONAL INTERNAL REVENUE TAXES

SEC. 286. Disposition of Proceeds of Insurance Premium Tax. - Twenty-five percent (25%) of the premium tax collected under Section 123 of this Code shall accrue to the Insurance Fund as contemplated in Section 418 of Presidential Decree No. 612 which shall be used for the purpose of defraying the expenses of the Insurance Commission. The Commissioner shall turn over and deliver the said Insurance Fund to the Insurance Commissioner as soon as the collection is made.

SEC. 287. Shares of Local Government Units in the Proceeds from the Development and Utilization of the National Wealth. - Local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.

(A) Amount of Share of Local Government Units. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from excise taxes on mineral products, royalties, and such other taxes, fees or charges, including related surcharges, interests or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

(B) Share of the Local Governments from Any Government Agency or Government-owned or - Controlled Corporation. - Local Government Units shall have a share, based on the preceding fiscal year, from the proceeds derived by any government agency or government-owned or controlled corporation engaged in the utilization and development of the national wealth based on the following formula, whichever will produce a higher share for the local government unit:

- (1) One percent (1%) of the gross sales or receipts of the preceding calendar year; or
- (2) Forty percent (40%) of the excise taxes on mineral products, royalties, and such other taxes, fees or charges, including related surcharges, interests or fines the government agency or government-owned or -controlled corporations would have paid if it were not otherwise exempt.

(C) Allocation of Shares. - The share in the preceding Section shall be distributed in the following manner:

- (1) Where the natural resources are located in the province:
 - (a) Province - twenty percent (20%)
 - (b) Component city/municipality - forty-five percent (45%); and
 - (c) Barangay - thirty-five percent (35%)

Provided, however, That where the natural resources are located in two (2) or more provinces, or in two (2) or more component cities or municipalities or in two (2) or more barangays, their respective shares shall be computed on the basis of: (1) Population – seventy percent (70%); and (2) Land area – thirty percent (30%).

- (2) Where the natural resources are located in a highly urbanized or independent component city:
 - (a) City - sixty - five percent (65%); and
 - (b) Barangay - thirty - five percent (35%)

Provided, however, That where the natural resources are located in two (2) or more cities, the allocation of shares shall be based on the formula on population and land area as specified in subsection (C)(1) hereof.

SEC. 288. Disposition of Incremental Revenue. –

(A) Incremental Revenues from Republic Act No. 7660. - The incremental revenues from the increase in the documentary stamp taxes under R.A. No. 7660 shall be set aside for the following purposes:

- (1) In 1994 and 1995, twenty-five percent (25%) thereof respectively, shall accrue to the Unified Home-Lending Program under Executive Order No. 90 particularly for mass-socialized housing program to be allocated as follows: fifty percent (50%) for mass-socialized housing; thirty percent (30%) for the community mortgage program; and twenty percent (20%) for land banking and development to be administered by the National Housing Authority. Provided, That not more than one percent (1%) of the respective allocations hereof shall be used for administrative expenses;
- (2) In 1996, twenty-five percent (25%) thereof to be utilized for the National Health Insurance Program that hereafter may be mandated by law;
- (3) In 1994 and every year thereafter, twenty-five percent (25%) thereof shall accrue to a Special Education Fund to be administered by the Department of Education, Culture and Sports for the construction and repair of school facilities, training of teachers, and procurement or production of instructional materials and teaching aids; and

(4) In 1994 and every year thereafter, fifty percent (50%) thereof shall accrue to a Special Infrastructure Fund for the Construction and repair of roads, bridges, dams and irrigation, seaports and hydroelectric and other indigenous power projects: Provided, however, That for the years 1994 and 1995, thirty percent (30%), and for the years 1996, 1997 and 1998, twenty percent (20%), of this fund shall be allocated for depressed provinces as declared by the President as of the time of the effectivity of R.A. No. 7660: Provided, further, That availments under this fund shall be determined by the President on the basis of equity.

Provided, finally, That in paragraphs (2), (3), and (4) of this Section, not more one percent (1%) of the allocated funds thereof shall be used for administrative expenses by the implementing agencies.

(B) [227]

(C) [227]

(D) Incremental Revenue from the Value-Added Tax – Fifty percent (50%) of the local government unit's share from the incremental revenue from the Value-Added Tax shall be allocated and used exclusively for the following purposes:

(1) Fifteen percent (15%) for public elementary and secondary education to finance the construction of buildings, purchases of school furniture and in-service teacher trainings;

(2) Ten percent (10%) for health insurance premiums of enrolled indigents as a counterpart contribution of the local government to sustain the universal coverage of the National Health Insurance Program;

(3) Fifteen percent (15%) for environmental conservation to fully implement a comprehensive national reforestation program; and

(4) Ten percent (10%) for agricultural modernization to finance the construction of farm-to-market roads and irrigation facilities.

Such allocations shall be segregated as separate trust funds by the national treasury and shall be over and above the annual appropriation for similar purposes.

(E) The amount of Fifteen million pesos (P15, 000,000) shall be allocated for a Public Information and Education Program to be administered by the Bureau of Internal Revenue, explaining clearly to businesses their registration, invoicing and reporting requirements under the value-added tax rules. Such program should include seminars and visits to taxpayers to familiarize them with the tax and the development and publication of easy-to-read guides on the value-added tax.

(F) Incremental Revenues from the Tax Reform for Acceleration and Inclusion (TRAIN). – For five (5) years from the effectivity of this Act, the yearly incremental revenues generated shall be automatically appropriated as follows:

(1) Not more than seventy percent (70%) to fund infrastructure projects such as, but not limited to the Build, Build, Build Program and provide infrastructure programs to address congestion through mass transport and new road networks, military infrastructure, sport facilities for public schools, and potable drinking water supply in all public places; and

(2) Not more than thirty percent (30%) to fund:

(a) Programs under Republic Act No. 10659, otherwise known as 'Sugarcane Industry Development Act of 2015' to advance the self-reliance of sugar farmers that will increase productivity, provide livelihood opportunities, develop alternative farming systems and ultimately enhance farmers' income;

(b) Social mitigating measures and investments in: (i) education, (ii) health, targeted nutrition, and anti-hunger programs for mothers, infants, and young children, (iii) social protection, (iv) employment, and (v) housing that prioritize and directly benefit both the poor and near-poor households;

(c) A social welfare and benefits program where qualified beneficiaries shall be provided with a social benefits card to avail of the following social benefits:

(i) Unconditional cash transfer households in the first to seventh income deciles of the National Household Targeting System for Poverty Reduction (NHTS-PR), Pantawid Pamilyang Pilipino Program, and the social pension program for a period of three (3) years from the effectivity of this Act: Provided, That the unconditional cash transfer shall be Two hundred pesos (P200.00) per month for the first year and Three hundred pesos (P300.00) per month for the second year and third year, to be implemented by the Department of Social Welfare and Development (DSWD);

(ii) Fuel vouchers to qualified franchise holders of Public Utility Jeeps (PUJs);

(iii) For minimum wage earners, unemployed, and the poorest fifty percent (50%) of the population:

(1) Fare discount from all public utility vehicles (except trucks for hire and school transport service) in the amount equivalent to ten percent (10%) of the authorized fare;

(2) Discounted purchase of National Food Authority (NFA) rice from accredited retail stores in the amount equivalent to ten percent (10%) of the net retail prices, up to maximum of twenty (20) kilos per month; and

(3) Free skill training under a program implemented by the Technical Skills Development Authority (TESDA).

Provided, That benefits or grants contained in this Subsection shall not be availed in addition to any other discounts.

(iv) Other social benefits programs to be developed and implemented by the government.

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An interagency committee, chaired by the Department of Budget and Management (DBM) and co-chaired by DOF and DSWD, and comprised of the National Economic and Development Authority (NEDA), Department of Transportation (DOTr), Department of Education (DepEd), Department of Health (DOH), Department of Labor and Employment (DOLE), National Housing Authority (NHA), Sugar Regulatory Administration (SRA), Department of Interior and Local Government (DILG), Department of Energy (DOE), NFA, and TESDA, is hereby created to oversee the identification of qualified beneficiaries and the implementation of these projects and programs: Provided, That qualified beneficiaries under Subsection (c) hereof shall be identified using the National ID System which may be enacted by Congress.

Within sixty (60) days from the end of the three (3) year period from the effectivity of this Act, the interagency committee and respective implementing agencies for the above programs shall submit corresponding program assessments to the COCCTRP. The National Expenditure Program from 2019 onwards shall provide line items that correspond to the allocations mandated in the provisions above.

At the end of five (5) years from the effectivity of this Act, all earmarking provisions under Subsection (F), shall cease to exist and all incremental revenues derived under this Act shall accrue to the General Fund of the government.^[229]

(G) Disposition of Revenues from Gaming Tax of offshore Gaming licensees. –

The provisions of existing law to the contrary notwithstanding, sixty percent (60%) of the total revenue collected from the gaming tax imposed on offshore gaming licensees shall be allocated and used exclusively in the following manner:

- (1) Sixty percent (60%) for the implementation of Republic Act No. 11223, otherwise known as the 'Universal Health Care Act';
- (2) Twenty percent (20%) shall be allocated to the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the Department of Health; and
- (3) Twenty percent (20%) shall be allocated for the attainment of the Sustainable Development Goals (SDGs): Provided, That the specific SDG targets shall be determined by the National Economic and Development Authority.^[20]

Sec. 288-A. Disposition of Revenues from Excise Tax on Sweetened Beverages, Alcohol, Tobacco Products, Heated Tobacco Products, and Vapor Products. –

(A) Revenues from Excise Tax on Sweetened Beverages from Republic Act No. 10963. - The provisions of existing laws to the contrary notwithstanding, fifty percent (50%) of the total revenues collected from the excise tax on sweetened beverages shall be allocated and used exclusively in the following manner:

- (1) Eighty percent (80%) to the Philippine Health Insurance Corporation (PhilHealth) for the implementation of Republic Act No. 11223, otherwise known as the 'Universal Health Care Act' of 2019; and
- (2) Twenty percent (20%) shall be allocated nationwide, based on political and district-subdivisions, for medical assistance, the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the Department of Health (DOH).

(B) Revenues from Excise Tax on Alcohol Products. - The provisions of existing laws to the contrary notwithstanding, one hundred percent (100%) of the total revenues collected from the excise tax on alcohol products shall be allocated and used exclusively in the following manner:

- (1) Sixty percent (60%) for the implementation of Republic Act No. 11223, otherwise known as the 'Universal Health Care Act of 2019';
- (2) Twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance, the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the DOH; and
- (3) Twenty percent (20%) shall be allocated for the attainment of the Sustainable Development Goals (SDGS): Provided, That the specific SDG targets shall be determined by the National Economic and Development Authority (NEDA).

(C) Revenues from Excise Tax on Tobacco Products. ^[48] - The provisions of existing laws to the contrary notwithstanding, the total revenues collected from the excise tax on tobacco products shall be distributed in the following manner:

(1) An annual amount equivalent to five percent (5%) of the revenue collection from excise tax on tobacco products, but not exceeding Four billion pesos (₱4,000,000,000.00) shall be allocated and divided among the provinces producing burley and native tobacco in accordance with the volume of tobacco leaf production.

The respective shares of the local government units of a beneficiary province under this Section shall be distributed as follows:

- (i) Fifty percent (50%) shall be allocated to the provincial government of the beneficiary province; and
- (ii) Fifty percent (50%) shall be proportionately allocated to the municipalities and cities of the beneficiary province on the basis of the volume of then-respective tobacco production.

The fund shall be exclusively utilized for programs to promote economically viable alternatives for tobacco farmers and workers such as:

- (a) Programs that will provide inputs, training, and other support for tobacco farmers who shift to production of agricultural products other than tobacco including, but not limited to, high-value crops, spices, rice, corn, sugarcane, coconut, livestock and fisheries;
- (b) Programs that will provide financial support for tobacco farmers who are displaced or who cease to produce tobacco;
- (c) Cooperative programs to assist tobacco farmers in planting alternative crops or implementing other livelihood projects;
- (d) Livelihood programs and projects that will promote, enhance, and develop the tourism potential of tobacco-growing provinces;
- (e) Infrastructure projects such as farm-to-market roads, bridges, schools, hospitals, rural health facilities and irrigation systems; and
- (f) Agro-industrial projects that will enable tobacco farmers to be involved in the management and subsequent ownership of projects, such as post-harvest and secondary processing like cigarette-manufacturing and by-product utilization.

(2) Fifty percent (50%) of the total excise tax collection from tobacco products shall be allocated and used exclusively in the following manner:

- (a) Eighty percent (80%) to PhilHealth for the implementation of Republic Act No. 11223, otherwise known as the 'Universal Health Care Act' of 2019; and
- (b) Twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance, the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the DOH; and

(D) Revenues from Excise Tax on Heated Tobacco Products and Vapor Products. - The provisions of existing laws to the contrary notwithstanding, one hundred percent (100%) of the total revenues collected from the excise tax on heated tobacco products and vapor products shall be allocated and used exclusively in the following manner:

(1) Sixty percent (60%) for the implementation of Republic Act No. 11223, otherwise known as the "Universal Health Care Act" of 2019;

(2) Twenty percent (20%) shall be allocated nationwide, based on political and district subdivisions, for medical assistance and the Health Facilities Enhancement Program (HFEP), the annual requirements of which shall be determined by the DOH; and

(3) Twenty percent (20%) shall be allocated for the attainment of the Sustainable Development Goals (SDGS): Provided, That the specific SDG targets shall be determined by the National Economic and Development Authority (NEDA).

Provided, That the Department of Budget and Management (DBM), in consultation with the Department of Agriculture and National Tobacco Administration, shall issue rules and regulations governing the allocation and disbursement of the fund allocated to tobacco-producing provinces, not later than one hundred eighty (180) days from the effectivity of this Act.

Provided, further, That the allocation for Universal Health Care under Section 288-A shall be based on the collection of the second fiscal year preceding the current fiscal year.^[230]

SEC. 289. Special Financial Support to Beneficiary Provinces Producing Virginia Tobacco. ^[48] - The financial support given by the National Government for the beneficiary provinces shall be constituted and collected from the proceeds of fifteen percent (15%) of the excise taxes on locally manufactured Virginia-type of cigarettes, but not exceeding Seventeen billion pesos (₱17,000,000,000.00) notwithstanding the provision of Section 3 of Republic Act No. 7171.^[231]

The funds allotted shall be divided among the beneficiary provinces pro-rata according to the volume of Virginia tobacco production.

Provinces producing Virginia tobacco shall be the beneficiary provinces under Republic Act No. 7171: Provided, however, That to qualify as beneficiary under R.A. No. 7171, a province must have an average annual production of Virginia leaf tobacco in an amount not less than one million kilos: Provided, further, That the Department of Budget and Management (DBM) shall each year determine the beneficiary provinces and their computed share of the funds under R.A. No. 7171, referring to the National Tobacco Administration (NTA) records of tobacco acceptances, at the tobacco trading centers for the immediate past year.

"The Secretary of Budget and Management is hereby directed to retain annually the said funds equivalent to fifteen percent (15%) of excise taxes on locally manufactured Virginia-type cigarettes, but not exceeding Seventeen billion pesos (₱17,000,000,000.00) notwithstanding the provision of Section 3 of R.A. No. 7171,^[231] to be remitted to the beneficiary provinces qualified under R.A. No. 7171.

The provisions of existing laws to the contrary notwithstanding, the fifteen percent (15%) share from government revenues mentioned in R.A. No. 7171, but not exceeding Seventeen billion pesos (₱17,000,000,000.00) notwithstanding the provision of Section 3 of R.A. No. 7171,^[231] and due to the Virginia tobacco-producing provinces shall be directly remitted to the provinces concerned.

Provided, That this Section shall be implemented in accordance with the guidelines of Memorandum Circular No. 61-A dated November 28, 1993, which amended Memorandum Circular No. 61, entitled 'Prescribing Guidelines for Implementing Republic Act No. 7171', dated January 1, 1992 and that the funds be utilized to further advance self-reliance and expand viable alternatives for Virginia-tobacco farmers and workers through:

- (1) Cooperative projects that will enhance better quality of products, increase productivity, guarantee the market and as a whole increase farmers' income;
- (2) Livelihood projects particularly the development of alternative farming systems to enhance farmers' income;
- (3) Agro-industrial projects that will enable tobacco farmers in the Virginia tobacco-producing provinces to be involved in the management and subsequent ownership of these projects such as post-harvest and secondary processing like cigarette manufacturing and by-product utilization;
- (4) Infrastructure projects such as farm-to-market roads, bridges, schools, hospitals, rural health facilities, and irrigation systems;
- (5) Programs and projects that will promote, enhance, and develop the tourism potential of Virginia tobacco-growing provinces; and
- (6) Programs that will provide financial assistance for tobacco farmers that were displaced or who cease to produce tobacco. ^[231]

Provided, further, That in addition to the local government units mentioned in the above circular, the concerned officials in the province shall be consulted as regards the identification of projects to be financed.

SEC. 289-A. Support for Local Water Districts. – The amount that would have been paid as income tax and saved by the local water district by virtue of its exemption to the income taxes shall be used by the local water district concerned for capital equipment expenditure in order to expand water services coverage and improve water quality in order to provide safe and clean water in provinces, cities and municipalities: Provided, further, that the water district shall not increase by more than twenty percent (20%) a year its appropriation for personal services, as well as for travel, transportation or representation expenses and purchase of motor vehicles.

All unpaid taxes or any portion thereof due from a local water district for the period starting August 13, 1996 until the effectivity date of this Act are hereby condoned by the Government subject to the following conditions: (1) that the Bureau of Internal Revenue, after careful review of the financial statements of a water district applying for condonation of taxes due, establishes its financial incapacity, after providing for its maintenance and operating expenses, debt servicing and reserved fund, to meet such obligations for the period stated herein, and (2) that the water district availing of such condonation shall submit to Congress of the Philippines a program of internal reforms, duly certified by the local water utilities administration, that would bring about its economic and financial viability.

All water districts, through the Local Water Utilities Administration, shall furnish the Committee on Ways and Means for the Senate and House of Representatives, respectively, on an annual basis, with statistical data and financial statements regarding their operations and other information as may be required, for purposes of monitoring compliance with the provisions of this Act ^[55] and reviewing the rationalization for tax exemption privileges.

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TITLE XII

OVERSIGHT COMMITTEE

SEC. 290. Congressional Oversight Committee. - A Congressional Oversight Committee, hereinafter referred to as the Committee, is hereby constituted in accordance with the provisions of this Code. The Committee shall be composed of the Chairpersons ^[232] of the Committee on Ways and Means of the Senate and House of Representatives and four (4) additional members from each House, to be designated by the Speaker of the House of Representatives and the Senate President, respectively.

The Committee shall, among others, in aid of legislation:

- (1) Monitor and ensure the proper implementation of Republic Act No. 8240;
- (2) Determine that the power of the Commissioner to compromise and abate is reasonably exercised;
- (3) Review the collection performance of the Bureau of Internal Revenue;
- (4) Review the implementation of the programs of the Bureau of Internal Revenue; and
- (5) Review the performance of the Fiscal Incentives Review Board. ^[233]

In furtherance of the hereinabove cited objectives, the Committee is empowered to require of the Bureau of Internal Revenue, submission of all pertinent information, including but not limited to: industry audits; collection performance data; status report on criminal actions initiated against persons; and submission of taxpayer returns: Provided, however, That any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished the Committee only when sitting in Executive Session unless such taxpayer otherwise consents in writing to such disclosure.

SEC. 290-A. Joint Congressional Oversight Committee on Illicit Trade on Excisable Products. - A Joint Congressional Oversight Committee, herein referred to as the Oversight Committee on illicit trade on excisable products, shall be constituted. The Oversight Committee on Illicit Trade on Excisable Products shall be composed of the respective Chairpersons of the Committees on Ways and Means of the Senate and the House of Representatives as co chairpersons and six (6) additional members from each house to be designated respectively by the Senate President and the Speaker of the House of Representatives.

The Oversight Committee on Illicit Trade on Excisable Products shall, in aid of legislation, perform the following duties and functions, among others:

- (1) Review and evaluate the programs and performance of the Bureau of Internal Revenue and the Bureau of Customs in addressing illicit trade on excisable products and recommend necessary remedial legislation;
- (2) Require concerned government agencies to submit reports and all pertinent data and information which will aid in resolving illicit trade of excisable products;
- (3) Hold public hearings and summon concerned private individuals, government personnel and officials as resource persons;

(4) Deputize the Bureau of Internal Revenue, Bureau of Customs, the Philippine National Police, the National Bureau of Investigation and other enforcement agencies of the government as may be necessary in undertaking its duties and functions; and

(5) Perform such other duties and functions as may be necessary to perform its mandate.

The Joint Congressional Oversight Committee shall be assisted by a Secretariat composed of even number of monitors from both Houses. It shall be co-headed by the service directors of the Committees on Ways and Means of the Senate and the House of Representatives.

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TITLE XIII ^[234]

TAX INCENTIVES

CHAPTER I

GENERAL PROVISIONS ON TAX INCENTIVES

SEC. 291. Scope and Coverage. - This Title shall cover all existing Investment Promotion Agencies as defined in this Code or related laws unless otherwise specifically exempted from the coverage of this Code.

The Investment Promotion Agencies shall maintain their functions and powers as provided under the special laws governing them except to the extent modified by the provisions of this Code: Notwithstanding the provisions of this Section, the Department of Finance, the Bureau of Internal Revenue, and the Bureau of Customs shall retain their respective mandates, powers and functions as provided for under this Act and related laws.

SEC. 292. Extent of Authority to Grant Tax Incentives. - The Fiscal Incentives Review Board, or the Investment Promotion Agencies, under a delegated authority from the Fiscal Incentives Review Board, shall grant the appropriate tax incentives provided in this Title to be granted to registered business enterprises only to the extent of their approved registered project or activity under the Strategic Investment Priority Plan.

SEC. 293. Definitions. - When used in this Title:

(A) *Capital equipment* refers to machinery, equipment, major components thereof, tools, devices, applications or apparatus, which are directly or reasonably needed in the registered project or activity of the registered enterprise;

(B) *Direct local employment* refers to the full and decent employment of Filipinos by registered business enterprises under an employer-employee relationship to perform functions that are directly related to the production of goods or performance of services under the registered project or activity;

(C) *Domestic input* refers to purchases of locally manufactured goods or locally produced raw materials or domestically outsourced services known as services embedded in manufacturing that are used directly in the production of goods under the registered project or activity. In the case of locally manufactured goods, fifty percent (50%) of the value-added of the said good should likewise be locally produced or manufactured;

(D) *Domestic market enterprise* refers to any enterprise registered with the Investment Promotion Agency other than export enterprise;

(E) *Export enterprise* refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with the Investment Promotion Agency to engage in manufacturing, assembling or processing activity, and services such as information technology (IT) activities and business process outsourcing (BPO), and resulting in the direct exportation, and/or sale of its manufactured, assembled or processed product or IT/BPO services to another registered export enterprise that will form part of the final export product or export service of the latter, of at least seventy percent (70%) of its total production or output;

(F) *Freeport zones* refer to an isolated and policed area adjacent to a port of entry, which shall be operated and managed as a separate customs territory to ensure free flow or movement of goods, except those expressly prohibited by law, within, into, and exported out of the freeport zone where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated without being subject to import duties. However, movement of these imported goods from the free-trade area to a non-free trade area in the country shall be subject to all applicable internal revenue taxes and duties: Provided, That for the freeport to qualify as a separate customs territory, a freeport shall have a permanent customs control or customs office at its perimeter;

(G)^[235]

(H) *Investment Promotion Agencies* refer to government entities created by law, executive order, decree or other issuance, in charge of promoting investments, granting and administering tax and non-tax incentives, and overseeing the operations of the different economic zones and freeports in accordance with their respective special laws. These include the Board of Investments (BOI), Regional Board of Investments-Autonomous Region in Muslim Mindanao (RBOI-ARMM), Philippine Economic Zone Authority (PEZA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCSEZA), PHIVIDEC Industrial Authority (PIA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and all other similar existing authorities or that may be created by law unless otherwise specifically exempted from the coverage of this Code;

(I) *Metropolitan areas* refer to Metro Cebu and Metro Davao or those local government units which are later qualified or grouped as such by the National Economic and Development Authority or through laws or executive issuances;

(J) *Other government agencies administering tax incentives* refer to government agencies other than Investment Promotion Agencies which register or administer tax incentives of any kind to any specific entities and/or class of persons pursuant to any law;

(K) *Other registered entities* refer to any individual, partnership, organization, corporation, Philippine branch of a foreign corporation, or other entity incorporated and/or organized and existing under Philippine laws, and registered with other government agencies administering tax incentives;

(L) *Qualified capital expenditure* refers to purchases of capital goods with a useful life of more than one (1) year acquired for the entity's production of goods and services to be directly used in the project or activity of the registered business enterprise;

(M) *Registered business enterprise* refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an Investment Promotion Agency excluding service enterprises such as those engaged in customs brokerage, trucking or forwarding services, janitorial services, security services, insurance, banking, and other financial services, consumers' cooperatives, credit unions, consultancy services, retail enterprises, restaurants, or such other similar services, as may be determined by the Fiscal Incentives Review Board, irrespective of location, whether inside or outside the zones, duly accredited or licensed by any of the Investment Promotion Agencies and whose income delivered within the economic zones shall be subject to taxes under the National Internal Revenue Code of 1997, as amended;

(N) *Research and development* refers to experimental or other related projects or activities:

(1) Whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, but can only be determined by applying a systematic progression of work:

(i) Based on principles of established science; and

(ii) Proceeds from hypothesis to experiment, observation and evaluation, and leads to logical conclusions.

(2) That are conducted for the purpose of generating new knowledge, including new knowledge in the form of new or improved materials, products, devices, processes or services;

(O) *Sophisticated* refers to the state when a product or service requires a high level of technology, human capital, competencies or know-how, and infrastructure to be produced or offered;

(P) *Sophistication* refers to the level of technology, human capital, competencies or know-how, and infrastructure required for a product or service to be offered by an economy like that of the Philippines;

(Q) *Source document* refers to input materials and documents reasonably needed by information technology (IT) and IT-enabled industries such as books, directories, magazines, newspapers, brochures, pamphlets, medical records or files, legal records or files, instruction materials, and drawings, blueprints, or outlines;

(R) *Special economic zone or ecozone* refers to a selected area, which shall be operated and managed as a separate customs territory that is highly developed or has the potential to be developed into an agro-industrial, industrial, information technology, or tourist/recreational area, whose metes and bounds are fixed or delimited by presidential proclamations and within a specific geographical area which includes industrial estates (IEs), export processing zones (EPZs), ICT parks and centers, and free trade zones: Provided, That for the ecozone to qualify as a separate customs territory, an ecozone shall have a permanent customs control or customs office at its perimeter: Provided, however, That areas where mining extraction is undertaken shall not be declared as an ecozone: Provided, further, That vertical economic zones, such as, but not limited to, buildings, selected floors within buildings, and selected areas on a floor, need to comply with the minimum contiguous land area as determined by the Fiscal Incentives Review Board; and

(S) *Training* refers to courses, curricula, certifications or modules provided to Filipino employees that are directly related to the production of goods or performance of services under the registered project or activity and that are of a technical nature, which shall develop or improve the specific skills or practical knowledge of the employee especially in the mechanical,

industrial art, scientific field or practical science of a particular position or job function in the registered project or activity, or in preparation for enhancing the value chain.

CHAPTER II

TAX AND DUTY INCENTIVES

SEC. 294. Incentives. - Subject to the conditions and period of availment in Sections 295 and 296, respectively, the following types of tax incentives may be granted to registered projects or activities:

(A) *Income Tax Holiday (ITH)*;

(B) *Special Corporate Income Tax (SCIT) Rate* - For export enterprise,^[236] a tax rate equivalent to five percent (5%) effective July 1, 2020, based on the gross income earned, in lieu of all national and local taxes.^[237]

The period of availment of the Special Corporate Income Tax shall be subject to the conditions set under paragraphs (A) and (B) of Section 296 of this Act:

Provided, That, if applicable, the shares of the local government units and the Investment Promotion Agencies under the special laws governing the latter shall be observed and shall not result in the diminution of their respective shares.^[238]

(C) *Enhanced Deductions (ED)* - For export enterprise and domestic market enterprise,^[239] the following may be allowed as deductions:

- (1) Depreciation allowance of the assets acquired for the entity's production of goods and services (qualified capital expenditure) – additional ten percent (10%) for buildings; and additional twenty percent (20%) for machineries and equipment;
- (2) Fifty percent (50%) additional deduction on the labor expense incurred in the taxable year;
- (3) One hundred percent (100%) additional deduction on research and development expense incurred in the taxable year;
- (4) One hundred percent (100%) additional deduction on training expense incurred in the taxable year;
- (5) Fifty percent (50%) additional deduction on domestic input expense incurred in the taxable year;
- (6) Fifty percent (50%) additional deduction on power expense incurred in the taxable year;
- (7) Deduction for reinvestment allowance to manufacturing industry – When a manufacturing registered business enterprise reinvests its undistributed profit or surplus in any of the projects or activities listed in the Strategic Investment Priority Plan, the amount reinvested to a maximum of fifty percent (50%) shall be allowed as a deduction from its taxable income within a period of five (5) years from the time of such reinvestment; and

(8) Enhanced Net Operating Loss Carry-Over (NOLCO). – The net operating loss of the registered project or activity during the first three (3) years from the start of commercial operation, which had not been previously offset as deduction from gross income, may be carried over as deduction from gross income within the next five (5) consecutive taxable years immediately following the year of such loss.

(D) *Duty exemption* on importation of capital equipment, raw materials, spare parts, or accessories; and

(E) *Value-Added Tax (VAT) exemption* on importation and VAT zero-rating on local purchases.

SEC. 295. Conditions of Availment. - The tax incentives in the preceding Section shall be governed by the following rules:

(A) The income tax holiday shall be followed by the Special Corporate Income Tax rate or Enhanced Deductions.

(B) At the option of the export enterprise,^[240] the Special Corporate Income Tax rate or enhanced deductions shall be granted: Provided, That in no case shall the enhanced deductions be granted simultaneously with the Special Corporate Income Tax.

The following conditions for the availment of each enhanced deductions shall be complied with:

(1) The depreciation allowance of the assets acquired for the entity's production of goods and services (qualified capital expenditure) shall be allowed for assets that are directly related to the registered enterprise's production of goods and services other than administrative and other support services.

(2) The additional deduction on the labor expense shall not include salaries, wages, benefits, and other personnel costs incurred for managerial, administrative, indirect labor, and support services.

(3) The additional deduction on research and development expense shall only apply to research and development directly related to the registered project or activity of the entity and shall be limited to local expenditure incurred for salaries of Filipino employees and consumables and payments to local research and development organizations.

(4) The additional deduction on training expense shall only apply to trainings, as approved by the Investment Promotion Agencies based on the Strategic Investment Priority Plan, given to the Filipino employees engaged directly in the registered business enterprise's production of goods and services.

(5) The additional deduction on domestic input expense shall only apply to domestic input that are directly related to and actually used in the registered export project or activity of the registered business enterprise.

(6) The additional deduction on power expense shall only apply to power utilized for the registered project or activity.

(7) The deduction for reinvestment allowance to manufacturing industry shall be determined in the Strategic Investment Priority Plan.

(C) The duty exemption shall only apply to the importation of capital equipment, raw materials, spare parts, or accessories directly and exclusively used in the registered project or activity by registered business enterprises: Provided, That the following conditions are complied with:

(1) The capital equipment, raw materials, spare parts, or accessories are directly and reasonably needed and will be used exclusively in and as part of the direct cost of the registered project or activity of the registered business enterprise, and are not produced or manufactured domestically in sufficient quantity or of comparable quality and at reasonable prices. Prior approval of the Investment Promotion Agency may be secured for the part-time utilization of said capital equipment, raw materials, spare parts, or accessories in a non-registered project or activity to maximize usage thereof: Provided, That the proportionate taxes and duties are paid on a specific capital equipment, raw materials, spare parts, or accessories in proportion to the utilization for non-registered projects or activities. In the event that the capital equipment, raw materials, spare parts, or accessories shall be used for a non-registered project or activity of the registered business enterprise at any time within the first five (5) years from date of importation, the registered business enterprise shall first seek prior approval of the concerned Investment Promotion Agency and pay the taxes and customs duties that were not paid upon the importation; and

(2) The approval of the Investment Promotion Agency was obtained by the registered business enterprise prior to the importation of such capital equipment, raw materials, spare parts, or accessories.

Within the first five (5) years from date of importation, approval of the Investment Promotion Agency must be secured before the sale, transfer, or disposition of the capital equipment, raw materials, spare parts, or accessories, which were granted tax and customs duty exemption hereunder, and shall be allowed only under the following circumstances:

- (a) If made to another enterprise availing customs duty exemption on imported capital equipment, raw materials, spare parts, or accessories;
- (b) If made to another enterprise not availing of duty exemption on imported capital equipment, raw materials, spare parts, or accessories, upon payment of any taxes and duties due on the net book value of the capital equipment, raw materials, spare parts, or accessories to be sold;
- (c) Exportation of capital equipment, raw materials, spare parts, accessories, source documents, or those required for pollution abatement and control;
- (d) Proven technical obsolescence of the capital equipment, raw materials, spare parts, or accessories; or
- (e)) If donated to the TESDA, state universities and colleges (SUCs), or DepEd and CHED-accredited schools: Provided, That the donation shall be exempt from import duties and taxes, including donor's tax.

Provided, That if the registered business enterprise sells, transfers, or disposes the aforementioned imported items without prior approval, the registered business enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of the duty exemption that should have been paid during its importation: *Provided, further*, That the sale, transfer, or disposition of the capital equipment, raw materials, spare parts, or accessories made after five (5) years from date of importation shall require that prior notice be given by the registered business enterprise to the Investment Promotion Agency: *Provided, finally*, That even if the sale, transfer, or disposition of the capital equipment, raw materials, spare parts or accessories was made after five (5) years from date of importation with notice to the Investment Promotion Agency, the registered business enterprise is still liable to pay the duties based on the net book value of the capital equipment, raw materials, spare parts, or accessories if it has violated any of its registration terms and conditions.

(D) The VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity by a registered business enterprise..

Notwithstanding the provisions in the preceding paragraphs, sales receipts and other income derived from non-registered project or activity shall be subject to appropriate taxes imposed under this Code..

(E) Notwithstanding any law to the contrary, the importation of COVID-19 vaccine shall be exempt from import duties, taxes and other fees, subject to the approval or licenses issued by the Department of Health or the Food and Drug Administration.

(F) Persons who directly import petroleum products defined under Republic Act No. 8479, otherwise known as the 'Downstream Oil Industry Deregulation Act of 1998', for resale in the Philippine customs territory and/or in free zones as defined under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, shall not be entitled to the foregoing tax and duty incentives, and shall be subject to appropriate taxes imposed under this Code..

Any law to the contrary notwithstanding, the importation of petroleum products by any person, including registered business enterprises, shall be subject to the payment of applicable duties and taxes as provided under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, and this Code, respectively, upon importation into the Philippine customs territory and/or into free zones as defined under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act..

Provided, That the importer can file for claims for the refund of duties and taxes applicable under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, and this Code, respectively, for direct or indirect export of petroleum products, and/or other tax-exempt sales under the Customs Modernization and Tariff Act and other special laws within the period provided therein:.

Provided, further, That the importers who subsequently export fuel, subject to the appropriate rules of the fuel marking program, may apply for a refund of duties and taxes, as applicable under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, and this Code..

(G) Crude oil that is intended to be refined at a local refinery, including the volumes that are lost and not converted to petroleum products when the crude oil actually undergoes the refining process, shall be exempt from payment of applicable duties and taxes upon importation:.

Provided, That applicable duties and taxes on petroleum products shall be payable only upon lifting of the petroleum products produced from the imported crude oil, subject to rules and regulations that may be prescribed by the Bureau of Customs and the Bureau of Internal Revenue, to ensure that crude oil shall not be lifted from the refinery without payment of appropriate duties and taxes..

Registered business enterprises, whose performance commitments include job generation, shall maintain their employment levels to the extent practicable, and in the case of reduced employment or when the performance commitment for job generation is not met, the registered business enterprises must submit to their respective Investment Promotion Agencies and the Fiscal Incentives Review Board their justification for the same..

SEC. 296. *Period of Availment.* - The period of availment of incentive by the registered business enterprise shall be as follows:

(A) For export enterprise,^[241] income tax holiday of four (4) to seven (7) years, depending on location and industry priorities as specified in this Section, and followed by special corporate income tax rate or enhanced deductions for ten (10) years.

A qualified expansion or entirely new project or activity registered under this Act may qualify to avail of incentives,^[242] subject to the qualifications set forth in the Strategic Investment Priority Plan and performance review by the Fiscal Incentives Review Board: Provided, That existing registered projects or activities prior to the effectivity of this Act may qualify to register and avail of the incentives granted under this Act for the prescribed period, subject to the criteria and conditions set forth in the Strategic Investment Priority Plan;

(B) For domestic market enterprise under the Strategic Investment Priority Plan, income tax holiday for four (4) to seven (7) years followed by ^[243] enhanced deductions for five (5) years. ^[243]

A qualified expansion or entirely new project or activity registered under this Act may qualify to avail of incentives,^[245] subject to the qualifications set forth in the Strategic Investment Priority Plan and performance review by the Fiscal Incentives Review Board: Provided, That existing registered projects or activities prior to the effectivity of this Act may qualify to register and avail of the incentives granted under this Act for the prescribed period, subject to the criteria and conditions set forth in the Strategic Investment Priority Plan.

The period of availment of the foregoing incentives shall commence from the actual start of commercial operations with the registered business enterprise availing of the tax incentives within three (3) years from the date of registration, unless otherwise provided in the Strategic Investment Priority Plan and its corresponding guidelines: Provided, That after the expiration of the transitory period under Section 311(C), export enterprises registered prior to the effectivity of this Act shall have the option to reapply and avail of the incentives granted under Section 294(B) for the same period provided under this Section,^[246] subject to the conditions and qualifications set forth in the Strategic Investment Priority Plan and performance review by the Fiscal Incentives Review Board.

For the purpose of this Section, the determination of the category shall be based on both location and industry of the registered project or activity, and other relevant factors as may be defined in the Strategic Investment Priority Plan.

The location of the registered project or activity shall be prioritized according to the level of development as follows: (1) National Capital Region; (2) metropolitan areas or areas contiguous and adjacent to the National Capital Region; and (3) all other areas. The metropolitan areas shall be determined by the National Economic and Development Authority.

The industry of the registered project or activity shall be prioritized according to national industrial strategy specified in the Strategic Investment Priority Plan. The Strategic Investment Priority Plan shall define the coverage of the tiers and provide the conditions for qualifying the activities:

(1) Tier I shall include activities that (i) have high potential for job creation; (ii) take place in sectors with market failures resulting in underprovision of basic goods and services; (iii) generate value creation through innovation, upgrading or moving up the value chain; (iv) provide essential support for sectors that are critical to industrial development; or (v) are emerging owing to potential comparative advantage. ^[247]

(2) Tier II shall include activities that produce supplies, parts and components, and intermediate services that are not locally produced but are critical to industrial development and import-substituting activities, including crude oil refining.

(3) Tier III activities shall include (i) research and development resulting in demonstrably significant value-added, higher productivity, improved efficiency, breakthroughs in science and health, and high-paying jobs; (ii) generation of new knowledge and intellectual property registered and/or licensed in the Philippines; (iii) commercialization of patents,

industrial designs, copyrights and utility models owned or co-owned by a registered business enterprise; (iv) highly technical manufacturing; or (v) are critical to the structural transformation of the economy and require substantial catch-up efforts.^[248]

The period of availment of incentives based on the combination of both location and industry priorities, as determined in the Strategic Investment Priority Plan, shall be as follows:

For exporters:^[249]

Location/Industry Tiers	Tier I	Tier II	Tier III
National Capital Region	4 ITH + 10 ED/SCIT	5 ITH + 10 ED/SCIT	6 ITH + 10 ED/SCIT
Metropolitan areas or areas contiguous and adjacent to the National Capital Region	5 ITH + 10 ED/SCIT	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT
All other areas	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT

For domestic market activities:

Location/Industry Tiers	Tier I	Tier II	Tier III
National Capital Region	4 ITH + 5 ED	5 ITH + 5 ED	6 ITH + 5 ED
Metropolitan areas or areas contiguous and adjacent to the NCR	5 ITH + 5 ED	6 ITH + 5 ED	7 ITH + 5 ED
All other areas	6 ITH + 5 ED	7 ITH + 5 ED	7 ITH + 5 ED ^[250]

In addition to the incentives provided in tiers above, projects or activities of registered enterprises located in areas recovering from armed conflict or a major disaster, as determined by the Office of the President, shall be entitled to two (2) additional years of income tax holiday.

Projects or activities registered prior to the effectivity of this Act, or under the incentive system provided herein that shall, in the duration of their incentives, completely relocate from the National Capital Region, shall be entitled to three (3) additional years of income tax holiday: Provided, That the additional incentive shall commence at the completion of the relocation of operations.

The industry and locational prioritization specified herein shall be subject to review and revision every three (3) years in accordance with the Strategic Investment Priority Plan, subject to the standards in Section 300 hereof or in exceptional circumstances, to attract substantial investment to respond to a situation or crisis or to target specific industries.

CHAPTER III

THE FISCAL INCENTIVES REVIEW BOARD

SEC. 297. Expanded Functions of the Fiscal Incentives Review Board. - The functions and powers of the Fiscal Incentives Review Board created under Presidential Decree No. 776, as amended, shall be expanded as follows:

(A) To exercise policy making and oversight functions on the administration and grant of tax incentives by the Investment Promotion Agencies and other government agencies administering tax incentives. In particular, the Fiscal Incentives Review Board shall:

- (1) Determine the target performance metrics as conditions to avail of tax incentives;
- (2) Review and audit the compliance of other government agencies administering tax incentives, with respect to the administration and grant of tax incentives and impose sanctions such as, but not limited to, withdrawal, suspension, or cancellation of their power to grant tax incentives;
- (3) Determine the minimum contiguous land area that vertical economic zones should comply with;
- (4) Conduct regular monitoring and evaluation of investment and non-investment tax incentives, such as using cost-benefit analysis (CBA) to determine their impact on the economy and whether agreed performance targets are met; and
- (5) Check and verify, as necessary, the compliance of registered business enterprises with the terms and conditions of their availment, in particular the agreed target performance metrics, rules and regulations of this Act, and other relevant laws or issuances;

(B) To approve or disapprove, the grant of tax incentives to the extent of the registered project or activity upon the recommendation of the Investment Promotion Agency: Provided, That the application for tax incentives shall be duly accompanied by a cost-benefit analysis: Provided, further, That the Fiscal Incentives Review Board shall prescribe the data requirements for the application of incentives to allow for the calculation of costs and benefits upon application: Provided, further, That the grant of tax incentives to registered projects or activities with investment capital of One billion pesos (P1,000,000,000.00) and below shall be delegated by the Fiscal Incentives Review Board to the concerned Investment Promotion Agency to the extent of the registered project or activity: Provided, furthermore, That the Fiscal Incentives Review Board may increase the threshold amount of One billion pesos (P1,000,000,000.00).^[251]

(C) To approve applications for tax subsidies to government-owned or -controlled corporations, government instrumentalities, government commissaries, and state universities and colleges.

For this purpose, the other government agencies shall ensure complete submission of applications, documents, records, books, or other relevant data or material;

(D) To formulate place-specific strategic investment plans during periods of recovery from calamities and post-conflict situations and where the Fiscal Incentives Review Board determines that there is a need to attract many classes, firms, that would accelerate the growth of a region's flagship industries, in accordance with the Medium-Term Development Plan. The Fiscal Incentives Review Board may formulate and approve place-specific strategic investment plans and recommend incentives to the President, following the same procedure in Section 297;

(E) To cancel, suspend, or withdraw the enjoyment of fiscal incentives of concerned registered business enterprises on its own initiative or upon the recommendation of the Investment Promotion Agency for material violations of any of the conditions imposed in the grant of fiscal incentives, including, but not limited to, the non-compliance of the agreed performance commitments and endorse registered business enterprises whose incentives are cancelled, suspended, or withdrawn to the concerned revenue agencies for the assessment and collection of taxes and duties due commencing from the first year of availment;

(F) To cancel, suspend, or withdraw the enjoyment of tax subsidy of concerned government-owned or -controlled corporations, government instrumentalities, government commissaries, and state universities and colleges, and when necessary, endorse the same to the concerned revenue agencies for assessment and collection of taxes and duties due, including fines or penalties, if warranted, for violations of any of the conditions imposed in the grant of tax subsidy, or provisions of this Act, or applicable rules;

(G) To require Investment Promotion Agencies and other government agencies administering tax incentives to submit, regularly or when requested, summaries of approved investment and incentives granted, and firm- or entity-level tax incentives and benefits data as input to the Fiscal Incentives Review Board's review and audit function, and evaluation of performance of recipients of tax incentives. For this purpose, the Fiscal Incentives Review Board shall maintain a masterlist of registered products and services for export or domestic consumption that are entitled to incentives: Provided, That, to facilitate compliance with the foregoing, the Department of Trade and Industry, in coordination with relevant regulatory bodies, shall cause the registration and reporting by registered business enterprises of the types of services rendered whether domestically or to foreign clients; types of products manufactured domestically, products imported and sold locally, and products exported;

(H) To publish regularly, per firm, the data pertaining to the amount of tax incentives, tax payments, and other related information, including benefits data;

(I) To obtain information, summon, examine, inquire and receive from other government agencies administering tax incentives, government-owned or -controlled corporations, government instrumentalities, government commissaries, state universities and colleges, and local government units, documents, records, books, or other data relevant or material to the resolution of issues arising from the approval, disapproval, cancellation, suspension, withdrawal or forfeiture of tax subsidy, or in imposing penalties for violations of the terms and conditions on the availment of tax subsidy, or any of the provisions of this Act;

(J) To submit annual reports to the Office of the President, as part of the budget process, covering its policy and activities in the administration of this Act, including recommendations on tax incentive policies and approval of tax incentives;

(K) To decide on issues, on its own initiative or upon the recommendation of the Investment Promotion Agency, after due hearing, concerning the approval, disapproval, cancellation, suspension, withdrawal, or forfeiture of tax incentives or tax subsidy in accordance with this Act. The Fiscal Incentives Review Board shall decide on the matter within ninety (90) days from the date when the Fiscal Incentives Review Board declares the issues submitted for resolution. A business enterprise adversely affected by the decision of the Fiscal Incentives Review Board may, within thirty (30) days from receipt of the adverse decision, appeal the same to the Court of Tax Appeals;

(L) To promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Section;

(M) To recommend to the President the grant of appropriate non-fiscal incentives in accordance with the Strategic Investment Priority Plan for highly desirable projects or very specific industrial activities and based on: (a) benefit-cost analysis approved by the Fiscal Incentives Review Board; and (b) containing a schedule of budgets of expenditures and sources of financing with

magnitudes provisionally approved via resolution for inclusion in the upcoming National Expenditure Plans by the Development Budget Coordination Committee;

(N) To adopt policies for the development and expansion of the domestic supply chain in order to reduce dependence on imports; promote diversification and sophistication of products produced and services offered, whether exported or consumed locally; and cater to local market demand; and

(O) To exercise all other powers necessary or incidental to attain the purposes of this Act and other laws vesting additional functions on the Fiscal Incentives Review Board.^[252]

Notwithstanding the provisions in the preceding paragraphs, tax and duty incentives granted through legislative franchises shall be excepted from the foregoing expanded powers of the Fiscal Incentives Review Board to review, withdraw, suspend, or cancel tax incentives and subsidies.

SEC. 298. Composition of the Fiscal Incentives Review Board. - The Fiscal Incentives Review Board shall be reconstituted as follows:

- Chairperson - Secretary of Finance
- Co-Chairperson - Secretary of Finance
- Members - Executive Secretary of the Office of the President
- Secretary of Budget and Management
- Director General of the National Economic and Development Authority

The Board shall have a technical committee, which shall serve as its main support unit and perform functions as may be assigned, and shall be composed of the following:

- Chairperson - Undersecretary of Finance
- Members - Undersecretary or Assistant Secretary of the Office of the Executive Secretary
- Undersecretary of Trade and Industry and Board of Investments Managing Head or Assistant Secretary of Trade and Industry
- Undersecretary or Assistant Secretary of Budget and Management
- Deputy or Assistant Director General of the National Economic and Development Authority
- Commissioner or Deputy Commissioner of Internal Revenue
- Commissioner or Deputy Commissioner of Customs
- Commissioner of the Philippine Competition Commission
- Director General or Chairperson or Administrator of the Investment Promotion Agencies:
Provided, That the participation of the Investment Promotion Agency representative in

- deliberations and decision-making processes of the technical committee shall be limited to the matters concerning their Investment Promotion Agency
- Secretariat
- The secretariat shall be headed by an Assistant Secretary of Finance and shall be staffed by the National Tax Research Center.

SEC. 299. Structure and Staffing Pattern. - To support the expanded functions of the Fiscal Incentives Review Board, the National Tax Research Center, as secretariat thereof, shall create three (3) additional groups, namely, Fiscal Incentives Management Group, Monitoring and Evaluation Group, and Legal Group. Each group shall be composed of at least two (2) divisions, which will be headed by a deputy executive director. The existing administrative and financial branch of the National Tax Research Center shall be converted into a group to be headed by a deputy executive director and will be composed of four (4) divisions, namely, finance, human resource management and development, general services, and management and information system.

Provided, That the Fiscal Incentives Review Board secretariat is authorized to determine its organizational structure and staffing pattern, and create such services, divisions, and units, as it may require or deem necessary in the future, subject to the approval by the Department of Budget and Management: *Provided, finally,* That nothing herein modifies the existing organizational structure and staffing pattern of the Investment Promotion Agencies or affects their power to maintain or determine their respective organizational structure and staffing pattern.

CHAPTER IV

QUALIFIED PROJECTS OR ACTIVITIES FOR TAX INCENTIVES

SEC. 300. Strategic Investment Priority Plan. - The Board of Investments, in coordination with the Fiscal Incentives Review Board, Investment Promotion Agencies, other government agencies administering tax incentives, and the private sector, shall formulate the Strategic Investment Priority Plan to be submitted to the President for approval, which may contain recommendations for types of non-fiscal support needed to create high-skilled jobs to grow a local pool of enterprises, particularly micro, small and medium enterprises (MSMEs), that can supply to domestic and global value chains, to increase the sophistication of products and services that are produced and/or sourced domestically, to expand domestic supply and reduce dependence on imports, and to attract significant foreign capital or investment. The Strategic Investment Priority Plan shall be valid for a period of three (3) years, subject to review and amendment every three (3) years thereafter unless there would be a supervening event that would necessitate its review.

The Strategic Investment Priority Plan shall contain the following:

(A) Priority projects or activities that are included in the Philippine Development Plan or its equivalent, or other government programs, taking into account any of the following:

- (1) Substantial amount of investments;
- (2) Considerable generation of employment, especially towards less developed areas;
- (3) Considerable amount of net exports;

(4) Use of modern, advance, or new technology;

(5) Processes and innovations that will lead towards the attainment of the sustainable development goals, shall include, but not be limited to, adoption of adequate environmental protection systems and sustainability strategies;

(6) Addressing missing links and other gaps in the supply or value chain or otherwise moving up the value chain or product ladder;

(7) Promotion of market competitiveness;

(8) Enhancement of the capabilities of Filipino enterprises and professionals to produce and offer increasingly sophisticated products and services;

(9) Contribution to Philippine food security and increase incomes in the agriculture and fisheries sector; or

(10) Services and activities that can promote regional and global operations in the country.

(B) Scope and coverage of location and industry tiers in Section 296; and

(C) Terms and conditions on the grant of enhanced deductions under Section 294(C).

All sectors or industries that may be included in the Strategic Investment Priority Plan shall undergo an evaluation process to determine the suitability and potential of the industry or the sector in promoting long-term growth and sustainable development, and the national interest. In no case shall a sector or industry be included in the Strategic Investment Priority Plan unless it is supported by a formal evaluation process or report.

The projects or activities must comply with the specific qualification requirements or conditions for a particular sector or industry and other limitations as set and determined by the Board of Investments, and in coordination with the Fiscal Incentives Review Board.

In no case shall the Investment Promotion Agencies accept applications unless the project or activity is listed in the Strategic Investment Priority Plan. Projects or activities not listed in the Strategic Investment Priority Plan shall be automatically disapproved."

SEC. 301. Power of the President to Grant Incentives. - Notwithstanding the provisions of Sections 295 and 296, the President may, in the interest of national economic development and upon the recommendation of the Fiscal Incentives Review Board, modify the mix, period or manner of availment of incentives provided under this Code or craft the appropriate financial support package for a highly desirable project or a specific industrial activity based on defined development strategies for creating high-value jobs, building new industries to diversify economic activities, and attracting significant foreign and domestic capital or investment, and the fiscal requirements of the activity or project, subject to maximum incentive levels recommended by the Fiscal Incentives Review Board: *Provided*, That the grant of income tax holiday shall not exceed eight (8) years and thereafter, a special corporate income tax rate of five percent (5%) may be granted: *Provided, further*, That the total period of incentive availment shall not exceed forty (40) years.

The Fiscal Incentives Review Board shall determine whether the benefits that the Government may derive from such investment are clear and convincing and far outweigh the cost of incentives that will be granted in determining whether a project or activity is highly desirable.

The exercise by the President of his powers under this Section shall be based on a positive recommendation from the Fiscal Incentives Review Board upon its determination that the following conditions are satisfied:

- (1) The project has a comprehensive sustainable development plan with clear inclusive business approaches, and high level of sophistication and innovation; and
- (2) Minimum investment capital of Fifty billion pesos (P50,000,000,000.00) or its equivalent in US dollars, or a minimum direct local employment generation of at least ten thousand (10,000) within three (3) years from the issuance of the certificate of entitlement.

Provided, That the threshold shall be subject to a periodic review by the Fiscal Incentives Review Board every three (3) years, taking into consideration international standards or other economic indicators: Provided, further, That if the project fails to substantially meet the projected impact on the economy and agreed performance targets, the Fiscal Incentives Review Board shall recommend to the President the cancellation of the tax incentive or financial support package or the modified period or manner of availment of incentives, after due hearing and an adequate opportunity to substantially comply with the agreed performance targets and outputs.

For this purpose, financial support includes utilization of government resources such as land use, water appropriation, power provision, and budgetary support provision under the annual General Appropriations Act.

This power of the President, in as far as it commands additional public sector expenditures in support of investors, is suspended during fiscal years when, an unimaginable fiscal deficit is declared by the President on the advice of the Development Budget Coordination Committee with a consequence that even core budgetary obligations, such as, but not limited to, mandatory revenue allotments for local government units and budget for the National Economic and Development Authority's core public investments program, cannot be fully financed.^[253]

Notwithstanding the provisions in the preceding paragraphs, tax and duty incentives granted through legislative franchises shall be excepted from the foregoing powers of the President to review, withdraw, suspend, or cancel tax incentives and subsidies.

SEC. 302. Amendments to the Strategic Investment Priority Plan. - Subject to publication requirements and the criteria for investment priority determination, the Board of Investments may include additional areas in the Strategic Investment Priority Plan, alter any of the terms of the declaration of an investment area, and temporarily suspend projects or activities on the Strategic Investment Priority Plan if it considers that such project or activity is no longer a priority within the effectivity of the Strategic Investment Priority Plan.

SEC. 303. Publication. - Upon approval of the Strategic Investment Priority Plan, in whole or in part, or upon approval of an amendment thereof, the Plan or the amendment, specifying and declaring the areas of investments shall be published in at least one (1) newspaper of general circulation or in the Official Gazette: Provided, That all such areas in the existing Strategic Investment Priority Plan shall be open for application until publication of an amendment or deletion thereof.

SEC. 304. Qualifications of a Registered Business Enterprise for Tax Incentives. - In the review and grant of tax incentives, the registered business enterprise must:

- (A) Be engaged in a project or activity included in the Strategic Investment Priority Plan;
- (B) Meet the target performance metrics after the agreed time period;

(C) Install an adequate accounting system that shall identify the investments, revenues, costs and profits or losses of each registered project or activity undertaken by the enterprise separately from the aggregate investments, revenues, costs and profits or losses of the whole enterprise; or establish a separate corporation for each registered project or activity if the Investment Promotion Agency should so require;

(D) Comply with the e-receipting and e-sales requirement in accordance with Sections 237 and 237(a) of this Code; and

(E) Submit annual reports of beneficial ownership of the organization and related parties.

CHAPTER V

TAX INCENTIVES MANAGEMENT AND TRANSPARENCY

SEC. 305. *Filing of Tax Returns and Submission of Tax Incentives Reports.* - All registered business enterprises and other registered entities whether taxable or exempt, are required to file their tax returns and pay their tax liabilities, on or before the deadline as provided under the National Internal Revenue Code of 1997, as amended, using the electronic system for filing and payment of taxes with the Bureau of Internal Revenue: Provided, That for purposes of complying with their tax obligations, cooperatives and other registered entities, which do not have access to the electronic facilities, shall file with their respective revenue district offices.

For registered business enterprises and other registered enterprises availing of tax incentives administered by the Investment Promotion Agencies and other government agencies administering tax incentives, they shall file with their respective Investment Promotion Agencies or other government agencies administering tax incentives a complete annual tax incentives report of their income-based tax incentives, VAT exemptions and zero-rating, customs duty exemptions, deductions, credits or exclusions from the income tax base, and exemptions from local taxes, as provided under Section 294 of this Act and in the special laws of the concerned Investment Promotion Agency or other government agency administering tax incentives, and respective laws, and a complete annual benefits report which shall include data such as, but not limited to, the approved and actual amount of investments, approved and actual employment level and job creation including information on quality of jobs and hiring of foreign and local workers, approved and actual exports and imports, domestic purchases, profits and dividend payout, all taxes paid, withheld and foregone within thirty (30) calendar days from the statutory deadline for filing of tax returns and payment of taxes: Provided, That a copy of the report shall be simultaneously submitted to the Fiscal Incentives Review Board in electronic form.

The Investment Promotion Agencies and other government agencies administering tax incentives shall, within sixty (60) calendar days from the end of the statutory deadline for filing of the relevant tax returns, submit to the Bureau of Internal Revenue, their respective annual tax incentives reports based on the list of the registered business enterprises and other registered enterprises, which have filed said tax incentives report: Provided, That the reportorial requirement under Section 3 of Republic Act No. 10963 or the 'TRAIN Law' shall be covered by this Section.

The details of the tax incentives reports, as provided in the preceding paragraphs, shall be provided in the implementing rules and regulations of this Act.

The foregoing provisions shall be without prejudice to the right of the Bureau of Internal Revenue and the Bureau of Customs to assess and/or audit tax liabilities, if any, within the prescribed period provided in the National Internal Revenue Code of 1997, as amended, and Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, as amended, respectively.

SEC. 306. Monitoring, Evaluation, and Reporting of Tax Incentives. - Notwithstanding any law to the contrary, the Bureau of Internal Revenue and the Bureau of Customs shall submit to the Department of Finance: (a) all tax and duty incentives of registered business enterprises and other registered enterprises, as reflected in their filed tax returns and import entries; and (b) actual tax and duty incentives as evaluated and determined by the Bureau of Internal Revenue and the Bureau of Customs.

The Department of Finance shall maintain a single database for monitoring and analysis of tax incentives granted.

The Fiscal Incentives Review Board is mandated to systematically collect and store all tax incentives and benefit data from the Department of Finance, Investment Promotion Agencies, other government agencies administering tax incentives, registered business enterprises, and other registered enterprises, as well as to evaluate and assess the process, outcomes, and impact of incentives granted to firms to determine whether agreed performance targets and intended results and outcomes are met. The method of evaluation may include the conduct of cost-benefit analysis or other process and impact evaluation methods: Provided, That for purposes of this Act, the term cost-benefit analysis refers to the systematic evaluation of the total costs of granting tax incentives vis-à-vis the total benefits derived from the grant of tax incentives based on the annual tax incentive report, annual benefits report, and other related sources, to calculate the net benefit or cost associated with tax incentives.

For purposes of monitoring and transparency, the Department of Finance shall submit to the Department of Budget and Management (DBM) a per firm and per registered project and activity data arranged on a sectoral and per industry basis: (1) the amount of tax incentives availed of by registered business enterprises and other registered enterprises; (2) the estimate claims of tax incentives immediately preceding the current year; (3) the programmed tax incentives for the current year; and (4) the projected tax incentives for the following year.

The aforesaid data shall be reflected by the DBM in the annual Budget of Expenditures and Sources of Financing (BESF), which shall be known as the Tax Incentives Information (TII) Section: Provided, That the tax incentives information shall include a per firm data related to incentives availed of by registered business enterprises and other registered enterprises based on the submissions of the Department of Finance and the concerned Investment Promotion Agencies and other government agencies administering tax incentives, categorized by sector, by Investment Promotion Agency or other government agency administering tax incentives, and by type of tax incentive: Provided, further, That the results of the cost-benefit analysis shall be published at the per firm level by the Fiscal Incentives Review Board and a report shall be submitted to the President and Congress on an annual basis.

SEC. 307. Conduct of Impact Evaluation on Tax Incentives. - The Fiscal Incentives Review Board is mandated to conduct impact evaluation such as a cost-benefit analysis on the investment and non-investment incentives to determine the impact of tax incentives on the Philippine economy and on the relevant sector.

For this purpose, the Department of Finance, all heads of the Investment Promotion Agencies and other government agencies administering tax incentives shall submit to the Fiscal Incentives Review Board per firm- and per registered project- or activity-level in a machine-readable format:

- (1) Data on tax incentives based on the submissions of registered business enterprises and other registered enterprises;
and
- (2) Other investment- and non-investment-related data.

A third party government institution may conduct on its own or upon request of the Fiscal Incentives Review Board a peer review of the impact evaluation of the Board, or a parallel impact evaluation on the investment and non-investment incentives to determine the impact of the tax incentives on the Philippine economy and on the relevant sector: Provided, That for this purpose the Fiscal Incentives Review Board may provide anonymized firm-level data to the third party government institution, subject to a data sharing agreement.

SEC. 308. Penalties for Noncompliance with Filing and Reportorial Requirements. - Any registered business enterprise or other registered enterprise, which fails to comply with filing and reportorial requirements with the appropriate Investment Promotion Agencies or other government agencies administering tax incentives and/or, which fails to show proof of filing of tax returns using the electronic system for filing and payment of taxes of the Bureau of Internal Revenue under Section 305 hereof, shall be imposed the following penalties by the appropriate Investment Promotion Agency or other government agency administering tax incentives:

(A) First (1st) Violation – Payment of a fine amounting to One hundred thousand pesos (P100,000.00);

(B) Second (2nd) Violation – Payment of a fine amounting to Five hundred thousand pesos (P500,000.00); and

(C) Third (3rd) Violation – Cancellation by the Fiscal Incentives Review Board of the registration of the registered business enterprise or registered entity with the Investment Promotion Agency or other government agency administering tax incentives.

Provided, That if the failure to show such proof is not due to the fault of the registered business enterprises or other registered enterprises, the same shall not be a ground for the suspension of the Income Tax Holiday (ITH) and/or other tax incentives availment: Provided, further, That collections from the penalties shall accrue to the general fund.

After due process, the Fiscal Incentives Review Board or the concerned Investment Promotion Agency, as the case may be, may cancel the registration, suspend the enjoyment of incentive benefits of any registered enterprise, and/or require refund of incentives enjoyed by such enterprise, including interests and monetary penalties, for any material misrepresentation of information for the purpose of availing more incentives than what it is entitled to under this Code.

Provided, That the Fiscal Incentives Review Board, with the recommendation of the Commissioner, may revoke or suspend incentives granted by an Investment Promotion Agency and/or order a business closure of a registered business enterprise that violates Title VI (Excise Taxes on Certain Goods) and Title X (Statutory Offenses and Penalties) of this Code and other related revenue regulations, orders, or issuances of the government: Provided, further, That such authority shall cover the acts of the registered business enterprise committed even in the first year of availment of incentives. Notwithstanding the provisions of this Section, the Department of Finance, the Bureau of Internal Revenue, and the Bureau of Customs shall retain their respective mandates, powers and functions as provided for under this Act and related laws.

Any government official or employee who fails without justifiable reason to provide or furnish the required tax incentives report or other data or information as required under Sections 306 and 307 of this Act shall be penalized, after due process, by a fine equivalent to the official's or employee's basic salary for a period of one (1) month to six (6) months or by suspension from government service for not more than one (1) year, or both, in addition to any criminal and administrative penalties imposable under existing laws.

CHAPTER VI

TRANSITORY AND MISCELLANEOUS PROVISIONS

SEC. 309. *Prohibition on Registered Activities.* - A qualified registered project or activity under an Investment Promotion Agency administering an economic zone or freeport shall be exclusively conducted or operated within the geographical boundaries of the zone or freeport being administered by the Investment Promotion Agency in which the project or activity is registered: Provided, That a registered business enterprise may conduct or operate more than one qualified registered project or activity within the same zone or freeport under the same Investment Promotion Agency: Provided, further, That any project or activity conducted or performed outside the geographical boundaries of the zone or freeport shall not be entitled to the incentives provided in this Act, unless such project or activity is conducted or operated under another Investment Promotion Agency.

SEC. 310. *Establishment of One-Stop Action Center.* - All Investment Promotion Agencies shall establish a one-stop shop or one-stop action center that will facilitate and expedite, to the extent possible, the setting up and conduct of registered projects or activities, including assistance in coordinating with the local government units and other government agencies to comply with Republic Act No. 11032, otherwise known as the Ease of Doing Business and Efficient Government Service Delivery Act of 2018: Provided, however, That the enterprises shall continue to avail of the one-stop shop facility notwithstanding the expiration of their incentives under this Code.

SEC. 311. *Investments Prior to the Effectivity of This Act.* - Registered business enterprises with incentives granted prior to the effectivity of this Act shall be subject to the following rules:

(A) Registered business enterprises whose projects or activities were granted only an income tax holiday prior to the effectivity of this Act shall be allowed to continue with the availment of the income tax holiday for the remaining period of the income tax holiday as specified in the terms and conditions of their registration: Provided, That for those that have been granted the income tax holiday but have not yet availed of the incentive upon the effectivity of this Act, they may use the income tax holiday for the period specified in the terms and conditions of their registration;

(B) Registered business enterprises, whose projects or activities were granted an income tax holiday prior to the effectivity of this Act and that are entitled to the five percent (5%) tax on gross income earned incentive after the income tax holiday, shall be allowed to avail of the five percent (5%) tax on gross income earned incentive based on Subsection (C); and

(C) Registered business enterprises currently availing of the five percent (5%) tax on gross income earned granted prior to the effectivity of this Act shall be allowed to continue availing the said tax incentive at the rate of five percent (5%) for ten (10) years.

SECTION 17. Repealing Clause. —

(a) To transfer to the Fiscal Incentives Review Board the power of the Investment Promotion Agency Board to review, approve, or disapprove fiscal incentives and to mandate the Investment Promotion Agency Board to recommend to the Fiscal Incentives Review Board after a thorough review of the application, the approval or disapproval of the same, the following provisions are hereby repealed:

(1) Article 7 (14) of Executive Order No. 226, series of 1987, entitled: The Omnibus Investments Code of 1987;

(2) Section 1 (G) of Executive Order No. 458, series of 1991, entitled: "Devolving the Powers and Functions of the Board of Investments Over Investments within the Autonomous Region in Muslim Mindanao to the Autonomous Regional Government and for Other Purposes";

(3) Section 8 of Republic Act No. 9400, entitled: "An Act Amending Republic Act No. 7227, as Amended, Otherwise Known as the Bases Conversion and Development Act of 1992, and for Other Purposes";

(4) Section 85 (a) of Subchapter IV-B of Republic Act No. 9593, entitled: "An Act Declaring a National Policy for Tourism as an Engine of Investment, Employment, Growth and National Development, and Strengthening the Department of Tourism and its Attached Agencies to Effectively and Efficiently Implement That Policy, and Appropriating Funds Therefor," as amended by Republic Act No. 11262; and

(5) Sections 7 and 8 of Republic Act No. 9490, entitled: "An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes," as amended by Republic Act No. 10083, entitled: "An Act Amending Republic Act No. 9490, Otherwise Known as the 'Aurora Special Economic Zone Act of 2007'";

(b) The provisions of the following laws, including the tag incentives, that are inconsistent with this Act are hereby repealed:

(1) Articles 39 (A), (B), (C), (D), (H), (I), (J), (L) and (M); 40, 41, 42, 61, 62, 63, 64, 65, and 67 of Executive Order No. 226, series of 1987, entitled: The Omnibus Investments Code of 1987, as amended by Republic Act No. 7918, and further amended by Republic Act No. 8756;

(2) Executive Order No. 85, series of 2019, entitled: "Reducing the Rates of Duty on Capital Equipment, Spare Parts and Accessories Imported by Board of Investments – Registered New and Expanding Enterprises";

(3) Presidential Decree No. 66, entitled: "Creating the Export Processing Zone Authority and Revising Republic Act No. 5490";

(4) Section 4 (e) of Republic Act No. 7903, entitled: "An Act Creating a Special Economic Zone and Free Port in the City of Zamboanga Creating for this Purpose the Zamboanga City Special Economic Zone Authority, Appropriating Funds Therefor, and for Other Purposes";

(5) Section 7 of Republic Act No. 9400, entitled: "An Act Amending Republic Act No. 7227, as Amended, Otherwise Known as the Bases Conversion and Development Act of 1992, and for Other Purposes";

(6) Section 4 (b) of Republic Act No. 7922, entitled: "An Act Establishing a Special Economic Zone and Free Port in the Municipality of Santa Ana and the Neighboring Islands in the Municipality of Aparri, Province of Cagayan, Providing Funds Therefor, and for Other Purposes";

(7) Sections 23 and 42 of Republic Act No. 7916, entitled: "An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose, the Philippine Economic Zone Authority (PEZA), and for Other Purposes" as amended by Republic Act No. 8748; DalAcC

(8) Sections 4 (f), 5 (a), (b), (d), (e), (f), (g), (h), (j), (l), and (m), and 9 of Republic Act No. 9490, entitled: "An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes," as amended by Republic Act No. 10083;

(9) Sections 5, 9, and 10 of Republic Act No. 9728, entitled: "An Act Converting the Bataan Economic Zone Located in the Municipality of Mariveles, Province of Bataan, into the Freeport Area of Bataan (FAB), Creating for this Purpose the Authority of the Freeport Area of Bataan (AFAB), Appropriating Funds Therefor and for Other Purposes";

(10) Section 16 of Republic Act No. 7844, entitled: "An Act to Develop Exports as a Key Towards the Achievement of the National Goals Towards the Year 2000";

(11) Sections 86 (a), (c), (d), (e), (f), and 88 of Republic Act No. 9593, entitled: "An Act Declaring a National Policy for Tourism as an Engine of Investment, Employment, Growth and National Development, and Strengthening the Department of Tourism and its Attached Agencies to Effectively and Efficiently Implement That Policy, and Appropriating Funds Therefor"; and

(12) Section 1 (a) and (e) of Presidential Decree No. 1955, entitled: "Withdrawing, Subject to Certain Conditions, the Duty and Tax Privileges Granted to Private Business Enterprises and/or Persons Engaged in Any Economic Activity, and for Other Purposes."

(c) To expand the powers and functions of the Fiscal Incentives Review Board and enhance its membership, the provisions of the following laws that are inconsistent with this Act are hereby repealed:

(1) Sections 1 (6) and 2 of Presidential Decree No. 776, entitled: "Modifying All Laws, Acts, Decrees, Orders and Ordinances, Granting Subsidies, Exemptions from Taxes, Duties, Fees, Imposts and Other Charges under Certain Exceptions and Creating a Fiscal Incentives Board";

(2) Section 2 of Presidential Decree No. 1931, series of 1984, entitled: "Directing the Rationalization of Duty and Tax Exemption Privileges Granted to Government-Owned or -Controlled Corporations and All Other Units of Government";

(3) Section 1 (c) and (d) of Executive Order No. 93, series of 1986, entitled: "Withdrawing All Tax and Duty Incentives, Subject to Certain Exceptions, Expanding the Powers of the Fiscal Incentives Review Board and for Other Purposes"; and

(4) Memorandum Order No. 23, series of 1986, entitled: "Expanding the Membership of the Fiscal Incentives Review Board (FIRB)".

(d) The provisions of the following laws on the Investment Priorities Plan that are inconsistent with the provisions of this Act are hereby repealed:

(1) Articles 7 (1), 22, 26, 27, 28, 29, 30, 31 and 32 of Executive Order No. 226, series of 1987, entitled: The Omnibus Investments Code of 1987, as amended; and

(2) Sections 2 and 3 of Executive Order No. 458, series of 1991, entitled: "Devolving the Powers and Functions of the Board of Investments Over Investments within the Autonomous Region in Muslim Mindanao to the Autonomous Regional Government and for Other Purposes." TAacHE

(e) Sections 4, 5, 6, and 7 of Republic Act No. 10708, entitled: "An Act Enhancing Transparency in the Management and Accounting of Tax Incentives Administered by Investment Promotion Agencies," are also repealed for being inconsistent with this Act.

(f) Article 7 (11) of Executive Order No. 226, series of 1987, entitled: The Omnibus Investments Code of 1987.

SECTION 18. Amendatory Clause. —

(a) To transfer to the Fiscal Incentives Review Board the power of the Investment Promotion Agency Board to review, approve, or disapprove fiscal incentives and to mandate the Investment Promotion Agency Board to recommend to the Fiscal Incentives Review Board after a thorough review of the application, the approval or disapproval of the same, the following provisions are hereby amended:

(1) Articles 7 (3) and (8), 34, 35, and 36 of Executive Order No. 226, series of 1987, entitled: The Omnibus Investments Code of 1987;

(2) Section 1 (A), (B), (D), and (E) of Executive Order No. 458, series of 1991, entitled: "Devolving the Powers and Functions of the Board of Investments Over Investments within the Autonomous Region in Muslim Mindanao to the Autonomous Regional Government and for Other Purposes";

(3) Section 7 (a) and (c) of Republic Act No. 7903, entitled: "An Act Creating a Special Economic Zone and Free Port in the City of Zamboanga Creating for this Purpose the Zamboanga City Special Economic Zone Authority, Appropriating Funds Therefor, and for Other Purposes"; DHlcET

(4) Sections 4 (f), 8 and 13 (c), (d), (r), (w) and (x) of Republic Act No. 9728, entitled: "An Act Converting the Bataan Economic Zone Located in the Municipality of Mariveles, Province of Bataan, into the Freeport Area of Bataan (FAB), Creating for this Purpose the Authority of the Freeport Area of Bataan (AFAB), Appropriating Funds Therefor and for Other Purposes," as amended by Republic Act No. 11463;

(5) Sections 5 (l), 12 (b), and 13 (b) (11) of Republic Act No. 7227, entitled: "An Act Accelerating the Conversion of Military Reservations into Other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefor and for Other Purposes," as amended by Republic Act No. 9400;

(6) Section 69 (n) of Subchapter IV-B of Republic Act No. 9593, entitled: "An Act Declaring a National Policy for Tourism as an Engine of Investment, Employment, Growth and National Development, and Strengthening the Department of Tourism and its Attached Agencies to Effectively and Efficiently Implement That Policy, and Appropriating Funds Therefor," as amended by Republic Act No. 11262;

(7) Section 12 (a), (b) and (u) of Republic Act No. 9490, entitled: "An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes," as amended by Republic Act No. 10083, entitled: "An Act Amending Republic Act No. 9490, Otherwise Known as the 'Aurora Special Economic Zone Act of 2007'";

(8) Section 6 (c) and (l) of Republic Act No. 7922, entitled: "An Act Establishing a Special Economic Zone and Free Port in the Municipality of Santa Ana and the Neighboring Islands in the Municipality of Aparri, Province of Cagayan, Providing Funds Therefor, and for Other Purposes";

(9) Sections 4 (a) and (q), and 6 of Presidential Decree No. 538, entitled: "Creating and Establishing the PHIVIDEC Industrial Authority and Making it a Subsidiary Agency of the Philippine Veterans Investment Development Corporation, Defining its Powers, Functions and Responsibilities, and for Other Purposes"; and

(10) Sections 12 (a) and (b) and 13 (a), (b) and (i), and 15 of Republic Act No. 7916, entitled: "An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose, the Philippine Economic Zone Authority (PEZA), and for Other Purposes," as amended by Republic Act No. 8748.

(b) The provisions of the following laws, including the tax incentives, that are inconsistent with this Act are hereby amended:

(1) Articles 69, 77, and 78 of Executive Order No. 226, series of 1987, entitled: The Omnibus Investments Code of 1987, as amended;

(2) Sections 24 and 35 of Republic Act No. 7916, entitled: "An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose, the Philippine Economic Zone Authority (PEZA), and for Other Purposes," as amended by Republic Act No. 8748;

(3) Sections 12 (c), 15, 15-A, 15-B, 15-C of Republic Act No. 7227, entitled: "An Act Accelerating the Conversion of Military Reservations into Other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefor and for Other Purposes" as amended by Republic Act No. 9400, and further amended by Executive Order No. 619, series of 2007;

(4) Section 6 of Republic Act No. 9400, entitled: "An Act Amending Republic Act No. 7227, as Amended, Otherwise Known as the Bases Conversion and Development Act of 1992, and for Other Purposes";

(5) Section 5 (c) of Republic Act No. 9490, entitled: "An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes," as amended by Republic Act No. 10083, entitled: "An Act Amending Republic Act No. 9490, Otherwise Known as the 'Aurora Special Economic Zone Act of 2007'"; HcDSaT

(6) Section 4 (f) of Republic Act No. 7903, entitled: "An Act Creating a Special Economic Zone and Free Port in the City of Zamboanga Creating for this Purpose the Zamboanga City Special Economic Zone Authority, Appropriating Funds Therefor, and for Other Purposes";

(7) Section 4 (c) of Republic Act No. 7922, entitled: "An Act Establishing a Special Economic Zone and Free Port in the Municipality of Santa Ana and the Neighboring Islands in the Municipality of Aparri, Province of Cagayan, Providing Funds Therefor, and for Other Purposes";

(8) Section 6 of Republic Act No. 9728, entitled: "An Act Converting the Bataan Economic Zone Located in the Municipality of Mariveles, Province of Bataan, into the Freeport Area of Bataan (FAB), Creating for this Purpose the Authority of the Freeport Area of Bataan (AFAB), Appropriating Funds Therefor and for Other Purposes";

(9) Sections 6 (k), 14 (e), 39, 76, 85 (c) and 86 (b) of Republic Act No. 9593, entitled: "An Act Declaring a National Policy for Tourism as an Engine of Investment, Employment, Growth and National Development, and Strengthening the Department of Tourism and its Attached Agencies to Effectively and Efficiently Implement That Policy, and Appropriating Funds Therefor";

(10) Section 8 of Presidential Decree No. 538, entitled: "Creating and Establishing the PHIVIDEDEC Industrial Authority and Making it a Subsidiary Agency of the Philippine Veterans Investment Development Corporation, Defining its Powers, Functions and Responsibilities, and for Other Purposes," as amended by Presidential Decree No. 1491; and IDaEHC

(11) Section 1 (1.1) of Executive Order No. 97-A, series of 1993, entitled: "Further Clarifying the Tax and Duty-Free Privilege within the Subic Special Economic and Free Port Zone."

(c) To expand the powers and functions of the Fiscal Incentives Review Board, the provisions of the following laws that are inconsistent with this Act are hereby amended:

(1) Section 13 of Republic Act No. 7903, entitled: "An Act Creating a Special Economic Zone and Free Port in the City of Zamboanga Creating for this Purpose the Zamboanga City Special Economic Zone Authority, Appropriating Funds Therefor, and for Other Purposes";

(2) Section 10 of Republic Act No. 7922, entitled: "An Act Establishing a Special Economic Zone and Free Port in the Municipality of Santa Ana and the Neighboring Islands in the Municipality of Aparri, Province of Cagayan, Providing Funds Therefor, and for Other Purposes";

(3) Section 17 of Republic Act No. 7227, entitled: "An Act Accelerating the Conversion of Military Reservations into Other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefor and for Other Purposes";

(4) Section 20 of Republic Act No. 9490, entitled: "An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes"; and

(5) Section 22 of Republic Act No. 9728, entitled: "An Act Converting the Bataan Economic Zone Located in the Municipality of Mariveles, Province of Bataan, into the Freeport Area of Bataan (FAB), Creating for this Purpose the Authority of the Freeport Area of Bataan (AFAB), Appropriating Funds Therefor and for Other Purposes."

(d) The provisions of the following laws on the Investment Priorities Plan, including all other laws, decrees, executive orders, rules and regulations, or parts thereof which provide for the mandatory inclusion in the Investment Priorities Plan that are inconsistent with the provisions of this Act are hereby amended:

(1) Sections 4 (d) and 13 (i) of Republic Act No. 9728, entitled: "An Act Converting the Bataan Economic Zone Located in the Municipality of Mariveles, Province of Bataan, into the Freeport Area of Bataan (FAB), Creating for this Purpose the Authority of the Freeport Area of Bataan (AFAB), Appropriating Funds Therefor and for Other Purposes," as amended by Republic Act No. 11453;

(2) Section 12 (f) of Republic Act No. 9490, as amended, entitled: "An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes";

(3) Section 6 (f) of Republic Act No. 7922, entitled: "An Act Establishing a Special Economic Zone and Free Port in the Municipality of Santa Ana and the Neighboring Islands in the Municipality of Aparri, Province of Cagayan, Providing Funds Therefor, and for Other Purposes";

(4) Section 21 of Republic Act No. 7916, as amended, entitled: "An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose, the Philippine Economic Zone Authority (PEZA), and for Other Purposes";

(5) Section 5 of Executive Order No. 80, series of 1993, entitled: "Authorizing the Establishment of the Clark Development Corporation as the Implementing Arm of the Bases Conversion and Development Authority for the Clark Special Economic Zone, and Directing All Heads of Departments, Bureaus, Offices, Agencies and Instrumentalities of Government to Support the Program";

(6) Sections 4 (b) and 13 (b) (7) of Republic Act No. 7227, entitled: "An Act Accelerating the Conversion of Military Reservations into Other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefor and for Other Purposes"; and DTCSHA

(7) Section 1 (F) of Executive Order No. 458, series of 1991, entitled: "Devolving the Powers and Functions of the Board of Investments Over Investments within the Autonomous Region in Muslim Mindanao to the Autonomous Regional Government and for Other Purposes."

SECTION 19. Separability Clause. — If any provision or part of this Act is declared invalid or unconstitutional, such declaration shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the case, whereas the parts or provisions not affected thereby shall remain in full force and effect.

SECTION 20. Appropriation. — The National Tax Research Center, as the secretariat of the Fiscal Incentives Review Board, shall be provided with an initial appropriation of One hundred million pesos (P100,000,000.00) to be drawn from the available funds from the National Treasury not otherwise appropriated. Appropriations for the succeeding years shall be included in the annual General Appropriations Act.

SECTION 21. Implementing Rules and Regulations. — Within ninety (90) days from the effectivity of this Act, the Secretary of Finance, upon the recommendation of the Commissioner of Internal Revenue, shall promulgate the necessary rules and regulations for its effective implementation: Provided, That for the provisions under Title XIII, the Secretary of Finance and the Secretary of Trade and Industry shall jointly promulgate the necessary rules and regulations thereof within the same period, after due consultations with the Commissioner of Internal Revenue, the Board of Investments, and other Investment Promotion Agencies, for its effective implementation. Failure to promulgate the rules and regulations shall not prevent the implementation of this Act upon its effectivity.

SECTION 22. Effectivity. — This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved: March 26, 2021.

III (Corporate Recovery and Tax Incentives for Enterprises Act or CREATE, Republic Act No. 11534, [March 26, 2021])

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[1] Republic Act No. 10963, entitled "Tax Reform for Acceleration and Inclusion (TRAIN)," Amending Sections 5, 6, 24, 25, 27, 31-34, 51, 52, 56-58, 74, 79, 84, 86, 90, 91, 97, 99-101, 106-110, 112, 114, 116, 127-129, 145, 148-151, 155, 171, 174, 175, 177-183, 186, 188-197, 232, 236, 237, 249, 254, 264, 269 and 288; creating new Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and repealing Sections 35, 62 and 89; all under Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997, as amended" was approved on December 19, 2017.

Republic Act No. 10963 - An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and Repealing Sections 35, 62, and 89; All Under Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended, and for Other Purposes.

Republic Act No. 11256 - An Act to Strengthen the Country's Gross International Reserves, Amending For the Purpose Sections 32 and 151 of the National internal Revenue Code,9 mandates the exemption from payment of income and excise taxes on the sale of gold to the BSP by registered small scale and accredited small scale miners and traders.

Republic Act No. 11346 - An Act Increasing the Excise Tax on Tobacco Products, Imposing Excise Tax on Heated Tobacco Products and Vapor Products, Increasing the Penalties for Violations of Provisions on Articles Subject to Excise Tax, and Earmarking a Portion of the Total Excise Tax Collection from Sugar-Sweetened Beverages, Alcohol, Tobacco, Heated Tobacco and Vapor Products for Universal Health Care, Amending for this Purpose Sections 144, 145, 146, 147, 152, 164, 260, 262, 263, 265, 288, and 289, Repealing Section 288(B) and 288(C), and Creating New Sections 263-A, 265-B, and 288-A of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, and for Other Purposes.

Republic Act111 No. 11467 - An Act Amending Sections 109, 141, 142, 143, 144, 147, 152, 263, 263-A, 265, and 288-A, and Adding a New Section 290-A to RA 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, and for Other Purposes.

Republic Act No. 11534 - An Act Reforming the Corporate Income Tax and Incentives System, Amending for the Purpose Sections 20, 22, 25, 27, 28, 29, 34, 40, 57, 109, 116, 204 and 290 of the National Internal Revenue Code of 1997, as Amended and Creating Therein New Title XIII, and for Other Purposes.

[2] The National Internal Revenue Code of 1997 is embodied under Section 3 of Republic Act (RA) 8424, entitled "An Act Amending the National Internal Revenue Code, as Amended, and for Other Purposes," which is otherwise known as the "Tax Reform Act of 1997 and which took effect on January 1, 1998. Congress passed numerous laws amending the provisions of RA 8424 such as RAs 8761, 9010, 9224, 9238, 9243, 9294, 9334, 9337, 9361, 9504, 9648, 10001, 10021, 10026, 10351, 10378, 10653, 10754, 10864, 10963 (TRAIN Law), 11256, 11346 (Tobacco Tax Law), 11467 and recently RA 11534 known as Corporate Recovery and Tax Incentives for Enterprises Act or CREATE which took effect on _____.

[3] Republic Act 1125, entitled "An Act Creating the Court of Tax Appeals," had been amended by RA 3457, RA 9282 and RA 9503. Under RA 9282 (April 23, 2004), the jurisdiction of the Court of Tax Appeals (CTA) was expanded, elevating its rank to the level of a collegiate court. Its organizational structure was also enlarged y RA 9503 with the creation of another Division to hasten resolution of tax cases. Currently, there are three (3) divisions in the CTA.

[4] TRAIN law.

[5] Introduced by Sec. 4 of the TRAIN Law.

[6] As Amended by Republic Act (RA) No. 10021, "An Act to Allow the Exchange of Se by the Bureau of Internal Revenue (BIR) of Tax Matters Pursuant to Internationally-Agreed Tax Standards, Amending Sections 6(F), 71 and 270 of the National Internal Revenue Code (NIRC) of 1997, As Amended, and for Other Purposes", 8 March 2010.

[7] As amended by RA No. 10351, "An Act Restructuring the Excise Tax on Alcohol and Tobacco Products by Amending Sections 141, 142, 143, 144, 145, 8, 131 And 288 of RA No. 8424. Otherwise Known as the NIRC of 1997, as Amended by RA No. 9334, and for Other Purposes", approved on 19 December 2012.

[8] A new provision introduced by Sec. 3 of the CREATE Law.

[9] As amended by Sec. 3 of the CREATE Law

[10] Introduced by Sec. 4 of the CREATE Law, expanding the coverage of the term "corporation" to include one person corporation.

[11] As amended by RA No. 11590, "AN ACT TAXING PHILIPPINE OFFSHORE GAMING OPERATIONS, AMENDING FOR THE PURPOSE SECTIONS 22, 25, 27, 28, 106, 108, AND ADDING NEW SECTIONS 125-A AND 288 (G) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED AND FOR OTHER PURPOSES".

[12] As amended by Sec. 5 of the TRAIN Law.

[13] Introduced by Sec. 5 of the TRAIN Law.

[14] As amended by Sec. 5 of the TRAIN Law. Previous rate was 7.5%.

[15] As amended by Sec. 5 of the TRAIN Law. Old rates were removed.

[16] As amended by Sec. 5 of the TRAIN Law. Previous rates were 5% and 10%.

[17] As amended by Sec. 5 of the CREATE Law.

[18] Introduced by Sec. 6 of the TRAIN Law.

[19] This paragraph was originally part of the amendments introduced by the TRAIN Law on Section 6(F), but was vetoed by the President. The veto message reads: "I am constrained to veto the provision under Section 6(F) of the enrolled bill that effectively maintains the special tax rate of 15% of gross income for the aforementioned employees, to wit: 'Provided, however, That existing RHQs/ROHQs, OBUs or petroleum service contractors and subcontractors presently availing of preferential tax rates for qualified employees shall continue to be entitled to avail of the preferential tax rate for present and future qualified employees. While I understand the laudable objective of the proposal, the provision is violative of the Equal Protection Clause under Section 1, Article III of the 1987 Constitution, as well as the rule of equity and uniformity in the application of the burden of taxation: Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws. In line with this, the overriding consideration is the promotion of fairness of the tax system for individuals performing similar work. Given the significant reduction in the personal income tax, the employees of these forms should follow the regular tax rates applicable to other individual taxpayers.'" Under Sec. 4 (C) of Revenue Regulation (RR) 08-18, the effect of the VETO is that the 15% preferential income tax rate under

subsections (C) (D) and (E) of Sec. 25 of the Tax Code, as amended, shall no longer be applicable which means that the concerned employees of the regional or area headquarters and regional operating headquarters of multinational companies, offshore banking units and petroleum service contractors and subcontractors shall be subject to the regular income tax, without prejudice, however, to the application of preferential tax rates under tax treaties, if applicable. Reading the provisions of the TRAIN Law and RR 8-2018, all employees (whether Filipino or alien) of RHQs, ROHQs, OBUs and petroleum contractors and subcontractors shall be subject to the graduated income tax rates under Sec. 24 (A)(2)(a) of the Tax Code.

[20] As amended by RA No. 11590

[21] As amended by Sec. 6 of the CREATE Law.”

[22] Deleted by Sec. 6 of the CREATE Law

[23] New provision Introduced by Sec. 6 of the CREATE Law.

[24] As amended by the CREATE Law.

[25] Sec. 6 of the CREATE Law included HDMF.

[26] Sec. 7 of the TRAIN Law excluded the Philippine Charity Sweepstakes Office and included local water districts..

[27] As amended by Sec. 7 of the TRAIN. Previous rate was 7.5%.

[28] As amended by Sec. 7 of the TRAIN. Previous rates were 5% and 10%.

[29] As amended by RA 9337.

[30] RA 10378, supra.

[31] As amended by RA 10378.

[32] The provisions on OBUs were removed/deleted by Sec. 7 of the CREATE.

[33] Introduced by Sec. 7 of the CREATE.

[34] As amended by Sec. 7 of the CREATE. The rate has increased from 7.5% to 15%.

[35] As amended by Sec. 7 of the CREATE. Previous rates were 5% and 10%..

[36] As amended by RA 11467.

[37] As amended by Sec. 7 of the CREATE. Previous rate was 35%.

[38] As amended by Sec. 7 of the CREATE. Previous rate was 20%.

[39] The entire Sec. 29 of the Tax Code, as amended, was repealed by Sec. 8 of the CREATE.

[40] As amended by Sec. 8 of the TRAIN. Personal and additional exemptions were removed.

[41] As amended by Sec. 9 of the TRAIN. Previous ceiling was P82,000. The prerogative of the Secretary of Finance to increase the ceiling was removed.

[42] Introduced by Sec. 1 of RA No. 11256.

[43] As amended by Sec. 10 of the TRAIN. Previous rate was 32%.

[44] As amended by Sec. 10 of the TRAIN. Previous divisor was 68%.

[45] As amended by Sec. 11 of the TRAIN. Subsection (M) (Premium Payments on Health and/or Hospitalization Insurance of an Individual Taxpayer) was repealed/removed.

[46] New provision introduced by Sec. 9 of the CREATE.

[47] As amended by RA 9337, supra.

[48] As amended by RA No. 11346

[49] Should read as "taxable" income, not "net" income". Refer to Footnote of Section 31 of the NIRC of 1997, supra.

[50] Introduced by Sec. 11 of the TRAIN.

[51] Repealed by Sec. 12 of the TRAIN.

[52] As amended by Sec. 13 of the TRAIN. Personal and additional exemptions were replaced by an exemption threshold of P250,000.

[53] Under RA 9994, otherwise known as the "Senior Citizens Act of 2010," which took effect on February 15, 2010, senior citizens who are considered to be minimum wage earners in accordance with RA 9504 shall also be treated as exempt from the payment of individual income tax.

[54] As amended by RA 9504, supra.

[55] RA 337, otherwise known as the "General Banking Act," had been amended by RA 8791, otherwise known as the "General Banking Law of 2000."

[56] Introduced by Sec. 13 of the TRAIN.

[57] Introduced by Sec. 14 of the TRAIN.

[58] Introduced by Sec. 15 of the TRAIN.

[59] Introduced by Sec. 3 of the TRAIN law.

[60] As amended by Sec. 16 of the TRAIN. Previous deadline was July 15.

[61] Introduced by Sec. 17 of the TRAIN.

[62] Introduced by Sec. 18 of the TRAIN.

[63] Repealed by Sec. 19 of the TRAIN.

[64] N.B.: See footnote under Section 62, supra.

[65] As inserted by RA 10021, supra.

[66] As amended by Sec. 20 of the TRAIN. Previous deadline for the first quarterly income tax declaration was April 15 of the same taxable year.

[67] As amended by Sec. 20 of the TRAIN. Previous deadline for the fourth installment was April 15 of the following calendar year. To clarify, the deadline for filing the annual income tax return and payment of the income tax payable therein is still April 15 of the succeeding calendar year pursuant to Sec 51 (C)(1) of this Code.

[68] As amended by Sec. 21 of the TRAIN. Subsections (D) (Personal Exemptions) and (F) (Husband and Wife) were removed.

[69] As amended by Sec. 22 of the TRAIN.

[70] As amended by Sec. 23 of the TRAIN. Section 86(D) (Miscellaneous Provisions) was removed.

[71] As amended by Sec. 23 of the TRAIN. Specific deductions for actual funeral expenses, judicial expenses of the testamentary of intestate proceedings and medical expenses were removed.

[72] As amended by Sec. 23 of the TRAIN. Previous threshold was P1,000,000.

[73] Introduced by Sec. 23 of the TRAIN.

[74] As amended by Sec. 23 of the TRAIN.

[75] Repealed by Sec. 24 of the TRAIN.

[76] As amended by Sec. 25 of the TRAIN.

[77] Ibid. Previous threshold was P2,000,000.

[78] As amended by Sec. 25 of the TRAIN. Previous deadline was 6 months.

[79] Introduced by Sec. 26 of the TRAIN.

[80] As amended by Sec. 27 of the TRAIN.

[81] As amended by Sec. 28 of the TRAIN.

[82] Introduced by Sec. 29 of the TRAIN.

[83] As amended by Sec. 30 of the TRAIN. Dowries or gifts made on account of marriage were removed.

[84] As amended by Sec. 31 of the TRAIN.

[85] As amended by Sec. 31 of the TRAIN. Subsection (b) (Foreign Currency Denominated Sale) was removed.

[86] As amended by Sec. 31 of the TRAIN. Sale of gold to the Bangko Sentral ng Pilipinas was removed and reclassified as exempt from value-added tax under Sec. 109 of this Code. See Note 77 ?>>>

[87] The amendment introduced by the TRAIN Law on Section 106(A)(2)(9)(2) was vetoed by the President. The veto message reads:

I am constrained to veto the provisions under Section 31 of the enrolled bill, to wit:

Section 31:

(2) Sale and Delivery of Goods to:

(i) Registered enterprises within a separate customs territory as provided under special laws; and

(ii) Registered enterprises within tourism enterprises zones as declared by the Tourism Infrastructure and Enterprise Zone Authority (TIEZA)

[88] Introduced by Sec. 31 of the TRAIN.

[89] As amended by RA 9334, supra and RA 10351 entitled, An Act Restructuring the Excise Tax on Alcohol and Tobacco Products by Amending Sections 141, 142, 143, 144, 145, 8, 131 and 288 of Republic Act No. 8424. Otherwise Known as the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, and for Other Purposes approved on December 19, 2012.

[90] As amended by Sec. 32 of the TRAIN.

[91] As amended by Sec. 33 of the TRAIN.

[92] Introduced by Sec. 33 of the TRAIN.

[93] The amendment introduced by the TRAIN Law was vetoed by the President. The veto message reads:

I am constrained to veto the provisions under Section 33 of the enrolled bill, to wit:

Section 33:

(8) Services Rendered To:

I. Registered Enterprises Within A Separate Customs Territory As Provided Under Special Laws; and

II. Registered Enterprises Within Tourism Enterprise Zones As Declared By the TIEZA Subject To the Provisions Under Republic Act No. 9593 Or The Tourism Act of 2009.

The above provisions go against the principle of limiting the VAT zero-rating to direct exporters. The proliferation of separate customs territories, which include buildings, creates significant leakages in our tax system. This makes the tax system highly inequitable and significantly reduces the revenues that could be better used for the poor. As to tourism enterprises, the current law only allows for duty and tax free importation of capital equipment, transportation equipment and other goods. The TIEZA Law explicitly allows only duty and tax free importation of capital equipment, transportation equipment and other goods (in certain cases and always subject to rules provided by the DOF). Thus, this provision actually grants a new incentive to suppliers of registered tourism enterprises. At any rate, TIEZA law, which is still in effect for two more years, can be used to avail of the above-mentioned incentives.

[94] As amended by RA 9337.

[95] Introduced by Sec. 34 of the TRAIN.

[96] As amended Sec. 34 of the TRAIN. Previous period was 'within ninety (90) days before or after arrival'.

[97] As amended by Sec. 34 of the TRAIN.

[98] As amended Sec. 34 of the TRAIN. National Statistics Office (NSO) was changed to Philippine Statistics Authority (PSA).

[99] The amendment introduced by RA11534 or the CREATE Law was vetoed by the President. Hence, the original provision remains. The President, in his veto message, states that –

I am constrained to veto item (P) of the amended Section 109 of the National Internal Revenue Code of 1997, as amended (Tax Code), under Section 12 of this Act, to wit:

"(P) Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business or real property utilized for low-cost and socialized housing as defined by Republic Act No. 7279, otherwise known as the 'Urban Development and Housing Act of 1992', and other related laws, residential lot valued at Two million five hundred thousand Pesos (P2,500,000.00) and below, house and lot, and other residential dwellings valued at Four million two hundred thousand Pesos (P4,200,000.00) and below: Provided, That beginning January 1, 2024 and every three (3) years thereafter, the amounts herein stated shall be adjusted to present values using the Consumer Price Index, as published by the Philippine Statistics Authority (PSA)";

Under the Tax Code, as amended by the TRAIN Law, the sales of house and lot and other residential dwellings valued at not more than P2.5 million shall be VAT exempt. The exemption is targeted to provide relief to buyers of socialized housing and base-level economic housing. The amendment in the CREATE Act increases the VAT-threshold to up to P4.2 million. In effect,

this will benefit even those not originally targeted for the VAT-exemption—those who can actually afford proper housing. This results in a tax exemption that is highly distortive and exacts a heavy price on the taxpaying community. The provision is also prone to abuse, as properties can be parceled into lots so that their individual values fall within the VAT-exempt threshold.

If not vetoed, the estimated revenue loss from the foregoing is P1 55.3 billion from 2020 to 2030, which could be used in public goods to benefit the poor directly.

[100] Ibid. Previous threshold was P10,000.

[101] Ibid. Previous, this was subject to the 0% value-added tax under Sec. 106 (A)(2) of the Tax Code. See Note ??>>

[102] As amended by Sec. 12 of the CREATE by inserting 'of' after the word 'sale". The original provision introduced by Sec. 34 of the TRAIN states:

(AA) Sale of drugs and medicines prescribed for diabetes, high cholesterol, and hypertension beginning January 1, 2019; and

This was amended by Sec. 1 of RA 11467 which states:

(AA) Sale or importation of prescription drugs and medicines for:

[103] Introduced by Sec. 1 of RA 11467.

[104] As amended by Sec. 12 of the CREATE by changing the year 2023 (as introduced by Sec. 1 of RA 11467) to year 2021.

[105] Originally introduced by Sec. 1 of RA 11467.

[106] Introduced by Sec. 12 of the CREATE.

[107] As amended by Sec. 34 of the TRAIN. The VAT-exempt threshold was increased from P1,500,000 to P3,000,000. Original subsection (BB) of Sec. 109, is now subsection (CC) under the CREATE.

[108] Introduced by Sec. 35 of the TRAIN.

[109] As amended Sec. 36 of the TRAIN. Previous number of days was 120 days.

[110] As amended Sec. 36 of the TRAIN. Previous submission referred to 'complete documents'.

[111] Introduced by Sec. 36 of the TRAIN.

[112] As newly introduced under RA 9337, supra.

[113] Introduced by Sec. 37 of the TRAIN.

[114] As amended by Sec. 37 of the TRAIN.

[115] As amended by RA No. 11534

[116] As amended by Sec. 13 of the CREATE.

[117] The amendment introduced by the TRAIN Law was vetoed by the President. The veto message reads:

C. Exemptions from percentage tax of gross sales/receipts not exceeding five hundred thousand pesos (P500,000)I am constrained to veto the provision which provides for the above under line 12 of Sec. 38 in the enrolled bill, to wit:

“And Beginning January 1, 2019, Self-Employed and Professionals With Total Annual Gross Sales And/Or Gross Receipts Not exceeding Five Hundred Thousand Pesos (P500,000).

The Proposed exemption from percentage tax will result in unnecessary erosion of revenues and would lead to abuse and leakages. The subject taxpayers under this provision are already exempted from the VAT, thus, the lower three percent percentage tax on gross sales or gross receipts is considered as their fair share in contributing to the revenue base of the country.

[118] Introduced by Sec. 13 of the CREATE.

[119] As amended by RA 9337,supra.

[120] As Amended by RA 10378,supra.

[121] As originally amended by RA 9238, supra, and as last amended by RA 9337, supra.

[122] RA 9238, supra, re-imposed the gross receipts tax on other non-bank financial intermediaries which includes pawnshops beginning January 1, 2004.

[123] As amended by RA 9238 and RA 9337, supra.

[124] As amended by RA 10001, supra.

[125] As amended by Sec. 39 of the TRAIN. Previous rate was ½ of 1%.

[126] As amended by Sec. 40 of the TRAIN. Original Subsection (A)(3)(Exceptions) - authorizing the BIR Commissioner to provide the time for filing the return at intervals other than the time prescribed by law and the manner and time of payment of percentage taxes other than as prescribed by law - was removed/deleted.

[127] Introduced by Sec. 41 of the TRAIN.

[128] Introduced by Sec. 2 of RA 11346. Effective 1 January 2020.

[129] As amended by Sec. 3 of RA 11346. Previous rate was 4%.

[130] Introduced by Sec. 3 of RA 11346. Effective 1 January 2020.

[131] As amended by Sec. 3 of RA 11346. The rates under Sec. 42 of the TRAIN were increased. Effective 1 January 2020.

[132] As amended by Sec. 3 of RA 11346. Previous rate was 4%. Effective 1 January 2020.

[133] As amended by Sec. 42 of the TRAIN.

[134] As amended by Sec. 3 of RA 11346. Effective 1 January 2020.

[135] As amended by Sec. 3 of RA 11346. The rates were increased under Sec. 42 of the TRAIN. Effective 1 January 2020.

[136] Introduced by Sec. 3 of RA 11346. Effective 1 January 2020.

[137] Introduced by Sec. 4 of RA 11346. Effective 1 January 2020.

[138] Introduced by Sec. 5 of RA 11346. Effective 1 January 2020.

[139] As amended by Sec. 43 of the TRAIN. Previous rate was P4.50.

[140] As amended by Sec. 43 of the TRAIN. Previous rate was P0.50.

[141] As amended by Sec. 43 of the TRAIN. Previous rate was P3.50.

[142] Introduced by Sec. 43 of the TRAIN.

[143] As amended by Sec. 43 of the TRAIN. Previous rate was P4.35.

[144] As amended by Sec. 43 of the TRAIN. Previous, Secretary of Energy.

[145] As amended by Sec. 43 of the TRAIN. Excise tax on leaded premium gasoline was removed. Previous rate on unleaded premium gasoline was P4.35.

[146] As amended by Sec. 43 of the TRAIN. Previous rate was P3.67.

[147] As amended by Sec. 43 of the TRAIN. Previous rate was P0.

[148] As amended by Sec. 43 of the TRAIN. Previous rate was P0.56.

[149] As amended by Sec. 43 of the TRAIN

[150] The amendment introduced by the TRAIN Law was vetoed by the President. The veto message reads:

I am constrained to veto the provision which provides for the above under line 25 Sec. 43 of the enrolled bill, to wit:

“Petroleum Products, Including Naptha, LPG, Petroleum, Coke, Refinery Fuel And Other Products Of Distillation, When Used As Input, Feedstock Or As Raw Material In The Manufacturing Of Petrochemical Products, Or In The Refining Of Petroleum Products, Or As Replacement Fuel for Natural-Gas-Fired-Combined Cycle Power Plant [,] In Lieu Of Locally-Extracted Natural Gas During The Non-Availability Thereof, Subject To The Rules And Regulations To Be Promulgated By The Secretary Of Finance, xxx, For The Purpose Of Further Processing Or Blending into Finished Products Which Are Subject To Excise tax Under This Section.”

The provision runs the risk of being too general, covering all types of petroleum products, which may be subject to abuse by taxpayers, and thus lead to massive revenue erosion. At any rate, the tax code already identifies which petroleum products can be exempted.

[151] Introduced by Sec. 44 of the TRAIN.

[152] As amended by Sec. 45 of the TRAIN.

[153] Introduced by Sec. 45 of the TRAIN.

[154] As amended by Sec. 45 of the TRAIN. Previously, pick-up trucks were not considered ‘trucks’.

[155] Introduced by Sec. 46 of the TRAIN.

[156] Introduced by Sec. 47 of the TRAIN.

[157] Introduced by Sec. 48 of the TRAIN.

[158] As amended by Sec. 48 of the TRAIN. Previous rate was P10.

[159] As amended by Sec. 48 of the TRAIN. Previous rate was P50.

[160] As amended by Sec. 48 of the TRAIN. Previous rate was P100.

[161] As amended by Sec. 48 of the TRAIN. Previous rate was 2%.

[162] As amended by Sec. 48 of the TRAIN. Previous rate was 3%.

[163] Introduced by Sec. 2 of RA 11256.

[164] Introduced by Sec. 6 of RA 11346. Effective 1 January 2020.

[165] Introduced by Sec. 49 of the TRAIN.

[166] Introduced by Sec. 7 of RA 11346. Effective 1 January 2020.

[167] As amended by Sec. 7 of RA 11346. Effective 1 January 2020.

[168] Introduced by Sec. 50 of the TRAIN.

[169] The TRAIN Law increased the rate of DST imposed on documents beginning January 1, 2018 by 100%, except DST on sale or conveyance of real property, insurance and fidelity bonds which were retained at the old rate. DST on debt instruments under Section 179 was increased by 50% only.

[170] As amended by Sec. 51 of the TRAIN. Previous rate was P1.

[171] As amended by Sec. 52 of the TRAIN. Previous rate was P0.75.

[172] As amended by Sec. 52 of the TRAIN. Previous rate was 25%.

[173] As amended by Sec. 53 of the TRAIN. Previous rate was P0.50.

[174] As amended by Sec. 54 of the TRAIN. Previous rate was P1.50.

[175] As amended by Sec. 55 of the TRAIN. Previous rate was P1.

[176] As amended by Sec. 56 of the TRAIN. Previous rate was P0.30.

[177] As amended by Sec. 57 of the TRAIN. Previous rate was P0.30.

[178] As amended by Sec. 58 of the TRAIN. Previous rate was P0.30.

[179] As amended by Sec. 59 of the TRAIN. Previous rate was P0.50 on each P200, or fractional part thereof.

[180] As amended by Sec. 60 of the TRAIN. Previous rate was P0.50.

[181] As amended by Sec. 60 of the TRAIN. Previous rate was P0.20.

[182] As amended by Sec. 61 of the TRAIN. Previous rate was P15.

[183] As amended by Sec. 62 of the TRAIN. Previous rate was P15.

[184] As amended by Sec. 63 of the TRAIN. Previous rate was P0.10.

[185] As amended by Sec. 64 of the TRAIN. The phrase "to another port or place in the Philippines" was removed.

[186] As amended by Sec. 64 of the TRAIN. Previous rate was P1.

[187] As amended by Sec. 64 of the TRAIN. Previous rate was P10.

[188] As amended by Sec. 65 of the TRAIN. Previous rate was P15.

[189] As amended by Sec. 66 of the TRAIN. Previous rate was P5.

[190] As amended by Sec. 67 of the TRAIN. Previous rate was P3.

[191] As amended by Sec. 67 of the TRAIN. Previous rate was P1.

[192] As amended by Sec. 68 of the TRAIN. Previous rate was P20.

[193] As amended by Sec. 68 of the TRAIN. Previous rate was P10.

[194] Introduced by Sec. 69 of the TRAIN.

[195] As amended by Sec. 70 of the TRAIN. Previous rate was P500.

[196] As amended by Sec. 70 of the TRAIN. Previous rate was P50.

[197] As amended by Sec. 70 of the TRAIN. Previous rate was P1,000.

[198] As amended by Sec. 70 of the TRAIN. Previous rate was P100

[199] As amended by Sec. 70 of the TRAIN. Previous rate was P1,500.

[200] As amended by Sec. 70 of the TRAIN. Previous rate was P150.

[201] The amendment introduced by the CREATE Law was vetoed by the President. The veto message on the proposed 90-day period for the processing of general tax refunds reads:

For being administratively impracticable, I am constrained to veto the whole of Section 14 of this Act, to wit:

SEC. 14. Section 204 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

SEC. 204. Authority of the Commissioner to Compromise, Abate, and Refund or Credit Taxes. —The Commissioner may —

"(A) x xx

"(B) x xx

"(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim or refund within two (2) years after the payment of the tax or penalty: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund: Provided, further, That in proper cases, the Commissioner shall grant a refund for taxes or penalties within ninety (90) days from the date of complete submission of the documents in support of the application filed: Provided, furthermore, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state

in writing the legal and factual basis for the denial: Provided, finally, That in case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals."

While I laud the intention to improve tax administration, this provision is administratively difficult for the Bureau of Internal Revenue (BIR) to implement and may cause delayed or erroneous processing of refund claims. The general form of tax refund under Section 204 of the Tax Code, as distinguished from VAT refunds in Section 112 of the same Code, requires a full audit of all internal revenue tax liabilities and examination of the tax payments, books, and returns filed by a taxpayer. Aside from this, the Tax Code itself requires the Commission on Audit to examine refunds. Thus, it is incumbent upon the BIR to exercise utmost diligence in granting a general tax refund. This is not possible within a 90-day period for all cases. I do not want the BIR to be forced to choose between only two (2) awful choices: grant tax refunds haphazardly, or deny an application outright considering the short period given to the BIR to process the same and then have the taxpayer go to court with his refund being unnecessarily delayed. Thus, while imposing a hard deadline may appear good on paper, the actual experience in the conduct of a full audit in general tax refund will either cause damage to the government if the BIR acts haphazardly, or cause more delays to the prejudice of the taxpayers if the BIR chooses the more convenient option of simply denying applications given the time constraints. As alternative, I suggest that the legislature, the Department of Finance, and the BIR, come up with mechanisms to streamline the process of tax refunds in a separate tax administration bill.

[202] Introduced by Sec. 71 of the TRAIN.

[203] As amended by Sec. 71 of the TRAIN. Previously 'quarterly'.

[204] As amended by Sec. 71 of the TRAIN. Previous threshold was P150,000.

[205] Introduced by Sec. 72 of the TRAIN.

[206] As amended by Sec. 72 of the TRAIN.

[207] As amended by Sec. 72 of the TRAIN. Previous threshold was P1,500,000.

[208] As amended by Sec. 73 of the TRAIN.

[209] Ibid. Previous threshold was P25.

[210] Introduced by Sec. 73 of the TRAIN.

[211] Introduced by Sec. 74 of the TRAIN.

[212] As amended by Sec. 75 of the TRAIN. Previous rate was 20% per annum.

[213] Introduced by Sec. 75 of the TRAIN.

[214] As amended by Sec. 76 of the TRAIN.

[215] As amended by Sec. 8 of RA 11346. Effective 1 January 2020.

[216] As amended by Sec. 10 of RA 11346. Effective 1 January 2020.

[217] Introduced by Sec. 11 of RA 11346. Effective 1 January 2020.

[218] As amended by Sec. 77 of the TRAIN.

[219] Introduced by Sec. 77 of the TRAIN.

[220] Introduced by Sec. 78 of the TRAIN.

[221] Introduced by Sec. 79 of the TRAIN.

[222] As amended by Sec. 12 of RA 11346. Effective 1 January 2020.

[223] Introduced by Sec. 12 of RA 11346. Effective 1 January 2020.

[224] Introduced by Sec. 80 of the TRAIN.

[225] Introduced by Sec. 13 of RA 11346. Effective 1 January 2020.

[226] Introduced by Sec. 81 of the TRAIN.

[227] Repealed by Sec. 15 of RA 11346. Effective 1 January 2020.

[228] The amendment introduced by the TRAIN Law was vetoed by the President. The veto message reads:

E. Earmarking of incremental tobacco taxes

I am constrained to veto the provision which provides for the above in lines 20 to 29 of Sec. 82 of the enrolled bill, to wit:

“Notwithstanding Any Provisions Herein To The Contrary, The Incremental Revenues From The Tobacco Taxes Under This Act Shall Be Subject To Section 3 of Republic Act No. 7171, Otherwise Known As ‘An Act To Promote The Development Of The Farmer In The Virginia Tobacco Producing Provinces’, And Section 8 Of Republic Act No. 8240, Otherwise Known As ‘An Act Amending Sections 138, 140 & 142 Of The National Internal Revenue Code, As Amended, And For Other Purposes.”

The provision effectively amends the Sin Tax Law, or RA 10351, which provides for guaranteed funds for universal health care. The provision will effectively diminish the share of the health sector in the proposed allocation.

[229] Introduced by Sec. 82 of the TRAIN.

[230] Introduced by Sec. 14 of RA 11346. Effective 1 January 2020.

[231] Introduced by Sec. 16 of RA 11346. Effective 1 January 2020.

[232] As amended by Sec. 15 of the CREATE.

[233] Introduced by Sec. 15 of the CREATE.

[234] Introduced under RA No. 11534 (Corporate Recovery and Tax Incentives for Enterprises Act or CREATE Act)

[235] Vetoed under Par C. The President, in his veto message under Par. C - Definition of investment capital, states that –

I am constrained to veto item (g) of the new Section 293 of the Tax Code under Section 16 of this Act:

"(g) Investment capital refers to the value of investment indicated in Philippine currency, excluding the value of land and working capital, that shall be used to carry out a registered project or activity, except that land shall be included as investment capital for registered real estate development. Investment capital may include the cost of land improvements, buildings, leasehold improvements, machinery and equipment, and other non-current tangible assets;"

The term "investment capital" is relevant in determining which registered projects or activities shall fall within the approving jurisdiction of the Fiscal Incentives Review Board (FIRB). To ensure that currently operational administrative processes are not unduly disturbed, I prefer that we adopt the measures now used by investment promotion agencies to determine the scale of an investment. Excluding land and operating expenses from the measure of an investment's total scale may also lead to an underestimation of our investment promotion performance.

[236] Vetoed under Par. D (1). The President, in his veto message under Par D - Redundant incentives for domestic enterprises, states that –

The special corporate income tax (SCIT) rate for domestic market enterprises, which is in lieu of all local and national taxes, is redundant, unnecessary, and weakens the fiscal incentives system. Domestic-oriented enterprises are market-seeking enterprises or enterprises that invest in selling goods and services to a market where viable demand exists—with or without tax incentives.

Tax incentives for domestic market enterprises are only justified to the extent that they yield measurable net benefits to the economy. I find that the generous, targeted, and performance-based enhanced deductions to domestic activities in priority sectors or industries under the CREATE Act are already sufficient incentives for the purpose.

Contrary to a common misconception that denying domestic enterprises the SCIT is tantamount to abandoning our own local businesses to fend for themselves, vetoing the subject provision is actually for the benefit of all local businesses. It must be emphasized that only registered business entities are proposed to be entitled to SCIT. Thus, local and homegrown firms that are not registered firms, which make up most of our MSMEs, will have to pay more taxes than registered firms. The latter would then have more legroom to reduce prices, secure more contracts, and ultimately take over the market and put our MSMEs out of business. In actuality, this line item veto will effectively level the domestic playing field and provide only the most generous incentives during the most critical times [e.g., income tax holiday (OTH) during start-up years]. After ITH expires, performance-based incentives, specifically the enhanced deductions, will become available. All of these ensure that extended tax savings are matched with targeted spending (e.g., direct labor and research and development) and not awarded outright which is the case if SCIT is extended to them.

[237] Vetoed under Par. D (2)

[238] Vetoed under Par. D (3)

[239] Vetoed under Par. D (4)

[240] Vetoed under Par. D (5)

[241] Vetoed under Par. D (6)

[242] Vetoed under Par E (1). The President, in his veto message under Par E – Allowing existing registered activities to apply for new incentives for the same activity, states that –

Allowing an additional fourteen (14) to seventeen (17) years of incentives and another ten (10) year-extension for the same activity on top of the original period of incentives enjoyment is fiscally irresponsible and utterly unfair to the ordinary taxpayer and to un incentivized enterprises. Registered business enterprises interested in further enjoying incentives must engage in new activities or projects incentivized in the Strategic Investment Priority Plan. My principle on this matter is simple: only new activities and projects deserve new incentives.

[243] Vetoed under Par. D (7)

[244] Vetoed under Par. D (8)

[245] Vetoed under Par. E (2)

[246] Vetoed under Par. E (3)

[247] Vetoed under Par. G (1). The President, in his veto message under Par G – Specific industries mentioned under activity tiers, states that –

On the one hand, there are industries in the enumeration that either do not merit support through incentives or are expected to become obsolete in the short-term. On the other hand, there might be economic activities in the mid- to long-term that need to be prioritized and granted tax incentives which are not captured in the current enumeration. The CREATE Act must be kept flexible to be able to keep up with the changing times. Activities and projects should not be hard coded in the law so that we do not keep on incentivizing obsolete industries and close our doors to technological advances and industries of the future.

[248] Vetoed under Par. G (2)

[249] Vetoed under Par. D (9)

[250] Vetoed under Par. D (10). The President has vetoed all mention of “/SCIT” in the table after the phrase “For domestic market activities”.

[251] Vetoed under Par. I. The President, in his veto message under Par I – Automatic approval of applications for incentive, states that –

The automatic approval of applications runs counter to the declared policy to approve or disapprove applications based on merit. The core of the reform is to develop a performance-based tax incentives system. The FIRB or the investment promotion agencies, as the case may be, should be allowed to carefully review the application for tax incentives since these are privileges granted by the State. This important function should not be sacrificed for the sake of expediency.

Moreover, concerns over inaction can be addressed by the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, which punishes the failure to render government services within a prescribed time.

[252] Vetoed under Par. F. The President, in his veto message under Par F – Limitations on the power of the FIRB, states that –

The primary role of the FIRB in the fiscal incentives system of the Philippines is to exercise policy-making and oversight functions on all registered business enterprises and investment promotion agencies. Section 297 (B) is clear that the power of the investment promotion agencies to grant incentives only stems from a delegated authority from the FIRB.

Corollary to this, the current practice of granting incentives without a regular impact analysis conducted and without regard to the final cost to the government is unacceptable, given our economic aims under the CREATE Act. Consistent with the theme of the "Tax Incentives Management and Transparency Act (TIMTA)" emphasizing fiscal accountability and transparency in the grant and management of tax incentives, the oversight functions of the FIRB will ensure the proper grant and monitoring of tax incentives, as well as assure Filipinos that in every peso invested, we get our tax's worth. These powers must remain plenary over those of the investment promotion agencies.

The concern that the FIRB oversight will result in inordinate delays is highly speculative. Even with the veto of the foregoing provision, the investment promotion agencies retain the delegated power to grant incentives up to a certain threshold amount. The FIRB does not create another layer in the approval process but is simply granted the authority to check whether the incentives granted by the investment promotion agencies conform to the overarching aim of the reform to modernize our incentive system into one that is performance-based, targeted, time-bound, and transparent. The oversight power of the FIRB supports its policy-making function since analyzing important data on all granted incentives is crucial in crafting sound, sustainable, and fiscally responsible incentives policy.

[253] Vetoed under Par. H. The President, in his veto message under Par H – Provision granting the President the power to exempt any investment promotion agency from the reform , states that –

The provisions allowing any future President the power to exempt an investment promotion agency from the coverage of the CREATE Act disregards the huge steps we have taken to rationalize our fiscal incentives system. It could become a highly political tool that could allow subsequent Presidents to dismantle decades of studies, disregard discussions based on empirical evidence, and even subvert the will of Congress itself. Fair and sensible public policy must bear the quality of uniform application. Exempting any investment promotion agency from the CREATE Act, which provides for transparency, accountability, and proper administration of tax incentives may be used as an escape from the accountability measures institutionalized in that law, and opens a wide path for discretion and capture by vested interests.

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