

# Republic Act No. 8424

December 11, 1997 (<http://www.gov.ph/1997/12/11/republic-act-no-8424/>)

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**REPUBLIC OF THE PHILIPPINES  
CONGRESS OF THE PHILIPPINES  
METRO MANILA  
Tenth Congress**

**December 11, 1997**

**Republic Act No. 8424**

**AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER  
PURPOSES**

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

**Section 1. Short Title.** – This Act shall be cited as the “*Tax Reform Act of 1997*”.

**Section 2. State Policy.** – It is hereby declared the policy of the State to promote sustainable economic growth through the rationalization of the Philippine internal revenue tax system, including tax administration; to provide, as much as possible, an equitable relief to a greater number of taxpayers in order to improve levels of disposable income and increase economic activity; and to create a robust environment for business to enable firms to compete better in the regional as well as the global market, at the same time that the State ensures that Government is able to provide for the needs of those under its jurisdiction and care.

**Section 3.** Presidential Decree No. 1158, as amended by, among others, Presidential Decree No. 1994 and Executive Order No. 273, otherwise known as the National Internal Revenue Code, is hereby further amended.

**Section 4.** The Secretary of Finance shall, upon recommendation of the Commissioner of Internal Revenue, promulgate and publish the necessary rules and regulations for the effective implementation of this Act.

**Section 5.** *Transitory Provisions – Deferment of the Effectivity of the Imposition of VAT on Certain Services.* – The effectivity of the imposition of the value-added tax on services as prescribed in Section 17(a) and (b) of Republic Act No. 7616, as amended by Republic Act. 8241, is hereby further deferred until December 31, 1999, unless Congress deems otherwise: Provided, That the said services shall continue to pay the applicable tax prescribed under the present provisions of the National Internal Revenue Code, as amended.

**Section 6.** *Separability Clause.* – If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

**Section 7.** *Repealing Clauses.* -(A) The provision of Section 17 of Republic Act No. 7906, otherwise known as the “Thrift Banks Acts of 1995” shall continue to be in force and effect only until December 31, 1999.

Effective January 1, 2000, all thrift banks, whether in operation as of that date or thereafter, shall no longer enjoy tax exemption as provided under Section 17 of R.A. No. 7906, thereby subjecting all thrift banks to taxes, fees and charges in the same manner and at the same rate as banks and other financial intermediaries.

(B) The provisions of the National Internal Revenue Code, as amended, and all other laws, including charters of government-owned or controlled corporations, decrees, orders, or regulations or parts thereof, that are inconsistent with this Act are hereby repealed or amended accordingly.

**Section 8.** *Effectivity* – This Act shall take effect on January 1, 1998.

## **TITLE I**

### **ORGANIZATION AND FUNCTION OF THE BUREAU OF INTERNAL REVENUE**

**Section 1.** *Title of the Code.* – This Code shall be known as the National Internal Revenue Code of 1997.

**Section 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.

**Section 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.

**Section 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.

**Section 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;

(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.

**Section 6.** *Power of the Commissioner to Make assessments and Prescribe additional Requirements for Tax Administration and Enforcement.* –

(A) *Examination of Returns 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: 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 consultation with competent appraisers both from the private and public sectors, determine the fair market value of real properties located in each zone or area. 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.* – Notwithstanding any contrary provision of Republic Act No. 1405 and other general or special laws, the Commissioner is hereby authorized to inquire into the bank deposits 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 Sec. 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 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.

(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.

**Section 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.

**Section 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. – 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, labels all 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, strip stamps and labels shall be caused by the Commissioner to be printed with adequate security features.

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

(B) Receipts for Payment Made. – 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 provision 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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 bank.

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.

**Section 13.** *Authority of a Revenue Offices.* – 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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) 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 Chairmen 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.

**Section 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.

## TITLE II

### TAX ON INCOME

#### CHAPTER I – DEFINITIONS

**Section 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 partnerships, no matter how created or organized, joint-stock companies, joint accounts (cuentas en participacion), association, 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, 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, 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.

(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 certificates' 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 nonbank 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.

## **CHAPTER II – GENERAL PRINCIPLES**

**Section 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

#### **Section 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.

The tax shall be computed in accordance with and at the rates established in the following schedule:

|                                        |                                         |
|----------------------------------------|-----------------------------------------|
| Not over P10,000.....                  | 5%                                      |
| Over P10,000 but not over P30,000..... | P500+10% of the excess over P10,000     |
| Over P30,000 but not over P70,000..... | P2,500+15% of the excess over P30,000   |
| Over P70,000 but not over P140,000...  | P8,500+20% of the excess over P70,000   |
| Over P140,000 but not over P250,000... | P22,500+25% of the excess over P140,000 |

|                                        |                                                   |
|----------------------------------------|---------------------------------------------------|
| Over P250,000 but not over P500,000... | P50,000+30% of the excess over P250,000           |
| Over P500,000 .....                    | P125,000+34% of the excess over P500,000 in 1998. |

Provided, That effective January 1, 1999, the top marginal rate shall be thirty-three percent (33%) and effective January 1, 2000, the said rate shall be thirty-two percent (32%).

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.

#### (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 Philippine Charity Sweepstakes and Lotto winnings), 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 seven and one-half percent (7 1/2%) of such interest income: 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 following rates 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:

Six percent (6%) beginning January 1, 1998;

Eight percent (8%) beginning January 1, 1999;

Ten percent (10% beginning January 1, 2000.

Provided, however, That the tax on dividends shall apply only on income earned on or after January 1, 1998. Income forming part of retained earnings as of December 31, 1997 shall not, even if declared or distributed on or after January 1, 1998, be subject to this tax.

(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 rates prescribed below 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.

|                                          |     |
|------------------------------------------|-----|
| Not over P100,000.....                   | 5%  |
| On any amount in excess of P100,000..... | 10% |

(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.

## **Section 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) or less which shall be subject to tax under Subsection (B)(1) of Section 24) and other winnings (except Philippine Charity Sweepstakes and Lotto winnings); 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:

|                                               |          |
|-----------------------------------------------|----------|
| 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. – 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.

**Section 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. *1avvphil.ñet*

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**

### **Section 27. *Rates of Income tax on Domestic Corporations.* –**

(A) *In General.* – Except as otherwise provided in this Code, an income tax of thirty-five percent (35%) is hereby imposed upon the taxable income derived during each taxable year from all sources within and without the Philippines by every corporation, as defined in Section 22(B) of this Code and taxable under this Title as a corporation, organized in, or existing under the laws of the Philippines: Provided, That effective January 1, 1998, the rate of income tax shall be thirty-four percent (34%); effective January 1, 1999, the rate shall be thirty-three percent (33%); and effective January 1, 2000 and thereafter, the rate shall be thirty-two percent (32%).

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

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

- (1) A tax effort ratio of twenty percent (20%) of Gross National Product (GNP);
- (2) A ratio of forty percent (40%) of income tax collection to total tax revenues;
- (3) A VAT tax effort of four percent (4%) of GNP; and
- (4) A 0.9 percent (0.9%) ratio of the Consolidated Public Sector Financial Position (CPSFP) to GNP.

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

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

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

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

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

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

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

(C) Government-owned or Controlled-Corporations, Agencies or Instrumentalities. – The provisions of existing special or general laws to the contrary notwithstanding, all corporations, agencies, or instrumentalities owned or controlled by the Government, except the Government Service Insurance

System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), the Philippine Charity Sweepstakes Office (PCSO) and the Philippine Amusement and Gaming Corporation (PAGCOR), shall pay such rate of tax upon their taxable income as are imposed by this Section upon corporations or associations engaged in s similar business, industry, or activity.

(D) Rates of Tax on Certain Passive Incomes. –

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

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

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

(3) Tax on Income Derived under the Expanded Foreign Currency Deposit System. – Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with 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 depository system units and other depository banks under the expanded foreign currency deposit system, including interest income from foreign currency loans granted by such depository banks under said expanded foreign currency deposit system to residents, shall be subject to a final income tax at the rate of ten percent (10%) of such income.

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

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

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

(E) Minimum Corporate Income Tax on Domestic Corporations. –

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

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

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

The Secretary of Finance is hereby authorized to promulgate, upon recommendation of the Commissioner, the necessary rules and 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.

**Section 28. Rates of Income Tax on Foreign Corporations. –**

**(A) Tax on Resident Foreign Corporations. –**

(1) *In General.* – Except as otherwise provided in this Code, a corporation organized, authorized, or existing under the laws of any foreign country, engaged in trade or business within the Philippines, shall be subject to an income tax equivalent to thirty-five percent (35%) of the taxable income derived in the preceding taxable year from all sources within the Philippines: provided, That effective January 1, 1998, the rate of income tax shall be thirty-four percent (34%); effective January 1, 1999, the rate shall be thirty-three percent (33%), and effective January 1, 2000 and thereafter, the rate shall be thirty-two percent (32%).

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

Provided, however, That a resident foreign corporation shall be granted the option to be taxed at fifteen percent (15%) on gross income under the same conditions, as provided in Section 27 (A).

(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.

(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 port 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.

(4) Offshore Banking Units. – The provisions of any law to the contrary notwithstanding, income derived by offshore banking units authorized by the Bangko Sentral ng Pilipinas (BSP) to transact business with offshore banking units, including any interest income derived from foreign currency loans granted to residents, shall be subject to a final income tax at the rate of ten percent (10%) of such income.

Any income of nonresidents, whether individuals or corporations, from transactions with said offshore banking units shall be exempt from income tax.

(5) 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.

(6) 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.

(7) 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 seven and one-half percent (7 1/2%) 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 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, including interest income from foreign currency loans granted by such depository banks under said expanded foreign currency deposit system to residents, shall be subject to a final income tax at the rate of ten percent (10%) of such income.

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 rates prescribed below 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:

|  |
|--|
|  |
|--|

|                                          |     |
|------------------------------------------|-----|
| Not over P100,000.....                   | 5%  |
| On any amount in excess of P100,000..... | 10% |

(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.

(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 shall pay a tax equal to thirty-five percent (35%) 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 subparagraphs (C) and (d): Provided, That effective 1, 1998, the rate of income tax shall be thirty-four percent (34%); effective January 1, 1999, the rate shall be thirty-three percent (33%); and, effective January 1, 2000 and thereafter, the rate shall be thirty-two percent (32%).

(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 twenty percent (20%) for 1997, nineteen percent (19%) for 1998, eighteen percent (18%) for 1999, and seventeen percent (17%) thereafter, which represents the difference between the regular income tax of thirty-five percent (35%) in 1997, thirty-four percent (34%) in 1998, and thirty-three percent (33%) in 1999, and thirty-two percent (32%) thereafter on corporations and the fifteen percent (15%) tax on dividends as provided in this subparagraph;

(c) *Capital Gains from Sale of Shares of Stock not Traded in the Stock Exchange.* – A final tax at the rates prescribed below 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:

|                                          |     |
|------------------------------------------|-----|
| Not over P100,000.....                   | 5%  |
| On any amount in excess of P100,000..... | 10% |

**Section 29. *Imposition of Improperly Accumulated Earnings Tax.* –**

(A) *In General.* – In addition to other taxes imposed by this Title, there is hereby imposed for each taxable year on the improperly accumulated taxable income of each corporation described in Subsection B hereof, an improperly accumulated earnings tax equal to ten percent (10%) of the improperly accumulated taxable income.

(B) *Tax on Corporations Subject to Improperly Accumulated Earnings Tax.* –

(1) *In General.* – The improperly accumulated earnings tax imposed in the preceding Section shall apply to every corporation formed or availed for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of being divided or distributed.

(2) *Exceptions.* – The improperly accumulated earnings tax as provided for under this Section shall not apply to:

- (a) Publicly-held corporations;
- (b) Banks and other nonbank financial intermediaries; and
- (c) Insurance companies.

(C) *Evidence of Purpose to Avoid Income Tax.* –

(1) *Prima Facie Evidence.* – the fact that any corporation is a mere holding company or investment company shall be prima facie evidence of a purpose to avoid the tax upon its shareholders or members.

(2) *Evidence Determinative of Purpose.* – The fact that the earnings or profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid the tax upon its shareholders or members unless the corporation, by the clear preponderance of evidence, shall prove to the contrary.

(D) *Improperly Accumulated Taxable Income.* – For purposes of this Section, the term ‘improperly accumulated taxable income’ means taxable income’ adjusted by:

- (1) Income exempt from tax;
- (2) Income excluded from gross income;
- (3) Income subject to final tax; and
- (4) The amount of net operating loss carry-over deducted;

And reduced by the sum of:

- (1) Dividends actually or constructively paid; and
- (2) Income tax paid for the taxable year.

Provided, however, That for corporations using the calendar year basis, the accumulated earnings under tax shall not apply on improperly accumulated income as of December 31, 1997. In the case of corporations adopting the fiscal year accounting period, the improperly accumulated income not subject to this tax, shall be reckoned, as of the end of the month comprising the twelve (12)-month period of fiscal year 1997-1998.

(E) Reasonable Needs of the Business. – For purposes of this Section, the term ‘reasonable needs of the business’ includes the reasonably anticipated needs of the business.

**Section 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**

**Section 31. *Taxable Income Defined.*** – The term taxable income means the pertinent items of gross income specified in this Code, less the deductions and/or personal and additional exemptions, if any, authorized for such types of income by this Code or other special laws.

## **CHAPTER VI – COMPUTATION OF GROSS INCOME**

**Section 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 its 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 Thirty thousand pesos (P30,000) which shall cover:

(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: Provided, further, That the ceiling of Thirty thousand pesos (P30,000) may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering among others, the effect on the same of the inflation rate at the end of the taxable year.

(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.

**Section 33. *Special Treatment of Fringe Benefit.***

(A) *Imposition of Tax.* – A final tax of thirty-four percent (34%) effective January 1, 1998; thirty-three percent (33%) effective January 1, 1999; and thirty-two percent (32%) effective January 1, 2000 and thereafter, is hereby imposed on the grossed-up monetary value of fringe benefit furnished or granted to the employee (except rank and file employees as 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-six percent (66%) effective January 1, 1998; sixty-seven percent (67%) effective January 1, 1999; and sixty-eight percent (68%) effective January 1, 2000 and thereafter: 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 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**

**Section 34. Deductions from Gross Income.** – 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 other than under subsection (M) hereof, 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;

(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.

(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 an amount equal to the following percentages of the interest income subjected to final tax:

Forty-one percent (41%) beginning January 1, 1998;

Thirty-nine percent (39%) beginning January 1, 1999; and

Thirty-eight percent (38%) beginning January 1, 2000;

(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 a 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 redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such redetermination, 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 ‘not 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) *Limitation.* – 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 unamortized costs thereof, as well as the undepreciated 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 reentered 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 of 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 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 (5%) 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 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 even of dissolution, would be distributed to another nonprofit 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.

(l) *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 91) 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.* – 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 ten percent (10%) of his gross income. 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 except when the Commissioner otherwise permits, the said individual shall keep such records pertaining to his gross income during the taxable year, as may be required by the rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

(M) *Premium Payments on Health and/or Hospitalization Insurance of an Individual Taxpayer.* – the amount of premiums not to exceed Two thousand four hundred pesos (P2,400) per family or Two hundred pesos (P200) a month paid during the taxable year for health and/or hospitalization insurance taken by the taxpayer for himself, including his family, shall be allowed as a deduction from his gross income: Provided, That said family has a gross income of not more than Two hundred fifty thousand pesos (P250,000) for the taxable year: Provided, finally, That in the case of married taxpayers, only the spouse claiming the additional exemption for dependents shall be entitled to this deduction.

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.

**Section 35. Allowance of Personal Exemption for Individual Taxpayer. –**

(A) In General. – For purposes of determining the tax provided in Section 24 (A) of this Title, there shall be allowed a basic personal exemption as follows:

|                                                                                                                  |         |
|------------------------------------------------------------------------------------------------------------------|---------|
| For single individual or married individual judicially decreed as legally separated with no qualified dependents | P20,000 |
| For Head of Family                                                                                               | P25,000 |
| For each married individual                                                                                      | P32,000 |

In the case of married individuals where only one of the spouses is deriving gross income, only such spouse shall be allowed the personal exemption.

For purposes of this paragraph, the term 'head of family' means an unmarried or legally separated man or woman with one or both parents, or with one or more brothers or sisters, or with one or more legitimate, recognized natural or legally adopted children living with and dependent upon him for their chief support, where such brothers or sisters or children are not more than twenty-one (21) years of age, unmarried and not gainfully employed or where such children, brothers or sisters, regardless of age are incapable of self-support because of mental or physical defect.

(B) Additional Exemption for Dependents. – There shall be allowed an additional exemption of Eight thousand pesos (P8,000) for each dependent not exceeding four (4).

The additional exemption for dependent shall be claimed by only one of the spouses in the case of married individuals.

In the case of legally separated spouses, additional exemptions may be claimed only by the spouse who has custody of the child or children: Provided, That the total amount of additional exemptions that may be claimed by both shall not exceed the maximum additional exemptions herein allowed.

For purposes of this Subsection, a 'dependent' means a legitimate, illegitimate or legally adopted child chiefly dependent upon and living with the taxpayer if such dependent is not more than twenty-one (21) years of age, unmarried and not gainfully employed or if such dependent, regardless of age, is incapable of self-support because of mental or physical defect.

(C) Change of Status. – If the taxpayer marries or should have additional dependent(s) as defined above during the taxable year, the taxpayer may claim the corresponding additional exemption, as the case may be, in full for such year.

If the taxpayer dies during the taxable year, his estate may still claim the personal and additional exemptions for himself and his dependent(s) as if he died at the close of such year.

If the spouse or any of the dependents dies or if any of such dependents marries, becomes twenty-one (21) years old or becomes gainfully employed during the taxable year, the taxpayer may still claim the same exemptions as if the spouse or any of the dependents died, or as if such dependents married, became twenty-one (21) years old or became gainfully employed at the close of such year.

(D) Personal Exemption Allowable to Nonresident Alien Individual. – A nonresident alien individual engaged in trade, business or in the exercise of a profession in the Philippines shall be entitled to a personal exemption in the amount equal to the exemptions allowed in the income tax law in the country of which he is a subject – or citizen, to citizens of the Philippines not residing in such country, not to exceed the amount fixed in this Section as exemption for citizens or resident of the Philippines: Provided, That said nonresident alien should file a true and accurate return of the total income received by him from all sources in the Philippines, as required by this Title.

### **Section 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.

**Section 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.

**Section 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) 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.

**Section 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 exchanges of 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.

**Section 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 if in pursuance of a plan of merger or consolidation –

(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) A shareholder exchanges stock in a corporation, which is a party to the merger or consolidation, solely for the stock of another corporation also a party to the merger or consolidation; or

(c) A security holder of a corporation, which is a party to the merger or consolidation, exchanges his securities in such corporation, solely for stock or securities in such corporation, a party to the merger or consolidation.

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

(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 possessing at least fifty-one percent (51%) of the total voting power of all classes of stocks entitled to vote.

(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.

**Section 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 o 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.

**Section 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**

**Section 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.

**Section 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.

**Section 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 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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

### **Section 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 gross income does not exceed his total personal and additional exemptions for dependents under Section 35: 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, 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: Provided, further, That an individual whose compensation income derived from sources within the Philippines exceeds Sixty thousand pesos (P60,000) shall also file an income tax return;

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

(d) An individual who is exempt from income tax pursuant to the provisions of this Code and other laws, general or special.

(3) The forgoing 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.

(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 properly 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.

## **Section 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 return shall 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.

(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.

**Section 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.

**Section 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.

**Section 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.

**Section 56.** *Payment and Assessment of Income Tax for Individuals and Corporation.* –

*(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 the 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 July 15 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.

(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.

**Section 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.

(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.

**Section 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 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 withholding tax shall be filed and the payment made within twenty-five (25) days from the close of each calendar quarter, while the return for 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: Provided, That the Commissioner, with the approval of the Secretary of Finance, may require these withholding agents to pay or deposit the taxes deducted or withheld at more frequent intervals when necessary to protect the interest of the government.

(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.

**Section 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**

### **Section 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.

**Section 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.

**Section 62. Exemption Allowed to Estates and Trusts.** – For the purpose of the tax provided for in this Title, there shall be allowed an exemption of Twenty thousand pesos (P20,000) from the income of the estate or trust.

**Section 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.

**Section 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.

**Section 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) 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.

**Section 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**

**Section 67.** *Collection of Foreign Payments.* – All persons, corporations, duly registered general co-partnerships (companias 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.

**Section 68.** *Information at Source as to Income Payments.* – all persons, corporations or duly registered co-partnerships (companias 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 (companias 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.

**Section 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.

**Section 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, o 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.

**Section 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.

**Section 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.

**Section 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**

**Section 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 April 15 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 April 15 of the following calendar year when the final adjusted income tax return is due to be filed.

(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.

**Section 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.

**Section 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.

**Section 77. *Place and Time of Filing and Payment of Quarterly Corporate Income Tax.* –**

(A) *Place of Filing.* -Except as the Commissioner other wise permits, the quarterly income tax declaration required in Section 75 and the final adjustment return required I 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**

**Section 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.

#### **Section 79. *Income Tax Collected at Source.***

(A) *Requirement of Withholding*. – 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: Provided, however, That no withholding of a tax shall be required where the total compensation income of an individual does not exceed the statutory minimum wage, or five thousand pesos (P5,000.00) per month, whichever is higher.

(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.

(D) *Personal Exemptions.* –

(1) *In General.* – Unless otherwise provided by this Chapter, the personal and additional exemptions applicable under this Chapter shall be determined in accordance with the main provisions of this Title.

(2) *Exemption Certificate.* –

(a) *When to File.* – On or before the date of commencement of employment with an employer, the employee shall furnish the employer with a signed withholding exemption certificate relating to the personal and additional exemptions to which he is entitled.

(b) *Change of Status.* – In case of change of status of an employee as a result of which he would be entitled to a lesser or greater amount of exemption, the employee shall, within ten (10) days from such change, file with the employer a new withholding exemption certificate reflecting the change.

(c) *Use of Certificates.* – The certificates filed hereunder shall be used by the employer in the determination of the amount of taxes to be withheld.

(d) *Failure to Furnish Certificate.* – Where an employee, in violation of this Chapter, either fails or refuses to file a withholding exemption certificate, the employer shall withhold the taxes prescribed under the schedule for zero exemption of the withholding tax table determined pursuant to Subsection (A) hereof.

(E) *Withholding on Basis of Average Wages.* – 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.

(F) *Husband and Wife.* – When a husband and wife each are recipients of wages, whether from the same or from different employers, taxes to be withheld shall be determined on the following bases:

(1) The husband shall be deemed the head of the family and proper claimant of the additional exemption in respect to any dependent children, unless he explicitly waives his right in favor of his wife in the withholding exemption certificate.

(2) Taxes shall be withheld from the wages of the wife in accordance with the schedule for zero exemption of the withholding tax table prescribed in Subsection (D)(2)(d) hereof.

(G) *Nonresident Aliens.* – Wages paid to nonresident alien individuals engaged in trade or business in the Philippines shall be subject to the provisions of this Chapter.

(H) *Year-end Adjustment.* – 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.

**Section 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 willfully 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.

**Section 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.

**Section 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.

**Section 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.

### **TITLE III**

#### **ESTATE AND DONOR'S TAXES**

##### **CHAPTER I – ESTATE TAX**

**Section 84. Rates 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 based on the value of such net estate, as computed in accordance with the following schedule:

If the net estate is:

| <i>Over</i> | <i>But Not Over</i> | <i>The Tax shall be</i> | <i>Plus</i> | <i>Of the Excess Over</i> |
|-------------|---------------------|-------------------------|-------------|---------------------------|
|             | P 200,000           | Exempt                  |             |                           |
| P 200,000   | 550,000             | 0                       | 5%          | P 200,000                 |
| 500,000     | 2,000,000           | P 15,000                | 8%          | 500,000                   |
| 2,000,000   | 5,000,000           | 135,000                 | 11%         | 2,000,000                 |
| 5,000,000   | 10,000,000          | 465,000                 | 15%         | 5,000,000                 |
| 10,000,000  | And Over            | 1,215,000               | 20%         | 10,000,000                |

**Section 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 bonafide 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 exerciseable) 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 his 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 of 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.

**Section 86.** *Computation of Net Estate*. – 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*. – In the case of a citizen or resident of the Philippines, by deducting from the value of the gross estate –

(1) Expenses, Losses, Indebtedness, and taxes. – Such amounts –

(a) For actual funeral expenses or in an amount equal to five percent (5%) of the gross estate, whichever is lower, but in no case to exceed Two hundred thousand pesos (P200,000);

(b) For judicial expenses of the testamentary or intestate proceedings;

(c) For claims against the estate: Provided, That at the time the indebtedness was incurred the 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;

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

(e) 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 a 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.

(2) Property Previously Taxed. – An amount equal to the value specified below of any property forming a 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 if in determining the value of the estate of the prior decedent, no deduction was allowable under paragraph (2) 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 (1) and (3) of this Subsection as the amount otherwise deductible under said paragraph (2) 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.

(3) 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.

(4) 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 One million pesos (P1,000,000), the excess shall be subject to estate tax. As a sine qua non condition for the exemption or deduction, said family home must have been the decedent's family home as certified by the barangay captain of the locality.

(5) Standard Deduction. – An amount equivalent to One million pesos (P1,000,000).

(6) Medical Expenses. – Medical Expenses incurred by the decedent within one (1) year prior to his death which shall be duly substantiated with receipts: Provided, That in no case shall the deductible medical expenses exceed Five Hundred Thousand Pesos (P500,000).

(7) Amount Received by Heirs Under Republic Act No. 4917. – Any amount received by the heirs from the decedent – 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) Expenses, Losses, Indebtedness and Taxes. – That proportion of the deductions specified in paragraph (1) of Subsection (A) of this Section which the value of such part bears to the value of his entire gross estate wherever situated;

(2) 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.

(3) *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) *Miscellaneous Provisions.* – No deduction shall be allowed in the case of a nonresident not a citizen of the Philippines, unless the executor, administrator, or anyone of the heirs, as the case may be, includes in the return required to be filed under Section 90 the value at the time of his death of that part of the gross estate of the nonresident not situated in the Philippines.

(E) *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.

**Section 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 insures 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.

**Section 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.

**Section 89. *Notice of Death to be Filed.*** – In all cases of transfers subject to tax, or where, though exempt from tax, the gross value of the estate exceeds Twenty thousand pesos (P20,000), the executor, administrator or any of the legal heirs, as the case may be, within two (2) months after the decedent's death, or within a like period after qualifying as such executor or administrator, shall give a written notice thereof to the Commissioner.

**Section 90. Estate Tax Returns. –**

(A) *Requirements.* – In all cases of transfers subject to the tax imposed herein, or where, though exempt from tax, the gross value of the estate exceeds Two hundred thousand pesos (P200,000), or regardless of the gross value of the estate, 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 Two million pesos (P2,000,000) 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.* – 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 six (6) months 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) 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.

**Section 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) *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.

**Section 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.

**Section 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.

**Section 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.

**Section 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 non payment 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 intervivos 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.

**Section 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.

**Section 97.** *Payment of Tax Antecedent to the Transfer of Shares, Bonds or Rights.* – 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 not allow any withdrawal from the said deposit account, unless the Commissioner has certified that the taxes imposed thereon by this Title have been paid: Provided, however, That the administrator of the estate or any one (1) of the heirs of the decedent may, upon authorization by the Commissioner, withdraw an amount not exceeding Twenty thousand pesos (P20,000) without the said certification. 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**

**Section 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.

**Section 99.** *Rates of Tax Payable by Donor.* –

(A) *In General.* – The tax for each calendar year shall be computed on the basis of the total net gifts made during the calendar year in accordance with the following schedule:

If the net gift is:

| <i>Over</i> | <i>But Not Over</i> | <i>The Tax shall be</i> | <i>Plus</i> | <i>Of the Excess Over</i> |
|-------------|---------------------|-------------------------|-------------|---------------------------|
|             | P 100,000           | Exempt                  |             |                           |
| P 100,000   | 200,000             | 0                       | 2%          | P100,000                  |
| 200,000     | 500,000             | 2,000                   | 4%          | 200,000                   |
| 500,000     | 1,000,000           | 14,000                  | 6%          | 500,000                   |
| 1,000,000   | 3,000,000           | 44,000                  | 8%          | 1,000,000                 |
| 3,000,000   | 5,000,000           | 204,000                 | 10%         | 3,000,000                 |
| 5,000,000   | 10,000,000          | 404,000                 | 12%         | 5,000,000                 |
| 10,000,000  |                     | 1,004,000               | 15%         | 10,000,000                |

(B) *Tax Payable by Donor if Donee is a Stranger.* – When the donee or beneficiary is stranger, the tax payable by the donor shall be thirty percent (30%) of the net gifts. For the purpose of this tax, a ‘stranger,’ is a person who is not a:

- (1) Brother, sister (whether by whole or half-blood), spouse, ancestor and lineal descendant; or
- (2) Relative by consanguinity in the collateral line within the fourth degree of relationship.

(C) 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.

**Section 100.** *Transfer for Less Than Adequate and full Consideration.* – 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.

**Section 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. –

(1) Dowries or gifts made on account of marriage and before its celebration or within one year thereafter by parents to each of their legitimate, recognized natural, or adopted children to the extent of the first Ten thousand pesos (P10,000):

(2) 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

(3) 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 the 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 nonstock 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.

(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.

**Section 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.

**Section 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.

**Section 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.

## **TITLE IV**

### **VALUE- ADDED TAX**

## CHAPTER I – IMPOSITION OF TAX

**Section 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 nonstock, 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 course of trade or business.

**Section 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 ten percent (10%) 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) 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:

(a) Export Sales. – 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 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);

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

(4) Sale of gold to the Bangko Sentral ng Pilipinas (BSP); and

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

(b) Foreign Currency Denominated Sale. – The phrase 'foreign currency denominated sale' means sale to a nonresident of goods, except those mentioned in Sections 149 and 150, assembled or manufactured in the Philippines for delivery to a resident in the Philippines, paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

(c) 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.

(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) Determination of the Tax. –

(1) The tax shall be computed by multiplying the total amount indicated in the invoice by one-eleventh (1/11).

(2) 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.

(3) 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.

**Section 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 ten percent (10%) 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.

**Section 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 ten percent (10%) 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 or 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, resthouses, 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, air and water relative to their transport of goods or cargoes; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code; services of banks, non-bank financial intermediaries and finance companies; 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.

(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, 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 vessels engaged exclusively in international shipping; and

(5) Services performed by subcontractors and/or contractors in processing, converting, of manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of total annual production.

(C) *Determination of the Tax.* – The tax shall be computed by multiplying the total amount indicated in the official receipt by one-eleventh (1/11).

**Section 109. Exempt Transactions.** – The following shall be exempt from the value-added tax:

(a) Sale of nonfood agricultural products; marine and forest products in their original state by the primary producer or the owner of the land where the same are produced;

(b) Sale of cotton seeds in their original state; and copra;

(c) 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 and paragraph (a) 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, and ordinary salt shall be considered in their original state;

(d) 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);

(e) Sale or importation of coal and natural gas, in whatever form or state, and petroleum products (except lubricating oil, processed gas, grease, wax and petrolatum) subject to excise tax imposed under Title VI;

(f) Sale or importation of raw materials to be used by the buyer or importer himself in the manufacture of petroleum products subject to excise tax, except lubricating oil, processed gas, grease, wax and petrolatum;

(g) Importation of passenger and/or cargo vessels of more than five thousand tons (5,000) whether coastwise or ocean-going, including engine and spare parts of said vessel to be used by the importer himself as operator thereof;

(h) 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;

(i) Importation of professional instruments and implements, wearing apparel, domestic animals, and personal household effects (except any vehicle, vessel, aircraft, machinery other goods for use in the manufacture and merchandise of any kind in commercial quantity) belonging to persons coming to settle in the Philippines, for their own use and not for sale, barter or exchange, accompanying such persons, or arriving within ninety (90) days before or after their arrival, upon the production of evidence satisfactory to the Commissioner, that such persons are actually coming to settle in the Philippines and that the change of residence is bona fide;

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

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

(l) Medical, dental, hospital and veterinary services subject to the provisions of Section 17 of Republic Act No. 7716, as amended:

(m) Educational services rendered by private educational institutions, duly accredited by the Department of Education, Culture and Sports (DECS) and the Commission on Higher Education (CHED), and those rendered by government educational institutions;

(n) Sale by the artist himself of his works of art, literary works, musical compositions and similar creations, or his services performed for the production of such works;

- (o) Services rendered by individuals pursuant to an employer-employee relationship;
- (p) 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;
- (q) Transactions which are exempt under international agreements to which the Philippines is a signatory or under special laws, except those under Presidential Decree Nos. 66, 529 and 1590;
- (r) 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;
- (s) Sales by electric cooperatives duly registered with the Cooperative Development authority or National Electrification Administration, relative to the generation and distribution of electricity as well as their importation of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity;
- (t) Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the Cooperative Development Authority whose lending operation is limited to their members;
- (u) 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;
- (v) Export sales by persons who are not VAT-registered;
- (w) 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, house and lot and other residential dwellings valued at One million pesos (P1,000,000) and below: Provided, That not later than January 31st of the calendar year subsequent to the effectivity of this Act and each calendar year thereafter, the amount of One million pesos (P1,000,000) shall be adjusted to its present value using the Consumer Price Index, as published by the national Statistics Office (NSO);

(x) Lease of a residential unit with a monthly rental not exceeding Eight thousand pesos(P8,000); Provided, That not later than January 31st of the calendar year subsequent to the effectivity of Republic Act No. 8241 and each calendar year thereafter, the amount of Eight thousand pesos (P8,000) shall be adjusted to its present value using the Consumer Price Index as published by the National Statistics Office (NSO);

(y) Sale, importation, printing or publication of books and any newspaper, magazine review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements; and

(z) 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 Five hundred fifty thousand pesos (P550,000): Provided, That not later than January 31st of the calendar year subsequent to the effectivity of Republic Act No. 8241 and each calendar year thereafter, the amount of Five hundred fifty thousand pesos (550,000) shall be adjusted to its present value using the Consumer Price Index, as published by the National Statistics Office (NSO).

The foregoing exemptions notwithstanding, any person whose sale of goods or properties or services which are otherwise not subject to VAT, but who issues a VAT invoice or receipt therefor shall, in addition to his liability to other applicable percentage tax, if any, be liable to the tax imposed in Section 106 or 108 without the benefit of input tax credit, and such tax shall also be recognized as input tax credit to the purchaser under Section 110, all of this Code.

#### **Section 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, except automobiles, aircraft and yachts.

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

(2) The input tax on domestic purchase of goods or properties 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.

However, 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 fee.

(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. any input tax attributable to the purchase of capital goods or 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 the Bureau of Customs.

**Section 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 for eight percent (8%) 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.* –

(1) 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 one and one-half percent (1 1/2%) 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.

(2) Public works contractors shall be allowed a presumptive input tax equivalent to one and one-half percent (1 1/2%) of the contract price with respect to government contracts only in lieu of actual input taxes therefrom.

**Section 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.

(B) *Capital Goods.* – A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.

(C) *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.

(D) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsections (A) and (B) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.-

(E) *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**

**Section 113. Invoicing and Accounting Requirements for VAT-Registered Persons. –**

(A) *Invoicing Requirements.* – A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or 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.

(B) *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.

**Section 114. Return and Payment of Value-Added Tax. –**

(A) *In General.* – 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.

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 from sellers and services rendered by

contractors which are subject to the value-added tax imposed in Sections 106 and 108 of this Code, deduct and withhold the value-added tax due at the rate of three percent (3%) of the gross payment for the purchase of goods and six percent (6%) on gross receipts for services rendered by contractors on every sale or installment payment which shall be creditable against the value-added tax liability of the seller or contractor: Provided, however, That in the case of government public works contractors, the withholding rate shall be eight and one-half percent (8.5%): Provided, further, That the payment for lease or use of properties or property rights to nonresident owners shall be subject to ten percent (10%) withholding tax at the time of payment. For this purpose, 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.

**Section 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.

## **TITLE V**

### **OTHER PERCENTAGE TAXES**

**Section 116.** *Tax on Persons Exempt from Value-Added Tax (VAT).* – Any person whose sales or receipts are exempt under Section 109(z) 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 shall be exempt from the three percent (3%)gross receipts tax herein imposed.

**Section 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, air or water, for the transport of passengers, except owners of bancas and owner 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.Manilaand other cities                     | P 2,400 |
| 2. Provincial                                | 1,200   |
| Public utility bus –                         |         |
| Not exceeding 30 passengers                  | 3,600   |
| Exceeding 30 but not exceeding 50 passengers | 6,000   |
| Exceeding 50 passengers                      | 7,200   |
| Taxis –                                      |         |
| 1.Manilaand other cities                     | P 3,600 |
| 2. Provincial                                | 2,400   |

|                                 |       |
|---------------------------------|-------|
| Car for hire (with chauffer)    | 3,000 |
| Car for hire (without chauffer) | 1,800 |

**Section 118. *Percentage Tax on International Carriers.* –**

(A) International air carriers doing business in the Philippines shall pay a tax of three percent (3%) of their quarterly gross receipts.

(B) International shipping carriers doing business in the Philippines shall pay a tax equivalent to three percent (3%) of their quarterly gross receipts.

**Section 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 does not exceed Ten million pesos (P10,000.00), subject to Section 236 of this Code, a tax of three percent (3%) and on electric, 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, it shall not be revoked.

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.

**Section 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.

**Section 121.** *Tax on Banks and Non-bank Financial Intermediaries*. – There shall be a collected tax on gross receipts 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:

Short-term maturity (non in excess of two (2) years)..... 5%

Medium-term maturity (over two (2) years but not exceeding four (4) years)..... 3%

Long-term maturity –

(1) Over four (4) years but not exceeding seven (7) years..... 1%

(2) Over seven (7) years..... 0%

(b) On dividends.....  
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..... 5%

Provided, however, That in case the maturity period referred to in paragraph (a) is shortened thru pretermination, then the maturity period shall be reckoned to end as of the date of pretermination for purposes of classifying the transaction as short, medium or long-term and the correct rate of tax shall be applied accordingly.

Nothing in this Code shall preclude the Commissioner from imposing the same tax herein provided on persons performing similar banking activities.

**Section 122. Tax on Finance Companies.** – There shall be collected a tax of five percent (5%) on the gross receipts derived by all finance companies, as well as by other financial intermediaries not performing quasi-banking functions doing business in the Philippines, from interest, 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:

Short-term maturity (non in excess of two (2) years)..... 5%

Medium-term maturity (over two (2) years

but not exceeding four (4) years)..... 3%

Long-term maturity –

(1) Over four (4) years but not exceeding seven (7) years..... 1%

(2) Over seven (7) years..... 0%

Provided, however, That in case the maturity period is shortened thru pretermination, then the maturity period shall be reckoned to end as of the date of pretermination for purposes of classifying the transaction as short, medium or long-term and the correct rate of tax shall be applied accordingly.

Nothing in this Code shall preclude the Commissioner from imposing the same tax herein provided on persons performing similar financing activities.

**Section 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 five percent (5%) 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.

**Section 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.

**Section 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 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 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.

**Section 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 onSale, Barter or Exchange of Shares of Stock Listed and Traded through the Local Stock Exchange. – 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 one-half of one percent (1/2 of 1%) 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) Tax on Shares of Stock Sold or Exchanged Through Initial Public Offering. – There shall be levied, assessed and collected on every sale, barter, exchange or other disposition through initial public offering of shares of stock in closely held corporations, as defined herein, a tax at the rates provided hereunder based on the gross selling price or gross value in money of the shares of stock sold, bartered, exchanged or otherwise disposed in accordance with the proportion of shares of stock sold, bartered, exchanged or otherwise disposed to the total outstanding shares of stock after the listing in the local stock exchange:

|                                                                                                  |    |
|--------------------------------------------------------------------------------------------------|----|
| Up to twenty-five percent (25%).....                                                             | 4% |
| Over twenty-five percent (25%) but not over thirty-three<br>and one third percent (33 1/3%)..... | 2% |
| Over thirty-three and one third percent (33 1/3%).....                                           | 1% |

The tax herein imposed shall be paid by the issuing corporation in primary offering or by the seller in secondary offering.

For purposes of this Section, the term ‘closely held corporation’ means any corporation at least fifty percent (50%) in value of outstanding capital stock or at least fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote is owned directly or indirectly by or for not more than twenty (20) individuals.

For purposes of determining whether the corporation is a closely held corporation, insofar as such determination is based on stock ownership, the following rules shall be applied:

(1) *Stock Not Owned by Individuals.* – Stock owned directly or indirectly by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by its shareholders, partners or beneficiaries.

(2) *Family and Partnership Ownerships.* – An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family, or by or for his partner. For purposes of the paragraph, the 'family of an individual' includes only his brothers and sisters (whether by whole or half-blood), spouse, ancestors and lineal descendants.

(3) *Option.* – If any person has an option acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option and each one of a series of options shall be considered as an option to acquire such stock.

(4) *Constructive Ownership as Actual Ownership.* – Stock constructively owned by reason of the application of paragraph (1) or (3) hereof shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by the individual by reason of the application of paragraph (2) hereof shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

(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 Share 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.

**Section 128. *Returns and Payment of Percentage Taxes.*** –

(A) Returns of Gross Sales, Receipts or Earnings and Payment of Tax. –

(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) Exceptions. – 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 such factors as volume of sales, financial condition, 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 percentage taxes other than as hereinabove prescribed, including a scheme of tax prepayment.

(4) 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.

## **TITLE VI**

### **EXCISE TAX ON CERTAIN GOODS**

#### **CHAPTER I – GENERAL PROVISIONS**

**Section 129.** *Goods 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. 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 shall be referred to as 'ad valorem tax.'

**Section 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 tax excise 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.

**Section 131.** *Payment of Excise Taxes on Importer Articles.* –

(A) Persons Liable. – Excise taxes on imported articles shall be paid by the owner or importer to the Customs Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customhouse, 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, entitles, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entitles, 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 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: Provided, however, That this shall not apply to cigars and cigarettes, distilled spirits 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 are not transshipped to any other port in the Philippines: Provided, further, That importations of cigars and cigarettes, distilled spirits and wines by a government-owned and operated duty-free shop, like the Duty-Free Philippines (DFP), shall be exempted from all applicable taxes, duties, charges, including excise tax due thereon: Provided, still further, That if such articles directly imported by a government-owned and operated duty-free shop like the Duty-Free Philippines, shall be labelled 'tax and duty-free' and 'not for resale': Provided, still further, That if such articles brought into the duly chartered or legislated freeports under Republic Acts No. 7227, 7922 and 7903 are subsequently introduced into the Philippine customs territory, then such articles shall, upon such introduction, be deemed imported into the Philippines and shall be subject to all imposts and excise taxes provided herein and other statutes: Provided, finally, That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles, from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory.

Articles confiscated shall be disposed of in accordance with the rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner of Customs and Internal Revenue, upon consultation with the Secretary of Tourism and the General manager of the Philippine Tourism Authority.

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.

**Section 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

**Section 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.

**Section 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.

**Section 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 or 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.

**Section 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.

**Section 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 redistillation, 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.

**Section 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.

**Section 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.

**Section 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

**Section 141. *Distilled Spirits.*** – On distilled spirits, there shall be collected, subject to the provisions of Section 133 of this Code, excise taxes as follows:

(a) If produced from the sap of nipa, coconut, cassava, camote, or buri palm or from the juice, syrup or sugar of the cane, provided such materials are produced commercially in the country where they are processed into distilled spirits, per proof liter, Eight pesos (P8.00): Provided, That if produced in a pot still or other similar primary distilling apparatus by a distiller producing not more than one hundred (100) liters a day, containing not more than fifty percent (50%) of alcohol by volume, per proof liter, Four pesos (P4.00);

(b) If produced from raw materials other than those enumerated in the preceding paragraph, the tax shall be in accordance with the net retail price per bottle of seven hundred fifty milliliter (750 ml.) volume capacity (excluding the excise tax and the value-added tax) as follows:

(1) Less than Two hundred and fifty pesos (P250) – Seventy-five pesos (P75), per proof liter;

(2) Two hundred and fifty pesos (P250) up to Six hundred and Seventy-Five pesos (P675) – One hundred and fifty pesos (P150), per proof liter; and

(3) More than Six hundred and seventy-five pesos (P675) – Three hundred pesos (P300), per proof liter.

(c) Medicinal preparations, flavoring extracts, and all other preparations, except toilet preparations, of which, excluding water, distilled spirits for 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 (150 C). A 'proof liter' means a liter of proof spirits.

The rates of tax imposed under this Section shall be increased by twelve percent (12%) on January 1, 2000.

New brands shall be classified according to their current 'net retail price'.

For the above purpose, 'net retail price' shall mean the price at which the distilled spirit is sold on retail in ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax as of October 1, 1996.

The classification of each brand of distilled spirits based on the average net retail price as of October 1, 1996, as set forth in Annex 'A', shall remain in force until revised by Congress.

**Section 142.** *Wines*, – On wines, there shall be collected per liter of volume capacity, the following taxes:

(a) Sparkling wines/champagnes regardless of proof, if the net retail price per bottle (excluding the excise tax and value-added tax) is:

(1) Five hundred pesos (P500) or less – One hundred pesos (P100); and

(2) More than Five hundred pesos (P500) – Three hundred pesos (P300).

(b) Still wines containing fourteen percent (14%) of alcohol by volume or less, Twelve pesos (P12.00); and

(c) Still wines containing more than fourteen percent (14%) but not more than twenty-five percent (25%) of alcohol by volume, Twenty-four pesos (P24.00).

Fortified wines containing more than twenty-five percent of alcohol by volume shall be taxed as distilled spirits. 'Fortified wines' shall mean natural wines to which distilled spirits are added to increase their alcoholic strength.

The rates of tax imposed under this Section shall be increased by twelve percent (12%) on January 1, 2000.

New brands shall be classified according to their current net retail price.

For the above purpose, 'net retail price' shall mean the price at which wine is sold on retail in ten (10) major supermarkets in Metro Manila, excluding the amount intended to cover the applicable excise tax and the value-added tax as of October 1, 1996.

The classification of each brand of wines based on its average net retail price as of October 1, 1996, as set forth in Annex 'B', shall remain in force until revised by Congress.

**Section 143. *Fermented Liquor.*** – There shall be levied, assessed and collected an excise tax on beer, lager beer, ale, porter and other fermented liquors except tuba, basi, tapuy and similar domestic fermented liquors in accordance with the following schedule:

(a) If the net retail price (excluding the excise tax and value-added tax) per liter of volume capacity is less than Fourteen pesos and fifty centavos (P14.50), the tax shall be Six pesos and fifteen centavos (P6.15) per liter;

(b) If the net retail price (excluding the excise tax and the value-added tax) the per liter of volume capacity is Fourteen pesos and fifty centavos (P14.50) up to Twenty-two pesos (P22.00), the tax shall be Nine pesos and fifteen centavos (P9.15) per liter;

(c) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Twenty-two pesos (P22.00), the tax shall be Twelve pesos and fifteen centavos (P12.15) per liter.

Variants of existing brands which are introduced in the domestic market after the effectivity of Republic Act No. 8240 shall be taxed under the highest classification of any variant of that brand.

Fermented liquor which are brewed and sold at micro-breweries or small establishments such as pubs and restaurants shall be subject to the rate in paragraph (c) hereof.

The excise tax from any brand of fermented liquor within the next three (3) years from the effectivity of Republic Act No. 8240 shall not be lower than the tax which was due from each brand on October 1, 1996.

The rates of excise tax on fermented liquor under paragraphs (a), (b) and (c) hereof shall be increased by twelve percent (12%) on January 1, 2000.

New brands shall be classified according to their current net retail price.

For the above purpose, 'net retail price' shall mean the price at which the fermented liquor is sold on retail in twenty (20) major supermarkets in Metro Manila (for brands of fermented liquor marketed nationally) excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed only outside the Metro Manila, the 'net retail price' shall mean the price at the which the fermented liquor is sold in five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

The classification of each brand of fermented liquor based on its average net retail price as of October 1, 1996, as set forth in Annex 'C', shall remain in force until revised by Congress.

'A variant of brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand and/or a different brand which carries the same logo or design of the existing brand.

Every brewer or importer of fermented liquor shall, within thirty (30) days from the effectivity of R.A. No. 8240, 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 fermented liquor sold at his establishment for the three-month period immediately preceding.

Any brewer or importer who, in violation of this Section, knowingly misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall be penalized by a summary cancellation or withdrawal of his or its permit to engage in business as brewer 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, surcharge, 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**

**Section 144. Tobacco Products.** – There shall be collected a tax of seventy-five centavos (P0.75) 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 nay machine or instruments or without being pressed or sweetened; and
- (c) Fine-cut shorts and refuse, scraps, clippings, cuttings, stems and sweepings of tobacco.

Fine-cut shorts and refuse, scraps, clippings, cuttings, stems and sweepings of tobacco resulting from the handling or stripping of whole leaf tobacco may be transferred, disposed of, or otherwise sold, without prepayment of the excise tax herein provided for under such conditions as may be prescribed in the rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, if the same are to be exported or to be used in the manufacture of other tobacco products on which the excise tax will eventually be paid on the finished product.

On tobacco specially prepared for chewing so as to be unsuitable for use in any other manner, on each kilogram, Sixty centavos (P0.60).

**Section 145. *Cigars and Cigarettes.* –**

- (A) Cigars. – There shall be levied, assessed and collected on cigars a tax of One peso (P1.00) per cigar.
- (B) Cigarettes Packed by Hand. – There shall be levied, assessed and collected on cigarettes packed by hand a tax of Forty centavos (P0.40) per pack.
- (C) Cigarettes Packed by Machine.- There shall be levied, assessed and collected on cigarettes packed by machine a tax at the rates prescribed below:
  - (1) If the net retail price (excluding the excise tax and the value-added tax) is above Ten pesos (P10.00) per pack, the tax shall be Twelve pesos (P12.00) per pack;
  - (2) If the net retail price (excluding the excise tax and the value-added tax) exceeds Six pesos and fifty centavos (P6.50) but does not exceed Ten pesos (P10.00) per pack, the tax shall be Eight pesos (8.00) per pack;
  - (3) If the net retail price (excluding the excise tax and the value-added tax) is Five pesos (P5.00) but does not exceed Six pesos and fifty centavos (P6.50) per pack, the tax shall be Five pesos (P5.00) per pack;

(4) If the net retail price (excluding the excise tax and the value-added tax is below Five pesos (P5.00) per pack, the tax shall be One peso (P1.00) per pack;

Variants of existing brands of cigarettes which are introduced in the domestic market after the effectivity of R.A. No. 8240 shall be taxed under the highest classification of any variant of that brand.

The excise tax from any brand of cigarettes within the next three (3) years from the effectivity of R.A. No. 8240 shall not be lower than the tax, which is due from each brand on October 1, 1996: Provided, however, That in cases where the excise tax rates imposed in paragraphs (1), (2), (3) and (4) hereinabove will result in an increase in excise tax of more than seventy percent (70%); for a brand of cigarette, the increase shall take effect in two tranches: fifty percent (50%) of the increase shall be effective in 1997 and one hundred percent (100%) of the increase shall be effective in 1998.

Duly registered or existing brands of cigarettes or new brands thereof packed by machine shall only be packed in twenties.

The rates of excise tax on cigars and cigarettes under paragraphs (1), (2), (3) and (4) hereof, shall be increased by twelve percent (12%) on January 1, 2000.

New brands shall be classified according to their current net retail price.

For the above purpose, 'net retail price' shall mean the price at which the cigarette is sold on retail in twenty (20) major supermarkets in Metro Manila (for brands of cigarettes marketed nationally), excluding the amount intended to cover the applicable excise tax and the value-added tax. For brands which are marketed only outside Metro Manila, the 'net retail price' shall mean the price at which the cigarette is sold in five (5) major supermarkets in the region excluding the amount intended to cover the applicable excise tax and the value-added tax.

The classification of each brand of cigarettes based on its average net retail price as of October 1, 1996, as set forth in Annex 'D', shall remain in force until revised by Congress.

Variant of a brand' shall refer to a brand on which a modifier is prefixed and/or suffixed to the root name of the brand and/or a different brand which carries the same logo or design of the existing brand.

Manufactures and importers of cigars and cigarettes shall, within thirty (30) days from the effectivity of R. A. No. 8240 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 cigars and/or cigarettes sold at his establishment for the three-month period immediately preceding.

Any manufacturer or importer who, in violation of this Section, knowingly misdeclares or misrepresents in his or its sworn statement herein required any pertinent data or information shall, upon discovery, 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.

**Section 146. *Inspection Fee.*** – For inspection made in accordance with this Chapter, there shall be collected a fee of Fifty centavos (P0.50) for each thousand cigars or fraction thereof; Ten centavos (P0.10) for each thousand cigarettes of fraction thereof; Two centavos (P0.02) for each kilogram of leaf tobacco or fraction thereof; and Three centavos (P0.03) 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.

**Section 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.

(b) 'Cigarettes' mean all rolls of finely-cut leaf tobacco, or any substitute therefor, wrapped in paper or in any other material.

(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.

## **CHAPTER V – EXCISE TAX ON PETROLEUM PRODUCTS**

**Section 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:

(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, Four pesos and fifty centavos (P4.50): Provided, however, That the excise taxes paid on the purchased feedstock (bunker) used in the manufacture of excisable articles and forming part thereof shall be credited against the excise tax due therefrom: Provided, further, 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, finally, That locally produced or imported oils previously taxed as such but are subsequently reprocessed, rerefined or recycled shall likewise be subject to the tax imposed under this Section.

(b) Processed gas, per liter of volume capacity, Five centavos (P0.05);

(c) Waxes and petrolatum, per kilogram, Three pesos and fifty centavos (P3.50);

(d) On denatured alcohol to be used for motive power, per liter of volume capacity, Five centavos (P0.05): 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 and other similar products of distillation, per liter of volume capacity, Four pesos and eighty centavos (P4.80): Provided, however, That naphtha, when used as a raw material in the production of petrochemical 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 Energy, in consultation with the Secretary of Finance, per liter of volume capacity, Zero (P0.00): Provided, further, 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) Leaded premium gasoline, per liter of volume capacity, Five pesos and thirty-five centavos (P5.35); unleaded premium gasoline, per liter of volume capacity, Four pesos and thirty-five centavos (P4.35);

(g) Aviation turbo jet fuel, per liter of volume capacity, Three pesos and sixty-seven centavos (P3.67);

(h) Kerosene, per liter of volume capacity, Sixty centavos (0.60): 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, One peso and sixty-three centavos (P1.63);

(j) Liquefied petroleum gas, per liter, Zero (P0.00): Provided, 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, Fifty-six centavos (P0.56); and

(l) Bunker fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Thirty centavos (P0.30).

## **CHAPTER VI – EXCISE TAX ON MISCELLANEOUS ARTICLES**

**Section 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:

Engine Displacement (in cc.)

| <i>Gasoline</i> | <i>Diesel</i> | <i>Tax Rate</i> |
|-----------------|---------------|-----------------|
| Up to 1600      | Up to 1800    | 15%             |
| 1601 to 2000    | 1801 to 2300  | 35%             |
| 2001 to 2700    | 2301 to 3000  | 50%             |
| 2701 or over    | 3001 to over  | 100%            |

Provided, That in the case of imported automobiles not for sale, the tax imposed herein shall be based on the total value used by the Bureau of Customs in determining tariff and customs duties, including customs duty and all other charges, plus ten percent (10%) of the total thereof.

Automobiles acquired for use by persons or entities operating within the freeport zone shall be exempt from excise tax: provided, That utility vehicles of registered zone enterprises, which are indispensable in the conduct and operations of their business, such as delivery trucks and cargo vans with gross vehicle weight above three (3) metric tons may be allowed unrestricted use outside the freeport zone: Provided, further, That vehicles owned by tourist-oriented enterprises, such as tourist buses and cars with yellow plates, color-coded, and utilized exclusively for the purpose of transporting tourists in tourism-related activities, and service vehicles of freeport registered enterprises and executives, such as company service cars and expatriates' and investors' automobiles brought in the name of such enterprises, may be used outside the freeport zone for such periods as may be prescribed by the Departments of Finance, and Trade and Industry, the Bureau of Customs and the Freeport authorities concerned, which in no case shall exceed fourteen (14) days per month.

In case such tourist buses and cars, service vehicles of registered freeport enterprises and company service cars are used for more than an aggregate period of fourteen (14) days per month outside of the freeport zone, the owner or importer shall pay the corresponding customs duties, taxes and charges.

In the case of personally-owned vehicles of residents, including leaseholders of residences inside the freeport zone, the use of such vehicles outside of the freeport zone shall be deemed an introduction into the Philippine customs territory, and such introduction shall be deemed an importation into the

Philippines and shall subject such vehicles to Customs duties taxes and charges, including excise tax due on such vehicle.

The Secretaries of Finance, and Trade and Industry, together with the Commissioner of Customs and the administrators of the freeports concerned, shall promulgate rules and regulations for the proper identification and control of said automobiles.

**Section 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.

## **CHAPTER VII – EXCISE TAX ON MINERAL PRODUCTS**

**Section 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 coal and coke, a tax of Ten pesos (P10.00) per metric ton;

(2) On all nonmetallic minerals and quarry resources, a tax of two percent (2%) 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 Section 151, locally extracted natural gas and liquefied natural gas shall be taxed at the rate of two percent (2%);

(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;

(i) On the first three (3) years upon the effectivity of Republic Act No. 7729, one percent (1%);

(ii) On the fourth and the fifth years, one and a half percent (1 ½%); and

(iii) On the sixth year and thereafter, two percent (2%);

(b) Gold and chromite, two percent (2%).

(4) On indigenous petroleum, a tax of three percent (3%) 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.

## **CHAPTER VIII – ADMINISTRATIVE PROVISIONS REGULATING BUSINESS OF PERSONS DEALING IN ARTICLES SUBJECT TO EXCISE TAX**

**Section 152.** *Extent of Supervision Over Establishments Producing Taxable Output.* – The Bureau of Internal Revenue has authority to supervise establishments where articles subject to excise tax are made or kept. The Secretary of Finance shall prescribe rules and regulations as to the mode in which the process of production shall be conducted insofar as may be necessary to secure a sanitary output and to safeguard the revenue.

**Section 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.

**Section 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.

**Section 155.** *Manufacturers to Provide Themselves with Counting or Metering Devices to Determine Production.* – 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.

This requirement shall be complied with before commencement of operations.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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 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. 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 171.** *Authority of Internal Revenue Officer in Searching for Taxable Articles.* – 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, 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.

**Section 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.

## **TITLE VII**

### **DOCUMENTARY STAMP TAX**

**Section 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.

**Section 174.** *Stamp Tax on Debentures and Certificates of Indebtedness.* – On all debentures and certificates of indebtedness issued by any association, company or corporation, there shall be collected a documentary stamp tax of One peso and fifty centavos (P1.50) on each Two hundred pesos (P200), or fractional part thereof, of the face value of such documents.

**Section 175.** *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 pesos (P2.00) 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.

**Section 176.** *Stamp Tax on Sales, Agreements to Sell, Memoranda of Sales, Deliveries or Transfer of Due-bills, Certificates of Obligation, or Shares of Certificates of Stock.* – On all sales, or agreements to sell, or memoranda of sale, or deliveries, or transfer of due-bills, certificates of obligation, or shares of 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 due-bills, certificates of obligation or stock, or to secure the future payment of money, or for the future transfer of any due-bill, certificate of obligation or stock, there shall be collected a documentary stamp tax of One peso and fifty centavos (P1.50) 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 or securities from one person to another, regardless of whether or not a certificate of stock or obligation 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 twenty-five percent (25%) of the documentary stamp tax paid upon the original issue of said stock.

**Section 177.** *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.

**Section 178.** *Stamp Tax on Certificates of Profits or Interest in Property or Accumulations.* – 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 Fifty centavos (P0.50) on each Two hundred pesos (P200), or fractional part thereof, of the face value of such certificate or memorandum.

**Section 179.** *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 One peso and fifty centavos (P1.50).

**Section 180.** *Stamp Tax on All Bonds, Loan Agreements, promissory Notes, Bills of Exchange, Drafts, Instruments and Securities Issued by the Government or Any of its Instrumentalities, Deposit Substitute Debt Instruments, Certificates of Deposits Bearing Interest and Others Not Payable on Sight or Demand.* – On all bonds, loan agreements, including those signed abroad, wherein the object of the contract is located or used in the Philippines, bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities, deposit substitute debt instruments, certificates of deposits drawing interest, orders for the payment of any sum of money otherwise than at sight or on demand, on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each Two hundred pesos (P200), or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: Provided, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan, whichever will yield a higher tax: Provided, however, That loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty

thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this Section.

**Section 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 Thirty centavos (P0.30) 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.

**Section 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 Thirty centavos (P0.30) 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.

**Section 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 documentary stamp tax of Fifty centavos (P0.50) on each Two hundred pesos (P200), or fractional part thereof, of the amount insured by any such policy.

**Section 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.

**Section 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.

**Section 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 and fifty centavos (P1.50) on each Two hundred pesos (P200) or fractional part thereof, of the capital of the annuity, or should this be unknown, then on each Two hundred (P200) pesos, or fractional part thereof, of thirty-three and one-third ( $33 \frac{1}{3}$ ) times the annual income. On pre-need plans, the documentary stamp tax shall be Fifty centavos (P0.50) on each Five hundred pesos (P500), or fractional part thereof, of the value or amount of the plan.

**Section 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.

**Section 188.** *Stamp Tax on Certificates.* – On each certificate of damages or otherwise, and on every 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 Fifteen pesos (P15.00).

**Section 189.** *Stamp Tax on Warehouse Receipts.* – 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 Fifteen pesos (P15.00): 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).

**Section 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 Ten centavos (P0.10): Provided, That if the cost of the ticket exceeds One peso (P1.00), an additional tax of Ten centavos (P0.10) on every One peso (P1.00, or fractional part thereof, shall be collected.

**Section 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 to another port or place in the Philippines (except on ferries across rivers), or to any foreign port, there shall be collected documentary stamp tax of One peso (P1.00), if the value of such goods exceeds One hundred pesos (P100) and does not exceed One Thousand pesos (P1,000); Ten pesos (P10), 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.

**Section 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 Fifteen pesos (P15.00).

**Section 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 Five pesos (P5.00).

**Section 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 Three pesos (P3.00) for the first Two thousand pesos (P2,000), or fractional part thereof, and an additional One peso (P1.00) 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.

**Section 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), Twenty pesos (P20.00).

(b) On each Five thousand pesos (P5,000), or fractional part thereof in excess of Five thousand pesos (P5,000), an additional tax of Ten pesos (P10.00).

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.

**Section 196.** *Stamp tax on Deeds of Sale and Conveyances of Real Property.* – On all conveyances, 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 or otherwise conveyed to the purchaser, or purchasers, or to any other person or persons designated by such purchaser or purchasers, 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).

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.

**Section 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, Five hundred pesos (P500); and for each month or fraction of a month in excess of six (6) months, an additional tax of Fifty pesos (P50.00) 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, One thousand pesos (P1,000); and for each month or fraction of a month in excess of six (6) months, an additional tax of One hundred pesos (P100) 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, One thousand five hundred pesos (P1,500); and for each month or fraction of a month in excess of six (6) months, an additional tax of One hundred fifty pesos (P150) shall be paid.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

## **TITLE VIII**

### **REMEDIES**

#### **CHAPTER I – REMEDIES IN GENERAL**

**Section 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.

**Section 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.

**Section 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.

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**

**Section 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.

**Section 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) witnessed, 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.

**Section 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.

**Section 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.

**Section 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. 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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 at 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.

**Section 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.

**Section 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.

**Section 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 at 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 be rendered to the Chairman of the Commission on Audit.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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 preceeding 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.**

**Section 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 preassessment 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 exciseable 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.

**Section 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, or 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.

**Section 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.

**Section 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.

## **TITLE IX**

### **COMPLIANCE REQUIREMENTS**

#### **CHAPTER I – KEEPING OF BOOKS OF ACCOUNTS AND RECORDS**

**Section 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 a journal and a ledger or their equivalents: Provided, however, That those whose quarterly sales, earnings, receipts, or output do not exceed Fifty thousand pesos (P50,000) shall keep and use simplified set of bookkeeping records duly authorized by the Secretary of Finance where in 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, further, That corporations, companies, partnerships or persons whose gross quarterly sales, earnings, receipts or output exceed One hundred fifty thousand pesos (P150,000) 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.

**Section 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.

**Section 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.

**Section 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**

**Section 236.** *Registration Requirements.* –

(A) *Requirements.* – 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.

A person maintaining a head office, branch or facility shall register with the Revenue District Officer having jurisdiction over the head office, brand 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 of 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 updates 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.* – 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.

(G) *Persons Commencing Business.* – Any person, who expects to realize gross sales or receipts subject to value-added tax in excess of the amount prescribed under Section 109(z) of this Code for the next 12-month period from the commencement of the business, shall register with the Revenue District Office which has jurisdiction over the head office or branch and shall pay the annual registration fee prescribed in Subsection (B) hereof.

(H) *Persons Becoming Liable to the Value-added Tax.* – Any person, whose gross sales or receipts in any 12-month period exceeds the amount prescribed under Subsection 109(z) of this Code for exemption from the value-added tax shall register in accordance with Subsection (A) hereof, and shall pay the annual registration fee prescribed within ten (10) days after the end of the last month of that period, and shall be liable to the value-added tax commencing from the first day of the month following his registration.

(I) *Optional Registration of Exempt Person.* – Any person whose transactions are exempt from value-added tax under Section 109(z) of this Code; or any person whose transactions are exempt from the value-added tax under Section 109(a), (b), (c), and (d) of this Code, who opts to register as a VAT taxpayer with respect to his export sales only, may update his registration information in accordance with Subsection (E) hereof, not later than ten (10) days before the beginning of the taxable quarter and shall pay the annual registration fee prescribed in Subsection (B) hereof.

In any case, the Commissioner may, for administrative reasons, deny any application for registration including updates prescribed under Subsection (E) hereof.

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 VAT-registered person who shall be assigned only one Taxpayer Identification Number.

(J) *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 of 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'.

**Section 237. Issuance of Receipts or Sales or Commercial Invoices.** – All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That in the case of sales, receipts or transfers in the amount of One hundred pesos (P100.00) or more, or regardless of the amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is

issued to cover payment made as rentals, commissions, compensations or 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.

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.

The Commissioner may, in meritorious cases, exempt any person subject to internal revenue tax from compliance with the provisions of this Section.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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**

**Section 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.

**Section 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 Director 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 place 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.

**Section 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.

## **TITLE X**

### **STATUTORY OFFENSES AND PENALTIES**

#### **CHAPTER I – ADDITIONS TO THE TAX**

**Section 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.

**Section 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 underdeclaration 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 underdeclaration of sales, receipts or income or for overstatement of deductions, as mentioned herein.

**Section 249. *Interest.* –**

(A) *In General.* – There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (20%) per annum, or such higher rate as may be prescribed by rules and regulations, from the date prescribed for payment until the amount is fully paid.

(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.

(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.

(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.

**Section 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).

**Section 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.

**Section 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**

**Section 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.

**Section 254.** *Attempt to Evade or Defeat Tax.* – 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 Thirty thousand (P30,000)

but not more than One hundred thousand pesos (P100,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years: 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.

**Section 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 therefor, 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.

**Section 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).

**Section 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 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.

**Section 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.

**Section 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.

**Section 260. *Unlawful Possession of Cigarette Paper in Bobbins or Rolls, Etc.*** – 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 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.

**Section 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.

**Section 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.* – 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 Twenty thousand pesos (P20,000) but not more than One hundred thousand pesos (P100,000) and suffer imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years.

**Section 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 thousand pesos (P1,000) nor more than Two thousand pesos (P2,000) and suffer 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 the Tariff and Customs Code, including duties and taxes, of the articles does not exceed One thousand pesos (P1,000).

(b) 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 two (2) years but not more than four (4) years, if the appraised value, to be determined in the manner prescribed in the Tariff and Customs Code, including duties and taxes, of the articles exceeds One thousand pesos (P1,000) but does not exceed Fifty thousand pesos (P50,000);

(c) A fine of not less than Thirty thousand pesos (P30,000) but not more than Sixty thousand pesos (P60,000) and suffer 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 the Tariff and Customs Code, including duties and taxes of the articles is more than Fifty thousand pesos (P50,000) but does not exceed One hundred fifty thousand pesos (P150,000); or

(d) 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 twelve (12) years, if the appraised value, to be determined in the manner prescribed in the Tariff and Customs Code, including duties and taxes, of the articles exceeds One hundred fifty thousand pesos (P150,000).

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 Five hundred pesos (P500) and suffer imprisonment of not less than two (2) years but not more than four (4) years.

Any manufacturer, 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 One thousand pesos (P1,000) and suffer imprisonment of not less than one (1) year but not more than two (2) years.

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.

**Section 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 in the same manner and to the same extent as provided for in this Section:

(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.

**Section 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 Twenty thousand pesos (P20,000) but not more than Fifty thousand pesos (P50,000) and suffer imprisonment of not less than four (4) years 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) 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.

**Section 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.

**Section 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.

**Section 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 the 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**

**Section 269. *Violations Committed by Government Enforcement Officers.* –** 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; and
- (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.

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.

**Section 270. *Unlawful Divulgence of Trade Secrets.*** – Except as provided in Section 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.

**Section 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.

**Section 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.

**Section 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

**Section 274.** *Penalty for Second and Subsequent Offenses.* – In the case of reincidence, the maximum of the penalty prescribed for the offense shall be imposed.

**Section 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.

**Section 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, of both.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

**Section 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.

## **TITLE XI**

### **ALLOTMENT OF INTERNAL REVENUE**

#### **CHAPTER 1 – DISPOSITION AND ALLOTMENT OF NATIONAL INTERNAL REVENUE IN GENERAL**

**Section 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.

**Section 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.

**Section 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 the 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**

**Section 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.

**Section 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 cities, the allocation of shares shall be based on the formula on population and land area as specified in subsection (C)(1) hereof.

(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.

**Section 288.** *Disposition of Incremental Revenues.* –

(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 no 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 or 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) Incremental Revenues from Republic Act No. 8240. – Fifteen percent (15%) of the incremental revenue collected from the excise tax on tobacco products under R.A. No. 8240 shall be allocated and divided among the provinces producing burley and native tobacco in accordance with the volume of tobacco leaf production. The fund shall be exclusively utilized for programs in pursuit of the following objectives:

(1) Cooperative projects that will enhance better quality of agricultural products and increase income and productivity of farmers;

(2) Livelihood projects, particularly the development of alternative farming system to enhance farmer's income; and

(3) 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.

The Department of Budget and Management, in consultation with the Oversight Committee created under said R.A. No. 8240, shall issue the corresponding rules and regulations governing the allocation and disbursement of this fund.

**Section 289.** *Special Financial Support to Beneficiary Provinces Producing Virginia Tobacco.* – 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.

The funds allotted shall be divided among the beneficiary provinces pro-rata according to the volume of Virginia tobacco production.

Production 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 to be remitted to the beneficiary provinces qualified under R.A. No. 7171.

The provision of existing laws to the contrary notwithstanding, the fifteen percent (15%) share from government revenues mentioned in R.A. No. 7171 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.

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.

## **TITLE XII**

### **OVERSIGHT COMMITTEE**

#### **Section 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 Chairmen of the Committee on Ways and Means of the Senate and House 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; and

(4) Review the implementation of the programs of the Bureau of Internal Revenue.

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

## TITLE XIII

### REPEALING PROVISIONS

**Section 291.** *In General.* – All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Code are hereby repealed, amended or modified accordingly.

## TITLE XIV

### FINAL PROVISIONS

**Section 292.** *Separability Clause.* – If any clause, sentence, paragraph or part of this Code shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of said Code, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy.

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