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Taxation in the Philippines

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Deloitte
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USA

Taxation in the Philippines

International Tax and Business Service

Deloitte
Haskins+Sells

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Taxation in the Philippines

International Tax and Business Service

JANUARY 1979

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Taxation in the Philippines is part of a series that presents information on taxation in various countries of the world. The book is intended to supply information of a general character regarding taxation in the Philippines for use as background when considering the conduct of business in that country. Specific questions should be answered by reference to the laws and regulations of the country and by consultation with professional advisors in the light of the particular circumstances.

Taxation in the Philippines is published in two forms: in a loose-leaf edition and as a bound book. Only the loose-leaf edition may be supplemented or revised. These supplements will appear on blue-colored sheets inserted at the end of the book. These supplementary pages will be keyed to the original text by chapter and section numbers and should always be read in connection with the original text. In addition, revised information may be presented on pages inserted in the basic text to replace original pages. Revisions of this type are indicated by a date that appears on the bottom of each replacement page.

Rules governing taxation are subject to change and reinterpretation, in many cases with little or no advance notice. The information in this book is based on material available to Deloitte Haskins & Sells as of January 1979.

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Part 1: The Tax System

Deloitte Haskins & Sells

Tax Legislation and Administration

1.01 Enactment of Tax Legislation

Prior to the declaration of martial law on September 21, 1972, tax laws had been enacted by the Philippine Congress. Until recently, tax changes were imposed by Presidential Decrees issued by the President of the Philippines, Ferdinand E. Marcos. On June 12, 1978, the Interim National Assembly *(Interim Batasang Pambansa)* was convened to function again as the nation's lawmaker.

The National Internal Revenue Code of 1939 had constituted the basic tax laws of the Philippines. Presidential Decree No. 1158 consolidated and codified all internal revenue laws in the 1939 Code, and special laws and amendments into the National Internal Revenue Code of 1977, which became effective June 3, 1977. Presidential Decree No. 1457, dated June 11, 1978, introduced additional changes into the 1977 Code.

1.02 Tax Administration

Income tax and many other taxes may be levied only by the national government (1.04). The Department of Finance has overall responsibility for tax administration, which it exercises through the Bureau of Internal Revenue (BIR), the Bureau of Customs, and the financial agencies of local and municipal governments. The Department of Finance promulgates rules and regulations upon recommendation of the Commissioner of Internal Revenue, and it approves rules and regulations issued by the Commissioner of Customs. The Department may repeal or modify decisions of both Commissioners.

The Bureau of Internal Revenue (BIR). The Commissioner of Internal Revenue and the Deputy Commissioner (through the staff departments of Assessment, Collection, and Legal and Management Planning, among others) administer all national internal revenue taxes, including their collection and enforcement. The Bureau has divided the country into regional districts, each comprising several offices. Regional directors are responsible for enforcing the internal revenue laws in the districts assigned to them.

Examining agents review taxpayers' returns. If an agent finds doubtful items in a tax return, he makes a written request that the taxpayer support the questionable items in a personal conference or in a memorandum. After reviewing the taxpayer's supporting evidence, the agent reports his findings to his superiors, who may recommend an additional assessment to the Tax Audit Branch.

The Bureau of Customs. The Commissioner and the Deputy Commissioner of Customs are responsible for the assessment and collection of the revenues payable on imports and all other dues,

fees, charges, fines, and penalties due under the Tariff and Customs Code and the administration of marine affairs.

1.03 Judicial Review

A deficiency assessment that exceeds ₱10,000* or was issued by the National Office may be protested to the Income Tax Division or the Business Tax Division of the Bureau of Internal Revenue, depending upon whether the assessment relates to income tax or one of the business taxes. If the proposed assessment does not exceed ₱10,000, the protest is filed with the Regional District Office in which the assessment originated. If the protest is denied, the taxpayer has 30 days in which to appeal to the Appellate Division of the Bureau. If the decision of the Appellate Division is adverse, the taxpayer has 30 days in which to file a final administrative appeal to the Court of Tax Appeals (Tax Court). The taxpayer has the option of bypassing the Appellate Division and appealing directly to the Court of Tax Appeals.

The Court of Tax Appeals has exclusive appellate jurisdiction over decisions of the Commissioner of Internal Revenue and the Commissioner of Customs. Decisions of the Court of Tax Appeals may be appealed to the Supreme Court on questions of law, either by a petition for review or by a request for certiorari.

1.04 Taxes Imposed by Local Authorities

The Local Tax Code (Presidential Decree No. 231, as amended) governs the exercise by provinces, cities, municipalities and barrios of their taxing and revenue-raising powers (13.03). However, local governments may not impose the following taxes:

- Documentary stamp tax
- Taxes on forest concessions and on forest products when sold domestically
- Income taxes
- Estate, inheritance, and gift taxes
- Taxes on persons engaged in the transportation business, and taxes or fees for the registration of motor vehicles or for the issuance of licenses or driving permits
- Customs duties, registration, wharfage, tonnage, or any other kinds of customs fees and charges
- Taxes on banks and insurance companies
- Taxes on premiums paid by property owners who obtain insurance directly from foreign companies

* ₱ stands for Philippine peso.

- Export taxes, fees, and other levies on Philippine-processed products
- Taxes and other impositions upon goods entering into, exiting from, or passing through the territorial jurisdiction of the local government
- Taxes or fees on agricultural products when sold by the farmer himself
- Percentage taxes on sales
- Taxes on mines and mining operations, and mineral products when sold domestically by the operator
- Taxes on duly registered cooperatives
- Taxes on the national and local governments
- Taxes on the printing and issuance of publications that have fixed subscription or selling prices and are not published for the purpose of public advertisement

Distinctive Features of the Philippine Tax System

2.01 Summary

The main revenue sources of the Philippines are income taxes (imposed on individuals, corporations, and other business entities). estate and gift taxes, business taxes, excise taxes, and miscellaneous other taxes.

Residence and the place where income is derived usually determine whether or not an individual or corporation is subject to Philippine tax. Citizens, resident aliens, and domestic corporations are taxable on net income from all sources. Nonresidents (citizens and corporations) are subject to tax on income derived from sources within the Philippines (3.01 and 3.02). A corporate development tax of 5% on the same net income is imposed, in addition to the regular tax, on certain domestic and resident foreign corporations (9.01).

Tax is withheld on wages (5.01) and various other payments (5.02). To ensure that income tax payable by nonresident alien individuals and foreign corporations not engaged in trade or business in the Philippines is collected, the tax is generally withheld at source by the payer.

Dividends received by a domestic or resident foreign corporation from another domestic corporation liable to tax are subject to a final tax of 10%, which is withheld by the payer, and is not includable in the gross income of the recipient corporation. However, interest incurred by a domestic or resident foreign corporation on foreign borrowings to obtain funds for investment in a domestic corporation is deductible from the intercorporate dividends before computing the 10% final tax (6.04). Nonresident corporations are taxed at 35% on dividends received from a domestic corporation, which rate can be reduced to 15% in certain circumstances (6.04).

2.02 Classification of Taxpayers

Taxpayers are classified either as corporate or noncorporate. Corporate taxpayers include not only private corporations organized under the corporation law and government-owned corporations, but also registered or unregistered general partnerships, limited partnerships, joint stock companies, joint accounts, and similar entities. However, co-ownerships, general professional partnerships, and joint ventures formed for the purpose of undertaking construction projects are classified as noncorporate. (See next paragraph.) Corporations may be domestic or foreign. Foreign corporations may be engaged or not engaged in business in the Philippines.

Noncorporate taxpayers are individuals who may be resident or nonresident citizens of the Philippines, or may be resident or non-

resident aliens. Although the same tax rate is imposed on corporations and partnerships, the members of general professional partnerships are liable for income tax only in their individual capacity. An individual partner's share in the profits of a general professional partnership, whether distributed or not, is taxable to the partner under the doctrine of constructive receipt of income.

2.03 Tax Year and Base Period

Individuals must file tax returns on the basis of the calendar year, and will not be granted permission to change to any other tax year.

Corporate taxpayers must also report their income on the basis of a calendar year, except in the case of a new corporation, or the dissolution of a corporation. However, corporations, associations, and partnerships may be granted approval by the Commissioner of Internal Revenue to compute their income on the basis of a fiscal year that is different from the calendar year.

2.04 Investment Incentives

Foreign investments in the Philippines are granted certain basic rights and guarantees as well as tax incentives. These are primarily provided in the Investment Incentives Act, the Export Incentives Act, and the more recent Agricultural Investments Incentives Act. A comparative listing of the guarantees and incentives is provided in Appendix A. One of the basic rights and guarantees is freedom from expropriation without just compensation. Another is that foreign investors are allowed to remit earnings on investments and to repatriate their investments in the currency in which they were originally made.

Aside from the basic guarantees, the various incentive acts listed in Appendix A grant tax and other benefits to registered enterprises in areas termed "pioneer" and "non-pioneer." A pioneer area is one which is important to national economic development and, also, involves the manufacture or production of commodities or raw materials that are not being produced on a commercial scale in the Philippines, or which uses a new design, formula, or process for producing or transforming raw materials into finished products.

The incentives are administered by the Board of Investments. Enterprises must register with the Board of Investments to obtain the benefits noted in Appendix A. The requirements for registration vary, depending on whether the proposed investment is in a pioneer or non-pioneer area. In both cases, the applicant for registration must be a corporation organized under Philippine law and, depending on the area, the corporation can be anywhere from

40% to 100% foreign owned. In the case of a 40% foreign-owned corporation, 60% of the outstanding voting capital stock must be owned by Philippine nationals and at least 60% of the board of directors must also be Philippine citizens.

Besides the incentives available under the acts listed in Appendix A, incentives are provided for specific industries. These incentives continually change and the prospective investor should obtain current information. The incentives for each industry are numerous and will not be listed here in detail, with the exception of incentives for the overseas construction industry, which are listed in detail to illustrate the types and variety of incentives that are available.

Overseas Construction Industry. Presidential Decree No. 1167, which became effective on June 27, 1977, allows overseas construction firms to be organized in the Philippines on the basis of 60% Philippine and 40% foreign ownership, provided that 60% of the members of the board of directors are Filipinos. When such firms register with the Philippine Construction Board created under the Presidential Decree, they are entitled to certain tax credits and to certain deductions from gross income earned abroad. Tax credits are available for the following:

- Taxes paid to foreign governments on income derived from construction projects in the foreign countries, subject to certain limitations
- Tax withheld when paying interest on foreign loans incurred directly and exclusively for foreign construction projects, subject to certain conditions
- Sales and use taxes (13.01) paid on those domestic manufactures and materials purchased by the construction firm and exported for use in a foreign construction project

Deductions from gross income earned abroad:

- Fixed assets used abroad can be depreciated at up to twice the normal rate of depreciation if their expected life is ten years or less; if their expected life is more than ten years, the assets can be depreciated at a rate that will write off their full cost over any period between five years and their expected life
- One-half of the expense of training to improve the performance and efficiency of unskilled laborers, but not in excess of 10% of direct labor cost
- Net operating losses can be utilized to offset any income earned within the three years following the year in which the loss was incurred

- The construction firm may elect to be taxed at the rate of 1½% of foreign gross income in lieu of the tax that would be payable after taking these incentives into account

The above incentives are also available to Filipino-owned construction firms that participate as principals in foreign-assisted projects.

Tourism Incentives Program of 1974. Presidential Decree No. 535 grants incentives to tourism enterprises that are registered with the Philippine Tourism Authority and to investors in such enterprises.

Exemptions from Various Taxes. Certain laws exempt specific industries from a variety of taxes—the specific taxes from which an industry is exempt are not the same for all industries and other limiting conditions and benefits also vary from one industry to another. The specific industries are:

- petroleum exploration concessionaires
- geothermal exploration concessionaires
- overseas shipping and shipbuilding and repairing
- cottage industries
- new mines and old mines that resume operation
- exploration, tapping, or utilization of geothermal energy, natural gas, and methane gas
- agricultural marketing cooperatives and certain non-agricultural cooperatives
- domestic firms with at least 300 employees for investments in employee housing
- sugar milling
- employers that invest in training their employees
- exploration and exploitation of coal resources (Incentives are also available for coal users.)

Establishment of Headquarters by Multinational Companies. Presidential Decree No. 218 prescribes incentives for the establishment of regional or area headquarters in the Philippines by multinational companies. To obtain the incentives, the headquarters must function as supervisory, communications, and coordinating centers for affiliates, subsidiaries, or branches in the Asia-Pacific region, and must not derive income from Philippine sources or be involved in the ordinary routine management of their Philippine subsidiaries or branches. The multinational company must also agree to remit at least U.S. $50,000 annually for the operating expenses of the headquarters. The incentives

available are designed to aid the multinational company and its foreign personnel and dependents, as follows:

For the area or regional headquarters:

- exemption from income tax, contractor's tax, and all local taxes and fees
- exemption from registration with the Board of Investments under Republic Act No. 5455. However, the headquarters must secure a license from the Securities and Exchange Commission.

For foreign personnel and their dependents:

- a multiple entry visa renewable annually, provided the expatriate's annual salary is at least U.S. $12,000
- exemption from all immigration and alien registration fees and all clearance requirements

Offshore Banking Units (OBUs). Presidential Decree No. 1034, dated September 30, 1976, authorizes foreign banks to engage in offshore banking in the Philippines, with the approval of the Central Bank of the Philippines. The OBU, which may be a branch, subsidiary, or affiliate, must maintain net office funds of at least U.S. $1,000,000. The tax and other incentives are:

- An OBU's transactions with nonresidents and other OBUs shall be subject to a 5% tax on net income in lieu of all other taxes, such as stamp taxes, 5% gross receipts tax, 15% tax on remittance of branch profits, and corporate income taxes of 25% to 35%. Any net income of nonresidents from such transactions shall be tax exempt.
- Transactions of OBUs with local commercial banks, including branches of foreign banks authorized by the Central Bank to engage in transactions with OBUs, shall be subject to the same 5% tax on net income in lieu of all taxes, with one exception. That is, net income from transactions that may be specified by the Secretary of Finance on the recommendation of the Central Bank shall be subject to income tax at the usual rates payable by banks.
- On loans extended to residents, other than the transactions specified above, the interest shall be subject only to a final withholding tax of 10%.
- OBUs are exempt from all forms of local licenses, fees, dues, imports, and any other local taxes and burdens.

2.05 Exporting Incentives

To promote foreign trade and accelerate economic development, the government has designated certain areas as export processing zones. The first such zone is under development in Mariveles, which is a municipality in Bataan province and is just across the

bay from Manila. When completed, the zone will occupy some 1,320 hectares (132,000 acres) and will be occupied by light industries in Phase 1, medium industries in Phase 2, and heavy industries in Phase 3. The zone is open to both foreign and domestic businesses, including those organized under the laws of other countries. The following incentives are available to zone-registered enterprises:

- All goods, equipment, and materials brought into the zone are exempt from customs duties, national taxes, and local taxes.
- Net operating losses incurred in the first five years of operations may be carried over for the five following years.
- Fixed assets used in the zone can be depreciated at up to double the normal rate.
- Any merchandise transshipped through the zone and any articles manufactured or processed or handled within the zone will be exempt from any export tax.
- Zone enterprises will be exempt from local licenses, fees, and all taxes except the real estate tax.
- Zone enterprises will receive priority in the allocation of foreign exchange and in making available other resources of the Central Bank, and will receive priority in obtaining financial assistance from government financial institutions.
- Zone businesses will have the right to employ foreign nationals in supervisory, technical, and advisory positions, and such employees may bring their spouses and unmarried children under 21.
- Import and export procedures will be simplified.

In addition to the listed incentives, the export processing zone will have many facilities available as well as needed business services and transportation. A compact administration compound houses all government agencies involved in import-export operations. Standard factory buildings will be available at low cost. Piers will be modernized and low-cost housing will be provided for those working in the zone. Also, the Export Processing Zone Authority will assist in training labor, developing foreign markets, and promoting zone products.

Part 2: Income Taxes

Tax Rates

3.01 Individuals

Citizens and Resident Aliens. Individual citizens and resident aliens are taxed on their net income from all sources within and without the Philippines. The tax is computed at graduated rates ranging from 3% on net income under ₱2,000 to 70% on net income above ₱500,000 (Rate Tables).

Philippine citizens who have been physically present abroad with the definite intention of residing there are taxed at graduated rates on gross income from non-Philippine sources, after deducting (a) personal exemption of U.S. $2,000, if single or if married but legally separated; or U.S. $4,000, if married or the head of a family, and (b) the income tax actually paid to the foreign country of residence. The preferential income tax rates for such taxpayers are:

Gross Income	Tax Rate (%)
U.S. $6,000 or less	1
U.S. $6,000 to U.S. $20,000	2
Over U.S. $20,000	3

The amounts of gross income are stated in U.S. dollars for administrative reasons since foreign income is involved. The preferential tax rates apply only to income from services outside the Philippines.

Nonresident Aliens. Nonresident alien individuals are taxed only on income from Philippine sources. If they are engaged in trade or business in the Philippines, they are taxed on their net income at the same graduated rates that apply to citizens and resident aliens. Nonresident aliens not engaged in trade or business are taxed at a flat rate of 30% on their entire gross income derived from sources in the Philippines. A nonresident alien is deemed engaged in trade or business in the Philippines if he is in the Philippines for an aggregate of more than 180 days during any calendar year.

Aliens employed by (a) regional or area headquarters established in the Philippines by multinational corporations under Presidential Decree No. 218 or (b) offshore banking units under Presidential Decree No. 1034 or (c) petroleum service contractors and subcontractors under Presidential Decree No. 87 are taxed at 15% of their gross income from wages, salaries, compensation, emoluments, etc., from such area headquarters or offshore banking units or petroleum operations (2.04).

3.02 Corporations

Domestic Corporations. Domestic corporations, including joint accounts and partnerships, no matter how created, except general professional partnerships and joint ventures formed for the purpose

of undertaking construction projects, are taxed at the rate of 25% of their annual net taxable income from worldwide sources up to ₱100,000 and at 35% on the excess. Special rates apply to special type entities as discussed at 9.06.

Nonresident Foreign Corporations. Foreign corporations are taxed only on their income from Philippine sources. A nonresident foreign corporation (one not engaged in trade or business in the Philippines) is generally subject to tax at the flat rate of 35% of its gross income with no deductions allowed. Nonresident foreign film owners as well as movie lessors and distributors are taxed at 25% on gross income. Foreign international transportation companies pay a tax of 2½% on their gross billings in the Philippines (9.06). A nonresident foreign corporation is subject to a 15% withholding tax on interest income earned in the Philippines. Nonresident lessors of aircraft, machinery, and other equipment are subject to a final withholding tax of 7½% on rentals, charter, and other fees payable to them.

Resident Foreign Corporations. A resident foreign corporation is taxed in the same manner and at the same rate as a domestic corporation. A 10% final tax is imposed on dividends received by a domestic or resident foreign corporation from a domestic corporation. Such dividends are not includable in the gross income of the recipient corporation.

Personal Holding Companies. A tax of 45% is imposed on the undistributed income of a personal holding company, which is in addition to the 25% and 35% tax rates imposed on its taxable net income (9.04).

Mutual Life Insurance Companies. Domestic mutual life insurance companies are subject only to a 10% tax on their gross investment income from all sources, which is considered to include interest, dividends, rents, net capital gains, and income from any business other than life insurance. Foreign mutual life insurance companies authorized to carry on business in the Philippines pay the same rate of tax on the same items of gross investment income derived from sources within the Philippines (9.06).

Branch Profits and Remittances. Branch profits are taxed at the same rates as corporate profits. In addition, the remittances by a branch of its after-tax profits to its head office are taxed at 15%, except for firms registered with the Export Processing Zone Authority. This contrasts with the remittances by a subsidiary to its parent of its after-tax earnings in the form of dividends, which are taxed at 35% but may be reduced to 15% under certain conditions.

Corporate Development Tax. In addition to the 25%-35% tax imposed on corporate income, an additional tax of 5% of the same

taxable income is levied on a domestic or resident foreign corporation whose net income exceeds 10% of its net worth, in the case of a domestic corporation, or exceeds 10% of its net assets, in the case of a resident foreign corporation. However, a closely held corporation is subject to the 5% additional income tax, regardless of the rate of return on its net worth. A corporation is deemed closely held when at least 50% of its outstanding stock, or at least 50% of the combined voting power of all classes of stock entitled to vote, is owned directly or indirectly by or for not more than five persons, natural or juridical, at any time during the taxable year (9.01).

Returns, Assessments, and Payment of Tax

4.01 Returns and Assessments

Individuals. Residents of the Philippines, whether citizens or aliens, whose incomes are derived solely from wages, salaries, interest, dividends, allowances, commissions, bonuses, fees, pensions, or any combination thereof, are required to file income tax returns on or before March 15th of each year, covering the income of the preceding calendar year. Nonresidents and other individuals not mentioned above must file returns on or before April 15th of each year.

Citizens and resident aliens must file income tax returns if their gross income for the taxable year is ₱1,800 or more. Nonresident aliens must file income tax returns regardless of the amount of income. Nonresident citizens must file income tax returns reporting income earned abroad regardless of the amount of income; separate returns are required for income derived from the Philippines.

Married persons (whether citizens, residents, or nonresident aliens) may report their income in a consolidated tax return that may be filed by either spouse. If it is impracticable to file a consolidated return, each spouse may file a separate tax return, but the two returns will be consolidated for tax determination purposes.

An unmarried minor's income from property received from a living parent is included in the parent's return except (1) when gift tax has been paid on the transfer of property, or (2) when the transfer of the property was exempt from gift tax.

An individual is exempt from filing an income tax return if his gross income is (a) derived solely from wages, salaries, or similar compensation for services rendered and (b) such gross income does not exceed the individual's personal exemption and optional standard deduction (Chapter 10).

Partnerships. Registered general co-partnerships must file the same income tax returns as corporations. General professional partnerships are not required to pay income tax, but must file an information return similar to that filed by a tax-exempt organization. The return is filed in duplicate and includes all income, except for income exempt from tax. The items of gross income and deductions are listed as well as the names, addresses, and shares of the partners. The partners' shares in the partnership's net income must be reported in their individual income tax returns, whether or not the net income is distributed.

Corporations. Corporations are required to file, in duplicate, quarterly declarations of gross income and deductions. Except for the first quarter, these are prepared on a cumulative basis. The tax assessed on the basis of a quarterly cumulative return is decreased by the tax assessed for the preceding quarters and must be paid not

later than 60 days after the close of the first three quarters of the calendar or fiscal tax year.

The corporation must file an adjustment return that reports the total net taxable income of the preceding calendar or fiscal year on or before the 15th day of the fourth month following the close of the taxable year. The tax due on the entire net taxable income of the year is compared with the payments made for the preceding quarters and the corporation either pays the tax due or claims a refund of the excess tax paid. In the latter case, the refundable amount may be credited against the estimated quarterly income tax liabilities for the succeeding taxable year.

Tax-Exempt Corporations. A tax-exempt, non-stock, nonprofit, non-sectarian organization, duly registered with the Securities and Exchange Commission as formed for cultural and charitable purposes, that has not earned any taxable income, must file an annual information return on or before April 15th of each year. This return requires a sworn declaration of the accuracy of its gross income and the sources thereof, and the expenses incurred during the preceding year. The following attachments are required: a profit and loss statement, a balance sheet, and a certificate stating that there has been no change in its bylaws, articles of incorporation, and activities or manner of operation.

Extension of Time for Filing Returns. In meritorious cases, the Commissioner of Internal Revenue may grant a reasonable extension of time for filing income tax returns or final adjustment returns in the case of corporations.

Assessment of Deficiencies. The Commissioner of Internal Revenue examines the tax returns and assesses the amount of tax payable. The tax due or any deficiency in the tax so discovered must be paid in full within 30 days of receiving a notice and demand from the Commissioner.

4.02 Payment of Tax

Any tax due must be paid at the time the return is filed. If the return is filed late, interest of 14% per annum is charged from the original due date.

Payment in two instalments is allowed if the tax due exceeds (a) ₱1,000 for taxpayers other than corporations and withholding agents and (b) U.S. $200 for nonresident citizens. The first instalment is due when the return is filed and the second instalment on or before the 15th day of July following the close of the calendar year. Any amount not paid by the due date causes the entire unpaid tax

to become due and payable together with the delinquency penalties (4.04).

4.03 Examination of Returns

Tax returns filed with provincial revenue officers and with deputy collecting agents of provinces, cities, and municipalities are forwarded to the administrative branch of the regional district office. Those filed in Manila are forwarded to the Index and Numbering Section of the Tax Audit Branch. The returns are examined by audit clerks and examiners, and any proposed changes are reflected on an audit sheet. If a deficiency is proposed, the taxpayer is notified and a demand for payment is made. The taxpayer may contest the deficiency through the channels explained in 1.03.

4.04 Interest and Penalties for Late Filing and Late Payment

Interest at the rate of 14% of any deficiency is assessed at the same time as the deficiency and is payable upon notice and demand from the Commissioner (4.01). The interest charge, which is collected as part of the tax due, runs from the date the deficiency is assessed to the date prescribed for the payment of the tax (or to the date prescribed for the payment of the first instalment). However, the maximum interest that may be charged on a deficiency cannot exceed the amount chargeable over a three-year period.

Surcharges. If any amount of tax included in the notice and demand from the Commissioner is not paid in full within 30 days from such notice and demand, a 5% surcharge, in addition to the interest, is imposed on the amount of unpaid tax.

If a taxpayer willfully neglects to file a return within the prescribed time or files a false or fraudulent return, the Commissioner may assess a surcharge of 50% of the tax due. If the failure to file the return within the prescribed time was not due to willful neglect, a surcharge of 25% is imposed, except where the failure was due to a reasonable cause.

Other Penalties. A fine of no more than ₱2,000 or imprisonment for not more than six months, or both, can be imposed on any individual who refuses or neglects to file a return or to pay the tax due. An individual who files a false or fraudulent return or statement with intent to defeat or evade assessment of tax can be fined not more than ₱5,000 and imprisoned for not more than two years.

A corporation or a duly registered co-partnership that refuses or neglects to make a return or renders a false or fraudulent return is liable to a fine not exceeding ₱20,000. Furthermore, an officer of a

corporation who participates in a fraudulent return with intent to defeat or evade assessment is punishable by a fine not exceeding ₱5,000 and by imprisonment not exceeding two years. A corporation that fails to keep records of stockholders or of dividends paid is subject to a penalty of 10% of its distributed profits or 10% of the net income reported in its income tax return. In accordance with a special provision in the law, the Commissioner has published a schedule of compromise penalties for certain violations of the tax code.

Withholding Taxes

5.01 Withholding Tax on Wages

The Philippine system of withholding taxes on wages is similar to that of the United States. The employer withholds tax on wages actually or constructively paid on the basis of withholding tax tables prepared by the Secretary of Finance. Different tables are prepared for the various payroll periods. The tax withheld varies with the amount of wages and the number of withholding exemptions claimed on the employee's withholding exemption certificate filed with the employer. The law specifically exempts the following remuneration from withholding tax:

- agricultural labor paid in products of the farm where employed
- domestic service
- casual labor not in the ordinary course of the employer's trade or business
- services by a Philippine citizen for a foreign government or an international organization

Wages paid in other than money, such as stocks, bonds, or other property, are subject to withholding based on their fair market value. Thus, the value of living quarters or meals furnished to employees, unless furnished for the convenience of the employer, is subject to withholding tax. The employer may be assessed for failure to withhold.

Small employers are generally required to remit withheld taxes to the Commissioner of Internal Revenue or other appropriate revenue officer on or before the 25th day of the month following the close of each calendar quarter ending March 31, June 30, September 30, and December 31. If the tax withheld exceeds ₱200 in any month, it must be remitted within the first ten days of the succeeding month. The return filed for the fourth quarter of the calendar year, or the employer's final return if filed earlier, must include the triplicate of each withholding tax receipt (BIR Form W-2-A) furnished to the employees. The Commissioner of Internal Revenue may grant an employer a reasonable extension of time within which to furnish statements and returns covering withholding taxes.

5.02 Withholding on Interest, Dividends, and Other Payments

Interest, dividends, rents, royalties, annuities, and other payments are subject to withholding tax. In general, withholding is required if the payment is:

(a) fixed or determinable and paid annually or periodically,

(b) from sources within the Philippines, and

(c) to a nonresident alien or a foreign corporation not engaged in trade or business and not having an office or place of business in the Philippines.

Interest. Banks and banking institutions are required to withhold 15% of the interest on bank deposits (except interest paid or credited to nonresident alien individuals and foreign corporations), if the aggregate interest paid on the deposit at any time during the taxable year exceeds ₱87.50 per quarter or ₱350 a year.

A transaction tax of 35% of the gross interest paid is levied on borrowers who issue commercial paper in the primary market as the principal debt instrument. This 35% tax is a final tax which is deductible from gross income (13.05).

Interest paid by domestic and resident foreign corporations on their bonds, mortgages, deeds of trust, and similar obligations is subject to a 30% withholding tax when the payee is a nonresident of the Philippines. However, such withholding is not required if the citizen, resident alien, or nonresident alien is engaged in trade or business in the Philippines.

Dividends. Dividends paid by a domestic or resident foreign corporation to another domestic corporation are subject to 10% withholding by the payor. This is a final tax, and the net amount received is not includable in the gross income of the recipient (2.01). A creditable (not final) withholding tax of 10% is imposed on dividends paid to resident individuals.

Dividends paid by a foreign corporation are subject to withholding if the corporation is engaged in trade or business in the Philippines and more than 85% of the corporation's gross income for the three fiscal years preceding the year in which the dividends were declared was derived from sources within the Philippines. The rate of withholding is 30% when the dividends are paid to individuals and 35% when the recipient is a foreign corporation (6.04).

Dividend withholding agents are required to file a return showing the dividends paid and the amounts withheld within 25 days of the end of each calendar quarter.

Other Payments. Reinsurance premiums paid to foreign insurance companies not engaged in trade or business in the Philippines are not subject to withholding (9.01).

Royalties paid to resident individuals and corporations are subject to a creditable (not final) withholding tax of 10%.

Nonresident foreign film owners as well as lessors and distributors of movies are subject to a withholding tax of 25% of their gross incomes.

Rentals, lease, and charter fees paid to nonresident foreign owners of vessels chartered by Philippine nationals are subject to a final withholding tax of 4.5% (9.01). Rentals, charter, and other fees payable to nonresident lessors of aircraft, machinery, and other equipment are subject to a final withholding tax of 7½%.

Presidential Decree No. 1351 empowers the Secretary of Finance, upon the recommendation of the Commissioner of Internal Revenue, to require that tax be withheld on certain payments to resident individuals and corporations. The payments to residents that may be subject to required withholding are those payments mentioned in the section of the Tax Code that allows withholding when the payments are to nonresident foreign corporations or aliens. Under this new law, any such withholding on payments to residents cannot be less than 2½% or more than 35%, and the amount withheld may be credited against the resident's income tax liability at the end of the year. The regulations implementing Presidential Decree No. 1351 require withholding as follows:

A. Professional and other fees, etc., paid to individuals:

(1) Lawyers, certified public accountants, doctors, architects, engineers, veterinarians, dentists, actuaries, interior decorators, marine and land surveyors, and other professionals—10% of gross fees

(2) Professional entertainers and athletes—10%

(3) Directors of movies, television programs, and theatrical shows—10%

(4) Management and technical consultants—10%

(5) Insurance agents—5%

B. Professional fees and other fees paid to juridical persons—5%

C. Rents exceeding ₱500 for personal or real property—5%

D. Movie film rentals and other payments—5%

E. Payments to certain contractors, whether individuals or corporations, such as general engineering contractors, and general building and specialty contractors—3%

F. Awards and prizes exceeding ₱500—15%

G. Income distributed to beneficiaries of estates and trusts—15%

The duty to withhold on these payments is imposed on:

- Individuals, on payments related to their trades or businesses
- Juridical persons, whether or not engaged in trade or business
- All government offices

Payments subject to these withholding requirements are deductible from the payor's gross income only on proof that the tax required to be withheld has been paid to the Bureau of Internal Revenue. Tax credits or refunds of tax withheld on these payments will be allowed only when the receipt of the payment is part of the gross income shown on the tax return and the fact of withholding is established.

Income Subject to Tax

6.01 The Nature of Taxable Income—Nontaxables

Tax is imposed on net income which is defined by the Philippine Internal Revenue Code as gross income less the deductions allowed by law. Gross income includes "gains, profits, and income" in whatever form, a formulation that taxes as income the gains derived from illegal transactions. Income from services, professions, businesses, and gains of whatever kind or nature are embraced by the term. The rule is that all income, except that expressly exempt by law, is included in gross income. Gross income includes compensation for personal services, commissions paid to salesmen, compensation for services based on a percentage of profits, commissions on insurance premiums, tips, nonexempt pensions, and certain fees received by clergymen. Other examples are competitive prizes and awards, royalties, interest on investments, rewards, lottery winnings, farming income, and gains or profits from sales of real or personal property.

If a taxpayer is compensated in a non-monetary form, the fair market value of the goods or services received is the measure of the income subject to tax. Thus, if an employee receives capital stock as part of his remuneration, the fair market value of the stock at the time should be reported as income. Similarly, promissory notes received as payment for services constitute income in the amount of their fair market value.

The Internal Revenue Code and special laws enumerate certain categories of income that may be exempt from income tax, including the following:

- life insurance proceeds (6.07)
- amounts received by the insured as a return of premium
- gifts, bequests, and devises
- compensation for injuries and sickness
- interest on government securities
- income exempt under a treaty
- income of foreign governments and of financing institutions owned, controlled, or refinanced by them; international or regional financing institutions established by governments with funds received from their investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on bank deposits in the Philippines
- income of a public utility expressly exempted under the terms of the special franchise granted to the public utility
- sweepstakes winnings
- retirement benefits, pensions, gratuities, etc.

6.02 Business Income

The taxable income of corporations may be visualized in terms of the following:

(a) All income less income exempt from tax equals gross income.

(b) Gross income less ordinary and necessary expenses equals net taxable income.

The net taxable income is subject to the tax rates noted in 3.02, and the tax payable is offset by any foreign tax credit that may apply. The net tax payable, less the tax paid for the preceding quarters, equals the net tax due or refundable.

6.03 Interest Income

Interest income is taxable when such interest arises from indebtedness; that is, compensation for the use of money or for forbearance of such use. The above is without prejudice to interest earned on bonds that specifically exempt such interest payments from tax.

Interest on bonds, notes, and other obligations of residents, corporate or individual, is considered to be interest derived from sources within the Philippines.

6.04 Dividends

For Philippine tax purposes, the term "dividends" includes any distribution of cash or property by a domestic or resident corporation, joint stock company, unregistered partnership, joint account *(cuentas en participación),* association, or insurance company to shareholders or members from earnings and profits accumulated since March 1, 1913. However, distributions not arising from earnings, which represent a return of capital, are not taxable as dividend income.

Cash dividends are taxable. Dividends paid in securities, such as bond dividends or other property in which the earnings of a corporation have been invested, are income valued at fair market, when received by individual stockholders. Stock dividends that represent a transfer from a surplus to a capital account are generally not taxable, but become taxable in the following cases:

- when the stock dividend produces a change in the proportionate ownership in the corporation, as in the case of a stock option, or
- when the stock dividend is sold, or
- when the shareholder has an option to receive cash, regardless of whether the option is exercised, or
- when by cancellation or redemption of the stock dividend, it becomes essentially equivalent to a cash dividend.

Dividends Received by a Domestic or Resident Foreign Corporation from Another Domestic Corporation. Stock and non-stock dividends paid by a domestic corporation liable to income tax to a domestic or resident foreign corporation, to a general co-partnership, or to a private educational institution, are subject to a final tax of 10%. The net amount received is not includable in the gross income of the recipient (3.02). If a domestic or resident foreign corporation receiving the dividend has incurred an indebtedness abroad and invested the proceeds in shares of the domestic corporation paying the dividend, the interest paid or incurred on such indebtedness is allowed as a deduction from intercorporate dividends in computing the 10% final tax. This deduction of interest from dividends is allowed only if the recipient domestic or resident foreign corporation submits the following to the Commissioner of Internal Revenue:

- a duly authenticated copy of the foreign loan agreement stipulating the use of the proceeds of the loan,
- a certification from the Central Bank of the Philippines that the proceeds were actually remitted into the Philippines for investment in the original shares of any domestic corporation, and
- other relevant information that may be required by the Commissioner.

Where these formalities have been complied with, the payor corporation withholds and remits only 10% of the excess of the dividend payable over the interest paid or incurred on such indebtedness. Accordingly, the recipient corporation should furnish the payor corporation with the information required for the payor to withhold appropriately.

Dividends Received by a Nonresident Foreign Corporation. A withholding tax of 35% on the gross amount is imposed on the dividends paid to a nonresident foreign corporation by a domestic corporation. However, this amount is reduced to 15% on the condition that the country in which the nonresident foreign corporation is domiciled allows a foreign tax credit against the taxes deemed to have been paid to the Philippines. For this purpose, the taxes paid to the Philippines are deemed to be the regular tax of 35%, which represents the 15% actually paid and 20% deemed paid.

Dividends Paid by Resident Corporations to Nonresident Alien Shareholders. Dividends paid by resident corporations to nonresident alien shareholders not engaged in trade or business within the Philippines are subject to a withholding tax of 30%.

6.05 Capital Gains and Losses

Capital gains of corporations are taxed in full as ordinary income. For other than corporations, only 50% of the gain or loss is taken into account if the asset was held for more than 12 months. For these purposes, the definition of "capital asset" includes all property, except the following categories of assets:

- Property held primarily for sale to customers in the ordinary course of business, or includable in the taxpayer's inventory
- Depreciable property used in the taxpayer's trade or business
- Real property used in the taxpayer's trade or business

Capital gains and losses may accrue on the sale of securities and also on the merger or consolidation of the issuing corporation. However, if the transfer of ownership of any security is subject to the stock transaction tax (13.05) imposed on shares acquired after November 5, 1970, any capital gain on such transaction will not be subject to the ordinary income tax. Other cases in which the capital gain or loss provisions may apply include the following types of transactions:

- Short sales
- Failure to exercise privileges or options to buy or sell property
- Surrender of shares upon complete liquidation of a corporation
- Surrender for retirement of bonds, debentures, and notes with interest coupons or in registered form

The entire gain or loss is taken into account if the asset was held for 12 months or less (short term). Only 50% of the gain or loss of a taxpayer other than a corporation is taken into account if the asset was held for more than 12 months (long term). A corporation's capital gains are includable in full, regardless of the holding period. The Philippine law has no provisions similar to Section 1231 of the United States Internal Revenue Code, under which capital gain provisions may apply to the net gains or losses from sales of depreciable business assets, casualty losses, and certain other transactions.

An excess of capital losses over capital gains is not deductible. This rule applies to all classes of taxpayers and to both short-term and long-term capital losses. However, a one-year net capital loss carry-over is provided, but only for taxpayers other than corporations. The amount carried over may not exceed the net income for the year in which the net capital loss was sustained and is deductible only from the taxpayer's capital gains in the succeeding year.

Redemption of Bonds. Bondholders realize capital gain or loss upon the retirement of bonds. The gain or loss is measured by the difference between the cost and the amount realized on the retired bonds.

When a corporation purchases and retires bonds at a price in excess of face value, the excess of the purchase price over face value is deductible. If the corporation retires the bonds at a price less than face value, the difference between face value and the purchase price is income.

Corporations may issue bonds at a premium or discount from face value. Such premium or discount is treated as income or expense, respectively, to be amortized by the issuing corporation over the life of the bonds. In determining the gain or loss when such bonds are retired, the amortized premium or discount must be taken into account. This means that the issue price is decreased by the amortized premium or increased by the amortized discount.

6.06 Income from Royalties, Patents, Copyrights, Etc.

Royalties derived from copyrights, patents, trademarks, formulas, and similar property are included in gross income. Expenses incurred in acquiring these intangibles (other than trademarks) are capitalized and amortized over their useful lives. There is no provision for the amortization of trademarks.

On the disposition of patents, copyrights, trademarks, etc., profit or loss is generally measured by the difference between selling price and cost.

Technical Service and Management Fees. Payments for technical services to a foreign corporation not engaged in trade or business within the Philippines are subject to a withholding tax of 35%.

Royalties paid to nonresident aliens not engaged in trade or business in the Philippines are subject to a 30% withholding tax.

Under the provisions of Presidential Decree No. 1457, rents and royalties from the following are considered Philippine-source income:

- The use, or the right to use in the Philippines, of any copyright, patent, design, or model, plan, secret formula or process, goodwill, trademark, trade brand, or other like property or right.
- The use, or the right to use in the Philippines, of any industrial, commercial, or scientific equipment.
- The supply of scientific, technical, industrial, or commercial knowledge or information.
- The supply of any ancillary and subsidiary assistance that enables any property or right mentioned above to be used.

- The supply of services by a nonresident in connection with the use of a property or right, or the installation or operation of any brand or machinery purchased from such nonresident.
- Any other amounts paid for technical advice, assistance, or services rendered in connection with the technical management or administration of any scientific, industrial, or commercial undertaking.
- The use or the right to use motion picture films, films or video tapes in connection with television, or tapes in connection with radio broadcasting.

6.07 Insurance Proceeds and Annuities

Life insurance proceeds, whether in a lump sum or in instalments, are exempt from income tax if paid by reason of the death of the insured. Proceeds paid for other reason than the death of the insured are exempt only to the extent they represent return of premiums. When an insurer holds the proceeds under an agreement to pay interest thereon, the interest payments are taxable.

Disability payments to an insured, his estate, or his beneficiaries, under an accident or health insurance policy or under the workmen's compensation acts as compensation for personal injuries or sickness, are excluded from gross income.

Deduction Items

7.01 Business Expenses

The Philippine Tax Code provides for the deduction of "all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business." The Code specifically includes the following under this general provision:

- reasonable allowances for salaries or other compensation for personal services actually rendered,
- traveling expenses while away from home in pursuit of a trade or business, and
- rentals or other payments for the use in a trade or business of property to which the taxpayer does not have title or any equity.

The income tax regulations list other specific items that are deductible as business expenses, including management expenses, commissions, labor, supplies, incidental repairs, operating expenses of transportation equipment used in a trade or business, advertising and other selling expenses, as well as insurance premiums against fire, storm, theft, accident, or other similar losses directly connected with the taxpayer's business. These items are merely examples of the expenses that are generally considered to be ordinary and necessary business expenses within the meaning of the Code. Many other types of expenses are also deductible, depending on the nature of the business and other circumstances. Payments subject to withholding (5.02) may be deducted only if it is shown that the tax required to be withheld has been paid to the Bureau of Internal Revenue in accordance with the provisions of the Tax Code.

A nonresident alien or a foreign corporation may deduct only those necessary expenses paid or incurred in carrying on a business within the Philippines.

7.02 Depreciation

A reasonable allowance for the exhaustion, wear and tear, and obsolescence of tangible and intangible properties used in trade or business, whose useful lives are limited, may be deducted from gross income. For nonresident aliens and foreign corporations, depreciation is allowable only on property located within the Philippines.

Depreciation allowances do not apply to inventories of stock in trade, land, and mineral deposits, which are subject to depletion (7.03), and to clothing and other personal goods. Improvements on land used in a trade or business are sometimes considered part of the cost of the land.

No specific provisions in the Code deal with the rates of depreciation or the method of computation. In practice, however, the Bureau of Internal Revenue generally sanctions only the straight-line method; although the Tax Court, in one case, has allowed the use of the declining-balance method. The rates used are, in most instances, comparable to those in the superseded United States Treasury Bulletin F and the Depreciation Guidelines and Rules (Rev. Proc. 71-21), although no official directive to this effect has been published. Accelerated depreciation may be allowed to certain registered enterprises as discussed in 2.04.

The law requires the adoption of a consistent plan for computing the allowance under which the aggregate deduction for depreciation plus salvage value will, at the expiration of the useful life of the asset, equal its cost basis. A taxpayer who deducts less depreciation than is allowable cannot, in a subsequent taxable year, deduct more depreciation than would normally be allowable.

The actual useful life of an asset may sometimes prove longer or shorter than the original estimated life. In such cases, the undepreciated balance of the cost or other basis of the asset may be spread over the remaining useful life as reestimated in the light of subsequent facts, and depreciation may be deducted accordingly. Deductions for obsolescence are allowed for assets whose normal useful lives are changed by economic factors, etc.

7.03 Depletion and Other Items Attributable to Mineral Extraction

Investments in exhaustible natural resources (oil, gas, minerals, and the like) are eligible for deductions in the nature of cost depletion. This deduction is computed by dividing the adjusted cost basis by the resource units on hand at the beginning of the taxable year. The depletion unit so determined is multiplied by the resource units sold during the taxable year. Owners of natural gas or oil wells may compute cost depletion for such a resource by multiplying its adjusted cost basis by a fraction whose numerator is the number of cubic feet or barrels of oil recovered during the year, and whose denominator is the expected recoverable number of cubic feet of gas or barrels of oil at the end of the year plus the number of cubic feet of gas or barrels of oil recovered during the year. Under this method, the cost basis of the property is reduced each year and the remaining basis is used in computing cost depletion for the next year.

Presidential Decree No. 1353, which became effective January 1, 1978, permits the taxpayer to choose an alternative method of computing depletion. This alternative allows the taxpayer to deduct past exploration and development expenditures accumulated as cost, or

adjusted cost basis, as of January 1, 1978, as well as any such expenditures incurred during the taxable year. This alternative is subject to these conditions: (1) the total deduction cannot exceed 25% of the net income from mining operations computed without the benefit of any tax incentive under existing laws, (2) such accelerated deduction will not apply to expenditures to acquire or improve depreciable property, but the allowance for depreciation is treated as a deductible expenditure, and (3) the selection of the alternative deduction is irrevocable and is binding in succeeding taxable years. This alternative applies exclusively to the mining industry; it is not intended to be available to the petroleum industry.

7.04 Bad Debts

The Bureau of Internal Revenue recognizes only the specific charge-off method of deducting bad debts; the reserve method is not permitted. A bad debt is deductible only in the year in which it is ascertained to be worthless and, then, only if it is charged off within that taxable year.

For a debt to be worthless, it must not only be uncollectable at the present time, but must also appear to be uncollectable in the future. Bad debts must be shown to be worthless in fact and in law. Hence, a debt is not deductible if there is no legal liability that could have enforced its collection in a court of law. Reasonable steps to collect the debt must be taken, although the taxpayer does not have to institute legal action if it appears such efforts will prove useless.

A nonresident alien individual or a foreign corporation may deduct only bad debts that arose in the course of trade or business within the Philippines and were ascertained to be worthless and charged off within the year.

7.05 Payment of Rents, Royalties, and Technical Assistance Fees

Rents, royalties, and technical assistance fees are deductible if they meet the tests generally laid down by the law for the allowance of ordinary and necessary expenses that are reasonable in amount (7.01). Rents, royalties, and technical assistance fees are subject to withholding tax at source if paid to nonresident aliens or foreign corporations (5.02). Royalties received by individuals residing in the Philippines and domestic and/or resident foreign corporations are subject to withholding tax at source at the rate of 10% (5.02).

7.06 Taxes

The Tax Code provides that all "taxes paid or accrued within the taxable year" are deductible, except:

- the Philippines income tax,
- foreign income, war profits, and excess profits taxes for which the taxpayer intends to claim a tax credit,
- estate, inheritance, and gift taxes,
- tax assessments for local benefits which increase the value of the assessed property, and
- stock transaction tax.

Although the Code does not specify what is included in the term "taxes," the regulations indicate that import duties; business, occupation, license, privilege, excise and stamp taxes; and motor vehicle license fees are deductible. On the other hand, hunting and fishing license fees, passport fees, postage, and fines are not deductible. Postage is deductible as a business expense. In general, the main factor seems to be whether the assessment is primarily to produce revenue or for regulatory purposes. Only those in the former category are deductible.

A nonresident alien or a foreign corporation is allowed to deduct taxes only to the extent that these are connected with business income from within the Philippines.

7.07 Interest

Interest paid or accrued within the taxable year is deductible unless the indebtedness was incurred or continued to purchase tax-exempt bonds or other tax-exempt securities. The deduction applies to interest on personal as well as business indebtedness.

Examples of deductible interest include interest on taxes, interest paid by a corporation on script dividends, and interest paid by a taxpayer on mortgaged real estate, provided the taxpayer is the legal or equitable owner even though not directly liable upon the note or bond secured by the mortgage.

For a nonresident alien or a foreign corporation engaged in business in the Philippines, the allowable deduction is the proportion of interest paid that the gross income from sources within the Philippines bears to the gross income from sources within and without the country. The nonresident alien or foreign corporation must include in the return all the information necessary to calculate the deduction. Interest paid in advance by a cash-basis taxpayer is not deductible in the year the indebtedness is incurred. Such interest normally is deductible only in the year the loan is repaid. However, if the loan is repayable in periodic instalments, the interest on the principal repaid within the year is allowed as a deduction of that taxable year.

No deduction for interest is allowed if both the taxpayer and the recipient of the interest are related taxpayers, as specified in 7.16 (paragraph concerning losses resulting from sales or exchanges of property between specified related taxpayers).

7.08 Operating Losses

A corporation's operating loss is deductible from income derived from other sources during the taxable year. Any unused loss is not allowed to be carried back or carried forward, except in the case of certain registered preferred enterprises discussed in 2.04.

Citizens and resident individuals are allowed to deduct from their other income only those losses incurred during the taxable year in their trade or business or a transaction entered into for profit. As with corporations, losses of individuals may not be carried back or carried forward, except in the case of those registered under the Agricultural Investments Incentives Act (2.04).

Losses of nonresident aliens and foreign corporations are deductible only if incurred in trade or business or a transaction entered into for profit in the Philippines.

7.09 Worthless Stocks, Securities, and Other Assets

The loss on worthless stocks or securities is usually treated as resulting from the sale or exchange of a capital asset on the last day of the taxable year in which they became worthless. The cost or other basis of securities may be deducted if evidence of their actual worthlessness is provided. An exception is made for securities issued by a domestic bank or trust company whose business is subtantially the receipt of deposits. The loss on securities of this type of company is treated as an ordinary loss.

7.10 Casualty Losses

The Code allows losses from fires, storms, shipwrecks, or other casualty, and from robbery, theft or embezzlement to be deducted. The deduction is not limited to losses involving assets used for business or income-producing purposes. The loss must have been sustained during the taxable year and not be recoverable from insurance or by other means. The taxpayer is required to submit a declaration of loss within 45 days from the occurrence of the casualty or event that caused the loss. Failure to comply with this requirement precludes the taxpayer from claiming a deduction. Casualty losses incurred by nonresident aliens or foreign corporations may be deducted if they relate to property located in the Philippines.

7.11 Charitable Contributions

Charitable contributions or gifts made within the taxable year are deductible up to specified percentages of taxable net income computed before the deduction for charitable contributions. The percentages are 6% for an individual and 3% for a corporation. The deduction is also limited to contributions made to the following organizations:

- the government of the Philippines or any of its subdivisions for exclusively public purposes,
- domestic corporations or associations organized and operated exclusively for religious, charitable, scientific, athletic, cultural, or educational purposes; or for the rehabilitation of veterans, and
- societies for the prevention of cruelty to children or animals, provided that no part of their net income inures to the benefit of any private stockholder or individual.

Contributions or donations to certain institutions are deductible in full and are excluded when computing the limitation of 6% or 3% of the taxpayer's taxable net income otherwise applicable. These institutions include:

- The University of the Philippines and other state colleges and universities, and any other school, college, or university recognized by the government, provided that the donation is not used to increase the salary, bonus, or other personal benefits of school officials, faculty, personnel, or stockholders.
- Artesian Well Fund, International Rice Research Institute, National Science Development Board, Ramon Magsaysay Award Foundation, Philippine Rural Reconstruction Movement, Catholic Relief Services, Tools for Freedom Foundation, Cultural Center of the Philippines,

  Philippine Amateur Athletic Foundation, Trustees of the Press Foundation of Asia, Inc., National Commission on Culture, Humanitarian Science Foundation, Roxas Education and Welfare Committee, Inc., Integrated Bar of the Philippines, Development Academy of the Philippines, Department of Youth and Sports Development, and the National Museum, Library, and Archives, etc.
- Social welfare, cultural, and charitable institutions, no part of the net income of which inures to the benefit of any individual and provided not more than 30% of the donation is used for administration purposes.

The taxpayer is required to include in his income tax return the name and address of each organization to which a gift was made, the

approximate date, and the amount of the gift. In addition, the taxpayer must attach to his return a receipt signed by a responsible officer of the organization.

The deduction for contributions in other than money is based on the fair market value of the property at the time of the gift.

7.12 Advertising, Entertainment, and Travel Expenses

Advertising, entertainment, and travel expenses are deductible provided they qualify as ordinary and necessary business expenses, are reasonable in amount, and are supported by receipts, vouchers, or invoices (7.01).

Business entertainment expenses are deductible by individuals only to the extent of 10% of "compensation income." The term "compensation income" means all remuneration for services performed by an employee for his employer, including the cash value of all remuneration received in other than cash, unless specifically excluded from gross income. The name by which the remuneration for services is designated is not material.

Deduction may be allowed for an activity or facility used in connection with entertainment, amusement, or recreation only if the taxpayer establishes that the item was directly related to, or was used primarily for, the furtherance of the taxpayer's trade or business. In no case is an entertainment expense of a nature that is contrary to public policy or immoral allowed as a deduction.

Travel expenses between home and place of work are not deductible.

7.13 Legal Expenses

Legal expenses are deductible if they meet the general requirements for the allowance of ordinary and necessary business expenses (7.01).

7.14 Insurance

Premiums on policies insuring against business risks are deductible if they are ordinary and necessary business expenses. An employer may deduct premiums on life insurance policies covering his employees, provided he is not the beneficiary and the premiums plus other employee compensation do not exceed a reasonable amount.

7.15 General and Special Reserves

Reserves for contingencies, anticipated losses, estimates of future expenses, and bad debt reserves (7.04) are not deductible for tax purposes.

7.16 Nondeductibles

The general rule is that no deduction is allowed in the computation of net income for the following types of expenses:

- personal, living, or family expenses,
- costs of new buildings, permanent improvements, and betterments that increase the value of any property or estate,
- costs of restoring property or making good the exhaustion thereof for which allowances (depreciation or depletion) have been claimed, or,
- premiums paid for life insurance on any officer or employee, or any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under the policy.

Losses resulting from sales or exchanges of property between specified related taxpayers are not deductible. A sale or exchange is nondeductible if it is, directly or indirectly, between:

- members of a family,
- an individual and a corporation which he controls, directly or indirectly, unless the sale or exchange is in connection with a distribution in liquidation,
- two corporations controlled, directly or indirectly, by the same individual if either of such corporations was a personal holding company or a foreign personal holding company for the taxable year preceding the date of sale or exchange (unless the sale or exchange is in connection with a distribution in liquidation),
- a grantor and a fiduciary of any trust,
- a fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor as to each trust, or
- the fiduciary of a trust and the beneficiary of such trust.

A loss on the sale or exchange of stocks or securities cannot be deducted by a taxpayer not a dealer in securities if, within 30 days before or after the loss transaction, the taxpayer purchases or otherwise acquires in a taxable exchange, or contracts to acquire, substantially identical stocks or securities. Other selected items not deductible for income tax purposes are:

- Travel expenses from a taxpayer's residence to his office and return
- Cost of domestic help
- Cost of defending or perfecting title to property
- Expenses for architects' services

- Commissions of selling securities by a nondealer (They must be offset against the selling price.)
- Expenses of administration of an estate (These are deductible only in determining the estate tax.)
- Expenses of organizing a corporation
- Expenses of securing a copyright and patents (These must be amortized over the useful life of the asset)
- Expenses of organizing certain registered preferred enterprises may be deducted, as discussed in 2.04.

Accounting for Income and Expenses

8.01 Tax Accounting Generally

Any method of accounting suitable to the taxpayer may be adopted. However, once the taxpayer has adopted a method that clearly reflects income, it may not be changed without consent. If the method adopted does not clearly reflect income, the Commissioner is authorized to recompute income in accordance with any method which, in the Commissioner's opinion, clearly reflects income.

The methods generally used in reporting business income and expenses are the cash receipts and disbursements method and the accrual method. Under the cash method, amounts constructively received are required to be recognized and reported as income, and expenses are deducted in the taxable year in which they are paid. Other methods of accounting may be used as long as they clearly reflect income. Some are discussed at 8.03. The Commissioner sometimes uses the net worth method to determine a taxpayer's income when the taxpayer's records are inadequate.

8.02 Accrual of Business Income and Expenses

An accrual-basis taxpayer reports income earned during the taxable year, whether received or not. Expenses are deductible in that year in which all the events have occurred which determine the fact and amount of the liability with reasonable accuracy. Although no accrual can be made until all the events have occurred which determine the fact of the liability, the lack of a determination of the exact amount of the liability will not prevent the accrual of such part of the amount as can be determined with reasonable accuracy.

The tax regulations require that prepaid income be treated as income in the year of receipt, even though it may relate to a future transaction. Thus, a landlord receiving advance rentals must include them in income in the year of receipt. However, the landlord's expenditures relating to future periods may not be deducted in the year of payment. For example, the cost of acquiring the lease and any capital expenditures which the advance rentals were intended to finance must be written off over the life of the lease.

8.03 Long-Term Contracts and Instalment Sales

Income from construction contracts covering a period exceeding one year may be reported on the percentage-of-completion basis or the completed-contract basis.

When the percentage-of-completion basis is used, the regulations require that a certificate be obtained from the architect or engineer showing the percentage of completion. The appropriate percentage of the gross proceeds must be reported, and the expenses incurred on

the contract during the taxable year may be deducted from the gross income. Materials and supplies on hand at the beginning and end of the taxable year, but not yet used in construction, should be taken into account by adjusting the expenses for the year accordingly.

When the completed contract method is used, gross income is reported in the taxable year in which the contract is finally completed and accepted. All expenditures properly allocated to the contract during the construction period may be deducted. Adjustments should be made for any materials and supplies charged to the contract but remaining on hand at the time of completion.

Instalment Sales. A taxpayer who regularly sells personal property on the instalment basis may report as income an amount determined by multiplying the instalment payments received each year by the ratio of the gross profit to the total price.

In addition, a taxpayer who sells or otherwise disposes of real estate and receives not more than 25% of the selling price in the tax year in which the disposition occurs may elect to report the profit on the instalment basis. A casual sale of personal property under the same conditions may also be reported on the instalment basis if the selling price exceeds ₱1,000.

8.04 Inventories

To reflect net income correctly, inventories must be calculated at the beginning and the end of each year in all cases in which the production, purchase, or sale of merchandise are income-producing factors. The inventory should include raw materials; supplies on hand that were acquired for sale, consumption, or use in the productive process; and all finished or partly finished goods. Only merchandise owned by the taxpayer should be included in inventory. The method of inventory valuation must be applied consistently and any changes require the permission of the Commissioner. In addition to consistency, the Code imposes two basic requirements on the valuation of the taxpayer's inventory. First, it must conform as nearly as possible to the best accounting practice in the taxpayer's trade or business and, secondly, it must clearly reflect income. The bases of valuation commonly used by business concerns that meet the requirements of the income tax law are: (a) cost or (b) cost or market, whichever is lower.

Special valuation methods are permitted for certain businesses. For instance, dealers in securities may value their inventories at market value. Mine operators and manufacturers, whose products are of two

or more kinds, sizes, or grades, whose unit cost is substantially alike, may allocate, in accordance with a recognized trade practice, an amount of cost to each kind, size, or grade of products, which, in the aggregate, will absorb the total cost of production. Retailers who use the retail method of pricing inventory may base their tax returns on that method, provided the use of such method is designated in the returns, that accurate accounts are kept, and that such method is used consistently, unless a change is authorized by the Commissioner.

Provisions Peculiar to Corporations

9.01 Resident and Nonresident Corporations Compared

General. "Corporation" for Philippine tax purposes includes joint-stock companies, associations, insurance companies, and partnerships organized or created in any manner except general professional partnerships and joint ventures formed to undertake construction projects. The income tax rate on corporations is 25% on income not in excess of ₱100,000 and 35 % of the remaining net income, except for certain specialized corporations (3.02).

In addition to the normal 25%-35% corporate rates, a 5% corporate development tax is imposed on the following entities:

(a) Domestic corporations (other than closely held, as defined below) whose net income exceeds 10% of their net worth

(b) Closely held domestic corporations, regardless of the rate of return on their net worth

(c) Resident foreign corporations doing business in the Philippines, provided their net income exceeds 10% of their net assets in the Philippines

(d) Partnerships, except general professional partnerships, whose net income exceeds 10% of their net worth

(e) Building and loan associations, other than those closely held, whose net income exceeds 10% of their net worth

A closely held corporation is defined as any corporation in which either (a) at least 50% in value of the outstanding stock, or (b) at least 50% of the combined voting power of all classes of stock entitled to vote is owned, directly or indirectly, at any time during the taxable year, by not more than five natural or juridical persons. In determining whether an individual indirectly owns shares of stock in a corporation, the attribution rules prescribed by the Tax Code are applied.

The effect of the 5% development tax is to increase the corporate income tax to 30% on the first ₱100,000 of net income and 40% on the excess (3.02).

For income tax purposes, there are three types of corporate taxpayers: a domestic corporation, a resident foreign corporation (branch), and a nonresident foreign corporation.

Resident Corporations. A domestic corporation is one organized in the Philippines or under its laws. A resident foreign corporation is a corporation engaged in trade or business in the Philippines, while a nonresident foreign corporation is one not so engaged.

A domestic corporation is taxed on its entire net income whereas a resident foreign corporation is taxed only on its net income from

Philippine sources. The same tax rates—25% on net income not exceeding ₱100,000 and 35% on the excess, including the 5% development tax if applicable, are imposed on both domestic corporations and resident foreign corporations. In both cases, the dividends they receive from other domestic corporations liable to any internal revenue tax are subject to a final withholding tax of 10%, except that interest on loans incurred abroad by the recipient corporation, whose proceeds were invested in equity shares of a domestic corporation, is allowed as a deduction before computing the 10% final tax (5.02). Similarly, royalties received by a domestic corporation or resident foreign corporation from a natural or juridical person are subject to a creditable withholding tax of 10% at the source (5.02).

Branch remittances of after-tax profits to its head office are subject to an additional tax of 15% (3.02). Remittances by a domestic corporation (subsidiary) of its after-tax earnings to its parent in the form of dividends are taxed at 35%, which may be reduced to 15% under certain conditions (6.04).

The tax liability of a domestic corporation or resident foreign corporation is determined on the basis of its taxable year. A tax year is usually 12 consecutive months and may be a calendar year or a fiscal year. The due dates for filing tax returns and paying tax are discussed in Chapter 4.

Nonresident Corporations. A nonresident foreign corporation (not engaged in trade or business) is generally taxed at a flat rate of 35% of its gross income received from sources within the Philippines, except that certain types of income are subject to preferential rates. No deductions are allowed. Gross income for this purpose includes interest, dividends, rents, wages, premiums (except reinsurance premiums), annuities, compensation, remuneration for technical and other services, emoluments, and other fixed or determinable annual, periodical, or casual gains, profits, income, and capital gains. Generally, dividends received by a nonresident foreign corporation from Philippine sources are subject to a withholding tax of 35%. However, dividends received by a nonresident foreign corporation from a domestic corporation liable to income tax are subject to a withholding tax of 15%, if certain requirements are satisfied (6.04). The gross income of nonresident foreign motion picture film owners, lessors, and distributors is subject to a 25% withholding tax (5.02). Interest income on foreign loans earned by a nonresident foreign corporation is subject to a 15% withholding tax (3.02). Rentals, leases, and charter fees payable to nonresident foreign owners of vessels chartered by Philippine nationals are subject to a final withholding tax of 4.5% (5.02). Rentals, charter, and other fees payable to nonresident lessors of aircraft, machinery,

and other equipment are subject to a final withholding tax of 7½% (5.02).

9.02 Tax on Accumulated Profits

An additional tax (surtax) is imposed on both domestic and foreign corporations formed or used to reduce the income tax burden on their shareholders by accumulating gains and profits rather than distributing them. This additional tax is 25% of the undistributed portion of a corporation's accumulated profits or surplus. The tax does not apply to finance companies, banks, insurance companies, or personal holding companies (9.04).

If earnings or profits (including the undistributed earnings of prior years) are accumulated beyond the reasonable needs of the business in the light of all the circumstances, it is presumed, under the law, that the purpose of such accumulation is to avoid the tax on the shareholders unless the contrary is proved by a clear preponderance of evidence. Reasonable needs of the business have been held to include additions to working capital, expanded business activities, and acquisition of interests in related businesses.

The law also provides that it shall be prima facie evidence of a purpose to avoid tax on the shareholders if the corporation involved is a mere holding company or if it is an investment company with more than 50% of the value of its outstanding stock owned, directly or indirectly, by one person at any time during the taxable year. A corporation having practically no activities except holding property and collecting the income therefrom or investing therein is considered to be a holding company. If the activities include, or consist substantially of, buying and selling stocks, securities, real estate, or other investment property (whether on a margin or other basis) so that income is derived not only from the investment yielded but also from profits arising from market price fluctuations, the corporation is considered to be an investment company.

9.03 Affiliated Corporations—Group Relief

Each corporation must file a separate income tax return. There is no provision permitting the filing of a consolidated income tax return by a parent corporation and its subsidiaries. Moreover, the losses of one corporation may not be set off against the profits of another.

9.04 Investment Holding Corporations

Investment holding corporations are generally taxable in the same manner as corporations. The dividends received by an investment holding corporation from a domestic corporation subject to any internal revenue tax are subject to a final withholding tax of 10% (9.01).

Personal Holding Companies. An additional tax of 45% is assessed on the undistributed net income of personal holding companies. This tax is imposed regardless of whether the companies were formed or are used to avoid the tax on shareholders by accumulating earnings or profits. The tax is in addition to any liability for income tax (3.02).

A corporation is a personal holding company if it meets the gross income and stock ownership tests, and it can avoid such classification by failing to meet them. Specifically, personal holding company status will exist if (a) more than 50% of the outstanding stock (based on value) is owned by or for five or fewer individuals at any time in the last half of the taxable year, and (b) 80% or more of the gross income is so-called personal holding company income; that is, royalties, interest, rents (if less than 50% of gross income), etc. Exemption from this tax is provided for corporations, firms, or associations exempt from income tax, banks duly licensed to do business as such in the Philippines, finance companies, life insurance companies, and foreign personal holding companies.

The tests for classification of a company as a "foreign personal holding company" are similar to those above, except that the company must be a foreign corporation. However, the five or fewer shareholders owning more than 50% of the stock must be citizens or residents of the Philippines and the stock ownership test can be met at any time during the taxable year. Furthermore, only 60% of the gross income has to be personal holding company income. The foreign personal holding company's undistributed net income is not taxable to the corporation. Instead, the pro rata shares are included in the taxable income of those Philippine citizens or residents who are shareholders of such corporation on the last day the stock ownership requirements are met.

9.05 Investment Corporations

An investment corporation derives its income largely from investments. It is taxable in the same manner as corporations.

9.06 Special Type Entities

Banks are taxable in the same manner as an ordinary corporation. Special rules apply to Offshore Banking Units and Foreign Currency Deposit Units (2.04).

Offshore Banking Units (OBUs). Presidential Decree No. 1034, authorizing a foreign banking corporation to set up a branch, subsidiary, or affiliate to engage in offshore banking in the Philippines with the approval of the Central Bank of the Philippines, was discussed at 2.04.

The transactions of OBUs with nonresidents and other OBUs are subject to a tax of 5% on net income in lieu of all other taxes (2.04). Any net income of nonresidents from such transactions is tax exempt. The transactions of OBUs with local commercial banks, including branches of foreign banks authorized by the Central Bank to transact business with OBUs, are subject to the same 5% tax on net income, in lieu of all other taxes, except that net income from such transactions as may be specified by the Secretary of Finance, upon recommendation of the Central Bank, will be subject to the usual income tax payable by banks.

Transactions with residents other than those specified above, that give rise to interest on loans extended to residents, are subject only to a final withholding tax of 10%.

Foreign Currency Deposit Units (FCDUs). Presidential Decree No. 1035 authorizes an accounting unit or department of a local bank, or an existing local branch of foreign banks, to operate under the expanded foreign currency system in accordance with the provisions of the Decree and the implementing Central Bank Circular.

The income tax rates imposed on transactions by FCDUs with residents, nonresidents, or another FCDU, or with an OBU, are the same as the rates applicable to an OBU.

Insurance Corporations. Insurance corporations are taxable in accordance with the rules applicable to corporations in general. However, domestic mutual life insurance companies are taxed only on their gross investment income at the rate of 10%. Gross investment income consists of interest, dividends, rents, net capital gains, and income from any other business derived from all sources. Foreign mutual life insurance companies pay the same rate of tax on the same items of gross investment income derived from sources within the Philippines (3.02).

Educational Institutions. Private educational institutions, whether stock or nonstock, pay a tax of 10% of their taxable net income from the operation of the school, related school activities, and on their passive investment income consisting of interest, dividends, royalties, and the like. Dividends received by a private educational institution from a domestic corporation are subject to the 10% intercorporate dividends tax (9.01).

Corporations Owned or Controlled by the Government. All corporations, agencies, or instrumentalities owned or controlled by the government, including the Government Service Insurance System and the Social Security System, but excluding educational institu-

tions, pay the same rate of tax on their taxable net income as is imposed on corporations engaged in a similar business or industry.

International Carriers. International carriers pay a tax of 2½% on their "gross Philippine billings." This term has been expanded by Presidential Decree No. 1355, effective April 21, 1978, to include the gross revenues of any international carrier doing business in the Philippines derived from the sale in the Philippines of any documents of passage, whether for passengers, cargo, excess baggage, or mail and provided the cargo or mail originates in the Philippines. Gross revenues from charter flights "originating in the Philippines" are also considered part of gross Philippine billings. For this tax purpose, chartered flights "originating in the Philippines" are deemed to include any flights whose passengers stay in the Philippines for more than 48 hours before embarkation.

Tax-Exempt Corporations. Certain types of corporations are exempt from the corporate income tax. These include, in general, nonprofit organizations and organizations operated exclusively for the benefit of their members as long as no part of their net income inures to the benefit of any private stockholder or individual. Exemption is also provided for religious charitable, scientific, cultural, and athletic organizations. Also exempt are organizations such as mutual savings banks, mutual fire insurance and utility companies of a local character whose income consists solely of assessments against the members, and farmers' marketing cooperatives. However, any income of these exempt organizations that is derived from their real or personal property, or from any activities conducted for profit, are subject to income tax regardless of the disposition of such income.

9.07 Liquidations and Other Corporate Changes

Distributions in "complete liquidation," even though they may include earnings and profits, are treated as gains from the sale or exchange of capital assets, rather than as ordinary dividends. The difference between the cash plus the fair market value of other property received by the stockholder on liquidation and the cost or other basis of the stock represents the amount of gain or loss.

"Complete liquidation," as defined by the regulations, includes any series of distributions made by a corporation in complete cancellation or redemption of all its stock. The corporation must have a "bona fide plan of liquidation" under which the transfer of all the assets in liquidation must be completed within a reasonable time from the date of the first distribution. Normally, this period may not exceed one year.

The following reorganization provisions provide tax-free treatment, if the prescribed requirements are satisfied:

- A corporation that is a party to a merger or consolidation exchanges property solely for stock in another corporation that is a party to the merger or consolidation.
- A shareholder exchanges stock in a corporation that is a party to the merger or consolidation solely for the stock of another corporation that is a party to the merger or consolidation.
- A security holder of a corporation that is a party to the merger or consolidation exchanges his securities in such corporation solely for stock or securities in another corporation that is a party to the merger or consolidation.
- No gain or loss is recognized if a person exchanges his property for stock in a corporation which, as a result of such exchange, is controlled by the person alone or together with no more than three other persons. The term "control" means ownership of stock in a corporation possessing at least 51% of the total voting power of all classes of stocks entitled to vote.

The term "merger" or "consolidation" refers to (a) the ordinary merger or consolidation, or (b) the acquisition by one corporation of all or substantially all the properties of another corporation solely for stock. For a transaction to be regarded as a merger or consolidation, it must be undertaken for a bona fide business purpose and not solely for the purpose of escaping the burden of taxation. In determining whether a bona fide business purpose exists, each and every step of the transaction is considered and the whole transaction or series of transactions is treated as a single unit.

In practice, the Bureau of Internal Revenue has also extended tax-free treatment to other forms of reorganization, such as recapitalization or a mere change in identity, form, or place of organization.

Provisions Peculiar to Individuals

10.01 General

The graduated tax rates for individuals are set forth in the Rate Tables. Married persons, whether or not citizens or residents, are required to file a joint (consolidated) return that includes the husband's income from services, labor, or industry and the wife's income from the same sources, as well as any income derived from properties. Income-splitting is not permitted. The spouses are not allowed to file separate returns except if it is impracticable for the spouses to file a consolidated return and, in such cases, the income declared in both returns is combined, and the tax is computed on the joint income.

For purposes of withholding on wages, if both husband and wife are employees of the same or of different employers, the law considers the husband as the head of the family and, therefore, the one entitled to claim exemptions for any dependent children.

10.02 Itemized Deductions

Individuals are permitted a number of non-business deductions in determining taxable income. These include interest (7.07), taxes (7.06), casualty losses (7.10), charitable contributions (7.11), medical care expenses, and basic high school tuition fees. No deduction is allowed for the expenses of producing income other than in connection with a trade or business. In no event are deductions allowed for personal or family expenses, except for medical care expenses and basic high school tuition fees.

To be deductible, the medical care expenses of the taxpayer, his spouse, and his dependents must be paid or incurred in the Philippines and not be reimbursed by insurance or otherwise. The deduction may not exceed ₱500 for the taxpayer and an additional ₱500 for the spouse and each dependent, and is limited to ₱2,000 in the aggregate. Amounts paid for medicines are not deductible.

Basic tuition fees include amounts paid or incurred in the Philippines for the privilege of receiving high school instruction, but do not include miscellaneous student expenses, such as entrance, library, athletic, laboratory, and graduation fees, and board or lodging. The maximum deduction is ₱250 for each of the taxpayer's dependents in high school and is limited to ₱1,000 in the aggregate.

Standard Deduction. In lieu of itemizing deductions, a citizen or resident individual may elect a standard deduction of ₱5,000 or 10% of gross income, whichever is less. If the taxpayer does not signify in his tax return the election of the optional standard deduction, he is presumed to have chosen to itemize deductions.

Regardless of whether a taxpayer elects to itemize or take the standard deduction, if the tax return includes the combined income of a husband and working wife, a standard deduction of 10% of the wife's gross income, but not exceeding ₱500, is allowed as an additional deduction.

10.03 Personal Exemptions

A single person, or a married person legally separated from his or her spouse, is allowed a personal exemption of ₱1,800. A married person or a head of a family is entitled to a personal exemption of ₱3,000; however, a husband and wife who are not legally separated are allowed to deduct only one such exemption from their aggregate income. A "head of a family" includes an unmarried man or woman who meets all of the following conditions:

- At least one parent, brother or sister, or legitimate, recognized natural, or adopted child is living with and is dependent upon him or her for their main support;
- The brothers, sisters, or children upon whom the head-of-family classification depends are not more than 21 years of age, are unmarried, and are not gainfully employed or, in the case of children, are incapable of self-support because they are mentally or physically defective;
- There exists a right to exercise family control; and
- There is a moral or legal obligation to provide for the support of such dependent individual or individuals.

In addition to the ₱3,000 exemption, a head of a family is allowed an exemption of ₱1,000 for each legitimate, recognized natural, or adopted child wholly dependent upon and living with him. The child must be 21 or under, unmarried, and not gainfully employed, or must be incapable of self-support because of a mental or physical defect. The number of dependents for whom additional exemptions may be claimed cannot exceed four, except for dependents who have been claimed as such prior to 1973. No additional exemption is allowable for parents (whether or not residing with the taxpayer), parents-in-law, or dependents of a married resident alien whose dependents continuously reside outside the Philippines.

A taxpayer who marries or has additional dependents during the taxable year generally may claim such personal exemptions for the entire year. If a taxpayer, spouse, or any dependent dies or reaches the age of 21 during the taxable year, personal exemptions may be claimed as if the death or attainment of age 21 occurred at the close of the year, and the personal exemptions may be taken for the entire year.

A nonresident alien engaged in trade or business may, under certain conditions, claim an exemption equal to the exemption allowed by the income tax law of his country of origin to citizens of the Philippines, but such exemption cannot exceed that allowed under Philippine law for citizens or residents of the Philippines. The Bureau of Internal Revenue has recognized the United States, Switzerland, Spain, and the United Kingdom as granting exemptions to citizens of the Philippines. Citizens of these countries who are not residing in, but are subject to tax in, the Philippines are entitled to both personal and dependency exemptions.

10.04 Resident and Nonresident Individuals Compared

A resident alien is taxable in the same manner and at the same rates as a citizen of the Philippines on income from all sources within and without the Philippines. For tax purposes, an alien actually present in the Philippines, who is not a mere transient or sojourner, is a resident of the Philippines. Whether he is a transient is determined by his intentions about the length and nature of his stay. A mere indefinite intention about when he will return to another country is not sufficient to constitute him as a transient. If he lives in the Philippines and has no definite intention as to the length of his stay, he is a resident. One who comes to the Philippines for a definite purpose, which by its nature may be promptly accomplished, is a transient. But if the purpose is such that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the Philippines, he becomes a resident even though it is his intention at all times to return to his domicile abroad when his purpose has been accomplished or abandoned. As is apparent, there is no simple one-sentence test of residence. Generally, residence is established for Philippine tax purposes if the presence is indefinite as to time or the purpose is of such a nature that an extended stay may be necessary for its accomplishment.

Nonresident alien individuals are taxed only on income from Philippine sources. The progressive tax rates provided for citizens and resident aliens also apply to the net income of nonresident aliens engaged in trade or business in the Philippines. Those not so engaged are taxed at a flat rate of 30% of their gross income derived from sources in the Philippines.

The criterion used by the Bureau of Internal Revenue in determining whether a nonresident alien is engaged in trade or business in the Philippines is the length of his stay. Thus, if the aggregate stay of a nonresident alien in the Philippines is more than 180 days during any calendar year, he is considered engaged in trade or business even if he did not perform any personal services or transact any business during such stay. On the other hand, a nonresident

alien is not considered engaged in trade or business in the Philippines if his stay was for less than 180 days during the year, even if during such stay he actually performed personal services or engaged in business activities.

Philippine citizens who have been physically present abroad with a definite intent of residing there are taxed at graduated preferential rates on gross income from non-Philippine sources. However, they may deduct (a) an allowance for personal exemption of U.S.$2,000, if single or married but legally separated, or U.S.$4,000, if married or the head of a family; and (b) the income tax paid to the foreign country of residence (3.01). These preferential rates are as follows:

Gross Income (U.S.$)	**Income Tax Rates (%)**
1 to 6,000	1
6,001 to 20,000	2
20,001 and over	3

The gross income received by alien individuals employed by regional headquarters established under Presidential Decree No. 218, or by OBUs under Presidential Decree No. 1034, or by alien employees of petroleum service contractors and subcontractors is subject to withholding tax of only 15% (2.04).

10.05 Taxation of Employees

All income received by an employee from his employer, including wages, bonuses, prizes, commissions, tips, royalties, and rewards, is included in the employee's gross income. Remuneration for services is taxable even though paid in a medium other than cash, such as stock of the employer. The measure of noncash income is the fair market value of the goods or services at the time received. The value of living quarters and meals provided to an employee is generally taxable income and must be included in wages subject to withholding, except when provided for the convenience of the employer and necessary for the performance of the employee's duties.

Facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases) provided by an employer to his employees are not ordinarily considered taxable income if they are of relatively small value and are provided merely to promote the health, goodwill, contentment, or efficiency of the employees.

Premiums paid by an employer on the individual life insurance policies of his employees and officers may be taxable income to them. The premiums are taxable only if they are paid on policies

other than group term life insurance and only if the employees and officers are allowed to designate their beneficiaries (whether or not the designation is revocable).

A nonresident alien employee is taxable only on income from sources within the Philippines. All compensation received for personal services or labor performed in the Philippines is income from sources within the Philippines. Thus, the salaries of a foreign corporation's employees temporarily assigned in Manila are subject to Philippine income tax. It has also been held that living allowances received by a foreign technician employed temporarily in the Philippines are subject to Philippine income tax.

Relief from Double Taxation of Foreign Income

11.01 Tax Treaties

The Philippines has entered into tax treaties with Sweden, Denmark, the United States, Belgium, Norway, Canada, France, Singapore, and the United Kingdom. The treaties with Sweden, Denmark, and Singapore are in effect while the treaties with the United Kingdom and Canada have been ratified. The treaties with the other countries have been signed but await exchanges of ratification. As an illustrative example, the discussion here centers on the Philippines-United States tax treaty, which is pending ratification. Although other treaties are similar in many respects, the provisions are not always identical.

Under the Philippines-United States tax treaty, industrial and commercial profits of an enterprise of one country are exempt from tax in the other country unless the enterprise is engaged in trade or business in the other country through a "permanent establishment," as this term is defined in the treaty. The treaty provides rules for attributing profits to a permanent establishment and for adjustments where non-arm's-length transactions have not reflected fair and reasonable values.

The treaty will provide a *reciprocal tax reduction* for *shipping income*, dividends, interest, and royalties. The reduction in tax rates on dividends, interest, and royalties is not applicable if the recipient has a permanent establishment in the source country, and the property giving rise to the income is effectively connected with such permanent establishment.

A resident of the United States, who has been in the Philippines for less than 90 days in a taxable year, is not subject to Philippine tax on compensation for personal services if (a) the services were performed for a resident of, or permanent establishment maintained in, the United States and (b) the remuneration is not borne as such by a permanent establishment in the Philippines of a United States taxpayer.

The treaty deals with such other matters as income of artists and athletes, teachers, students and trainees as well as government employees.

The treaty provides for mutual assistance in collection of taxes and for the exchange of information (except trade secrets) by the tax authorities of both countries, as these are necessary to carry out the terms of the treaty.

11.02 Credit for Foreign Income Taxes

Philippine citizens and corporations can elect either a tax credit or a deduction for income, war profits, and excess profits taxes paid or

accrued to a foreign country during the taxable year. Resident alien individuals may take the foreign tax credit only if their country of citizenship allows a similar credit to Philippine citizens residing in that country. Nonresident aliens and foreign corporations are not entitled to foreign tax credits in computing their Philippine tax. A taxpayer must signify in his return the desire to claim the foreign tax credit; otherwise, he will be deemed to have chosen the deduction.

The credit for taxes paid to a foreign country is subject to two limitations—the "per country" limitation and the "overall" limitation. The taxpayer cannot elect one or the other; he is subject to both limitations. Therefore, the credit for taxes paid to any foreign country cannot exceed that percentage of Philippine income taxes which taxable income from sources within that foreign country bears to entire taxable income from all sources. The total tax credit allowed is further limited to that proportion of Philippine income taxes which a taxpayer's net income from sources outside the Philippines bears to his entire net income from all sources.

A domestic corporation owning a majority of the voting shares of a foreign corporation from which it receives a dividend is deemed to have paid, and is allowed credit for, its proportionate share of the foreign taxes paid by the foreign corporation on the accumulated profits from which the dividend was paid. The foreign taxes deemed to have been paid by the domestic corporation cannot exceed that percentage of Philippine income taxes which the amount of the dividend includes in its income bears to its entire net income.

Pensions, Other Retirement Benefits, and Profit-Sharing Plans

Employers' contributions to qualified retirement plans, as described in 12.02, are not taxable to the employee. However, employers' contributions to nonqualified plans are taxable to employees when they actually or constructively receive the benefits.

12.01 Taxation of Retirement Benefits and Contributions

Retirement benefits from a qualified contributory or noncontributory retirement plan may be excluded from the retired employee's gross income provided the employee had been continuously employed for at least 10 years, was at least 50 years of age at the time of retirement, and had not previously used such exemption under a retirement plan of the same or another employer. Retirement benefits are exempt from other taxes as well as from income taxes.

Retirement benefits from a nonqualified plan are included in the employee's gross income to the extent they exceed employee's contributions. When such retirement benefits are paid in a lump sum, the difference between the lump-sum settlement and the total employee's contributions is taxable. These rules apply whether the distributions are in cash or property and whether or not the funds used for the payment include interest income from tax-free securities. Distributions in property must be included in gross income at the fair market value at the time received or made available.

Income generated by a qualified retirement trust fund is tax exempt. The income of the trust created under a nonqualified plan is tax exempt if the following requirements, among others, are complied with:

- The plan must be a permanent plan.
- The plan must be for the exclusive benefit of the employees or their beneficiaries.
- The instrument must provide that no part of the principal or income can be used for purposes other than the exclusive benefit of the employees at any time prior to the satisfaction of all liabilities with respect to employees under the trust.

12.02 Approval of Pension and Retirement Plans

A qualified retirement plan requires prior approval of the Bureau of Internal Revenue. Approval is obtained by meeting certain requirements, including prohibitions against discrimination in favor of stockholders, key executives, and officers of the corporation.
No specific approval is required by nonqualified plans. In practice, to insure that tax benefits to the employer, employees, and the trust itself are not lost, the nonqualified plan is presented to the Bureau of Internal Revenue for approval.

12.03 Deduction of Pensions and Contributions to Pension Funds

Employers' contributions to a trust for qualified or unqualified retirement plans to cover pension liabilities arising during the taxable year are deductible. In addition, if an employer contributes to fund past service liabilities or to cover the pension liabilities of prior years, 10% of the contribution is deductible for the taxable year in which it is made and the same amount is deductible in each of the nine succeeding taxable years.

The deductibility of an employer's contribution is based on the theory that it is compensation to the employees. Therefore, such compensation must stand the test of "reasonableness." Hence, the allowable deduction for each employee cannot exceed an amount which, together with other deductions allowed as compensation for services, is a reasonable allowance for the services actually performed by the employee. What is a reasonable allowance largely depends on the facts of each case.

12.04 Involuntary Separation

All amounts received by officers, employees, and their heirs upon separation from the service of the employer by reason of death, sickness, physical disability, or any cause beyond the control of such officers or employees, regardless of their length of service and age, are exempt from all taxes. The exemption is available whether or not the employer maintains a qualified retirement plan. Where such separation is not the fault of the employee, the usual required separation pay is one month's pay for each year of service.

Part 3:
Other Taxes

Taxes on Sales, Commodities, Transactions, and Property

13.01 Sales Taxes

Manufacturers' or Producers' Sales Tax. Manufacturers' or producers' sales tax is imposed on every original sale of goods within the Philippines by the manufacturer or producer of the goods. Sales by other than the manufacturer are subject instead to the graduated annual fixed tax based on the dealer's gross receipts (13.05).

The rates of the manufacturers' or producers' sales tax are 1% for agricultural products, 5% for certain processed food products, 10% for ordinary goods, 25% for semi-luxury goods, and 50% for luxury goods.

The manufacturers' or producers' sales tax is imposed on the value added to the cost of the materials used. The cost of any percentage, specific, or mining tax paid on the raw materials, whether domestically produced or imported, and which form part of the finished product, may be credited against the sales tax due on the finished product. In case the total tax paid on the raw materials exceeds the sales tax due on the finished product, the excess may be credited against the sales tax liabilities of the manufacturer for the succeeding taxable quarter(s). If tax-free raw materials are utilized, the tax is deemed to have been paid for the purpose of computing liability for sales tax. The tax is payable within 20 days after the end of each quarter.

The manufacturer or producer is allowed to obtain a tax credit for the tax paid on the raw materials used in producing the finished products. But the law expressly requires that such tax credit may be obtained only if the amount of the tax was listed as a separate item on the sales invoice of the supplier of the raw material. If a manufacturer lists the sales tax as a separate item on his own invoice, the tax is shifted to the buyer, as it will not be considered part of the selling price for the purpose of computing the sales tax.

Any sales tax on domestically manufactured or imported raw materials used in the manufacture of finished products that are exported is allowed as a credit against other tax liabilities of the manufacturer-exporter, provided such tax is shown as a separate item in the invoices.

Advance Sales Tax. An advance sales tax is imposed on goods imported for resale, barter, or for use in the manufacture of articles for sale. This tax is payable before the goods are withdrawn from customs. The rates of advance sales tax are the same as those of the manufacturers' or producers' sales tax.

The tax is based on the home consumption value (HCV) or price (excluding excise taxes in the country of origin); plus 10% of HCV;

plus other charges incurred prior to the release of the imports from customs, such as postage, commissions, customs duty, and similar charges, but not including freight and insurance; plus markups of 25%, 50%, and 100% of the total value for ordinary, semi-luxury, and luxury goods, respectively.

This advance sales tax is a final tax. No additional tax is levied when the imports are sold, regardless of whether the actual selling price is higher or lower than the assumed selling price as computed in the prior paragraph for taxing purposes.

Compensating Tax. A compensating (or use) tax at the same rates as the advance sales tax is imposed on merchandise imported for the personal use of the importer. This tax is imposed on the same total value used to compute the advance sales tax, but without the markups of 25%, 50%, or 100%. Certain imports are exempt from tax and, if such goods are later sold to nonexempt persons or entities, the purchaser becomes subject to compensating tax.

Under certain conditions, persons arriving in the Philippines as settlers are exempt from compensating tax on professional instruments and personal household effects. The following categories of goods are exempt from sales tax:

- articles subject to excise (specific) taxes (13.02),
- minerals and mineral products,
- rope, sugar, and coconut,
- articles and materials for export, and
- .22 caliber firearms and cartridges and other ammunition sold or delivered directly to the Philippine armed forces.

Special laws also provide other exemptions, including sales to United States military personnel, sales to tourists if paid for in foreign currency, and imports by the Philippine Government and certain registered enterprises engaged in preferred industries (2.04).

13.02 Excise (Specific) Taxes on Specific Commodities

A specific tax is levied on certain articles produced locally for domestic consumption or imported from foreign countries, but not on articles produced for export. The commodities subject to specific tax are distilled spirits, wines, fermented liquors, manufactured tobacco, cigars, cigarettes, matches, firecrackers, oils and fuels, coal and coke, bunker fuel oil, motion picture films, playing cards, and saccharine. The tax rates are based on standard weights and measurements. The sales tax does not apply to sales of commodities subject to the specific tax.

Examples of specific tax rates are as follows:

Article	Tax
Cigarettes	From ₱3 to ₱82, depending on the retail price of the package and subject to increases of 50% or 120%, depending on the existence of licensing agreements and the manner of wrapping or packing.
Distilled Spirits	₱1.20 or ₱35.00 per proof liter, depending on the method of production and whether the raw materials used to produce the spirits are local or imported.
Matches	₱0.50 on each gross of boxes containing not more than 80 matches per box.

13.03 Local Taxes

The Local Tax Code delineates the taxing powers of local governments and limits these powers to ensure uniformity in local taxation. Some taxes and fees which provinces, municipalities, cities, and barrios may impose are as follows:

Provinces

(1) Tax on transfer of real property ownership at a rate of one-quarter of 1% of total consideration or assessed value, whichever is higher

(2) Tax on printing and/or publication at a rate not exceeding one-half of 1% of annual gross receipts

(3) Franchise tax of not more than one-half of 1% of annual gross receipts, except on receipts of radio and television firms registered with the Broadcast Media Council

(4) Occupation tax

(5) Amusement tax on admissions

(6) Fees for sealing and licensing of weights and measures

(7) Tax on peddlers

(8) Rental fee for use of municipal waters

(9) Fixed tax per delivery truck or van of certain manufacturers, producers, or dealers

(10) Sand and gravel tax

Municipalities

(1) Graduated fixed tax on manufacturing, producing, importing, exporting, wholesaling, or retailing any article of commerce, except those for which fixed taxes are imposed by the Local Tax Code.

This is an annual tax, which is payable quarterly. It is based on gross annual sales for the preceding calendar year and ranges from:

(a) for manufacturers and distributors—from ₱150 to ₱40,000, plus ₱500 for every ₱500,000 in excess of ₱20 million, but not more than ₱50 million and ₱250 for every ₱500,000 in excess of ₱50 million; (b) for exporters—from ₱1,000 to ₱20,000, plus ₱200 for every ₱1 million in excess of ₱100 million; and (c) for wholesalers or retailers—from ₱15 to ₱8,000, plus ₱100 for every ₱100,000 in excess of ₱1 million.

If the goods are essential commodities, the tax rates are reduced by 50%; the rates on rice and corn are reduced by 75%.

(2) Graduated fixed tax on certain specific businesses, such as restaurants (ranging from ₱30 to ₱750, plus ₱5 for every ₱1,000 in excess of ₱50,000 of gross receipts) and service establishments (ranging from ₱25 to ₱7,500, plus ₱50 for every ₱10,000 in excess of ₱500,000 of gross receipts).

(3) Fixed tax on certain establishments, such as breweries, amusement places, golf courses, and security agencies.

Cities

Any of the taxes and fees which provinces and municipalities may impose, plus not more than 50% of the maximum rates allowed for provinces and municipalities, except that the rates for occupation tax, amusement tax, and fees for sealing and licensing of weights and measures are uniform for cities and provinces.

Barrios

A tax not exceeding 25% of that charged by cities or 10% of that charged by municipalities on billboards and signboards.

Limitations. Among the taxes that may not be imposed by local governments are: income tax; estate and gift taxes; documentary stamp tax; taxes on forest products and forest concessions; taxes on banks and insurance companies; export tax on Philippine finished, manufactured, or processed products and products of Philippine cottage industries; customs duties; taxes on mines, mining operations, and minerals and their by-products when sold domestically by the operator; and percentage taxes on sales except as otherwise provided in the Code (1.04).

Metropolitan Manila. Presidential Decree No. 823, as amended by Presidential Decree No. 921, integrated various cities and municipalities in the Greater Manila Area into a public corporation, known as Metropolitan Manila, to be administered by a Commission, which has the power to levy taxes. The taxes and fees that provinces may impose with respect to the territories of municipalities integrated

into the Metropolitan Manila area were generally transferred to the Commission, subject to the provisions of the Local Tax Code.

13.04 Local Taxes on Real Property

Owners of land, buildings, machinery, and improvements thereon are required to pay real estate taxes to the province or city where the property is located. The rates are based on the assessed value of the property and vary slightly from one province or city to another, except in the case of timber and forest lands where the uniform rate is 1% for cities and one-half of 1% each for a province or municipality or a combined rate of 1% for both.

The assessed value is generally 50% of the fair market value of commercial, industrial, or mineral land; 40% for agricultural land, timber, and forest land; and 30% for residential land. Assessments for all improvements are at their current values, but such values may not be lower than those prescribed for land; nor more than 80% of the fair market value, except for residences whose assessments may range from 15% to 80% of fair market value.

The assessed value of land, buildings, and other improvements used exclusively for educational, cultural, and scientific purposes is 15% of their fair market value; for lands and improvements used exclusively for recreational purposes, the assessed value is 30%.

A uniform annual tax of 1% of the assessed value of real property is levied in addition to the regular (basic) real property tax. However, the total real property taxes may not exceed 3% of the total assessed value of the real property, and the additional real property tax may be collected only if the total assessed value of the real property is more than ₱3,000. The basic and additional real property tax may be paid in four equal instalments.

Land and improvements used exclusively for educational, cultural, or scientific purposes are exempt from the additional 1% tax, but such properties within Metropolitan Manila are subject to an additional realty tax of one-eighth of 1%.

The President may authorize local government units to impose an additional realty tax not exceeding 2% of the assessed value of idle private land. Machinery used in a new and preferred industry, as certified by the Board of Investments, for industrial, agricultural, manufacturing, or mining purposes is exempt from the realty tax during the first three years of use.

13.05 Miscellaneous Taxes

Privilege Taxes. An annual tax for the privilege of conducting a business enterprise is payable by both corporations and individuals. The

tax is a flat rate of ₱50 for most businesses subject to the manufacturers' or producers' sales tax referred to at 13.01. For businesses not subject to the sales tax, privilege tax is ordinarily determined at graduated rates based on gross annual sales in the preceding calendar year. The graduated annual fixed tax ranges from ₱20 to ₱38,000 for gross annual sales not exceeding ₱10,000,000. If the gross annual sales exceed ₱10,000,000, the graduated fixed tax is ₱38,000, plus ₱1,000 for every ₱1,000,000 of gross sales in excess of ₱10,000,000, but limited to a maximum tax of ₱50,000. The tax does not apply to merchandise sold in the same form in which it was imported or to export sales if the manufacturer is the exporter.

Special rates apply to certain types of businesses, including distillers, alcoholic beverage dealers, lending investors, dealers in tobacco products, banks, insurance companies, real estate dealers, dealers in securities, operators of rice or corn mills, and operators of theaters, amusement places, night clubs, and cockpits.

All privilege taxes are payable annually on or before January 31. Any new business must pay the tax before starting operations.

Percentage Gross Receipts Taxes. Percentage or miscellaneous tax is imposed on the gross receipts of specific business activities. The following are examples of percentage or miscellaneous tax rates:

Type of Business	Tax Rate
Banks	5% of gross receipts
Insurance companies doing business in the Philippines (except purely cooperative companies or associations)	4% of premiums collected
Mining companies	2% of the market value of the gross output of mineral lands not covered by lease, except gold which is taxed at 1½%
Common carriers (air, sea, or land, except bancas and animal-drawn, two-wheeled vehicles)	2% of gross receipts
Indentors or brokers	6% of gross compensation
Contractors, business agents, service businesses, and lessors of personal property (except individuals subject to occupation tax)	3% of gross receipts

Type of Business	Tax Rate
Owners or operators of rope factories, coconut oil mills, and desiccated coconut factories (unless products are exported)	2% of the gross money value of the articles produced, including the value of any by-products
Agricultural food and nonfood products, whether or not in their original state.	1% of gross selling price
Processors of meat, milk, vegetables, fish and other sea foods, wheat flour, producers of poultry and animal feeds, and local manufacturers of medicines, laundry soap and detergents, writing pads, notebooks, lead pencils, and cement	5% of the gross money value of the articles produced
Finance companies	5% of gross receipts
Dealers in securities	3% of gross income
Lending investors	3% of gross income

Documentary and Science Stamp Taxes. Documentary stamps must be attached to certain instruments used in business transactions. The following are some of the documents for which documentary stamps are required;

Document	Tax
Bank checks	₱0.15 for each check, regardless of amount
Bonds, debentures, or certificates of indebtedness	₱0.65 for every ₱200 face value or fraction thereof
Certificates of stock	₱1.10 for each ₱200 par value (actual consideration, in case of no par stock) or fraction thereof. On transfers, the tax is ₱0.25 for every ₱200 par value or fraction (20% of the tax paid on original issue, in the case of no par stock)
Deeds of sale and conveyances of real property	₱2.00 for consideration between ₱200 and ₱1,000, and ₱8.00 for each additional ₱1,000 or fraction
Negotiable promissory notes	₱0.10 for every ₱200 of face value or fraction

Documentary stamp taxes are also collected on bills of lading, acceptances, drafts and other bills of exchange, insurance policies, warehouse and hotel receipts, mortgages and deeds of trust, powers of attorney, and other documents. Additional documentary stamp taxes are imposed on registration of privately owned passenger automobiles, motorcycles, scooters, and jeeps.

Science stamp tax been abolished. Presidential Decree No. 1457 consolidated this tax in higher rates for the documentary stamp taxes.

Export Tax. Tariffs are levied on the export of the following products: logs, lumber, veneer, plywood, iron, chromite, gold, bunker fuel oil, petroleum pitch, strip hemp (unmanufactured), bananas, copra, coconut oil, copra meal or cake, desiccated coconut, sliced or crushed pineapple, pineapple juice or juice concentrate, centrifugal sugar, molasses, tobacco leaf, scrap tobacco, shrimp, and prawns. The export tariff on wood products has been suspended since 1974; and the tariff on gold has been suspended indefinitely since 1975.

The President, upon recommendation of the National Economic and Development Authority, may change the rates, may add or exempt any product from tariff, and may impose an export quota on any product.

The tariff rate is generally 4% of the gross f.o.b. value at the time of shipment based on the prevailing rate of exchange, except for copra and centrifugal sugar which have a rate of 6%, and logs of 10%.

In addition to the export tariff, a premium duty is assessed on the difference between the current price of certain products subject to export tariff and their base price. The base price is 80% of the f.o.b. value of the export products established by the Bureau of Customs in February 1974. The rate of the premium duty is 20%, except for copra and logs whose rate is 30%.

Should the current price fall below the base price, no premium duty will be collected. At present, several export products are not subject to the premium duty since the current price is below the base price.

Travel Tax. A travel tax is imposed on departing passengers who are citizens of the Philippines, permanent resident aliens, and non-immigrant aliens who have been in the Philippines for more than one year. The rates are ₱1,000 for first class and ₱600 for economy class; for certain travelers, including contract workers and persons traveling for the first time as immigrants, the rates are ₱400 for first class and ₱300 for economy. Among the exemptions from the travel tax are alien employees of regional offices established under Presidential Decree No. 218.

Residence Tax. An annual residence tax is imposed on both corporations and individuals. The minimum tax for corporations is ₱50. The tax is increased ₱2 for every ₱5,000 in value of real property owned and for every ₱5,000 of gross earnings derived from business in the Philippines. The maximum tax is ₱6,000.

The minimum tax on individuals is ₱1.00. The tax is increased ₱2 for every ₱5,000 of real property in excess of ₱10,000 and ₱2 for every ₱5,000 of gross earnings in excess of ₱10,000 derived from business in the Philippines. If the gross earnings are derived from salaries and wages, the increase in tax is ₱1 for each ₱1,000. The maximum annual tax for an individual is ₱3,000.

Stock Transaction Tax. Republic Act No. 6141, as amended by Presidential Decree No. 779, imposes a tax of one-quarter of 1% on the sale, exchange, or other transfer of ownership of any shares of stock acquired on or after November 5, 1970. The tax is based on the gross selling price or fair market value paid by the seller or transferor. However, any capital gain arising from the stock transfer on which the one-quarter of 1% tax has been paid is exempt from ordinary income tax on the capital gain.

Since January 1, 1976 and until recently, in addition to the one-quarter of 1% tax, any capital gain arising from the stock transaction which was derived from Philippine sources had been subject to the following preferential tax rates:

Amount of Gain	**Tax Rate (%)**
Not over ₱10,000	10
Over ₱10,000, but not over ₱15,000	12
Over ₱15,000, but not over ₱20,000	14
Over ₱20,000, but not over ₱35,000	17
Over ₱35,000, but not over ₱50,000	20
Over ₱50,000	25

However, the President, under Presidential Decree No. 1116, suspended indefinitely the above graduated capital gains tax. Even if the tax were in effect, any nonresident investor buying or selling Philippine shares listed on a foreign currency board of any stock exchange would be subject to the one-quarter of 1% tax and would not be taxed on the capital gain as an item of ordinary income.

The stock transaction tax is not imposed on issuance by a corporation of original or additional shares of stock; donations to any educational or charitable institution, foundation, trust, or philanthropic organi-

zation; exchanges of shares in a tax-free merger or consolidation; transfer of shares by hereditary succession; or sales or transfers of shares acquired before November 5, 1970.

Money Market Transaction Tax. Presidential Decree No. 1158 imposes a final transaction tax of 35% on the gross interest paid on commercial paper sold in the primary market as money market instruments (5.02). The Decree defines commercial paper broadly. Principally, commercial paper is promissory notes and/or similar instruments issued in the primary market and not including repurchase agreements, certificates of assignments, certificates of participation, and such other debt instruments issued in the secondary market. In the implementing regulations, certain issues of commercial paper are initially not covered by the tax, such as instalment loans for financing consumer goods, capital goods financing, traditional borrowing through loans and discount financing (including promissory notes covering loans secured from the Government Service Insurance System, Social Security System and similar institutions), IOUs issued to pawnshops, and non-corporate issues of commercial paper.

The 35% transaction tax is a final tax paid by the borrower (not the lender who earns the interest) within five working days from issuance of the commercial paper. The tax is allowed as a deduction from the borrower's gross income. Interest earned on commercial paper subject to the transaction tax is not included in the gross income of the lender for purposes of income taxation. The tax becomes due once the promissory note is issued, renewed, or extended, regardless of the manner of payment of interest agreed upon. If no interest rate is stated or if the stated rate is lower than the prevailing interest rate at the time of issuance, renewal, or extension, the Commissioner of Internal Revenue, upon consultations with the Monetary Board of the Central Bank, may adjust the interest rate and assess the tax accordingly.

Employment Taxes

14.01 Social Security System

Under the Social Security System (SSS) of the Philippines, every employee between the ages of 16 and 60, as well as every employer, is required to contribute to a fund to protect employees against the hazards of disability, sickness, old age, and death. The government assists by guaranteeing the benefits and by annual appropriations to meet the expenses of the SSS.

Compulsory coverage starts when the employer's operations begin and when an employee starts working. The SSS is financed through monthly contributions by employer and employee. The employer's contributions and the amounts withheld from the monthly earnings of the employee are based on a contribution schedule (Rate Tables). For instance, an employee earning ₱900 a month pays ₱29.20 through payroll deductions and the employer pays ₱40.80. The employer's contributions are deductible for income tax purposes, but the employee's contributions are not deductible.

Contributions must be remitted monthly by the employer. A penalty of 3% per month is levied on delinquent payments. Payment may be enforced in the same manner as for unpaid income taxes under the Internal Revenue Code.

Of the funds collected by the SSS, a certain portion is reserved for payment of the benefits and another portion is used to pay operating expenses. However, a major portion is invested in profit-making enterprises to provide increased benefits for the future.

Several categories of employees are exempt from the tax, including agricultural leasehold tenants, domestic servants, government employees, students employed in school, employees of a foreign government, student nurses, and individuals whose employer is a parent, spouse, or child.

14.02 Medicare

A medical care plan (Medicare) has been adopted that is expected gradually to provide complete medical services for all Filipinos. Medicare coverage is compulsory and automatic for all employees covered by the SSS. Covered employers and employees are required to make equal monthly contributions to a medical care plan which is administered by the Philippine Medical Care Commission (Rate Tables). The employer withholds the employee's contribution from his monthly salary and remits it, together with his own contribution, to the SSS.

14.03 Employees' Compensation Program and Maternity Contributions

Under the Employees' Compensation Program of the Labor Code, employees must be compensated for sickness, injury, or death occurring in the course of employment, with the exception of injuries resulting from an employee's willful intention to injure himself or others, for injuries to an employee caused solely by his drunkenness, or for his notorious negligence. The compensation program provides medical, rehabilitation, and burial services as well as disability or death benefits.

Coverage under the program is compulsory for every employer with at least one employee. Monthly contributions are paid solely by the employer at the rate of 1% of the employee's total monthly salary credit (Rate Tables), but not exceeding ₱10 per month.

Presidential Decree No. 1202, dated September 27, 1977, amended the Social Security Law by integrating maternity benefits into the SSS. Female employees who are covered by the SSS will receive certain maternity benefits. All employers are required to remit to the SSS, every month, maternity contributions equivalent to 0.4% of the monthly salary credit for every employee, both male and female. The combined monthly contributions by the employer for employees' compensation and maternity benefits are shown in the Rate Tables.

Estate and Gift Taxes

15.01 Rates and Structure

Philippine laws levy taxes on both estates and gifts. The estate tax is an excise tax imposed on the transfer of the decedent's property at death. The donor's tax is imposed on the transfer of property by gifts during one's lifetime. The tax basis for estate tax purposes is generally the fair market value of the property at the time of death or, at the taxpayer's option, six months thereafter. If the decedent had made a gift within three years of the date of death, there is a presumption (which is rebuttable) that such gift was in contemplation of death and is includable in the estate. The gift tax is based on the fair market value at the time of the gift. The estate and gift tax rates are set forth in the Rate Tables. The gift tax rates are lower, representing only 60% of the estate tax rates. Gifts are treated separately each year, without regard to those made in previous years.

The Tax Code allows a number of deductions from the gross estate of the decedent, such as funeral expenses up to 5% of the gross estate, but not in excess of ₱50,000; legal expenses of testamentary or intestate proceedings; claims against the estate; unpaid mortgages; administration expenses; losses from casualties or from robbery, theft, or embezzlement, if such losses are not covered by insurance or otherwise compensated; property previously subject to estate or gift taxes; and transfers for public purposes. After the allowable deductions, the one-half share of the surviving spouse in the conjugal partnership property is deducted and the remainder is subject to the estate tax.

Where the gross value of the estate exceeds ₱3,000, a preliminary notice must be filed with the Commissioner within two months after the decedent's death. The estate tax return must be filed within six months after the decedent's death, but if judicial testamentary or intestate proceedings are instituted to settle the decedent's estate prior to the expiration of the six months, the return must be filed within 12 months after the decedent's death. The estate tax must be paid within nine months of the decedent's death, but if judicial testamentary or intestate proceedings are instituted to settle the decedent's estate prior to the expiration of six months after his death, the estate tax becomes payable within 21 months after the decedent's death.

If a bank has knowledge of the death of a person who maintained a joint account or deposit with another person, it should not allow any withdrawal by the surviving depositor unless the Commissioner of Internal Revenue has certified that the taxes thereon have been paid. Thus, all withdrawal slips must contain a statement by the depositor, under oath, to the effect that all of the joint depositors are alive whenever a withdrawal is made by any one of them.

The gift tax return must be filed within 30 days after the gift is made and the donor's tax must be paid when the return is filed.

15.02 Effect of Domicile

The estate of a citizen or resident includes all real and personal property, whether tangible or intangible or mixed, wherever situated. The estate of a nonresident alien includes only those assets situated within the Philippines; real and personal property situated outside the Philippines is not included in the estate. The term "residence" is interpreted as being synonymous with the term "domicile;" that is, a place where one resides permanently or to which he intends eventually to return. Allowable deductions for estates of nonresidents are limited to that portion which the estate situated in the Philippines bears to the total estate wherever situated.

The estate of a nonresident alien decedent is subject to tax only on assets situated in the Philippines. For this purpose, assets situated in the Philippines include:

(a) Real property or tangible personalty located in the Philippines

(b) Securities and other obligations issued by a foreign corporation if 85% or more of its business is located in the Philippines, or if its documents have acquired a "business situs in the Philippines." A "business situs in the Philippines" means that the securities or other obligations issued by the foreign corporation are more or less permanently located in the Philippines as contrasted with their being in transit or located in the Philippines for only a short time.

(c) A franchise that must be exercised in the Philippines

(d) Shares or rights in a partnership or other business established in the Philippines

The Tax Code provides for deductions, within certain limits, from the estates of nonresident aliens.

If a decedent is a resident of a foreign country at the time of death, a reciprocity clause in the Code provides an exemption from Philippine estate or inheritance taxes on his intangible personal property, if either of the following conditions exists:

(a) The foreign country in which the decedent was a resident does not impose a transfer tax or death tax of any character in respect of intangible personal property of citizens of the Philippines not residing in that foreign country.

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

By virtue of Presidential Decree No. 1457, dated June 11, 1978, the Code now allows a tax credit for estate taxes paid to a foreign country. However, the tax credit is subject to each of the following limitations:

(a) The credit for the tax paid to any country may not exceed the proportion of the tax from which such credit is taken, which the decedent's net estate situated within such country and taxable under that country's estate tax laws bears to his entire net estate; and

(b) The total credit may not exceed the same proportion of the tax against which such credit is taken that the decedent's net estate outside the Philippines, which is taxable under the estate tax laws, bears to the decedent's entire net estate.

Part 4:
Rate Tables, Bibliography and Appendices

Income Taxes—Individuals

Taxable Income Over (₱)	Taxable Income Not Over (₱)	Bracket (₱)	Rate of Tax (%)	Tax on Bracket (₱)	Cumulative Tax (₱)
	2,000	2,000	3	60	60
2,000	4,000	2,000	6	120	180
4,000	6,000	2,000	9	180	360
6,000	8,000	2,000	12	240	600
8,000	10,000	2,000	14	280	880
10,000	12,000	2,000	16	320	1,200
12,000	14,000	2,000	18	360	1,560
14,000	16,000	2,000	20	400	1,960
16,000	18,000	2,000	22	440	2,400
18,000	20,000	2,000	24	480	2,880
20,000	24,000	4,000	27	1,080	3,960
24,000	28,000	4,000	30	1,200	5,160
28,000	32,000	4,000	33	1,320	6,480
32,000	36,000	4,000	36	1,440	7,920
36,000	40,000	4,000	39	1,560	9,480
40,000	46,000	6,000	42	2,520	12,000
46,000	52,000	6,000	44	2,640	14,640
52,000	58,000	6,000	46	2,760	17,400
58,000	64,000	6,000	48	2,880	20,280
64,000	70,000	6,000	50	3,000	23,280
70,000	78,000	8,000	52	4,160	27,440
78,000	86,000	8,000	54	4,320	31,760
86,000	94,000	8,000	56	4,480	36,240
94,000	102,000	8,000	57	4,560	40,800
102,000	110,000	8,000	58	4,640	45,440
110,000	120,000	10,000	59	5,900	51,340
120,000	130,000	10,000	60	6,000	57,340
130,000	140,000	10,000	61	6,100	63,440
140,000	150,000	10,000	62	6,200	69,640
150,000	160,000	10,000	63	6,300	75,940
160,000	180,000	20,000	64	12,800	88,740
180,000	200,000	20,000	65	13,000	101,740
200,000	250,000	50,000	66	33,000	134,740
250,000	300,000	50,000	67	33,500	168,240
300,000	400,000	100,000	68	68,000	236,240
400,000	500,000	100,000	69	69,000	305,240
500,000	—	—	70	—	—

Income Taxes—Corporations

Domestic corporations:	
Corporation in general:	
On first ₱100,000	25%
On excess over ₱100,000	35%
Personal holding company	Usual income tax rates plus 45% of undistributed income
Mutual life insurance companies	10% of gross investment income
Branch profits	Same as domestic corporations, plus 15% of remittances to its head office
Foreign corporations:	
Engaged in trade or business in the Philippines	Same as domestic corporations
Not engaged in trade or business in the Philippines	35% of gross income
Nonresident movie owners, lessors, and distributors	25% of gross income
International transportation companies	2½% of gross Philippine billings
Interest income of a foreign nonresident company	15% of gross interest

Social Security Contribution Schedule

Salary Bracket	Range of Compensation (₱)	Monthly Salary Credit (₱)	Employer's Contribution (₱)	Employee's Contribution (₱)	Total Contribution (₱)
I	1- 49.99	25	1.40	.40	1.80
II	50- 99.99	75	3.50	1.80	5.30
III	100-149.99	125	5.10	3.60	8.70
IV	150-199.99	175	7.20	5.00	12.20
V	200-249.99	225	9.20	6.50	15.70
VI	250-349.99	300	12.30	8.70	21.00
VII	350-499.99	425	17.40	12.40	29.80
VIII	500-699.99	600	24.50	17.50	42.00
IX	700-899.99	800	32.70	23.30	56.00
X	900-upward	1,000	40.80	29.20	70.00

Estate Tax Rates

Net Taxable Estate (₱)	Tax on Lower Amount (₱)	Percentage of Excess over Lower Amount
0- 10,000	None	None
10,000- 50,000	None	3
50,000- 75,000	1,200	4
75,000- 100,000	2,200	5
100,000- 150,000	3,450	10
150,000- 200,000	8,450	15
200,000- 300,000	15,950	20
300,000- 400,000	35,950	25
400,000- 500,000	60,950	30
500,000- 625,000	90,950	35
625,000- 750,000	134,700	40
750,000- 875,000	184,700	45
875,000-1,000,000	240,950	50
1,000,000-2,000,000	303,450	53
2,000,000-3,000,000	833,450	56
3,000,000-upward	1,393,450	60

Donor's (Gift) Rates

Net Taxable Gift (₱)	Tax on Lower Amount (₱)	Percentage of Excess over Lower Amount
0- 1,000	None	None
1,000- 50,000	None	1.5
50,000- 75,000	735	2.5
75,000- 100,000	1,360	3
100,000- 150,000	2,110	6
150,000- 200,000	5,110	9
200,000- 300,000	9,610	12
300,000- 400,000	21,610	15
400,000- 500,000	36,610	18
500,000- 625,000	54,610	21
625,000- 750,000	80,860	24
750,000- 875,000	110,860	28
875,000-1,000,000	145,860	32
1,000,000-2,000,000	185,860	36
2,000,000-3,000,000	545,860	38
3,000,000-upward	925,860	40

Medical Care Contributions

Monthly Salary Wage or Earnings (₱)	Covered Wage (₱)	Employer's Contribution (₱)	Employee's Contribution (₱)
Below 49.99	25.00	0.30	0.30
50.00- 99.99	75.00	0.95	0.95
100.00-149.99	125.00	1.55	1.55
150.00-199.99	175.00	2.20	2.20
200.00-249.99	225.00	2.80	2.80
250.00-upward	300.00	3.75	3.75

Combined Employees' Compensation (EC) and Maternity Contributions

Salary Bracket Number	Range of Compensation (₱)	Monthly Salary Credit (₱)	EC (₱)	Maternity (₱)	Combined EC & Maternity (₱)
I	1- 49.99	25	.25	.10	.35
II	50- 99.99	75	.75	.30	1.05
III	100-149.99	125	1.20	.50	1.70
IV	150-199.99	175	1.75	.70	2.45
V	200-249.99	225	2.25	.90	3.15
VI	250-349.99	300	3.00	1.20	4.20
VII	350-499.99	425	4.25	1.70	5.95
VIII	500-699.99	600	6.00	2.40	6.40
IX	700-899.99	800	8.00	3.20	11.20
X	900-upward	1,000	10.00	4.00	14.00

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Matic, Taxation in the Philippines (1973)

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Paras, Fundamentals of Taxation (1968)

Teodoro, The Law on Income Taxation (1974)

Specimen Tax Computation of a Philippine Corporation

	Income per books		₱383,317
Deduct:			
	Interest on tax-exempt securities	₱ 2,000	
	Dividends subject to 10% final tax	7,500	
	Bad debts charged to allowance for doubtful accounts	5,393	14,893
			368,424
Add:			
	Provision for bad debts	₱17,893	
	Provision for doubtful notes receivable	1,800	
	Loss on sale of investments	1,938	21,631
	Taxable income		₱390,055
Tax:			
	₱100,000 × 25%		₱ 25,000
	290,055 × 35%		101,519
	₱390,055		₱126,519

Taxes on Representative Earned Incomes

(Assuming Standard Deduction)

Earned Income (₱)	**Single Person (₱)**	**Married Couple (no children) (₱)**	**Married Couple (2 children) (₱)**
20,000	2,004	1,760	1,380
40,000	7,272	6,840	6,150
60,000	15,192	14,640	13,760
80,000	24,944	24,320	23,280
100,000	35,792	35,120	34,000
120,000	47,328	46,620	45,440
140,000	59,292	58,560	57,340
160,000	71,656	70,900	69,640
180,000	84,388	83,620	82,340
200,000	97,320	96,540	95,240
220,000	110,452	109,660	108,340
240,000	123,652	122,860	121,540
260,000	136,884	136,080	134,740
280,000	150,284	149,480	148,140
300,000	163,684	162,880	161,540

Comparative Tables of Incentives Available Under the Agricultural Investments Incentives Act, Investment Incentives Act, and Export Incentives Act

Guarantees and Incentives	Agricultural Investments Incentives Act		
	Philippine-Owned		Foreign-Owned
	Pioneer	Non-Pioneer	Pioneer
Registered Enterprises			
A. Rights and Guarantees to Registered Enterprises			
1. Basic rights and guarantees provided in the Constitution	x[1]	x	x
2. Right to repatriate investments and remit earnings[2]	x	x	x
3. Right to remit foreign exchange to service foreign loans and obligations arising from technological assistance contracts[2]	x	x	x
4. Freedom from expropriation	x	x	x
5. Freedom from requisition of investments	x	x	x
B. Incentives to Registered Enterprises			
1. Deduction of organizational and pre-operating expenses from taxable income over a period of not more than 10 years from start of operation	x	x	x
2. Accelerated depreciation	x	x	x
3. Carryover of net operating losses during the first ten years of operation up to six years following year of loss	x	x	x

Notes begin on page 98.

Investment Incentives Act			Export Incentives Act			
Philippine-Owned		Foreign-Owned	Export Producer			
Pioneer	Non-Pioneer	Pioneer	Pioneer	Non-Pioneer	Export Trader	Service Exporter
x	x	x	x	x	x	x
x	x	x	x	x	x	x
x	x	x	x	x	x	x
x	x	x	x	x	x	x
x	x	x	x	x	x	x
x	x	x				
x	x	x				
x	x	x	x[3]	x[3]	x[3]	

(continued)

Guarantees and Incentives	Agricultural Investments Incentives Act		
	Philippine-Owned		Foreign-Owned
	Pioneer	Non-Pioneer	Pioneer
4. Full or partial exemption from tariff duties and compensating tax on imports of capital equipment. However, P.D. No. 1352, as amended by P.D. No. 1395, has imposed a 5% customs duty and a 5% internal revenue tax on all imports that currently enjoy full or partial exemption from duty and/or tax. This includes registered enterprises under P.D. 1159, R.A. 5186, and R.A. 6135.	x[4,7]	x[5,6,7]	x[4,7]
5. Tax credit on domestic capital equipment equivalent to 100% of the value of compensating tax and customs duties that would have been paid on the capital equipment had it been imported.	x	x	x
6. Tax exemption on imported breeding stocks and genetic materials	x	x	x
7. Tax credit for tax withheld on interest payments on foreign loans provided such credit is not enjoyed by lender in his country and registered enterprise has assumed liability for tax payment	x	x	x
8. Right to employ foreign nationals in supervisory, technical, or advisory positions within five years from registration	x	x	x[10]
9. Deduction from taxable income in the year the investment was made of a certain percentage of the amount of undistributed profits or surplus transferred to capital for procurement of machinery and equipment, breeding stocks and genetic materials, and other expansion	x	x	x

Notes begin on page 98.

Investment Incentives Act			Export Incentives Act			
Philippine-Owned		Foreign-Owned	Export Producer			
Pioneer	Non-Pioneer	Pioneer	Pioneer	Non-Pioneer	Export Trader	Service Exporter
X[4,7]	X[5,6,7]	X[4,7]	X[4,7,8]	X[5,6,7,8]		X[21]
X	X	X	X[8]	X[8]		X[21]
X	X	X				
X	X	X[10]	X[10]	X		
X	X	X	X[8]	X[8]		

(continued)

Guarantees and Incentives	Agricultural Investments Incentives Act		
	Philippine-Owned		Foreign-Owned
	Pioneer	Non-Pioneer	Pioneer
10. Anti-dumping protection	x	x	x
11. Protection from government competition			
12. Additional deduction from taxable income of one-half of the value of labor training expenses but not exceeding 10% of direct labor wages	x	x	x
13. Additional deduction from taxable income equivalent to 25% of research and development expenses and 25% of the management training expenses of Philippine nationals but not exceeding 10% of taxable income	x	x	x
14. Additional incentives whenever a registered enterprise establishes its production, processing, or manufacturing plants in an area the Board of Investments designates as necessary for proper dispersal of industry or which is deficient in infrastructures and public facilities	x[11]	x[11]	x[11]
15. Additional deduction from taxable income of an amount not exceeding 30% of freight and transportation expenses	x	x	x
16. Exemption from all taxes under the National Internal Revenue Code, except income tax, on a diminishing percentage	x		x
17. Post-operative tariff protection	x		x
18. Tax credit equivalent to sales, compensating and specific taxes and duties on the supplies, raw materials and semi-manufactured products used in the manufacture, processing, or production of exported products	x	x	x

Notes begin on page 98.

Investment Incentives Act			Export Incentives Act			
Philippine-Owned		Foreign-Owned	Export Producer			
Pioneer	Non-Pioneer	Pioneer	Pioneer	Non-Pioneer	Export Trader	Service Exporter
x	x	x	x[8]	x[8]		
x	x	x	x[8]	x[8]		
x	x	x	x[8]	x[8]		
			x[12]	x[12]		
x		x	x			
x		x	x			
x	x	x	x	x	x	x[9]

(continued)

Appendix C
(continued)

Guarantees and Incentives	Agricultural Investments Incentives Act		
	Philippine-Owned		Foreign-Owned
	Pioneer	Non-Pioneer	Pioneer
19. For the first five years from registration, deduction from taxable income of direct labor cost and local raw materials utilized in the manufacture of exported products, but not exceeding 25% of total export revenues	x[13]	x[13]	x[13]
20. Simplified export procedures	x	x	x
21. Preference in granting of government loans	x	x	
22. Exemption from export tax, impost, or fee including stabilization tax			
23. For the first five years from registration, deduction from taxable income of 10% of total export sales			
24. For the first five years from registration, an additional deduction from taxable income of 1% of total export sales			
25. For the first five years from registration, deduction from taxable income of 50% of total export fees during the year in which the incentive is claimed			
26. Private financial assistance	x[16]	x[16]	x[16]
II. Investors in Registered Enterprises			
Incentives to Investors			
1. Basic rights and guarantees provided in the Constitution	x	x	x
2. Right to repatriate investments and remit earnings[2]	x	x	x
3. Right to remit foreign exchange to service foreign loans and obligations arising from technological assistance contracts[2]	x	x	x

Notes begin on page 98.

Investment Incentives Act			Export Incentives Act			
Philippine-Owned		Foreign-Owned	Export Producer			
Pioneer	Non-Pioneer	Pioneer	Pioneer	Non-Pioneer	Export Trader	Service Exporter
X[13]	X[13]	X[13]	X	X[14]		
X	X	X	X	X	X	X
X	X		X[8,22,23]	X[8,22,23]	X[22,23]	X[22,23]
			X	X	X	
					X	
					X[15]	
						X
X[17]	X[17]	X[17]				
X	X	X	X	X	X	X
X	X	X	X	X	X	X
X	X	X	X	X	X	X

(continued)

Guarantees and Incentives	Agricultural Investments Incentives Act		
	Philippine-Owned		Foreign-Owned
	Pioneer	Non-Pioneer	Pioneer
4. Freedom from expropriation	x	x	x
5. Freedom from requisition of investments	x	x	x
6. Protection of patents and other proprietary rights	x	x	x
7. Capital gains tax exemption	x[18]	x	x[18]
8. Tax allowance for investments	x[19]		x[19]
9. Tax exemption on sale of stock dividends provided sale occurs within seven years from date of registration	x[20]		x[20]
10. Granting of GSIS and SSS loans to members for purchase of shares of registered enterprises	x	x	x

Notes begin on page 98.

Investment Incentives Act			Export Incentives Act			
Philippine-Owned		Foreign-Owned	Export Producer			
Pioneer	Non-Pioneer	Pioneer	Pioneer	Non-Pioneer	Export Trader	Service Exporter
x	x	x	x	x	x	x
x	x	x	x	x	x	x
x	x	x	x	x	x	x
x[18]	x	x[18]	x[18]	x	x	x
x[19]		x[19]	x[19]			
x[20]		x[20]	x[20]			
x	x	x	x[8]	x[8]		

(continued)

Notes to Comparative Tables of Incentives Available Under the Agricultural Investments Incentives Act, Investment Incentives Act, and Export Incentives Act

1. The granting of incentive is indicated by the mark X.

2. Subject to Section 74 of R.A. 265 (Central Bank Act).

3. Applicable whenever a registered export producer or export trader shall use a new brand name for an export product that distinguishes it from products produced outside the Philippines. An alternative incentive is deduction from taxable income of 1% of the increment of export sales during the year in which the incentive is claimed to the export sales of the preceding year.

4. Full tax exemption is applicable to new or expanding pioneer projects with less than 20% return on equity.

5. Full tax exemption is extended to new preferred non-pioneer enterprises with projected total assets of less than ₱500,000 for the first two years of commercial operations and expansion of non-pioneer projects where the sum of the existing and projected assets is less than ₱500,000 for the first two years of expanded commercial operations and the rate of return is less than 20%.

6. Partial exemption to the extent of 40% to 60% of applicable duty/tax is applicable to new non-pioneer enterprises with total assets or projected total assets of ₱500,000 or more for the first two years of commercial operations and expansion of non-pioneer projects where the sum of existing and projected assets is ₱500,000 or more for the first two years of expanded commercial operations and the rate of return on equity is less than 20%.

7. Mere deferment, not exemption, is given for replacement or modernization of existing facilities of pioneer or non-pioneer enterprises and expansion projects of registered enterprises, pioneer or non-pioneer, with 20% or greater return on equity.

8. In general, applicable to projects for expansion or upgrading of export products under list A of the Export Priorities Plan and to both pioneer and non-pioneer projects under list B.

9. Applicable only to service exporters producing and exporting television and motion picture or musical recordings.

10. When the majority of the capital stock of the pioneer enterprise is owned by foreign investors, the positions of president, treasurer,

(continued)

and general manager, or their equivalents may be retained by foreign nationals.

11. For a registered agricultural enterprise, the additional incentive consists of applying as tax payments an amount equivalent to 100% of necessary and major infrastructures and public facilities it may have undertaken. A similar incentive is granted if it undertakes necessary and major maintenance on such infrastructure works.

12. Additional incentives consist of any or all of the following:

(a) To use an amount equivalent to double the export producer's direct labor cost in reduced income tax incentive formula;

(b) To apply as tax payments an amount equivalent to 100% of necessary infrastructure undertaken by the export producer. A similar incentive is given to the export producer for undertaking necessary maintenance work on such infrastructure works equivalent to the cost of such necessary maintenance.

13. In the case of traditional exports, local raw material component is not included in the computation of said deduction.

14. Applicable to all registered export producers, except non-pioneer firms registered on the basis of exporting at least 70% of their total production.

15. For a period of five years after registration, an additional deduction of 1% of total export sales shall be allowed to a registered export trader who extends financial assistance to registered export producers in an amount equivalent to not less than 20% of the export trader's total export sales during the year.

16. Registered agricultural enterprises may be included as beneficiaries of 10% of a banking institution's loanable funds set aside for agrarian reform credit.

17. Financial assistance is in the form of investments by insurance companies as allowed by the Insurance Commission.

18. For Philippine nationals investing in a pioneer enterprise, whether the latter is controlled by Philippine nationals or not, the investment may be made in new issues of the capital stock or in the purchase of stock owned by foreigners in such enterprise.

(continued)

19. The incentive is available only to Philippine nationals investing in a pioneer enterprise, whether the latter is controlled by Philippine nationals or not. The incentive consists of a deduction from taxable income to the extent of the actual investment paid in cash or property but in no case to exceed 20% thereof for investments made in a registered pioneer agricultural enterprise and 10% of taxable income for investments made in other registered pioneer enterprises.

20. The incentive is available only to Philippine nationals investing in a pioneer enterprise, whether the latter is controlled by Philippine nationals or not.

21. Same as No. 9, but limited to expansion projects only.

22. Applicable to enterprises at least 60% Philippine-owned.

23. Grant of incentives would depend on the extent of operations registered with the Board of Investments.