

PRESIDENTIAL DECREE NO. 1156, WITHHOLDING TAX ON INTEREST ON BANK DEPOSITS: REPERCUSSIONS, PROBLEMS AND ISSUES

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I. INTRODUCTION

"MAG-IMPOK SA BANGKO NANG UMUNLAD TAYO",¹ the slogan of one of the bigger banking institutions in the Philippines, summarizes accurately the importance of the role that banks and bank deposits play in the nation's quest for progress. It is for this reason, in the Philippines as elsewhere, the law extends to banks and their clients special treatment and protection.

On June 3, 1977 President Marcos promulgated several tax measures including the Tax Code of 1977, in a bid to raise more revenues with which to hasten the overall development of the country. One of these tax measures is Presidential Decree No. 1156, amending sections 30 and 53 of the National Internal Revenue Code which appears to alter in a substantial way the protected status of banks and bank deposits by imposing a withholding tax on the interest on savings and time deposits. The pertinent provision read as follows:

WHEREAS, interest on bank deposit is one of the items includible in gross income;

WHEREAS, many bank depositors fail to declare interest income in their income tax returns;

WHEREAS, in order to maximize the collection of the income tax on interest on bank deposits, it is necessary to apply the withholding system on this type of fixed or determinable income;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree the following:

SECTION 1. Section 30(b) of the National Internal Revenue Code is hereby amended to read as follows:

(b) *Interest:*

(1) *In General.*—The amount of interest paid within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations the interest upon

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¹ "Save in banks to generate progress".

which is exempt from taxation as income under this Title: *Provided, however*, that interest on deposits paid by authorized agent banks of the Central Bank of the Philippines to depositors shall be allowed as a deduction only if it is shown that the tax on such interest was withheld and paid in accordance with the provisions of Section 53 and 54 of this Code.

SEC. 2. Section 53 of the National Internal Revenue Code is hereby amended to read as follows:

SEC. 53. *Withholding tax at source.*—

(a) x x x

(b) x x x

(c) x x x

(d) x x x

(e) *Withholding tax on interest on bank deposits.*—(1) Rate of withholding tax.—Every bank or banking institution shall deduct and withhold from the interest on bank deposits (except interest paid or credited to nonresident alien individuals and foreign corporations), a tax equal to fifteen per cent of the said interest; *Provided, however*, that no withholding of tax shall be made if the aggregate amount of the interest on all deposit accounts maintained by a depositor along or together with another in any one bank at any time during that taxable period does not exceed three hundred fifty pesos a year or eighty-seven pesos and fifty centavos per quarter. For this purpose, interest on a deposit account maintained by two persons shall be deemed to be equally owned by them.

(2) *Treatment of bank deposit interest.*—The interest income shall be included in the gross income in computing the depositor's income tax liability in accordance with existing law.

(3) *Depositors enjoying tax exemption privileges or preferential tax treatment.*—In all cases where the depositor is tax-exempt or is enjoying preferential income tax treatment under existing laws, the withholding tax imposed in this paragraph shall be refunded or credited as the case may be upon submission to the Commissioner of Internal Revenue of proof that the said depositor is a tax-exempt entity or enjoys a preferential income tax treatment.

(4) *Manner of withholding.*—Without divulging the names of the depositors, the tax shall be withheld by the bank and paid in the same manner and subject to the same conditions provided in section 54 of this code.

(f) x x x

SEC. 3. *Effectivity.*—This Decree shall take effect and shall be applicable to interest on bank deposits accruing on or after the approval of this Decree.

Done in the City of Manila, this 3rd day of June, in the year of Our Lord, nineteen hundred and seventy-seven.

This law is peculiar to the Philippine setting. Extensive research has failed to lead to a similar law of any other country. The above presidential decree itself is new in the Philippines in the sense that it creates a novel

and peculiar mode of collecting a certain type of income (i.e., earnings from bank deposits) by withholding the tax at source.

This paper will attempt to present the nuances of Pres. Decree 1156, its repercussions, problems and issues.

II. RATIONALE FOR THE WITHHOLDING TAX AT SOURCE UNDER PRES. DECREE 1156

Why is the tax on interest on bank deposits withheld? Why is the withholding tax rate fifteen (15) per cent? Why is the withholding tax rate a flat rate proportional to the interest earning and not a progressive rate which increases as the interest base increases? Why is the withholding tax rate the same for both the savings and time deposits? Why is the interest paid or credited to nonresident alien individuals and foreign corporations excepted from the withholding tax? In withholding the tax and paying the same to the Bureau of Internal Revenue why should not the bank divulge the names of the depositor affected?

Presidential Decree No. 1156 spells the reason for the law: Interest on bank deposit is one of the items includible in gross income. Many bank depositors fail to declare interest income in their income tax returns. In order to maximize the collection of the income tax on interest on bank deposits, it is necessary to apply the withholding system on this type of fixed or determinable income.

... interest earnings were subject to tax but very few actually reported their interest earnings for tax purposes. The inability of the tax administration to reach this taxable income because of deliberate refusal or failure to disclose the same in the return had resulted in inequity in tax administration. Honest taxpayers were taxed on their interest earnings while those who preferred to remain anonymous got scotfree. Tax administration was therefore confronted with the enormous problem as to how all interest income earners could be made to declare their interest income. Interest earning derived from simple transactions was relatively easy to trace.²

The withheld taxes are estimated to increase the revenue of the government by ₱75 million a year.

Aside from maximizing the collection of the income tax on bank deposit interests, another reason given for the withholding tax is to insure the collection itself of the said tax. It is feared by the government that the public will invest their money on savings and time deposits, earn interest thereon, and get away with not paying their corresponding income tax liability. This fear is specially heightened by the fact that a transaction tax is now imposed on the gross amount of interest on every commercial paper issued in the primary market as principal instrument, by virtue of Presiden-

² Plana, *Comments on the New Presidential Decrees on Taxation*, Bulletin Today, July 6, 1977, p. 38.

tial Decree No. 1154. A ranking Bureau of Internal Revenue official told the media that "imposing (a) tax on money market earnings without a corresponding tax imposition on the earnings (interest) of savings and time deposits will surely kill the money market."³ Another newspaper also reported on the same point: "The B.I.R. has moved to tax interest payments made on money market investments but B.I.R. officials have expressed fear that this may cause investors to shift to time deposits and kill the money market, unless a way could also be found to tax interest earned by time deposits."⁴ Thus, a withholding tax on the interest on time deposits as well as on savings deposits was imposed by Pres. Decree 1156.

Why, then, is the withholding tax rate 15% under Pres. Decree 1156?

It was arrived at after considering two points: first, interest on foreign loans are taxed at 15%.⁵ Since bank deposits are considered as having the same nature as foreign loans, for both are sources of funds encouraged and needed by the government for financing development projects to boost the national economy of the country, the same rate was made applicable to bank deposit interests. Second, a profile study of depositors in the Philippines showed that 80% of such total depositors are average depositors. These average depositors are those having deposit accounts of ₱1,000 more or less. They control only 20% of the total deposits. The other 20% of the total depositors own 80% of the total deposits. Therefore, in order not to burden the average depositors, only deposits (the interest on which will be subject to withholding) amounting to more than ₱5,000, assuming an average interest rate of seven per cent on the deposit, are affected. Now, those with more than ₱5,000 worth of deposits are, from the profile study, income earners of ₱8,000 to ₱10,000 per annum. This ₱8,000 to ₱10,000 income bracket is taxed at 14%.⁶ And for purposes of conveniently computing tax to be withheld on interest on bank deposits, the rate of 15% was fixed.

Why is the withholding tax rate a flat rate proportional to the interest earning and not a progressive rate which increases as the interest base increase? This is so because the said tax is not a final tax. This means that the withholding tax imposed shall be allowed as a credit against the amount of income tax due from said depositor. The depositor still has the duty to include the interest income, from the bank deposits and other sources, in the gross income in computing his income tax liability in accordance with existing law.⁷ If the tax withheld from a depositor exceeds the income tax due from him, the excess shall be returned or credited to him subject

³ D. Pelayo, *Effects of New Tax Proposal: Savings, Time Deposits Won't be Spared*, Philippine Daily Express, April 18, 1977, p. 14.

⁴ *Tax on bank deposit interest under study*, Bulletin Today, April 17, 1977, p. 4.

⁵ Pres. Decree No. 131 (1973), amending secs. 24(b) and 53(b)(2) of the National Internal Revenue Code (NIRC) hereinafter referred to as the TAX CODE.

⁶ TAX CODE, sec. 21.

⁷ Pres. Decree No. 1156 (1976), sec. 2.

to the provisions of Section 295 of the Tax Code of 1977 (formerly sec. 309, NIRC). However, if the tax withheld is less than the tax due from the depositor, the difference shall be paid in accordance with the provisions of Section 51 of the Tax Code of 1977 (formerly sec. 51 of NIRC).⁸

Why is the withholding tax rate the same for both the savings and time deposits? It is the Central Bank policy to encourage more time deposits which at present represent only 2% of the total bank deposits.⁹

Why is the interest paid or credited to nonresident alien individuals and foreign corporations excepted from the withholding tax? Revenue Regulation No. 8-77 expounds on the exception made by Pres. Decree 1156 by providing in section 7 paragraph 2 that:

In the case of a non-resident alien individual and a non-resident corporation, the interest earned on bank deposits in foreign currency need not be declared as part of its gross income as the same is exempt from income taxation under existing laws.

The above-quoted section reveals that non-resident alien individuals and non-resident foreign corporations are exempt from the withholding tax only if their bank deposits are in foreign currency as the same are exempt from income taxation under existing laws.¹⁰ The support to this provision is found in section 3, paragraph 3(1) of the same Revenue Regulation which provides that:

The withholding tax herein imposed shall not apply to —
(i) interest on deposits in foreign currency under the Foreign Currency Deposit Law (R.A. 6426), the Offshore Banking Act (P.D. 1034) or the Expanded Currency Deposit Law (P.D. 1035).

x x x

The reason for the special treatment of foreign currency deposits or loans is the interest of the Philippines as a developing country to have as wide access as possible to the sources of capital funds for economic development.

⁸ Sec. 8, par. 2 of the Revenue Regulation No. 8-77.

⁹ From the *Highlights and Justification of the Proposal* made by the Bureau of Internal Revenue on the subject of: Proposal to withhold income tax from interest on savings and time deposits, May 31, 1977.

¹⁰ Rep. Act No. 6426 (1972), otherwise known as the Foreign Currency Deposit Law.

Sec. 6. The interest on deposits under this Act, belonging to non-residents not engaged in trade or business in the Philippines, shall be exempt from income tax.

Pres. Decree No. 1034 (1976), otherwise known as the Offshore Banking Act. Sec. 7(a). x x x Any income of non-residents from transactions with said offshore banking units shall be exempt from any tax.

Pres. Decree No. 1035 (1976), otherwise known as the Expanded Currency Deposit Law.

Sec. 2, par. 3. Income of non-residents not engaged in trade or business in the Philippines from foreign currency loans to depository banks under the expanded system shall be exempt from income tax.

In withholding the tax and paying the same to the Bureau of Internal Revenue, why should not the withholding bank divulge the names of the depositors affected? The reason is because these banks will not want to violate Republic Act 1405, known as the Secrecy of Bank Deposits Act, which is still a valid and binding law. The government itself enforces Republic Act 1405 by expressly providing in Pres. Decree 1156 that the tax shall be withheld by the bank without divulging the names of the depositors. Again in section 9 of the Revenue Regulation No. 8-77, in providing for the procedure in requesting for tax credit and/or refund, "no bank shall issue any statement relative to the withholding tax, unless the depositor himself requests in writing a tax credit or refund of the tax withheld from his interest earning or part thereof, in order to safeguard the secrecy of bank deposits.

III. REPERCUSSIONS

Before Pres. Decree 1156, there were only five cases of withholding tax at source in the NIRC, namely, withholding tax on tax-free covenant bonds, on fixed or determinable gains, profits, and income, and capital gains of nonresident aliens not engaged in trade or business within the Philippines and nonresident foreign corporations; on dividends received by resident alien individuals and corporations; on certain dividends; and other cases of withholding tax at source.¹¹ With the promulgation of Pres. Decree 1156, another case of withholding tax at source is added.

A. *On Interest Income*

Pres. Decree 1156 requires every bank or banking institution to deduct and withhold from the interest on bank deposits (except interest paid or credited to nonresident alien individuals and foreign corporations), a tax equal to fifteen per cent of the paid interest. But if the aggregate amount of the interest on all deposit accounts maintained by a depositor in any one bank at any time during the taxable period does not exceed ₱350 a year or ₱87.50 per quarter, the interest earning is not subject to the withholding tax. The bank deposit itself is not the subject of the withholding tax but only the interest on the bank deposit. Moreover, the entire amount of interest earning, provided it exceeds ₱350 per calendar year or ₱87.50 per quarter thereof, is subject to withholding tax, not only the amount in excess of the ₱350 or of the ₱87.50. In other words, if the depositor has a savings deposit of more than ₱5,000, or a time deposit of more than ₱3,500 assuming that the interest rate is 7% per annum and 10% per annum, respectively, then the interest on his deposit is subject to withholding tax.

¹¹ TAX CODE, sec. 53.

And for purposes of this withholding tax, if a depositor maintains a deposit account in any one bank together with another, the interest on said account is deemed to be equally owned by them. If there are two of them maintaining the account, therefore, 50% of the interest thereon is included in computing the aggregate amount of the interest on all deposit accounts of each depositor in one bank.

Moreover, Pres. Decree 1156 still requires that the interest income from the bank deposit will be included in the gross income in computing the depositor's income tax liability. As said earlier, however, if the tax withheld from a depositor exceeds the income tax due from him, the excess shall be refunded or credited to him subject to the provisions of Section 295 of the Tax Code of 1977. Also, there may be a refund or credit where the tax has been withheld from interest on deposit accounts maintained by a tax-exempt entity or where, in the case of an entity enjoying preferential income tax treatment, the withholding tax rate applied is more than the applicable rate pertaining to said class of taxpayer or to such type of income. Where a depositor desires the refund or credit of the tax withheld from him or part thereof, he shall make an application in writing with the withholding bank on or before the 20th day of the month following the close of his accounting period, and, on the basis of such application, said bank shall issue a certification as to the amount of tax withheld during the taxable year. The depositor shall attach such certification to his income tax returns. His income tax return shall, thereafter, be processed by the Bureau as a refundable case.

B. On Interest Expense

It is the law on income taxation that the amount of interest paid within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations the interest upon which is exempt from taxation as income. With the promulgation of Pres. Decree 1156 withholding tax on bank deposit interest and to insure its effective enforcement, a proviso was added by Pres. Decree 1156 to the NIRC "that interest on deposits paid by authorized agent banks of the Central Bank of the Philippines to depositors shall be allowed as a deduction only if it is shown that the tax on such interest was withheld and paid in accordance with the provisions of Section 53 and 54 of this Code."

IV. PROBLEMS AND ISSUES

As any new piece of legislation, Pres. Decree 1156 has its own share of problems and issues. Again the peculiarity of the subject-matter prevents the authors from thoroughly venturing into the depth and breadth of legal nuances thereof. The following presentation is a result of random sampling interviews with managers of different banks, legal research and personal critique and analysis.

A. *Insufficient Information Campaign*

Pres. Decree 1156 broke into the headlines upon its promulgation. This was inevitable because this piece of legislation concededly affects not only a substantial portion of the citizenry in particular but the country's economy in general. Yet these headlines were insufficient in accurately informing the public of the nature and nuances of this vital law. The news stories merely created misconceptions and misapprehensions resulting in an adverse reaction from the public. According to most banks which were the subject of random sampling interviews, the first few weeks of the banking business after the promulgation of Pres. Decree 1156 was characterized by a noticeable decline in the level of time and savings deposits. Many depositors labored under the mistaken belief that the 15% tax was being imposed on this principal deposit and not merely on the interest thereof, that in effect, while their savings deposits were only earning 7% p.a. the same were being taxed at 15% p.a. Needless to say, many bank managers and officers had to do a lot of explaining and some went to the extent of advocacy just to correct these wrong impressions. Today, roughly five months after the initial alarm, the greater majority of the banks affected, have recovered their normal levels of time and savings deposits. However, there still remains some banks who have not been as fortunate. At least one, is still suffering from a 20% decline in its level of deposits. There is, therefore, still a need for further publications on the matter in order to accurately appraise the public and correct the misunderstandings created by the inadequate initial information campaign.

B. *Added Administrative Costs*

The second problem which Pres. Decree 1156 presents relates to the added administrative costs which the computation, reporting and remittance of the tax inevitably brings. For the computerized banks, this problem is minimal, but the greater majority of our banks still thrive on manual labor. Recently some banks have initiated a move to shift the burden of this cost to their depositors.¹² Further added costs are expected in the early part of the coming year when depositors come to their respective banks to ask for the certification required by law to be able to avail of the tax credit and refund for the amount of tax withheld and paid the bank on their deposits during the past year. From this cost, not even the computerized banks can escape.

¹² "A number of commercial banks are increasing the minimum balance or amount of money a depositor must retain in his savings account for it to earn interest. The reason given by banks is that the 15 per cent withholding tax on deposits of ₱5,000 or more will cost the banks ₱10 for each account to review and record the transaction. The BIR requires the banks to receive all their savings accounts every quarter to find out if the 15 per cent tax can be applied. Thus, the depositor is hurt two ways: one, by paying the tax; and two, by absorbing the bank's administrative cost in collecting the tax. Even depositors who are not supposed to pay the 15 per cent tax are hurt nevertheless because of the bank's move to raise minimum deposit balances." *Hurting the Depositors*, Times Journal, Sept. 6, 1977, p. 8.

C. Loopholes

Barely five months since the implementation of Pres. Decree 1156, several tax avoidance schemes in relation thereto have already evolved. The first refers to the scattering of deposits. As has already been discussed, the 15% withholding tax is only imposed on the interest of deposits in excess of ₱5,000 for savings and ₱3,500 for time deposits. To avoid the said tax, the depositor with amounts in excess of the above, spread out their deposits among the different banks. This scheme is availed of by the middle income bracket with "hard-earned" deposits. The big depositors find this scheme too burdensome since they will have to contend with numerous bank accounts.

Next in line is the scheme being utilized by depositors in banks which pay interest "araw-araw". These depositors withdraw so much of their deposits to fix the remaining balance thereof at ₱5,000 and ₱3,000 for savings and time deposits respectively before the end of every quarter. After the computation of the quarterly interest the withdrawn amounts are redeposited. Again only the small time depositors who are the ones most hurt by the tax, have enough initiative to avail of this scheme.

The "dummy" system is the third scheme being employed by the middle income depositors. This is accomplished by using "dummies", usually children, relatives, employees, etc. in order to have accounts under different names, none of which exceed the tax-exempt limit. By using accounts with different names, the depositor no longer has to go to other banks to avoid the tax.

One scheme being employed by both the small-time and big-time depositors is the withdrawal of their time and savings deposits and the shift to non-taxable (as regards Pres. Decree 1156) bank accounts. One such account is the "trust" deposit.¹³ Under this account, the bank accepts the deposit on the condition that the same shall be invested by it for the depositor who is guaranteed a specific rate of return thereof (usually higher than 10%). This kind of deposit does not fall under either the savings nor time deposits classification,¹⁴ hence not subject to the 15% withholding tax.

The last scheme which is more favored by the big-time depositors is the shifting of their time and savings deposits to other higher earning forms of investment. Some of these deposits find their way into money market placements. Although P.D. 1154 imposes a 35% final tax on such commercial papers, the latter still earn an effective interest rate ranging from 14% to 16% after the tax compared to the effective rate of 8.5% for time deposits and 5.95% for savings deposits after the withholding tax of 15%. Other depositors opt to channel their deposits into business.

¹³ Some banks require only a minimum of ₱1,000 for "trust" accounts.

¹⁴ Neither does it fall under "commercial papers" subject to a final tax of 35% on interest by virtue of Rep. Act No. 1154 (1955).

The small-time depositors do not find this scheme too attractive because of the risk involved and the illiquid nature of the investment. Usually, these small-time depositors depend on their time and savings deposits for emergency needs. This brings us to the fourth problem.

D. Impact on Middle Class

Pres. Decree 1156 has produced the greatest impact on the middle class. To this class belong people with so-called "hard-earned" deposits. These people barely make enough to have something left-over for the bank. Whatever amounts they manage to save are placed in savings deposit to serve as a part of contingency fund. They are the ones hardest hit by Pres. Decree 1156. Because they only have small savings (usually between ₱5,000 to ₱10,000) they reel from the 15% withholding tax thereon. The big-time depositors barely feel the effects of the said tax.

E. Impasse with Republic Act 1405

One of the more controversial issues relating to Pres. Decree 1156 is whether it can stand the test of Rep. Act 1405, otherwise known as the "Secrecy of Bank Deposits Act". The latter law provides:

AN ACT PROHIBITING DISCLOSURE OF OR INQUIRY INTO, DEPOSITS WITH ANY BANKING INSTITUTION AND PROVIDING PENALTY THEREFOR.

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

SECTION 1. It is hereby declared to be the policy of the Government to give encouragement to the people to deposit their money in banking institutions and to discourage private hoarding so that the same may be properly utilized by banks in authorized loans to assist in the economic development of the country.

SEC. 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.

SEC. 3. It shall be unlawful for any official or employee of a banking institution to disclose to any person other than those mentioned in Section two hereof any information concerning said deposits.

SEC. 4. All Acts or parts of Acts, Special Charters, Executive Orders, Rules and Regulations which are inconsistent with the provisions of this Act are hereby repealed.

SEC. 5. Any violation of this law will subject offender upon conviction, to an imprisonment of not more than five years or a fine of not more than twenty thousand pesos or both, in the discretion of the court.

SEC. 6. This Act shall take effect upon its approval.

Approved. September 9, 1955.

Realizing the crucial role of banks in national development and at the same time conceding the importance of Republic Act 1405 towards enhancing said role, Pres. Decree 1156 in section 2 paragraph 4 provides:

Without divulging the names of the depositors, the tax shall be withheld by the bank and paid in the same manner and subject to the same conditions provided in Section 54 of this Code.

In the same vein, the "Highlights and Justification of Proposal" which is an annex to the same Pres. Decree 1156 states:

This will not violate Republic Act No. 1405 because banks will not be required to divulge the names of the depositors when they withheld the tax.

Towards the implementation of the above-stated policy, Section 5 of Revenue Regulations No. 8-77 of the Bureau of Internal Revenue provides:

Manner of Filing Return and Payment of Taxes.—Within twenty-five (25) days after the end of each quarter of the calendar year, a return of the adjusted gross interest expense of the agent banks subject to withholding tax, as computed in Section 4 hereof, shall be filed with the Bureau of Internal Revenue and the withholding tax due thereon, accompanied by a corresponding return, paid to the Commissioner of Internal Revenue. Revenue Regional Director, Revenue District Officer or the Collection Agent of the City or Municipality where the authorized agent bank's principal office is located and where its books of accounts are kept. For this purpose, BIR Form No. 17.45 together with the accompanying schedules shall be used.

The aforementioned Section 4 states:

Manner of Computing Tax Base.—The withholding tax shall be based on the adjusted gross interest paid by the authorized agent banks on all saving and time deposits. . . .

Accordingly Form No. 17.45 (see annex) requires only the adjusted gross interest paid by the bank to be declared. In the payment of the withholding tax therefore there is no danger that the identity of depositors and the amount of their deposits will be divulged. The problem however starts after the tax has been so withheld and paid.

Section 8 of the previously mentioned Revenue Regulation No. 8-77 states:

... With reference to the recipient/depositor, the withholding tax herein imposed shall be allowed as a credit against the amount of income tax due from said depositor . . .

Section 9 of the same Revenue Regulations continues:

... where a depositor desires the refund or credit of the tax withheld from him or part thereof, he shall make an application in writing with the authorized agent bank on or before the 20th day of the month following the close of his accounting period and, on the basis of such application, said authorized agent shall issue a certification as to the amount of tax withheld during the taxable year...

In effect therefore, the withholding tax being imposed by Pres. Decree 1156 is only an initial payment of sorts. The taxpayer in filing his annual income tax return is entitled to avail of either a tax credit or refund in the amount of said withholding tax under certain conditions: in substance, he must secure a certification from the authorized agent bank of the amount of tax so withheld and paid from the taxpayer's interest income during the taxable year and present this together with his income tax return.

At first blush, the procedure appears very regular. Upon closer perusal however, hitherto submerged realities surface. To avail of the tax credit or refund the taxpayer must present the aforementioned certification to the BIR together with annual income tax return. Said presentation will of course readily reveal the bank or banks wherein the taxpayer holds time and/or savings deposits. Furthermore, knowing that the tax paid corresponds to 15% of the interest earned by the taxpayer's bank deposits, it only takes simple mathematical computations¹⁵ to arrive at the actual amount of said deposits. The subtle but inevitable consequence therefore is that in order to comply with the prerequisites for availing of the tax credit or refund, the taxpayer will first have to reveal not only the bank or banks wherein he keeps deposits but also the amount thereof.

V. RECOMMENDATIONS AND CONCLUSION

Indeed Pres. Decree has caused manifold problems and issues but these are not without solutions and answers. The following recommendations on the above-discussed problems and issues are advanced:

1. In the case of most presidential decrees introducing substantial amendments or innovations to the laws heretofore in force, public hearings have been held before and/or after the effectivity of the presidential decrees. Examples of these are the Pres. Decree No. 612 or the Insurance Code, the Probation Decree and the decree on the travel tax. In the above-mentioned examples, the public is given an opportunity to air their views; at the same time, the legislating body (the incumbent President is the

¹⁵ Presume:

$$\begin{array}{l} \text{Tax Paid} = A \\ \text{Principal Deposit} = P \\ A = .15 \times P \\ \frac{A}{.15} = P \end{array}$$

legislating body at the time of the writing of this paper) is apprised of the reaction of the public. And in some instances, at least, such public hearings resulted in the proposed decree being reformed or in the promulgated decree being amended. The same system of holding public hearings should have been done in the case of Pres. Decree 1156. If it were done there would have been no initial adverse reaction from the depositing public shown by the sudden withdrawal of deposits.

2. The banking corporations which realize profits from their business and which are organized to promote their own interest in contrast to the depositing public, must be made to shoulder the costs of computing the withholding tax from the interest of deposits with them, of issuing certifications that the tax has been withheld, and other costs in connection with their obligation to withhold tax. These banks can very well afford to computerize their business so as to facilitate the computations needed, thereby minimizing their administrative costs. Placing the burden of these costs will doubly and unduly hurt the depositors.

3. We also recommend that the withholding tax be made a final tax. If this will be done, then there will be no need for the depositors to secure certifications of withheld tax thereby erasing all possibility of violating Republic Act 1405. At the same time the government will still be able to collect the same amount of withheld tax.

4. In addition to the next preceding recommendation, Pres. Decree 1145 should subject to withholding tax only those bank deposits with interest earnings exceeding ₱700 a year or ₱175 per quarter. In this case the withholding tax will affect only depositors with accounts aggregating to more than ₱10,000 for savings deposits or more than ₱7,000 in the case of time deposits, assuming an interest rate of 7% and 10% per annum, respectively. If this is done the possibility of affecting deposit accounts, usually amounting from ₱5,000 to ₱10,000 consisting of hard-earned money and the interest to which is highly valued by the depositor, will be minimized, if not totally eliminated.

5. In addition, or in the alternative, we recommend that the interest rate for bank deposits be increased. In this case the impact of the tax will be cushioned by the increased interest earning which is the result of a higher interest rate. This proposal will injure to a certain extent the banking business, but considering the returns from such business and considering the policy of the government in encouraging bank deposits needed in the economic development of the country, an increase in the present rate of interest on bank deposits will be welcome.

6. We finally recommend that the withholding tax rate be reduced from 15% to 10%. With a smaller rate, the tax burden of the depositor will not be too much, even if his deposit with the corresponding interest is hard-earned money. In this case the tax will be more in consonance with

one of the characteristics of taxes, which is, that it is proportionate in character, depending upon the taxpayer's ability to pay.

In conclusion, the authors submit that Pres. Decree 1156 should remain in esse. The problems and issues previously discussed should be viewed within the context of the situation wherein the law funds itself. In reiteration, this withholding tax on the interest of savings and time deposits is both peculiar and novel. Furthermore, it has only been in force for roughly four to five months. Like any new and young law, it needs to evolve.

In the meantime, despite all problems and issues, Pres. Decree 1156 has proved workable and still stands on its merits. It has to some extent checked the hitherto undeclared income from bank deposits. At the very least, it has succeeded in imposing a 15% tax thereon. Definitely this is better than nothing. Furthermore, first the 15% withholding tax *per se* adds up to quite a sum which will concededly go a long way towards replenishing the government coffers. The author's random sampling interviews with several banks' managers and cashiers showed that one commercial alone paid ₱190,000 as withholding taxes on time and savings deposits for the last quarter ending September 30, 1977. Still another bank paid ₱65,000 on savings deposit only while another remitted ₱77,000 on savings and time deposits for the same quarter. Extended to the innumerable savings and commercial banks nationwide, the resulting amount would be staggering.

There is a need therefore to maintain Pres. Decree 1156. Admittedly however, the kinks in the law have to be ironed out. Towards arriving at such, the direction must be aimed at striking that balance between the need for government revenues and the role of banks and bank deposits in the economic development of the country.

ANNEX "A"
B.I.R. Form No. 17.45

DECLARATION OF TOTAL INTEREST PAID SUBJECT TO
WITHHOLDING TAX
(Under Sections 53 & 54 of the Tax Code of 1977)
For the Quarter Ending
of the Calendar Year Ending

Name of Bank Taxpayer Account No.
Address Date

S U M M A R Y			
	Interests Paid		Total To Date
	Preferential Rates	Full Rate	
	10%	15%	
I. Total adjusted gross interest paid on savings deposit (Schedule)	P.....	P.....	P.....
II. Total adjusted gross interest paid on time deposit (Schedule)	P.....	P.....	P.....
Tax due thereon	P.....	P.....	P.....
Surcharge			
Interest			
Compromise			

TOTAL AMOUNT DUE AND COLLECTIBLE

I declare under the penalties of perjury that this return has been verified by me and to the best of my knowledge is a true, correct and complete return pursuant to the provisions of the National Internal Revenue Code and the regulations issued under authority thereof.

Authorized Signature
TAN:

To be accomplished by Collection Agent receiving payment:

Revenue Tax Receipt Number Date Amount Paid P..... Signature

ANNEX "B"
B.I.R. Form No. 17.45A

SCHEDULE

DECLARATION OF INTEREST PAID ON SAVINGS DEPOSIT
For the Quarter Ending
of the Calendar Year Ending

Name of Bank Taxpayer Account No.
Address Date

SAVINGS DEPOSIT

SIZE OF DEPOSITS	Number of Accounts	Amounts		INTEREST PAID THIS QUARTER	INTEREST PAID TO DATE
		P	.....	P	P
P 0 to P 500
501 to 1,000
1,001 to 5,000
5,001 to 10,000
10,001 to 50,000
50,001 to Over
T O T A L	P	.....	P	P

RECONCILIATION OF INTEREST PAYMENTS

THIS QUARTER		TOTAL TO DATE	
P	.....	P	.....
Total interest paid on savings deposit (above)	.....	.....	.....
Less: (a) Interest paid on all savings deposit maintained by one depositor	.....	.....	.....
not exceeding P550.00 per annum or P87.50 per quarter	.....	.....	.....
(b) Interest paid on time deposits maintained by tax-exempt entities	.....	.....	.....
Adjusted gross interest paid on savings deposit (To Annex I)	P	P	P

I declare under the penalties of perjury that this return has been verified by me and to the best of my knowledge is a true, correct and complete return pursuant to the provisions of the National Internal Revenue Code and the regulations issued under authority thereof.

.....
Authorized Signature
TAN:

B.I.R. Form No. 17.45B
DECLARATION OF INTEREST PAID ON TIME DEPOSIT
ANNEX "C"
 For the Quarter Ending
 of the Calendar Year Ending

Name of Bank Taxpayer Account No.
 Address Date

MATURITY PERIODS									
90 Days			180 Days			360 Days			Over 790 Days
No. of Accounts	Amount	No. of Accounts	Amount	No. of Accounts	Amount	No. of Accounts	Amount	No. of Accounts	Amount
I. Size of Deposits									
0 to P 500	P	P	P	P	P	P	P	P	P
501 to 1,000	P	P	P	P	P	P	P	P	P
1,001 to 5,000	P	P	P	P	P	P	P	P	P
5,001 to Over	P	P	P	P	P	P	P	P	P
TOTAL	P	P	P	P	P	P	P	P	P
II. Deposits According to Maturity:									
90 Days	No. of Accounts	Interest Rate	Amount of Deposits	Interest Paid This Quarter	Interest Paid To Date				
180 Days	.....	.....	P	P	P				
360 Days	.....	.....	.....	.....	.....
730 Days	.....	.....	.....	.....	.....
731 Days or over	.....	.....	.....	.....	.....
TOTAL	.....	.....	P	P	P				

RECONCILIATION

Total interest paid on time deposit (above)
 Less: (a) Interest paid on all time deposits maintained by one depositor not exceeding P350.00 per annum or P87.50 per quarter
 (b) Interest paid on time deposits maintained by tax-exempt entities
 Adjusted gross interest paid on time deposit (To Annex I)
 Total This Quarter Total to Date

I declare under the penalties of perjury that this return has been verified by me and to the best of my knowledge is a true, correct and complete return pursuant to the provisions of the National Internal Revenue Code and the regulations issued under authority thereof.

Authorized Signature
 TAN:

