

ADMINISTRATIVE ORDER

NO. 9 ^{PP}
Series of 1988 ^{10/11/88}

SUBJECT : GUIDELINES AND PROCEDURES IMPLEMENTING PRODUCTION SHARING UNDER EXECUTIVE ORDER NO. 229

WHEREAS, Executive Order No. 229, Providing the Mechanism For The Implementation of the Comprehensive Agrarian Reform Program, which took effect on August 29, 1987 provides this section on Production Sharing:

Section 16. - Production Sharing - Individuals or entities owning and/or operating under lease agricultural lands with gross sales in excess of Five Million Pesos (P5 Million) per annum are hereby mandated to execute a production sharing plan whereby at least two and one-half (2.5) percent of the gross sales from the production/cultivation of such lands are distributed as compensation to the farmworkers over and above the compensation they currently receive, provided that such individuals or entities are not obligated to pay more than 100 percent of the regular annual compensation of the farmworkers."

NOW, THEREFORE, to ensure an orderly and effective implementation of the above provisions, the following Guidelines and Procedures are hereby promulgated for the guidance of all concerned.

Section 1. - Definition of Terms. - As used in these Guidelines and Procedures, the following terms shall have the following respective meanings:

- a. "Agricultural Land" means land devoted to any growth, including but not limited to crop lands, salt beds, fish ponds, idle land and abandoned land.
- b. "Farmworker" includes any agricultural wage, salary or piece worker but is not limited to a farm worker of a particular farm employer unless R.A. 3844 explicitly states otherwise and any individual whose work has ceased as a consequence of, or in connection with, a current agrarian dispute or an unfair labor practice and who has not obtained a substantially equivalent and regular employment.

- c. "Gross Sales" means the total annual revenue arising from the sale of all agricultural products, in their raw or original state, derived from the land or farm owned, operated under lease, management, production venture, grower or service contract, or other similar arrangement by an agricultural enterprise. Simple post-harvest operations ordinarily done within the farm to preserve or prepare agricultural products for the market, such as drying, salting, smoking or stripping, are considered agricultural activities. In cases where retention right is allowed the amount of gross sales may be reduced by an amount equivalent to such proportion that the retained area bears in relation to total land area.
- d. "Regular Annual Compensation" includes all cash remuneration or earnings regularly paid to an employee by an employer for services rendered within a year, such as salaries, wages, 13th Month Pay, bonus, allowances, commissions and paid leaves, and other income of similar nature, whether mandated by law or provided by collective bargaining agreement or established company practices, but excludes payment arising from the production sharing provided herein.

Section 2. - Employers Covered. - Pending final land or corporate stock transfer, individuals or entities owning and/or operating under lease, agricultural lands are covered by this production sharing.

Provided, that these individuals or entities realize gross sales in excess of FIVE MILLION PESOS (P5,000,000.00 M) per annum.

In the case of individuals or entities with business operations other than agricultural, only the divisions, groups or units involved in agricultural productions are included in the mandated production sharing.

Section 3. - Employees Covered. - All farmworkers, as defined herein, of covered employers are included in the mandated production sharing. Provided, that any farmworker who renders service, regardless of duration, within a covered period shall be entitled to this benefit.

Section 4. - Main Features of the Mandated Production Sharing Plan. - Covered employers shall prepare and execute a Production Sharing Plan which shall conform to the following requirements:

- a. The Plan shall apply only for the covered period starting August 29, 1987 up to June 14, 1988.

Section 5. Manner of Payment. - The Production Shares of the workers shall be paid in cash. Such additional compensation shall be in separate payrolls which shall contain information on:

- a) the employer's gross sales;
- b) the total amount for distribution as workers' production shares;
- c) each worker's number of paid days for the year; and
- d) each worker's production share.

Section 6. - Undistributed/Unclaimed Production Share. - Unless otherwise provided by existing law, agreement or plan, all undistributed or unclaimed production shares shall be deposited by the employer with the nearest Land Bank of the Philippines Branch in the name of the Secretary of Agrarian Reform for payment to workers to whom they are due. The employer shall immediately report such deposits to the nearest DAR office and send notices to the worker-beneficiaries. If the money remains undistributed or unclaimed after two years from date of deposit, the same shall be considered forfeited and shall be turned over to the Agrarian Reform Fund.

Section 7. - Effect on Existing Production Sharing Plans. - Any existing production sharing plan granted by the employer before the effectivity of EO 229 shall be credited, unless otherwise provided by agreement, as compliance with the mandated production sharing plan prescribed herein, subject to prior approval by the DAR. Provided, that where the benefit under the existing production sharing plan is less than the applicable amount required in these Guidelines, the employer shall pay the difference.

Nothing herein shall be construed to sanction the diminution of any benefits such as salaries, bonuses, leaves and working conditions granted to the worker-beneficiaries under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between workers and employers nor shall the individual or entities and its worker-beneficiaries be prevented from entering any agreement with terms more favorable to the latter.

Section 8. - Enforcement. - The Secretary of Agrarian Reform or his authorized representatives shall have the power to order and administer compliance with the production sharing provisions of these Guidelines, and to require submission of reports, compel the production of books and documents and answers to interrogatories and issue subpoena and subpoena duces tecum and to enforce its writs through sheriffs or other duly deputized officers.

b. The implementation of the plan shall start on the accounting year (i.e., fiscal, crop or calendar year followed by a covered employer) ending after August 29, 1987. During the accounting period covered, the employer's gross sales for a full year period shall be considered to determine whether the employer realizes annual gross sales of over FIVE MILLION PESOS (P5,000,000.00) for purposes of coverage under production sharing plan. However, the gross sales to be considered in computing covered workers' production shares shall be in the amount equivalent to such proportion that the fraction of the accounting period falling within August 29, 1987 and June 14, 1988 bears in relation to the entire accounting period.

c. Covered employers are obligated to pay the following production share to be given over and above the compensation their farmworkers currently receive and which shall be distributed based on:

Amount of Production Share:

c.1.) 2.5% of Annual Gross Sales from August 29, 1987 to June 14, 1988, provided that the employer is not obligated to pay more than 100% of the regular annual compensation of the farmworker-beneficiaries.

Schedule of Distribution:

50% of Production Share shall be paid not later than October 30, 1988 and the balance on or before December 20, 1988.

d. The formula to be used in computing the production shares of individual workers is:

Production Share per covered worker = 2.5% of Annual Gross Sales multiplied by Factor Y, but not to exceed 100% of the worker's regular annual compensation.

Where Factor Y = $\frac{\text{No. of paid days of covered worker for the period August 29, 1987 to June 14, 1988}}{\text{Total number of paid days of all covered workers for the same period covered.}}$

Section 9. - Settlement of Disputes. - Issues involving production sharing shall be considered as Agrarian Reform issues. Disputes arising from production sharing shall first be settled voluntarily between the parties. In the event of a deadlock, such dispute shall be submitted for conciliation to the appropriate DAR Regional Office. In case the dispute is not resolved at the regional level, it shall be forwarded for adjudication to the DAR Adjudication Board.

Section 10. - Reporting Requirements. - All covered employers shall submit a report of the production shares distributed, including the special payrolls, under oath signed by the employer or his duly authorized representatives, not later than 30 days after completion of distribution of the workers' shares. Two copies of the report shall be submitted to the appropriate DAR Regional Office.

The report shall conform substantially to the following form:

Report on Compliance with Production Sharing:

1. Name of Establishment/Employer
2. Address
3. Principal Commodity Produced
4. Total Employment
5. Total Gross Sales After Tax
6. Amount of Production Shares Distributed
7. No. of Workers Benefitted
8. Average Amount Received per Worker
9. Dates of Distribution of Production Shares
10. Total Undistributed/Unclaimed Production Shares
11. No. of Workers with Undistributed/Unclaimed Production Shares

Section 11. - Separability Clause. - If, for any reason, any section or provision of these Guidelines is declared null and void, no other section, provision, or part thereof shall be affected and the same shall remain in full force and effect.

Section 12. - Effectivity Clause. - These Guidelines shall take effect immediately.

Quezon City, September ____, 1988.


PHILIP ELIA JUICO
Secretary