Doing Business and Investing in the Philippines 2024

Pitching for the future

April 2024

Messages

In the heart of Southeast Asia, the Philippines stands as one of the most vibrant economies in the region. According to the Institute for Management Development's 2022 World Competitiveness Ranking, it ranked as the fifth most competitive economy among the Association of Southeast Asian Nations (ASEAN) member-countries. It also holds the 56th position, among 132 economies, in the 2023 Global Innovation Index by the World Intellectual Property Organization (WIPO).

The driving forces behind the country's economic growth are strong consumer demand, a stable banking sector, a robust monetary position, a young workforce, diversified sectoral growth and substantial infrastructure investments. Collectively, these elements make the nation an appealing destination for global businesses.

As we release this edition of *Doing Business in the Philippines*, we at PwC Philippines recognise the remarkable economic progress that the Philippines has made, and we are dedicated to supporting the government's continuous efforts to advance the nation's economy.

This publication provides a comprehensive overview of the current business environment and outlines recent economic developments, government policies and initiatives, and growth trends, shedding light on various sectors that are ripe for investment.

We are dedicated to providing you with accurate and timely information to help you navigate this thriving economy, make informed decisions and seize the wealth of investment opportunities in the Philippines.

In this era of economic resilience and growth, we look forward to contributing to the success of your business and the progress of the country.

Roderick M. Danao
Chairman and Senior Partner
PwC Philippines

For decades, we at PwC Philippines have been working with various stakeholders in bringing in, and helping grow, investments in the country. It has become imperative that we publish a handy reference material that will guide potential investors and the rest of the stakeholders in the investment ecosystem.

While the Philippines has made progress in improving the ease of doing business, marked by the establishment of the Anti-Red Tape Authority, challenges still exist. But with the government's willingness to work with the private sector to improve the business environment, these challenges could be surmountable.

We trust that our humble contribution will help foreign investors understand the country, its economy and its people better.

We hope that they also gain confidence from realising that they can have strong and reliable partners here that can help them navigate the Philippine market and all the opportunities its ecosystem offers.

Publishing *Doing Business and Investing in the Philippines* online has been a conscious decision on our part, after previously making it primarily available in print. We considered the wider reach, instantaneous updates, searchability, environmental sustainability and social sharing that online publishing offers, making it suitable for today's audience.

May this book beckon investors to explore the vast potential of the Philippines, with its rich cultural heritage and warm hospitality, while forging sustainable partnerships and lifelong connections.

Alexander B. Cabrera
Chairman Emeritus and ESG Leader
PwC Philippines

As we present another edition of *Doing Business in the Philippines*, we aim to equip our readers with a comprehensive guide to the country's vibrant business landscape. This publication delves into the heart of the Philippines' economic narrative, beginning with an in-depth country profile that outlines the unique characteristics and strengths that position the Philippines as a promising investment destination.

The next chapter discusses the country's current business environment, covering recent legislative developments and opportunities in key sectors such as the fintech and real estate industries. It also explains certain investments that are subject to foreign equity restrictions as well as various investment vehicles available in the country, providing insights into their benefits, limitations and the legal considerations involved.

An essential part of doing business in any country is understanding its taxation system. We provide a comprehensive overview of the Philippines' taxation structure, including the obligations and responsibilities for businesses. It also discusses the various tax treaties that the Philippines has with other countries and outlines the tax incentives offered to promote foreign investment.

In essence, *Doing Business in the Philippines* provides insightful, practical and up-to-date information to help you navigate the complexities of the Philippine business environment. As you embark on your business journey in the Philippines, we hope that this publication will serve as a valuable resource, empowering you to make informed decisions and seize the myriad opportunities that this dynamic economy has to offer.

Maria Lourdes P. Lim
Vice Chairman and Tax Managing Partner
PwC Philippines

Doing Business in the Philippines is more than just a resource: It's an invitation to be part of the Philippines' growth story. We at PwC Philippines warmly welcome you to explore and leverage the vast opportunities our country has to offer.

The Philippines, with its robust economy, young workforce and continuous growth across diverse sectors, is ripe for investment, presenting great opportunities for businesses seeking to expand their footprint in Southeast Asia. This guide is designed to give potential investors a bird's eye view of our dynamic business landscape, providing valuable insights into the current economic climate, burgeoning sectors, recent legislative developments and tax considerations.

At PwC Philippines, we are prepared to help investors and their businesses establish operations, navigate the business landscape and build trust in society. The knowledge and experience of our wide network of assurance, tax, consulting, and deals and corporate finance professionals allow us to offer customised solutions that cater to companies' unique needs and challenges, leading to sustained growth and success.

We look forward to partnering with you and helping you discover what the Philippines has to offer.

Aldie P. Garcia
Assurance Managing Partner
PwC Philippines

Table of contents

Executive summary

The best time to invest in the Philippines is now

- Competitive corporate income tax rate at 25%
- Liberalised foreign investment policy that allows 100% foreign ownership in public service companies and in retail trade
- Young working population with high functional literacy rate
- Vibrant and strong domestic market
- Stable political system
- Foreign individuals with certain real property ownership rights
- Double taxation agreements with 44 countries
- Fiscal incentives for export and non-export activities
- Key industries include services, agriculture, healthcare, real estate and energy

Country profile

Geography and climate

The Philippines is an archipelago comprising 7,641 islands. It shares geographical and climatic features with its closest neighbours

Situated at the crossroads of the East and West, the Philippines is a critical entry point to over 500m people in the Association of Southeast Asian Nations (ASEAN) market. It is also a gateway of international shipping routes and airlines, offering significant advantages for European and American businesses.

Geography

The Philippines is the third largest among those nations claiming archipelagic status. It is surrounded by the Philippine Sea, Pacific Ocean, Celebes Sea and Sulu Sea.

Its 7,641 islands are clustered into three island groups: Luzon, Visayas and Mindanao. Topography in these islands is characterised by mountainous terrains, dense forests, fertile plains and coastal areas. Thus, transportation infrastructure such bridges, roads, airports and seaports are crucial in sustaining the connectivity of the population and economic growth.

Climate

The Philippines' tropical climate is divided into two seasons based on temperature and rainfall: the rainy season from June to November, and the dry season from December to May.

Longer days, and high humidity and temperatures are experienced during the dry season. On the other hand, the rainy season is marked by abundant rainfall and occasional typhoons.

Colonial history

The Philippines was colonized by Spain and the United States

The Philippines endured 333 years of Spanish colonial rule (1565–1898), leaving an indelible mark on the country's religion and culture. As a result, the country is predominantly Catholic while its major laws such as the New Civil Code and the Revised Penal Code are rooted in Spanish laws.

In the more than four decades of American colonial rule (1899–1941), the Philippines was introduced to a democratic system of government and a public educational system. The English language became part of the curriculum and was the medium of instruction. It is no wonder that the Philippines is ranked 20th in the world and second in Asia in English proficiency, based on the 2023 EF English Proficiency Index.

The Americans strongly influenced the legal system, particularly the Philippine Constitution and the National Internal Revenue Code. A number of commercial laws were patterned after United States statutes as well.

Ethnicity, culture and religion

Ethnicity

Before Spanish colonisation, the Philippines was already subdivided into ethnolinguistic groups, each having their own sets of values and culture.

As of 2020 census, the ethnicity of about one in every four Filipinos is Tagalog. With the nation's history of colonisation and trade, the Filipino identity of today has become a mixture of local and foreign ethnicities.

Culture

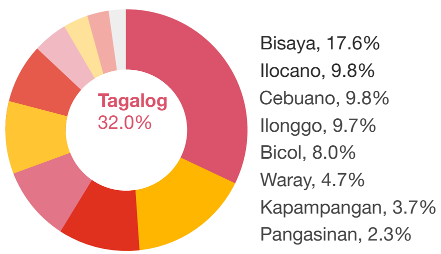
While the Filipino culture is largely dependent on local regions and ethnic backgrounds, it is generally family-centric.

As a historical hub for western powers, the Philippines developed a culture that is deeply entrenched in colonialism and western ideology, but nonetheless uniquely Filipino.

Religion

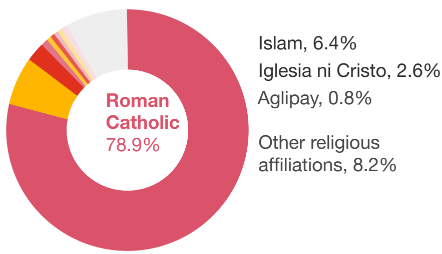
The Philippines is the largest predominantly Catholic country in Asia—a fact that is ascribed to its more than three centuries of Spanish rule. Rounding off the top ten religious affiliations are Islam, Iglesia ni Cristo, Seventh Day Adventist, Aglipay, Iglesia Filipina Independiente, Bible Baptist Church, United Church of Christ in the Philippines, Jehovah's Witness and Church of Christ.

Philippine ethnic groups
in % of population (2020)



Source: Philippine Statistics Authority (PSA)

Religious affiliations
in % of population (2020)



Source: Philippine Statistics Authority (PSA)

Political system

The President faces the challenges of creating jobs and improving business conditions

Political overview

System of government	Presidential republic; universal suffrage; 316-seat House of Representatives; 24-seat Senate for the 19th congress. Executive power rests with the President.
Head of State	Current President: Ferdinand R. Marcos, Jr.
Key relations and treaties	The Philippines is a founding and active member of the UN and a founding member of the Association of Southeast Asian Nations. The Philippines is also a member of the East Asia Summit, an active player in the Asia-Pacific Economic Cooperation and a member of the Group of 24 (G-24). The country is a major non-NATO ally of the United States, but is also a member of the Non-Aligned Movement.
Legal framework	Three separate and independent branches: the Executive, the Legislative and the Judicial. The Philippines' legal system is based on civil law. Judicial power is vested in a Supreme Court whose members are all appointed by the President from a shortlist from the Judicial and Bar Council. Under the Supreme Court are the various lower courts which include the Court of Appeals, the regional, metropolitan, and municipal trial courts, and special courts. The special courts include the Court of Tax Appeals, the *Sandiganbayan* which handles cases of corruption within the government, and district and circuit courts of Islamic Law (Shari'a).

Language

The Philippines ranks 20th out of 113 countries and economies in the 2023 English Proficiency Index of the EF Education First group

There are two official languages: Filipino and English. Filipino, which is based on Tagalog, is the national language.

Both English and Filipino are used in formal settings and in official documents of the government, the legal system, business, the sciences and medicine, and as a medium of instruction at schools and by the media.

88%
of total population speak English

Over 90m (about 88% of the Philippine population) Filipinos speak English as a second language. That makes them the fourth highest population of English speakers in the world.

The eight (8) major dialects spoken by majority of Filipinos are: Tagalog, Cebuano, Ilocano, Hiligaynon or Ilonggo, Bicolano, Waray, Pampango and Pangasinense.

Literacy

The education system in the Philippines is seen as one of the most developed in Asia in terms of basic education completion and higher education participation

Formal education in the Philippines generally spans 16 years: six years of primary school education, four years of lower secondary education (junior high school), two years of upper secondary education (senior high school) and four years of tertiary education.

The media of instruction in all levels are English and Filipino, as stated in the Philippine Bilingual Education Policy (BEP).

The academic year for primary and secondary levels is being reverted to the June to March period, as recommended by the Department of Education. Meanwhile, the academic year for tertiary levels generally starts in August and ends in May.

92%
of Filipinos were functional literates (2019)

According to the results of the Functional Literacy, Education and Mass Media Survey (FLEMMS), about 91.6% of Filipinos aged 10 to 64 years old were functional literates in 2019. This represents around 73m out of 79.7m in the same age group who are considered literate on a functional level.

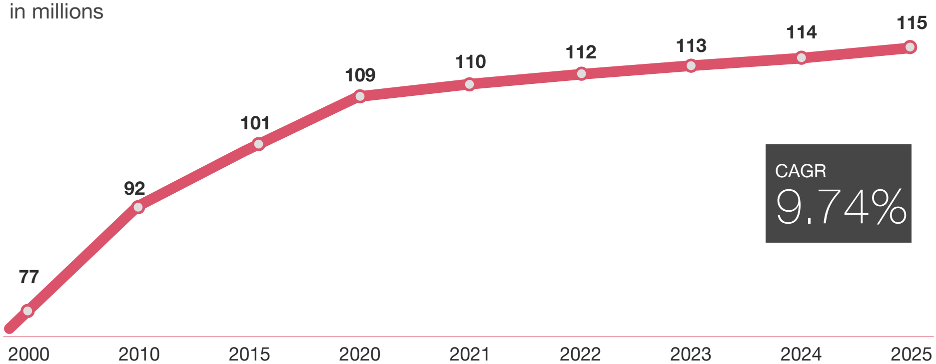
97%
NCR literacy rate

The National Capital Region and the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) registered the highest (96.5%), and lowest (71.6%) functional literacy rate, respectively.

Population

The Philippine population has been steadily rising over the past few decades

Philippine population, historical and forecasted
in millions



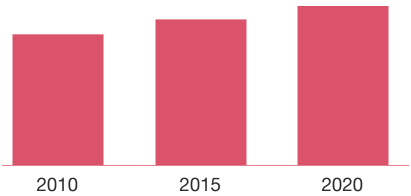
Source: Philippine Statistics Authority (PSA)

The National Capital Region is the most densely populated area in the Philippines

The 2020 Census of Population and Housing puts the total population of the Philippines at 109,035,343. The density in terms of total country area and population has risen to 363 people per square kilometre, an increase of 55 people per square kilometre since 2010. This data only takes into account Filipinos residing within the country. This compares to the 2020 population density of 295 people per square kilometre in Vietnam, 151 in Indonesia, 137 in Thailand and 100 in Malaysia.

The top three regions in terms of population density are NCR, Region IV-A and Region III. By far, NCR surpasses total country population density by 5,889%. The growth in population density in these areas highlights the need to improve the state of infrastructure in order to support the growth of the population in these areas and address their needs for shelter, energy, health and mobility solutions.

Philippine population density
In population per sq km, 2013 land area



Most densely populated areas, 2020
In population per sq km, 2013 land area

Area	Population density
National Capital Region	21,765
Region IV-A (CALABARZON)	977
Region III (Central Luzon)	567

The Philippines will have a more stable pool of workers and much larger labour force

The high population creates great opportunity for businesses in the Philippines. About 28.20% of the total working population are between 25 and 34 years old (according to the 2021 PSA Labor Force Survey). Combined with the high functional literacy rate, doing business in the Philippines becomes attractive to investors in key industries such as business process outsourcing (BPO), real estate and transportation.

Agriculture can be a high growth sector as well, given the relatively good weather and it being one of the government's investment priority areas.

After the pandemic, many employers especially in the BPO sector have continued their telecommuting programmes or work-from-home (WFH) arrangements. In 2022, amidst the easing of restrictions after the lockdowns, the Department of Labor and Employment revised the rules and regulations implementing the Telecommuting Act to encourage the adoption or continuation of telecommuting programmes. This can be a growth factor as it allows expands the pool of human resources to include individuals living outside Metro Manila, yields cost savings and improves employee retention.

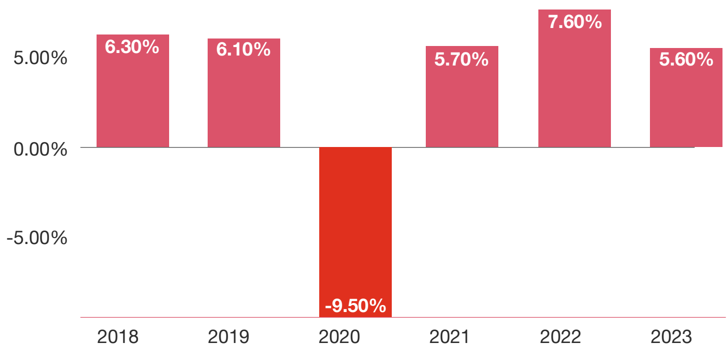
Economy

The Philippines has picked itself up after the pandemic, rising to become one of the best-performing economies in Asia

In the years leading to 2020, the Philippines was able to post 21 years of uninterrupted growth and was the third fastest-growing economy in Asia. From 2011 to 2019, the country's GDP experienced a compound annual growth rate (CAGR) of 5.5%—supported by an economic policy framework that focused on improving transparency and accountability in governance, strengthening the macroeconomy, boosting the competitiveness of industries, developing infrastructure and strengthening the financial sector and capital mobilisation. COVID-19 put a halt to this rosy period, with full year GDP falling by 9.5% as all major sectors' performance declined and confidence plummeted.

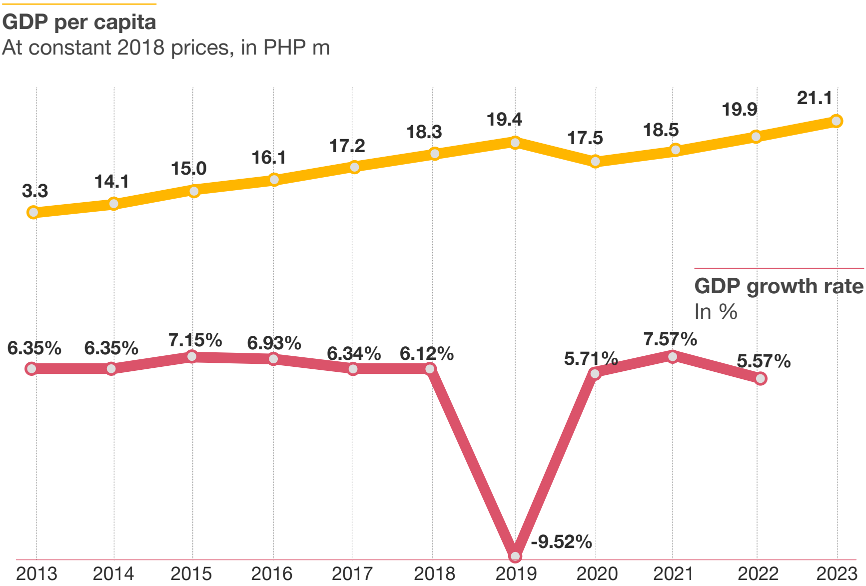
Fast forward to 2023, the Philippines posted GDP growth rate of 5.6%. While this growth is below the government's target of 6% to 7% for 2023, it keeps the country in the position of being one of the best-performing economies in Asia. Among those that have already released their Q4 2023 GDP growth figures, the Philippines follows Vietnam (6.7%) while surpassing China (5.2%) and Malaysia (3.4%).

Philippine GDP growth rate
In %



Source: Philippine Statistics Authority (PSA)

Government is confident in hitting its 6–7% full-year growth target for 2023



Source: Philippine Statistics Authority (PSA)

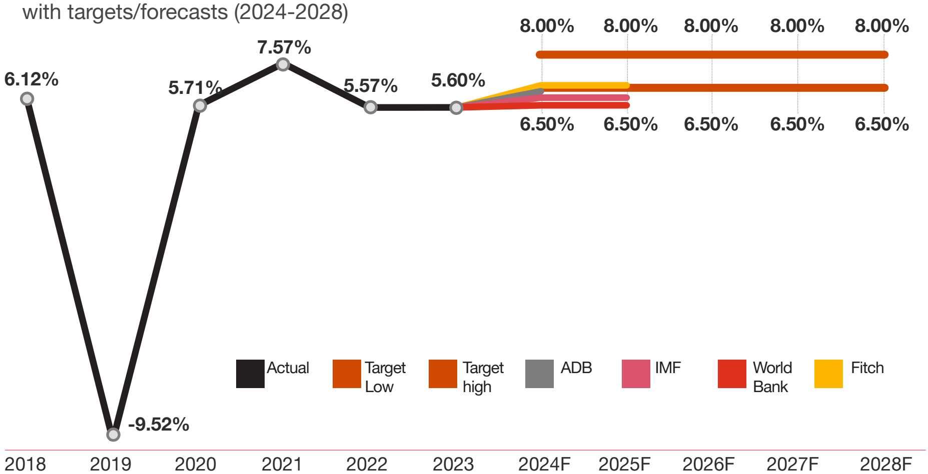
A continuous positive outlook on economic growth is foreseen in the coming years, even as risk areas remain

The Philippine Government has set a target GDP growth range of 6.5% to 8.0% until 2028, as outlined in the Philippine Development Plan 2023-2028. This plan is supported by various international institutions:

- The Asian Development Bank (ADB) anticipates a GDP growth of 6.2% in 2024, up from 6.0% in 2023, due to a recovery in employment and retail trade, sustained expansion in the manufacturing sector and increased public infrastructure spending.
- The International Monetary Fund (IMF) projects a GDP growth rate of 6.0% for 2024 and 6.1% in 2025, spurred by an acceleration in public investment and improved external demand for the Philippines' exports.

- Concurrently, the World Bank predicts a steady GDP growth of 5.8% in both 2024 and 2025, attributable to a robust labour market, steady remittance growth and an expected return of inflation.
- Furthermore, Fitch Solutions analysts foresee the Philippines' GDP growth rate reaching 6.4% in 2024 and expanding to 6.5% in 2025, potentially making it the fastest-growing economy in Southeast Asia. This growth is expected to be underpinned by significant infrastructure investments and trade and investment reforms, including through public-private partnerships (PPPs).

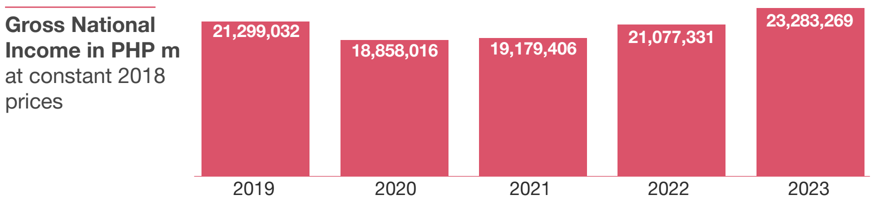
Philippine GDP Growth Rate in %
with targets/forecasts (2024-2028)



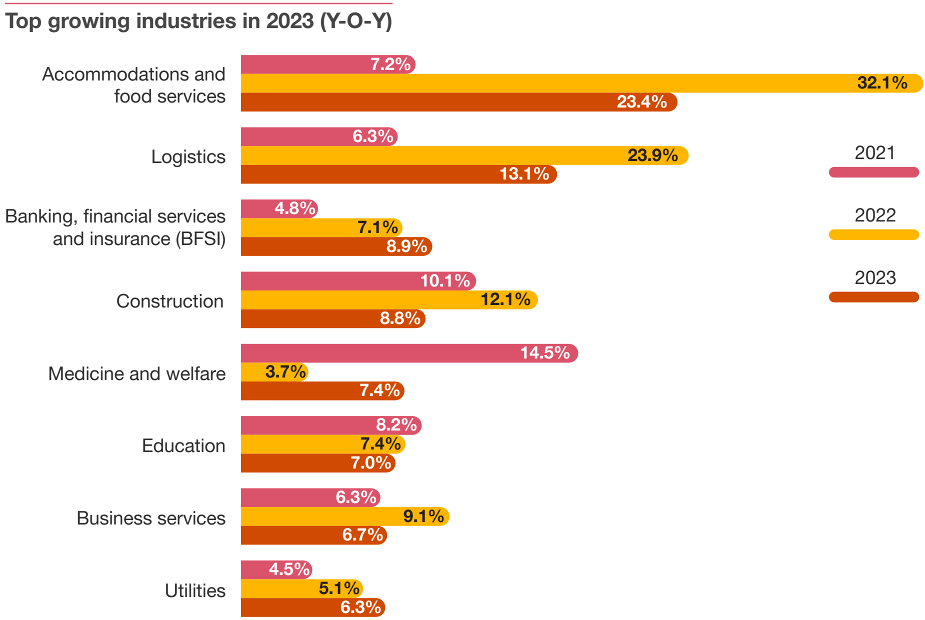
Gross national income has shown a similar trend, driven mostly by the Services sector

Consistent with the economic growth, the country's GNI has also experienced improvements post-pandemic. GNI from 2019 grew at an average rate of 2.65%, recovering from the previous slump caused by the COVID-19 pandemic. The country's GNI increased to PHP23.3 trillion in 2023.

In terms of industrial sectors, Services has the been the biggest contributor of GNI. Specifically, with Accommodations and Food Services accounting for an average of 20.9% of GNI between 2021 and 2023, the Philippines will benefit as business travel, domestic tourism and inbound tourism recover.



Source: Philippine Statistics Authority (PSA)



Source: Philippine Statistics Authority (PSA)

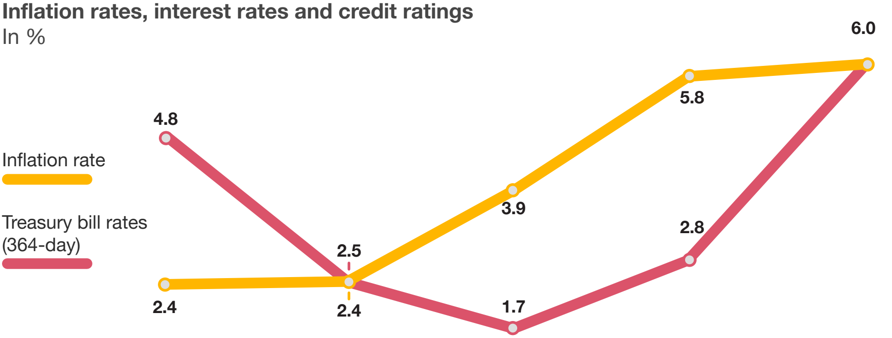
The Bangko Sentral ng Pilipinas (BSP) supports the growing economy as it adjusts interest rates based on inflation

In 2023, the country's inflation of 6.0% was the highest that it has ever been over the past six years. This led to the increase in BSP's interest rate and decrease in household spending throughout the year.

Fitch Ratings revised its outlook on the Philippines' banking sector for 2023 to Stable, in the face of rising asset-quality risks as a result of the global coronavirus outbreak. It expects pressure on revenue from declining interest rates and the resulting economic slowdown dents business operations.

Reserve requirement ratio of universal and commercial banks was reduced by 200 basis points from 30 March 2020 to improve liquidity and address weaker economic activity due to the global pandemic.

Inflation rates, interest rates and credit ratings
In %



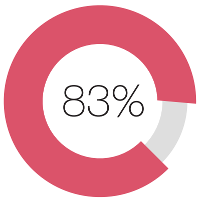
	2019	2020	2021	2022	2023
S&P	BBB+	BBB+	BBB+	BBB+	**BBB+**
Fitch	BBB	BBB	BBB	BBB-	**BBB**
Moody's	Baa2	Baa2	Baa2	Baa2	**Baa2**

Current business environment and recent developments

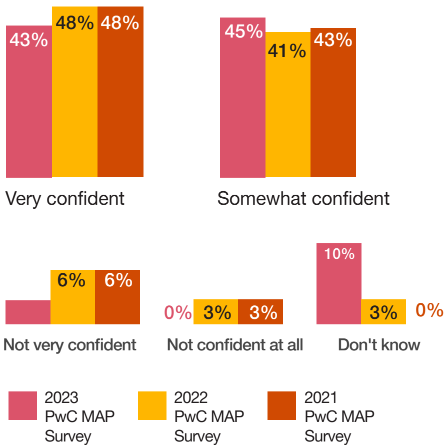
Philippine business environment

The Philippine business community remains optimistic about the local and global economies

In a survey conducted among 157 CEOs by PwC Philippines and the Management Association of Philippines from July to August 2023, 83% expressed optimism about their industry's prospects for revenue growth in the next 12 months. The full reopening of the economy and recovery of the services sector towards the end of 2022 improved the unemployment rate, which in December 2023 dropped to 3.1%, from 4.3% in December 2022 and 3.6% in November 2023. Consumer spending, which grew by over 8% in 2022 and was driven by hotel and restaurant spending, helped grow the country's economy.



of CEOs are confident about their industry's prospects in the next 12 months



PwC's 27th Annual Global CEO Survey found that 57% of Philippines-based CEOs believe the global economy will improve over the next 12 months, slightly higher than the Asia Pacific average (40%). The International Monetary Fund (IMF) has also increased its global growth forecast, predicting a 3.1% growth in 2024. This is largely due to the resilience shown by the US and emerging economies during previous crises, with strong consumption fuelling the growth.

More Philippine-based CEOs recognise reinvention as imperative

Moving forward, the respondents recognise the imperative to transform their businesses, lest they get left behind. At least 54% believe their companies will not be economically viable in the next decade if they continue on their current path. Furthermore, 97% have taken at least some steps to change how they create, deliver and capture value over the past five years.

These initiatives include measures to mitigate the impact of climate change such as:

Decarbonisation

75%

are in progress/have improved energy efficiency.

Climate adaptation

74%

are in progress/have sold products, services or technologies that support customers' climate-resilience efforts.

68% are in progress/have implemented initiatives to protect our company's physical assets and/or workforce from the physical impacts of climate risk.

CEOs in the Philippines are also placing a high priority on technology investments such as Generative Artificial Intelligence (GenAI)

While over half (54%) of businesses have not yet integrated Generative Artificial Intelligence (GenAI) into their operations, a significant majority (60%) of CEOs anticipate that GenAI will impact their companies within the next three years, potentially leading to workforce changes. Many (74%) also believe that GenAI will boost their company's efficiency and benefit their employees. Additionally, over half (57%) of CEOs are optimistic that GenAI will contribute to increased revenue and profitability. The introduction of advanced tech solutions can enhance business operations by streamlining processes, boosting productivity, reducing costs and errors, and improving customer experiences. These solutions also assist in data analysis, leading to more informed decision-making, and promote efficiency through automation.

Legislative developments

Significant laws have been enacted in the recent years

Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act

- Reduction of the regular corporate income tax rate from 30% to 25%
- Repeal of 10% improperly accumulated earnings tax
- Rationalisation of incentives

    a. Export enterprises are entitled to four to seven years income tax holiday (ITH), and then to ten years of either the 5% Special Corporate Income Tax (SCIT) or the Enhanced Deductions
    b. Domestic market enterprises are entitled to four to seven years ITH, and then to five years of the Enhanced Deductions

Amendments to the Public Service Act

- Foreign equity restrictions have been removed on most public service entities, with the exception of those considered as “public utility” and “critical infrastructure.”

- The following are considered “public utilities” subject to the 40% foreign equity limitation:

    a. Distribution or transmission of electricity
    b. Petroleum and petroleum products pipeline transmission systems
    c. Water pipeline distribution systems and wastewater and sewerage pipeline systems
    d. Seaports
    e. Public utility vehicles

- The scope of "critical infrastructure" is limited to public service companies that own, use or operate systems and assets that are vital to the Republic of the Philippines

Amendments to the Retail Trade Liberalization Act

Foreign retailers can now engage in the retail trade business in the Philippines under the following conditions:

a. Paid-up capital must be at least PHP25m
b. Country of origin does not prohibit the entry of Filipino retailers, and
c. If engaged in retail trade through more than one physical store, the investment per store must be at least PHP10m.

Anti-Red Tape Act (ARTA)

Pursuant to Republic Act No. 11032, also known as the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018," the Anti-Red Tape Act (or ARTA) was enacted to regulate and enforce policies (through the Anti-Red Tape Authority) against Red Tape, and other graft and corrupt policies of the government, such as (but not limited to):

- long queues
- cut-off system
- noon breaks
- fixers
- processes not listed under the Citizen's Charter.

Ease of Paying Taxes Act

On 5 January 2024, the Ease of Paying Taxes (EOPT) Act was signed into law by President Ferdinand Marcos, Jr. The EOPT Act introduced significant amendments to the National Internal Revenue Code of 1997 ("Tax Code"). Such amendments are intended to protect and safeguard taxpayer rights and welfare, to modernise tax administration by providing mechanisms that encourage easy compliance at the least cost and resources, and to update the tax system and adopt best practices. It took effect on 22 January 2024.

The amendments include:

- File-and-pay anywhere mechanism, where taxes shall be paid **either** electronically or manually at the time the return is filed
- Classification of taxpayers into micro, small, medium and large taxpayers
- Withholding of tax on income payments only when payable
- Imposing value-added tax (VAT) on services based on gross sales, no longer on gross receipts
- VAT invoices are sufficient to substantiate input VAT arising from the purchase of both goods and services
- Removal of 'business style' as a VAT invoicing requirement
- Removal of withholding tax as a requirement for deductibility of income payments

The provision of the EOPT bill granting micro-enterprises exemption from the obligation to withhold taxes was vetoed by the President.

The details of the amendments and their implications are discussed here.

Revised Corporation Code of the Philippines

On 20 February 2019, RA No. 11232 was signed into law providing for the Revised Corporation Code. Salient changes in the Corporation Code are as follows:

- Removal of the minimum number of incorporators
- Juridical persons allowed to become incorporators except partnerships or associations organised for the purpose of practising a profession unless otherwise provided under special laws
- Introduction of One Person Corporation
- Perpetual existence for corporations unless otherwise provided in the Articles of Incorporation
- Revival of corporations with expired term
- Minimum capital stock for stock corporations no longer required, except as otherwise specifically provided by special law
- Removal of the minimum subscribed and paid-in capital
- Removal of the minimum number of directors or trustees
- Requirement that majority of the directors should be residents of the Philippines has been removed

- Period of non-use of the charter which may result in revocation of the certificate of incorporation has been extended to five years
- Requirement to have at least 20% of the members of the Board as independent directors for corporations vested with public interest

Key amendments to the implementing rules and regulations of the Build-Operate-and-Transfer Law

On 26 April 2022, the Implementing Rules and Regulations (IRR) of "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector and for Other Purposes" or the Build-Operate-and-Transfer Law (Republic Act No. 6957, as amended by Republic Act No. 7718) was modified.

Key amendments introduced in the IRR that took effect on 12 October 2022:

- Deleted the phrase expressly excluding the regulatory acts of the executive branch and acts of the legislative and judicial branches of government from the scope of Material Adverse Government Action (MAGA)

- Required the advice of the regulator and/or the approval of the approving body for finalising the formula/adjustment schedule for the imposition of tolls/fees/rentals/charges

- Provided remedies for the Project Proponent against instances where:

  - the regulator approves a franchise that results in a decrease in the amount of tolls/fees/rentals/charges under the approved concession/PPP agreement
  - the regulator disapproves the tolls/fees/rentals/charges stipulated in the concession/PPP agreement, or
  - the regulator disapproves the proposed amount for the adjustment of the tolls/fees/rentals/charges contrary to the approved formula/adjustment schedule

- Deleted the provision excluding acts and decisions of regulators from being the subject of arbitration
- Defined “availability payments” as the predetermined payments by the Agency/LGU to the Project Proponent in exchange for delivering an asset or service in accordance with the contract. The definition likewise provides that such shall not be construed as a Direct Government Subsidy
- Defined “viability gap funding” as a type of subsidy in the form of a financial support that the government may provide to a revenue-based PPP Project with the objective of making fees affordable, while improving the commercial attractiveness of the project, excluding costs of right-of-way, resettlement and real estate taxes
- Expanded the enumeration of private sector or development projects to include intermodal transport stations and terminals, in-land cargo terminals, park and ride facilities, automated fare collection systems, traffic management systems, traffic monitoring systems, traffic enforcement systems, congestion management systems and parks
- Removed the concept of the “adjusted rate of return” (i.e., defined in the previous IRR as the project internal rate of return adjusted to reflect the value of government undertakings and risks assumed by the government, including government Right-Of-Way (ROW), value of assets or usufruct granted by government and intellectual property) and indicating that the detailed methodology to calculate the Reasonable Rate of Return (RROR) will be done by the NEDA Investment Coordination Committee (ICC)
- Removed the provision requiring projects to first undergo evaluation by a technical working group composed of NEDA, the Department of Finance (DOF) and the Agency/LGU, prior to endorsement to the ICC Technical Board
- Removed the detailed methodology for determining the minimum amount of equity required for proponents, and
- Required the use of independent property appraisers to determine the value of the usufruct of government assets.

The Public-Private Partnership (PPP) Code of the Philippines

On 5 December 2023, President Ferdinand R. Marcos, Jr. signed into law the Public-Private Partnership (PPP) Code of the Philippines (Republic Act No. 11966).

The code unifies fragmented legal frameworks on PPP, clarifies the approval of national and local PPP projects, establishes a predictable tariff regime that safeguards public interest and strengthens enabling institutions for PPPs, among other reforms.

The new PPP Code covers, among others:

- Joint Ventures (JVs)
- Toll operation agreements (TOAs)
- Lease agreements providing for the rehabilitation, operation and/or maintenance, including the provision of working capital and/or improvements to, by the Private Partner of an existing land or facility owned by the government for a period of time covering more than one (1) year
- Lease agreements when such lease is a component of a PPP project
- All other contractual arrangements which possess characteristics or elements of a PPP

The following are significant changes by the PPP Code:

- Amendments in the approval process of PPP projects in the national and local levels
- New procedures for unsolicited proposals
- Requirements for JVs
- Clearer Tariff Regulations
- Legislative creation and recognition of the enabling institutions and policies for PPPs
- Introduction/adoption of new concepts (e.g., green financing, land value capture strategies)

Financial sector

Through the years, the Philippines has built strong and diverse banking and financial systems

Banking and financial systems

Supervised by the country's central bank (the Bangko Sentral ng Pilipinas, or the BSP), the banking system consists of different financial institutions.

Cooperative banks

Provide financial, banking and credit services to cooperatives and their members.

Rural banks

Extend loans and advances primarily for the purpose of meeting the normal credit needs of farmers, fishermen or farm families as well as cooperatives, merchants and private and public employees.

Thrift banks

Specialise in offering savings accounts, granting secured and unsecured loans and domestic letters of credit, and extending credit to private and government employees.

Commercial banks

Accept deposits, offer checking account services, make various loans and offer basic financial products to individuals and businesses.

Universal banks

Authorised to provide the services of a commercial bank as well as operate as an investment house, namely in underwriting debt and equity securities.

Islamic banks

Undertake various investments in all transactions allowed by the Islamic Shari'a in such a way that shall not permit the haram (forbidden), nor forbid the halal (permissible).

Emergence of digital banks in the Philippines

The Bangko Sentral ng Pilipinas has created a new category of banks and has awarded digital banking licences to: Maya Bank, Overseas Filipino Bank, Tonik Digital Bank, UNOBank, Union Digital Bank and GoTyme.

The central monetary authority is hoping that digital banks can assist the BSP in achieving its goal of shifting 50% of total retail transactions in the Philippines to digital, and of raising the number of Filipino adults with bank accounts to 70% by 2023.

Real Estate Investment Trust (REIT) in the Philippines

A REIT is a corporation that earns recurring income from properties they own and manage. A REIT makes money by collecting rentals, user's fees, toll fees, parking fees or storage fees from their tenants.

Not all real estate companies qualify as REITs in the Philippines. To become a REIT, a corporation should meet the requirements under the Real Estate Investment Trust Act of 2009 (RA No. 9856) for the protection of investors.

A REIT must satisfy the following criteria along with others stated in the REIT law:

- Public company listed with the Philippine Stock Exchange (PSE)
- At least 1,000 public shareholders, with each owning at least 50 shares (minimum public ownership must be 33% of the REIT's outstanding capital stock)
- Paid-up capital of at least PHP300m

- At least 75% of the REIT's deposited property consisting of income-generating real estate assets
- An appointed independent fund manager who implements the REIT's investment strategy
- An appointed independent property manager who manages the REIT's properties
- An independent appraisal company that conducts a full valuation of the REIT's properties at least once a year

Infrastructure

Government agencies involved in infrastructure development

Department of Public Works and Highways (DPWH)

The DPWH is mandated to undertake (a) the planning of infrastructure, such as national roads and bridges, flood control, water resources projects and other public works, and (b) the design, construction, and maintenance of national roads and bridges, and major flood control systems.

Department of Transportation (DOTr)

The Department of Transportation (DOTr) is the primary policy, planning, programming, coordinating, implementing and administrative entity of the executive branch of the government on the promotion, development and regulation of a dependable and coordinated network of transportation systems (including land, rail, air and water transport), as well as in the fast, safe, efficient and reliable transportation services.

National Economic and Development Authority (NEDA)

The NEDA is the country's premier social and economic development planning and policy coordinating body. Its key responsibilities include:

1. Coordination of activities such as the formulation of policies, plans and programmes to efficiently set the broad parameters for national and sub-national (area-wide, regional and local development)

2. Review, evaluation and monitoring of infrastructure projects identified under the Comprehensive and Integrated Infrastructure Program consistent with the government's thrust of increasing investment spending for the growing demand on quality infrastructure facilities

3. Undertaking of short-term policy reviews to provide critical analyses of development issues and policy alternatives to decision-makers

Public-Private Partnership (PPP) Center

The PPP Center is the main driver of the PPP Program. It serves as the central coordinating and monitoring agency for all PPP projects in the Philippines. It champions the country's PPP Program by enabling implementing agencies in all aspects of project preparation, managing the Project Development and Monitoring Facility (PDMF), providing projects advisory and facilitation services, monitoring and empowering agencies through various capacity building activities.

Build, Better, More programme

The landmark 'Build, Build, Build' programme acted as catalyst for the 'Golden Age of Infrastructure' in the Philippines

The 'Build, Build, Build' programme is aimed at achieving a golden age of infrastructure in the Philippines to enhance mobility and connectivity, as well as spurring economic growth.

Towards the end of the previous political administration, the 'Build Build Build' programme emerged as successful with the completion of eight major flagship projects, such as:

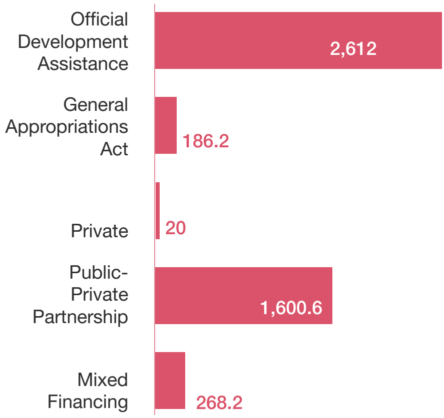
- BGC-Ortigas Center Link Road Project
- Estrella Pantaleon Bridge
- Marawi Transcentral Road Phase 1
- Metro Manila Skyway Stage 3

112	BUILD BUILD BUILD	PHP4,687.1bn
No. of projects	Duterte Administration (2016-2022)	Indicative Total Project Cost

Sectors involved	Project cost (PHP in bn)	
Transport and mobility	76	4,273.4
Urban development	12	15.4
Water resources	10	84.9
ICT	8	106.0
Health	4	46.4
Power and energy	2	20.0

Source: NEDA

Funding source
In PHP bn



- LTO Central Command Center
- LRT-2 East Extension
- GenSan Airport Development Project, and
- Bicol International Airport

Build Build Build infrastructure development program

- High impact projects envisioned to increase the productive capacity of the economy, create jobs, increase income and strengthen the investment climate leading to sustained inclusive growth
- Public spending on infrastructure projects reached up to PHP4,687bn from 2016 to 2022.

From the priority projects and programmes, the NEDA Board approved the adoption of high-impact Infrastructure Flagship Projects (IFPs). The IFPs consist of major capital undertakings that the government undertook from 2017 to 2022. These IFPs were envisioned to enhance the connectivity and promotion of growth centres outside the urban-industrial region centred around Metro Manila.

The list of IFPs is a working list assessed on a timely manner. Its composition has been modified both in terms of project type and funding source. In recent years, more projects have been funded through Official Development Assistance (ODA) and PPP. ODA, as defined by the ODA Act of 1996, is a loan or grant administered to promote the sustainable social and economic development and welfare of the Philippines. ODA resources must be contracted with governments of foreign countries with whom the Philippines has diplomatic, trade relations or bilateral agreements, of which are members of the United Nations, their agencies and international or multilateral lending institutions. Projects are also funded through the General Appropriation Act (GAA). The GAA defines the annual expenditure programmes of the national government and all of its instrumentalities and includes all programmes and projects that are supposed to be funded out of government funds for the year.

Continuing with the 'Build, Better, More' Programme for an equitable, prosperous and resilient Philippines by 2040

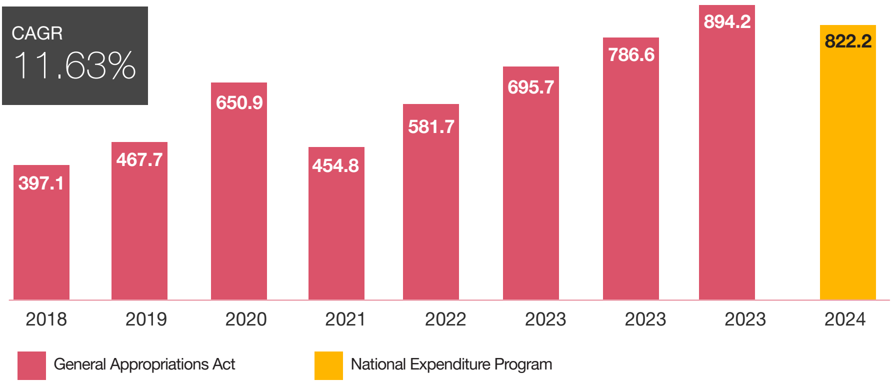
197	BUILD BETTER MORE	PHP8,697.49bn
No. of projects	Marcos Jr. Administration (2022-2028)	Indicative Total Project Cost

Strategic Infrastructure Programs aligned with Philippine Development Plan 2023-2028

- Traffic Decongestion Program (e.g., High Standard Highways and Expressways)
- Seamless Inclusive Connectivity via National and Local Linkages (e.g., Daang Maharlika Highway (N1), Inter-Island Linkage Bridge Program)
- Resilient and Sustainable Communities (e.g., Disaster Risk Reduction and Climate Change Adaptation Program, Integrated Water Resources Management Program)

The Philippines is in for a ride as the government pushes all efforts in improving infrastructure in the country, eventually making it easier for businesses to flourish.

DPWH total budget (2016-2024)
In PHP bn (US$1=PHP55)



Sectors involved	Project cost (PHP in bn)	
Physical connectivity	122	6,974.45
Water resources	44	839.13
Agriculture	15	661.70
Health	6	89.09
Digital connectivity	5	87.06
Power and energy	1	10.19
Other infra	4	35.89

The 'Build, Better, More' programme was an 'expansion' of the previous Duterte administration's 'Build, Build, Build' infrastructure modernisation initiative.

The initials BBM also refer to the incumbent President Ferdinand 'Bongbong' Marcos, Jr.

Source: NEDA

'Build, Better, More' Program comes with a more diversified funding plan and strategic utilisation of PPPs

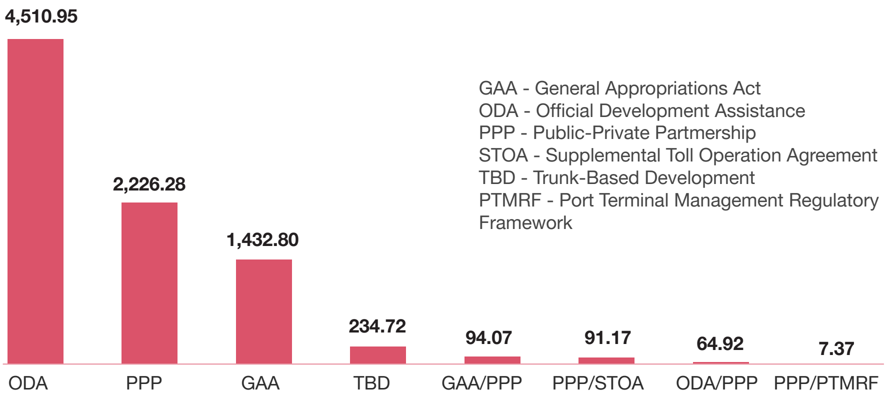
President Ferdinand R. Marcos, Jr. committed to maintain annual spending on infrastructure at around 5–6%of GDP from 2023 to 2028, equivalent to approximately US$20bn to US$40bn per year. This demonstrates the government's recognition of infrastructure development as a crucial component of the country's development agenda.

The prioritisation of infrastructure also aligns with the strategies found in the country's Philippine Development Plan (PDP) 2023-2028, the government's development blueprint for the medium term. The PDP 2023-2028 lays out interventions aimed at transforming the country's production and social sectors through the expansion and upgrading of infrastructure.

The 'Build, Better, More' infrastructure programme presently includes 194 Infrastructure Flagship Projects (IFPs) worth more than PHP8 trillion.

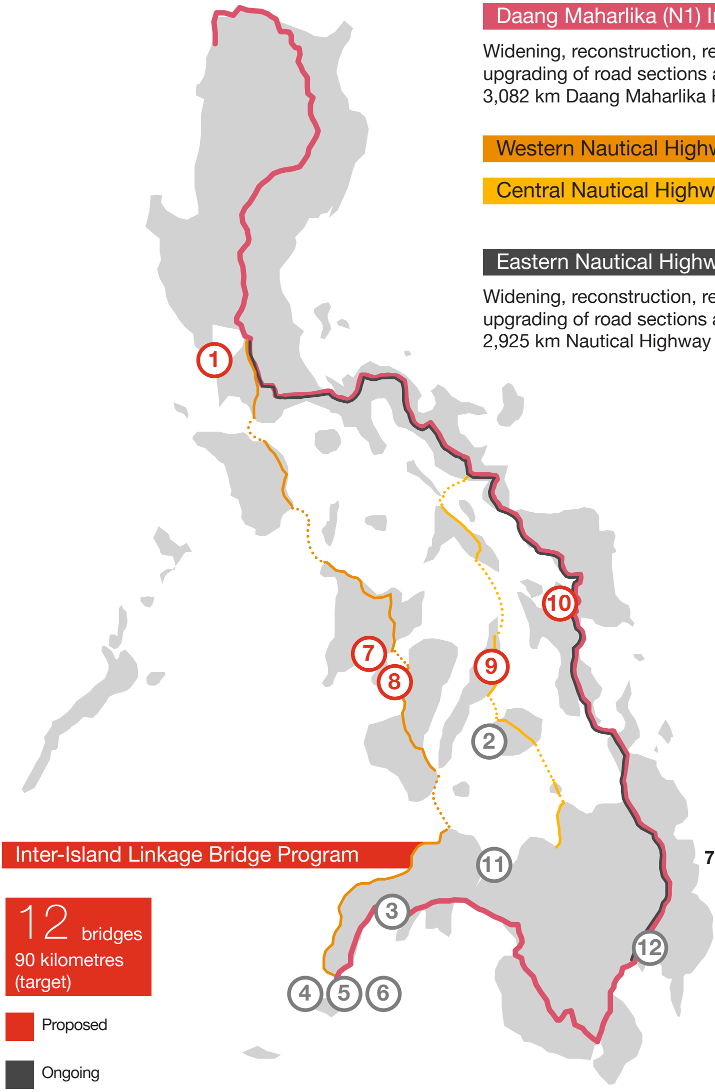
With the enactment of the PPP Code and creation of the PPP Center, the government is welcoming partnerships from the private sector to fund infrastructure projects. This is among the other funding strategies, including ODA, GAA, STOA, TBD and PTMRF.

Fund sources for PH infrastructure projects
In PHP bn (2023)



GAA - General Appropriations Act
ODA - Official Development Assistance
PPP - Public-Private Partmership
STOA - Supplemental Toll Operation Agreement
TBD - Trunk-Based Development
PTMRF - Port Terminal Management Regulatory Framework

Seamless and inclusive connectivity via national and local linkages



Daang Maharlika (N1) Improvement Program

Widening, reconstruction, rehabilitation and upgrading of road sections and bridges along the 3,082 km Daang Maharlika Highway (N1)

Western Nautical Highway (1,174 km)

Central Nautical Highway (422 km)

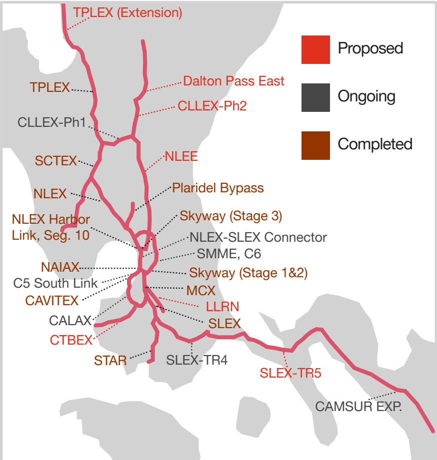
Eastern Nautical Highway (1,329 km)

Widening, reconstruction, rehabilitation and upgrading of road sections and bridges along the 2,925 km Nautical Highway

1 Bataan-Cavite Interlink Bridge (32.15 km) Panglao-Tagbilaran
2 City Offshore Bridge Connector (2.71 km)
3 Guicam Bridge, Zamboanga Sibugay (0.54 km)
4 Nalil-Sikkiat Bridge, Tawi-Tawi (0.54 km)
5 Tongsinah-Paniongan Bridge, Tawi-Tawi (0.57 km)
6 Malassa-Lupa Pula Bridge, Tawi-Tawi (0.68 km)
7, 8 Panay-Guimaras-Negros Island Bridge Project (32.47 km)
9 Cebu-Mactan Bridge (4th Bridge) and Coastal Road Construction Project (8.68 km)
10 2nd San Juanico Bridge (4.85 km)
11 Panguil Bay Bridge (3.17 km)
12 Samal Island-Davao City Connection Bridge (4.01 km)

Traffic Decongestion Program: Philippine High Standard Highway Network Program

Luzon Spine Expressway Network (LSEN) Program



1,073 km Travel time between Ilocos and Bicol will be reduced from 20 hours to nine hours.

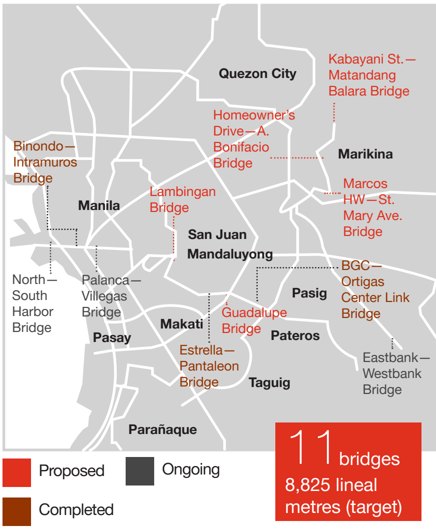
Cebu High Standard Highway Network Program

57 km Travel time from Naga City to Danao will be reduced from three hours to 50 minutes.

Davao High Standard Highway Network Program

92 km Travel time between Toril District Davao City and Panabo City will be reduced from one hour and 44 minutes via Pan-Philippine Highway Diversion Road to 49 minutes via Davao City Bypass.

Metro Manila Logistics Improvement Program



Public-Private Partnerships

Various forms of cooperation between the public and private sectors are already in place

Public and private sector cooperation can come in the form of PPPs. In the Philippines, the legal basis for PPPs lies in Republic Act 7718, commonly known as the BOT Law and its IRR. The 2013 NEDA JV Guidelines, Executive Order No. 423 s. 2005, and the Local Government PPP Code/ JV Ordinance could also be used as guides in implementing projects. The different contractual arrangements of PPP are the following:

1. Build-Operate-and-Transfer (BOT)
2. Build-and-Transfer (BT)
3. Build-Own-and-Operate (BOO)
4. Build-Lease-and-Transfer (BLT)
5. Build-Transfer-and-Operate (BTO)
6. Contract-Add-and-Operate (CAO)
7. Develop-Operate-and-Transfer (DOT)
8. Rehabilitate-Operate-and-Transfer (ROT)
9. Rehabilitate-Own-and-Operate (ROO)

Other legal and regulatory frameworks for PPPs in the Philippines are:

- Executive Order No. 8 series 2010
- Executive Order No. 136 series 2013
- Republic Act No. 11966 or the PPP Code of the Philippines

The forms of government support for PPP projects are:

- Cost sharing
- Credit enhancement
- Direct government subsidy
- Direct government equity
- Performance undertaking
- Legal assistance
- Security assistance

The various types of infrastructure that are eligible for PPP implementation are:

- Highways
- Railways
- Transit facilities
- Port infrastructure
- Airports
- Power generation
- Telecommunications
- Information technology
- Irrigation
- Water supply
- Education and health
- Land reclamation
- Government buildings
- Markets
- Warehouses
- Public fishports
- Tourism
- Environmental projects

Digital infrastructure

The Department of Budget and Management (DBM) intends to allot PHP38.7bn for digital transformation this Fiscal Year 2024. Priority sub-sectors include digital infrastructure, cybersecurity, e-Governance and digital education. A Digital Transformation Roadmap will also be launched for digitalisation in fiscal-related government processes.

Leveraging robust infrastructure

- The Philippines increased its internet speeds with an average download speed of 83.37 Mbps and average upload speed of 82.18 Mbps in fixed broadband. For mobile broadband, average download speed increased from 9.53 Mbps to 45.48 Mbps, and there is an average upload speed of 9.09 Mbps of mobile broadband.

- The Broadband ng Masa programme, formerly known as the National Broadband Plan, was approved by former Philippine President Rodrigo Roa Duterte in 2017 and was launched in June 2017 as a flagship programme.

- The Government Network Project (GovNet), which aims to connect government offices and public establishments digitally, has successfully connected around 1,000 government agencies.
- A total of 4,563 live sites have been established through the Free Wi-Fi for All in Public Places project.

Ensuring universal ICT access

- In 2018, the Philippines received guidance and support from the International Telecommunication Union (ITU) in creating a Terms of Reference to select a New Major Telco Player.
- In June 2022, the Philippines' Initiative on Free Wifi for All in Geographically Isolated and Disadvantaged Areas in Western Mindanao was awarded the World Summit on Information Society (WSIS) Prize in 2022 for creating a cost-efficient network in the remote islands of Basilan, Sulu and Tawi-Tawi.

Ongoing projects

- In 2024, the Philippine Identification System (PhilSys), which will become the government's central identification platform for all Filipino citizens and resident aliens in the Philippines, is set to be completed.
- Other digital infrastructure projects, such as Digital Transformation Centers, the National Broadband Programme, and the National Government Data Center, are targeted to be completed by 2028.

Nationality restrictions

Certain investments are subject to foreign equity restrictions

While incentive programs are instituted to attract inflow of foreign capital and transfer of technology to supplement local resources, the Philippine Constitution limits certain areas of investment to Filipinos, primarily to protect national interest and/or security.

Foreign Investment Negative List (FINL)

The FINL outlines economic activities that are subject to restrictions on foreign equity and participation. Its two components, Lists A and B, contain areas of economic activities that are reserved wholly or partially to Filipino nationals.

The NEDA formulates the Regular FINL for the approval of the President. Except for List A, which is effective until amended by law, each Regular FINL shall remain in force for two years from the date of effectivity.

The 40% foreign ownership restriction applies to the following construction-related activities:

1. Subject to applicable regulatory frameworks, contracts for construction and repair of locally-funded public works, except:

    a. Infrastructure/development projects covered by RA No. 7718, otherwise known as the Build-Operate-Transfer (BOT) Law
    b. Projects which are foreign-funded or assisted and required to undergo international competitive bidding

    (Note: 100% foreign participation is allowed for construction projects under (a) and (b))

2. Exploration, development and utilisation of natural resources
3. Ownership of private lands
4. Operation of public utilities, except power generation and the supply of electricity to the contestable market and other businesses or services not covered by the definition of public utilities.

In 2022, these amendments to the Foreign Investments Act (FIA) became effective:

1. Foreign nationals are allowed a minimum paid-up capital of US$100,000 if: (a) they utilise advance technology as certified by the Department of Science and Technology (DOST), (b) they are endorsed as a startup or startup enablers, or (c) no less than 15 of their employees are Filipinos.
2. Substantial export component of manufacture and repair activity of defence-related activities is no longer required.
3. Required 60% export ratio for an export enterprise is considered under FIA.
4. A 70% export ratio is required to avail incentives under CREATE.
5. An Inter-Agency Investment Promotion Coordination Committee is created to integrate all promotion and facilitation efforts in relation to foreign investments.
6. A Foreign Investment Promotion and Marketing Plan (FIPMP) is developed.

Engaging in domestic market enterprise

A domestic market enterprise refers to an enterprise which produces goods for sale, renders services entirely to the domestic market, or, if exporting a portion of its output, does not consistently export at least 60% of its output.

A domestic corporation engaged in domestic market enterprise with a minimum paid-in capital (MPC) of US$200,000 can be more than 40% foreign owned or 100% foreign-owned as in the case of a branch of a foreign corporation. The MPC requirement may be reduced to US$100,000 if the entity hires at least 50 direct employees or introduces advanced technology as certified by the DOST.

Public utilities

Only the following are considered 'public utilities' subject to the 40% foreign ownership limitation:

- Distribution and transmission of electricity
- Petroleum and petroleum products pipeline transmission systems
- Water pipeline distribution systems and wastewater and sewerage pipeline systems
- Seaports
- Public utility vehicles

Nationality restrictions shall not be imposed on public services that are not classified as 'public utilities.'

Retail trade

Foreign retailers can now engage in the retail trade business in the Philippines under the following conditions:

- Paid-up capital must be at least PHP25m.
- Country of origin does not prohibit the entry of Filipino retailers, and
- If engaged in retail trade through more than one physical store, the investment per store must be at least PHP10m.
- DTI, SEC and NEDA will review the retailer every three years.

Other developments and opportunities for investors

Fintech

The fintech industry in the Philippines has been experiencing significant growth in recent years, presenting various investment opportunities

Digital payments: With a large unbanked population and increasing smartphone penetration, digital payment solutions are in high demand. Investing in companies that offer mobile wallets, payment gateways or peer-to-peer payment platforms can be lucrative.

Online lending: The Philippines has a growing middle class with limited access to traditional banking services. Online lending platforms that provide quick and convenient loans to individuals and small businesses are gaining popularity. Investing in these platforms can be profitable.

Remittances: The Philippines is one of the largest recipients of remittances globally. Fintech companies that offer innovative solutions for remittance services, such as lower fees and faster transactions, have great potential for growth.

Insurtech: The insurance industry in the Philippines is relatively underdeveloped. Investing in insurance technology (insurtech) companies that leverage technology to provide affordable and accessible insurance products can be a promising opportunity.

Robo-advisory: As more Filipinos become interested in investing, robo-advisory platforms that offer automated investment advice and portfolio management are gaining traction. Investing in these platforms can tap into the growing demand for investment services.

Blockchain and cryptocurrency: The adoption of blockchain technology and cryptocurrencies is gradually increasing in the Philippines. Investing in blockchain-based solutions or cryptocurrency-related ventures can be a high-risk, high-reward opportunity.

When considering investment opportunities in the fintech industry, it is essential to conduct thorough research and evaluate the company's business model, team, market potential and regulatory environment. Consulting with a financial advisor or investment professional is also recommended to make informed investment decisions.

Real estate

Investment opportunities in the different areas of the real estate industry in the Philippines are promising

Residential properties: Investing in residential properties, such as condominiums, townhouses or single-family homes, can be a lucrative option. The demand for housing is high, especially in urban areas, due to population growth and urbanisation.

Commercial properties: Investing in commercial properties, such as office spaces, retail spaces and industrial properties, can provide stable rental income. The growth of the business process outsourcing (BPO) industry and the expansion of retail and commercial sectors create opportunities in this segment.

Tourism and hospitality: The Philippines is known for its beautiful beaches and tourist attractions. Investing in hotels, resorts or vacation rentals in popular tourist destinations can be profitable, especially with the growth of domestic and international tourism.

Mixed-use developments: Mixed-use developments that combine residential, commercial and retail spaces in a single project are gaining popularity. These developments cater to the increasing demand for live-work-play environments and can provide diverse revenue streams.

Real Estate Investment Trusts (REITs): The Philippines recently introduced REITs, allowing investors to participate in real estate investments through publicly traded companies. Investing in REITs can provide exposure to a diversified portfolio of income-generating properties.

Infrastructure development: The government's infrastructure development initiatives, such as the 'Build, Build, Build' programme, create opportunities for investment in infrastructure projects. This includes investments in transportation, logistics and other related sectors.

When considering investment opportunities in the real estate industry, it is crucial to conduct thorough due diligence and assess the location, market demand, potential rental income and regulatory environment. Consulting with real estate professionals or investment advisors can help in making informed investment decisions.

Health-care | The healthcare industry in the Philippines offers various investment opportunities

Hospitals and medical facilities: Investing in hospitals and medical facilities can be a lucrative opportunity. The demand for quality healthcare services is increasing, especially in urban areas. Investing in the expansion or improvement of existing facilities or establishing new ones can be profitable.

Medical tourism: The Philippines is becoming a popular destination for medical tourism due to the presence of skilled healthcare professionals and lower healthcare costs compared to other countries. Investing in medical tourism facilities, such as specialised hospitals or wellness centres, can tap into this growing market.

Pharmaceutical and biotech companies: Investing in pharmaceutical and biotech companies involved in research, development and manufacturing of drugs, medical devices or biotechnology products can be a promising opportunity. The demand for innovative healthcare solutions is rising.

Telemedicine and digital health: The adoption of telemedicine and digital health solutions is increasing in the Philippines, especially in remote areas with limited access to healthcare services. Investing in telemedicine platforms, health apps or remote monitoring technologies can be a viable option.

Healthcare education and training: The demand for skilled healthcare professionals is high. Investing in healthcare education and training institutions, such as nursing schools or medical colleges, can help meet this demand and contribute to the development of the healthcare workforce.

Health insurance: The demand for health insurance is growing as more Filipinos recognise the importance of having coverage for medical expenses. Investing in health insurance companies or insurance technology (insurtech) startups can be a potential opportunity.

When considering investment opportunities in the healthcare industry, it is essential to assess the market demand, regulatory environment, competition and potential risks. Consulting with healthcare industry experts or investment advisors can provide valuable insights for making informed investment decisions.

Energy | Consider these key areas of opportunities in the Philippine energy industry

Renewable energy: Investing in renewable energy projects is a growing trend in the Philippines. The government has set a target to increase the share of renewable energy in the country's energy mix. Opportunities exist in solar, wind, hydro, geothermal and biomass energy projects.

Solar power: The Philippines receives abundant sunlight, making solar power a viable investment option. Investing in solar farms or rooftop solar installations can provide a stable source of clean energy and contribute to the country's energy transition.

Wind power: Certain regions of the Philippines have favourable wind conditions, making wind power a promising investment opportunity. Investing in wind farms or wind energy projects can help diversify the country's energy mix and contribute to reducing carbon emissions.

Geothermal energy: The Philippines is one of the world's top producers of geothermal energy. Investing in geothermal power plants or geothermal exploration projects can tap into the country's geothermal resources and contribute to sustainable energy production.

Energy storage: With the increasing integration of intermittent renewable energy sources, investing in energy storage solutions, such as battery storage systems, can help address the challenge of grid stability and provide opportunities for energy arbitrage.

Energy efficiency: Investing in energy efficiency projects and technologies can help reduce energy consumption and costs. Opportunities exist in energy-efficient buildings, industrial processes and energy management systems.

Natural gas: The Philippines has natural gas reserves, and investing in natural gas exploration, production or infrastructure can contribute to the country's energy security and diversification.

When considering investment opportunities in the energy industry, it is crucial to assess the regulatory environment, market demand and potential returns and risks associated with each specific sector. Consulting with energy industry experts or investment advisors can provide valuable insights for making informed investment decisions.

Armed forces

The Armed Forces of the Philippines' (AFP) 15-year modernisation programme presents various investment opportunities in the defence and security sector

The program started in 2012 and will continue through 2027, with its total cost projected to be over $40bn.

Defence equipment and technology: The AFP modernisation programme aims to upgrade and acquire new defence equipment and technology. Investing in companies involved in the manufacturing, supply or maintenance of defence equipment, such as aircraft, naval vessels, armoured vehicles, communication systems and surveillance technology, can be a potential opportunity.

Infrastructure development: The modernisation programme includes the development of military bases, facilities and infrastructure. Investing in construction companies or infrastructure development projects related to military installations can be a viable option.

Training and education: The AFP modernisation programme emphasises the training and education of military personnel. Investing in companies or institutions that provide specialised training, simulation systems or educational programs for the military can be a potential opportunity.

Cybersecurity: With the increasing reliance on digital systems and the growing threat of cyber attacks, investing in cybersecurity solutions for the military can be a promising opportunity. This includes investing in companies that provide cybersecurity services, software or infrastructure to enhance the defence against cyber threats.

Logistics and supply chain: The modernisation programme requires efficient logistics and supply chain management. Investing in companies that specialise in defence logistics, transportation or supply chain solutions can be a potential opportunity.

Research and development: The AFP modernisation programme encourages research and development in defence technology. Investing in companies or institutions involved in defence research, innovation or technology development can be a lucrative opportunity.

When considering investment opportunities related to the AFP modernisation programme, it is crucial to stay updated on the programme's progress, government policies and regulations. Consulting with defence industry experts or investment advisors with knowledge of the defence sector can provide valuable insights for making informed investment decisions.

Investment vehicles

Foreign investors may consider establishing either a branch or a subsidiary

However, foreign ownership is restricted in corporations undertaking activities listed in the Foreign Investments Negative List (FINL). Branches cannot engage in activities listed in the FINL because they do not have the requisite Filipino ownership.

Comparison between branch and subsidiary

	Branch	Subsidiary
Definition	A business unit of a foreign company that derives income from the Philippines	A company created under Philippine laws. All or majority of the shares of stock may be owned by a foreign corporation/parent company
Legal personality	Considered an extension of the head office	Has a separate and distinct juridical personality from its shareholders
Extent of liability	Liabilities of the branch considered liabilities of the head office	Generally limited to stock subscription of shareholders

	Branch	Subsidiary
Required capital	Initial capital of the Philippine equivalent of at least US$200,000 for a Domestic Market Enterprise	Foreign-owned entities must have an initial capital of the Philippine equivalent of at least US$200,000 for a Domestic Market Enterprise
Directors	A resident agent should be appointed; directors of the branch will be the same as the directors of the head office	Under the present law, the minimum number of directors has been removed. Nevertheless, the SEC requires at least two or more incorporators/directors, but not more than 15
Limitations on the activities to be undertaken	A branch is prohibited from performing activities outside the scope of activities of its head office	No limitations on activities provided that the activities are not wholly or partially reserved to Filipino citizens and corporations
Security deposit requirement	For the benefit of creditors, a branch is required to deposit with the SEC acceptable securities with market value equivalent to at least PHP500,000 plus annual additional deposit of 2% of the amount by which the branch's gross income for the taxable year exceeds PHP10m	Not required to deposit securities with the SEC
Income tax rate	25% corporate income tax on its Philippine-sourced income (as amended by CREATE)	20% RCIT for the worldwide income of domestic corporations with total assets of PHP100m and below, with net taxable income of PHP5m and below; and 25% corporate income tax (CIT) for the worldwide income of other domestic corporations (as amended by CREATE)

Other types of branch office

A branch office in the Philippines may also be a representative office, RHQ or ROHQ

	Representative Office	Regional Headquarters (RHQ)	Regional Operating Headquarters (ROHQ)
Definition	An extension of the head office of the foreign company which deals directly with the clients of its parent company in the Philippines.	A branch office of a multinational company which acts as a supervisory, communications and coordinating centre for its head office, affiliates, subsidiaries or branches in the Asia Pacific region and other foreign markets.	A branch office of a multinational company that is allowed to derive income in the Philippines by performing qualifying services to its head office, affiliates, subsidiaries or branches in the Philippines and other markets.
Authorised activities	Information dissemination, communication centre, promotion of the company's products and quality control. Prohibited from engaging in any income-generating activity in the Philippines.	Supervision, communications and coordination activities. Does not earn or derive income in the Philippines.	Only the specific qualifying services enumerated in the Omnibus Investments Code and authorised under its licence to do business in the Philippines, except those listed in the FINL.

	Representative Office	Regional Headquarters (RHQ)	Regional Operating Headquarters (ROHQ)
Authorised activities (continued)			Among the qualifying services enumerated in the Omnibus Investment Code are: • Sourcing/ procurement of raw materials and components • Corporate finance advisory services • Training and personnel management • Logistics services • Research and development services, and product development • Technical support and management. An ROHQ is not allowed to directly or indirectly solicit, market or engage in the sale and distribution of goods and services of or on behalf of its head office, branches, affiliates, subsidiaries or any other company.
Market	Not allowed to offer any service to any third party.	Not allowed to offer the above-specified foregoing services to entities other than its head office, affiliates, branches or subsidiaries.	Not allowed to offer qualifying services to entities other than its head office or its head office's affiliates, branches or subsidiaries.

	Representative Office	Regional Headquarters (RHQ)	Regional Operating Headquarters (ROHQ)
Capitalisation	Must have an initial remittance of at least US$30,000.00.	Must have an initial remittance of US$50,000.00 and annual remittance of US$50,000.00 within 30 days from the anniversary date of registration, to cover operating expenses.	Must have an assigned capital equivalent to at least US$200,000.00.
Personnel requirements	May be set up with only one personnel who may be designated as the resident agent.	May be set up with only one personnel who may be designated as the resident agent.	May be set up with only one personnel who may be designated as the resident agent.
Taxation	Not subject to income tax as it is prohibited to engage in income-generating activities in the Philippines.	Not subject to income tax as it is prohibited to engage in income-generating activities in the Philippines.	Effective 1 January 2022, ROHQs are subject to regular corporate income tax of 20% or 25%.

Taxation

Regular corporate income tax (RCIT)

Domestic corporations (local subsidiaries) are taxed on their worldwide income while resident foreign corporations (branch offices) are taxed only on their income from sources within the Philippines

Starting 1 July 2020, the RCIT rate was reduced from 30% to 25% with respect to domestic corporations and resident foreign corporations pursuant to the CREATE Act (RA No. 11534) which took effect on 11 April 2021.

However, domestic corporations with net taxable income not exceeding PHP5m and with total assets not exceeding PHP100m, excluding land on which the particular business entity's office, plant and equipment are situated, are subject instead to 20% RCIT.

Nonprofit hospitals and proprietary educational institutions are subject to a 10% income tax rate.

The 25% or 20% RCIT is computed on taxable income which is the difference between gross income and allowable deductions. Allowable deductions pertain to ordinary and necessary expenses that are directly attributable to the development, management, operation or conduct of trade or business. These include interest, depreciation, losses, bad debts and qualified donations.

Net operating loss carryover (NOLCO)

NOLCO pertains to net operating losses that are allowed to be carried over to and deducted from gross income in the next three consecutive taxable years.

With respect to export market and domestic market enterprises having registered projects or activities entitled to incentives, any NOLCO suffered during the first three years of commercial operations may be utilised during the next five consecutive taxable years following the year of loss.

Minimum corporate income tax (MCIT)

In the fourth year immediately following the year of commencement of business operations, the income tax due shall be the higher between the 25% or 20% RCIT or 2% MCIT which is computed on gross income.

Any excess of the MCIT over the RCIT constitutes an income tax credit that is carried forward and creditable against the RCIT for the three immediately succeeding taxable years. Hence, remaining unutilised MCIT credits after three years will expire.

Value-added tax (VAT)

A 12% VAT is imposed on gross sales from the sale, barter, exchange, lease of goods or properties and rendition of services, in the course of trade or business and on importation of goods.

Customs duties and other taxes on importation of goods

Imported articles from foreign countries brought into the Philippines are generally subject to duties and other taxes. Total tax and duties may be composed of customs duty, VAT on importation, import processing fee and excise tax.

The amount of duties and taxes on imported articles is based on the tariff classification. Customs duties and other taxes on importation should be paid before the release of imported goods.

Withholding tax

The withholding tax system is the advance collection of taxes on income where the income payor is constituted as a withholding agent responsible for withholding a percentage of the income payment and remitting the same to the government.

The withholding tax is either creditable or final in nature and the rates are specifically provided for by law and tax regulations and depend on the nature of the transaction.

Here are some examples of transactions subject to withholding taxes:

- Salaries of employees
- Payments of interest, dividends and royalties to local or nonresident foreign payees
- Income payments to lawyers, auditors, contractors, brokers and other professionals

Dividends tax

Dividends received by a domestic corporation or resident foreign corporation from a domestic corporation are exempt from tax.

However, those received by a nonresident foreign corporation (NRFC) from a domestic corporation shall be subject to a final withholding tax of:

a. 15% if the country where the foreign corporation is domiciled exempts offshore dividends from tax or grants a tax credit of 15% or more for taxes deemed to have been paid in the Philippines, or
b. 10% or 15% based on the applicable tax treaty.

Capital Gains Tax (CGT)

CGT is imposed on transfer of shares not traded in the stock exchange at the rate of 15% of the net capital gains realised during the taxable year.

Exemption from CGT may be available under an applicable tax treaty and subject to compliance with certain conditions.

Documentary Stamp Tax (DST)

DST is due upon documents, instruments, loan agreements and papers that is incidental to acceptances, assignments, sales and transfers of obligations, right or property.

The person making, signing, issuing, accepting or transferring the document shall be responsible for the DST due on the transaction. In case one of the parties to the taxable document enjoys exemption from DST, the other party who is not exempt shall be the one directly liable for the tax.

In January 2018, DST rates (except on DST on debt instruments) were increased by 100% pursuant to RA No. 10963 or the TRAIN Law.

Local Government Taxation

Local government units (LGUs) such as provinces, cities and municipalities enjoy autonomy from the National Government and have the power to levy taxes, fees or charges on any base or subject not otherwise specifically taxed under the National Internal Revenue Code or other applicable laws. These taxes include local business taxes, real property taxes and transfer taxes.

Tax treaties

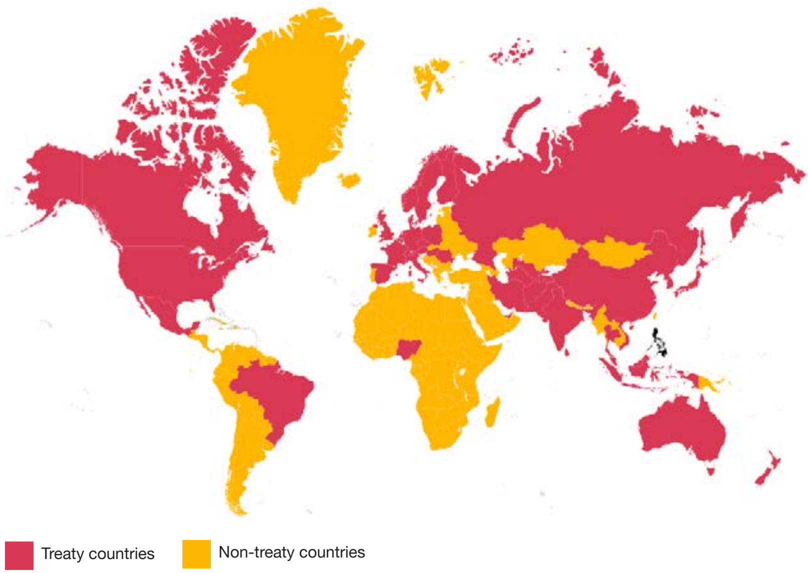
Overview of Philippine tax treaty countries

The Philippines is a party to 44 bilateral tax treaties which offer income tax exemptions or reduced income tax rates for NRFCs deriving income in the Philippines

Tax treaties are international agreements governed by the principles of customary international law which, under the Philippine Constitution, are part of the law of the land.

Tax treaties have the same authority as domestic law. In case of conflict, however, tax treaty provisions generally prevail over domestic law.

Significantly, the Supreme Court has ruled that the application of the provisions of the National Internal Revenue Code must be subject to the provisions of tax treaties entered into by the Philippines with foreign countries.



Tax treaties

Australia	India	Qatar
Austria	Indonesia	Romania
Bahrain	Israel	Russia
Bangladesh	Italy	Singapore
Belgium	Japan	Spain
Brazil	Korea, Republic of	Sri Lanka
Brunei	Kuwait	Sweden
Canada	Malaysia	Switzerland
China, People's Republic of	Mexico	Thailand
Czech Republic	Netherlands	Turkey
Denmark	New Zealand	United Arab Emirates
Finland	Nigeria	United Kingdom
France	Norway	United States
Germany	Pakistan	Vietnam
Hungary	Poland	

Income type	Final withholding income tax rates	
	National Internal Revenue Code of 1997	Tax treaties
Business profits	25%	Exempt
Dividends	25% or 15%	25%, 20%, 15% 10%
Interest	20%	15%, 10%, exempt
Royalties	25%	25%, 15%, 10%
Capital gains from sale of unlisted shares	15%	15% or exempt
Gross revenues in international shipping and air transport	2 ½%	1 ½%

Tax incentives

On 26 March 2021, RA No. 11534 or the CREATE Act was signed into law

The law contains amendments to several provisions of the National Internal Revenue Code of 1997 ("Tax Code"), primarily on the reduction of the corporate income tax rate and rationalisation of corporate tax incentives in the country.

Incentives under the CREATE Act

Tax incentives

Income Tax Holiday (ITH) shall be granted for a period of four to seven years, followed by the Special Corporate Income Tax (SCIT) rate of 5% on the gross income earned, in lieu of all taxes, both national and local, or Enhanced Deductions (ED) for five or ten years. The EDs include the following:

- Depreciation allowance of qualified capital expenditures (10% and 20%)
- Labour expense (50%)
- Research and development expense (100%)
- Training expense (100%)
- Domestic input expense (50%)
- Power expense (50%)

- Reinvestment allowance to the manufacturing industry (maximum of 50%), and
- Net operating loss carryover.

An export enterprise may enjoy the following income tax incentives depending on the category/industry tier and location of the registered project or activity:

Location / Industry tiers	Tier I	Tier II	Tier III
National Capital Region (NCR)	4 ITH + 10 ED/ SCIT	5 ITH + 10 ED/ SCIT	6 ITH + 10 ED/ SCIT
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 10 ED/ SCIT	6 ITH + 10 ED/ SCIT	7 ITH + 10 ED/ SCIT
All other areas	6 ITH + 10 ED/ SCIT	7 ITH + 10 ED/ SCIT	7 ITH + 10 ED/ SCIT

The chosen option (whether to avail of SCIT or ED) shall be irrevocable for the entire duration of entitlement. Option to avail of SCIT or ED shall be exercised at the time of application.

On the other hand, a domestic market enterprise may enjoy the following income tax incentives:

Location / Industry tiers	Tier I	Tier II	Tier III
NCR	4 ITH + 5 ED	5 ITH + 5 ED	6 ITH + 5 ED
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 5 ED	6 ITH + 5 ED	7 ITH + 5 ED
All other areas	6 ITH + 5 ED	7 ITH + 5 ED	7 ITH + 5 ED

Sunset provision

Registered export enterprises (REEs) with granted incentives prior to CREATE may continue to avail of incentives for ten years.

All existing REEs prior to CREATE which continue to avail of their existing income tax incentives may still enjoy the VAT zero-rating on local purchases that are directly attributable and exclusively used in their registered project or activity until the expiration of the transitory period, as follows:

- For REEs granted with Income Tax Holiday (ITH) only: until the remaining period of the ITH
- For REEs granted an ITH and/or 5% tax on gross income earned: until the expiration of the ten-year limit

Customs duty incentives

There is a duty exemption of up to 17 years for export enterprises and up to 12 years for domestic enterprises from the date of registration unless otherwise extended under the SIPP.

Business enterprises registered to the Board of Incentives (BOI) prior to the effectivity of the CREATE Act shall continue to enjoy duty exemption for a period of five years from date of registration.

VAT incentives

There is a VAT exemption and zero-rating of registered export enterprises of up to 17 years from the date of registration, unless otherwise extended under the SIPP.

The direct and exclusive use for registered projects or activities was expanded to include packaging materials and services, as well as the provision of basic infrastructure and utilities.

2022 Strategic Investment Priorities Plan (SIPP)

On May 2022, the President approved the 2022 SIPP which provides three industry tiers. These tiers determine the applicable duration of the income tax holiday incentive under the Tax Code, which ranges from four to seven years.

Tier 1 consists of all activities listed under the 2020 IPP that are not listed under Tiers 2 and 3.

Tier 2 pertains to green ecosystems (i.e. electric vehicles, renewable energy, energy storage, integrated waste management, disposal and recycling), health-related activities, defence-related activities, industrial value-chain gaps and food security related activities.

Tier 3 consists of research & development and activities adopting advanced digital production technologies of the fourth industrial revolution, highly technical manufacturing and production of innovative products and services, and establishment of innovation support facilities.

The SIPP identifies the non-export activities entitled to income tax holiday. These activities include:

- Green ecosystems
- Health-related activities
- Advanced digital production technologies

Renewable Energy (RE) Act of 2008

RA No. 9513, otherwise known as the RE Act of 2009, grants the following incentives to RE developers (i.e. persons engaged in the exploration, development and utilisation of RE resources and actual operation of RE systems/facilities):

1. ITH for the first seven years of its commercial operations
2. Duty-free importation of RE machinery, equipment and materials within the first ten years
3. Special realty tax rates on equipment and machinery
4. NOLCO during the first three years from the start of commercial operation may be utilised for the next seven consecutive taxable years immediately following the year of such loss
5. After seven years of ITH, all RE developers shall pay a corporate tax of 10%
6. Accelerated depreciation
7. Zero-percent VAT rate on purchases
8. Cash incentive of RE developers for missionary electrification
9. All proceeds from the sale of carbon emission credits shall be exempt from any and all taxes
10. Tax credit on domestic capital equipment and services

Glossary

1. ADB - Asian Development Bank
2. AFP - Armed Forces of the Philippines
3. BARMM - Bangsamoro Autonomous Region in Muslim Mindanao
4. BEP - Bilingual Education Policy
5. BLT - Build-Lease-and-Transfer
6. BOI - Board of Incentives
7. BOO - Build-Own-and-Operate
8. BOT - Build-Operate-and-Transfer
9. BPO - Business Process Outsourcing
10. BSP - Bangko Sentral ng Pilipinas
11. BT - Build-and-Transfer
12. BTO - Build-Transfer-and-Operate
13. CAGR - Compound annual growth rate
14. CALABARZON - Cavite-Laguna-Batangas-Rizal-Quezon
15. CAO - Contract-Add-and-Operate
16. CEO - Chief Executive Officer
17. CGT - Capital Gains Tax
18. CREATE - Corporate Recovery and Tax Incentives for Enterprises
19. DBM - Department of Budget and Management
20. DepEd - Department of Education
21. DOF - Department of Finance
22. DOST - Department of Science and Technology
23. DOT - Develop-Operate-and-Transfer
24. DOTr - Department of Transportation
25. DPWH - Department of Public Works and Highways
26. DST - Documentary Stamp Tax
27. DTI - Department of Trade and Industry
28. ED - Enhanced Deductions
29. EF English Proficiency Index - English First English Proficiency
30. FINL - Foreign Investment Negative List
31. FIPMP - Foreign Investment Promotion and Marketing Plan
32. FLEMMS - Functional Literacy, Education, and Mass Media Survey
33. GAA - General Appropriations Act
34. GAA - General Appropriations Act
35. GDP - Gross Domestic Product
36. GNI - Gross National Income
37. ICT - Information and Communications Technology
38. IFP - Infrastructure Flagship Projects
39. IMF - International Monetary Fund

40. IPP - Investment Priorities Plan
41. IRR - Implementing Rules and Regulations
42. ITH - Income Tax Holiday
43. ITU - International Telecommunication Union
44. JV - Joint Venture
45. LGU - Local Government Unit
46. MCIT - Minimum Corporate Income Tax
47. MPC - Minimum Paid-in Capital
48. NATO - The North Atlantic Treaty Organization
49. NCR - National Capital Region
50. NEDA - National Economic Development Authority
51. NOLCO - Net Operating Loss Carry-Over
52. NRFC - Non-Resident Foreign Corporation
53. ODA - Official Development Assistance
54. ODA - Official Development Assistance
55. OPC - One Person Corporation
56. OTP - One-Time PIN
57. PDMF - Project Development and Monitoring Facility
58. PDP - Philippine Development Plan
59. PHP - Philippine Peso
60. PPP - Public-Private Partmership
61. PPP - Public-Private Partnerships
62. PSE - Philippine Stock Exchange
63. PTMRF - Port Terminal Management Regulatory Framework
64. RA - Republic Act
65. RCIT - Regular Corporate Income Tax
66. RE - Renewable Energy
67. REE - Registered Export Enterprises
68. REIT - Real Estate Investment Trust
69. RHQ - Regional Headquarters
70. ROHQ - Regional Operating Headquarters
71. ROO - Rehabilitate-Own-and-Operate
72. ROT - Rehabilitate-Operate-and-Transfer
73. SCIT - Special Corporate Income Tax
74. SEC - Securities and Exchange Commission
75. SIPP - Strategic Investment Priorities Plan
76. STOA - Supplemental Toll Operation Agreement
77. TBD - Trunk-Based Development
78. UN - United Nations
79. VAT - Value-added Tax
80. WSIS - World Summit on Information Society

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Mary Jade R. Divinagracia,
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Japanese Business Development

Kentaro Tojo

PricewaterhouseCoopers Services

Xiang Yuin Chai

PricewaterhouseCoopers Business Services Philippines Co., Ltd.

Jimmy D. Disquetado

How to reach us

Main office

29th Floor AIA Tower
8767 Paseo de Roxas
1226 Makati City, Philippines

Telephone:
+ 63 (2) 8845 2728
Email:
ph_markets@pwc.com

Cebu City

Unit 1102, 11th Floor
China Bank Corporate Center
Samar Loop corner Road 5
Cebu Business Park
Mabolo Cebu City, 6000 Philippines

Telephone:
+63 (32) 233 5020
+63 (32) 233 5022
+63 (32) 231 6464
Email: ph_markets@pwc.com

Iloilo City

5/F, Unit 8-13
Donato Pison Avenue
San Rafael, Mandurriao
Iloilo City, Philippines

Telephone:
+63 (33) 332 8164

Davao City

Davao Finance Center 8F
116 W Aquino St., Agdao
Davao City
Davao del Sur 8000 Philippines

PricewaterhouseCoopers Business Services Philippines Co., Ltd.

4/F JMT Corporate Condominium
ADB Avenue, Ortigas Center
Brgy. San Antonio
Pasig City, Philippines

Telephone:
+63 (2) 8534 7515

PricewaterhouseCoopers Services

13th Floor, PGGMB Building
Jalan Kianggeh
Bandar Seri Begawan BS8111
Brunei Darussalam

Telephone:
+67 (3) 224 1951 to 53

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