

# ***More value for your business***

## Investment incentives in the Philippines

*A primer on  
investment  
incentives under  
Philippine laws*

2015



**pwc**

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#### About the image

##### **Philippine Gems — Biri Island Rock Formation**

The Biri Island rock formation is composed of four small, rocky islands located in that perilous area where the San Bernardino Strait meets the Pacific Ocean. The incredible strength of these natural forces has caused the islands to take on distinct and interesting shapes. Geologists from the University of the Philippines state that the rocks date back from the Early Miocene Period, and their ages range from five to 23 million years old. Visit <http://www.pwc.com/ph/gems> for more information. (Photo by Dennis P. Bautista)

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# *Investment Incentives in the Philippines*

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## *Disclaimer*

The contents of the *Investment Incentives in the Philippines* booklet are summaries and compilations in general terms of selected issuances from various government agencies available as of the date of writing. They do not cover exhaustively the subjects it treats but is intended to answer some of the important, broad questions that may arise. They do not necessarily reflect the official positions of Isla Lipana & Co. and the firm is not therefore liable on any ground whatsoever for any review, retransmission, dissemination or other use of, or in respect of decisions or actions in reliance upon the contents of this *Investment Incentives in the Philippines* booklet. This booklet is intended for guidance only and as such, should not be regarded as a substitute for professional advice.



## **Foreword**

This primer on Investment Incentives in the Philippines has been prepared by Isla Lipana & Co., the Philippine member firm of the PwC global network, to provide local and foreign investors with a handy reference on various fiscal and non-fiscal incentives being made available by the Philippine government. These are basic and bite-sized yet valuable information that will assist investors in deciding on which incentives option is best in starting and growing their business.

Our other related publications are *Doing Business and Investing in the Philippines* and *How to Invest in the Philippines* which aim to provide answers to questions usually posed by prospective investors particularly on procedures and requirements. These publications are part of our commitment to assist the government and investors alike in facilitating the entry of investments into the country.

Through this primer, the firm recognizes the invaluable efforts of the Board of Investments (BOI), the Philippine Economic Zone Authority (PEZA), the Bases Conversion and Development Authority (BCDA), the Subic Bay Metropolitan Authority (SBMA), the Clark Development Corporation (CDC), the Cagayan Economic Zone Authority (CEZA), the Zamboanga City Special Economic Zone Authority (ZCSEZA), the Aurora Pacific Economic and Freeport Zone Authority (APECZ), Authority of Freeport Area of Bataan (AFAB), the Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and other government agencies in encouraging foreign and local investments into the Philippines.



## ***List of abbreviations***

As used in this primer, the abbreviated words or terms refer to the following:

- ADLE - Additional Deduction for Labor Expense
- AFAB - Authority of the Freeport Area of Bataan
- APEC0 - Aurora Pacific Economic and Freeport Zone Authority
- ARMM - Autonomous Region of Muslim Mindanao
- BCDA - Bases Conversion and Development Authority
- BIMP-EAGA - Brunei Darussalam-Indonesia-Malaysia-Philippines – East ASEAN Growth Area
- BIR - Bureau of Internal Revenue
- BOI - Board of Investments
- BPO - Business Process Outsourcing
- CDC - Clark Development Corporation
- CEZA - Cagayan Economic Zone Authority
- Code - Omnibus Investments Code or Executive Order No. 226
- CSEZ - Clark Special Economic Zone
- EDA - Export Development Act
- EO - Executive Order
- IPP - Investment Priorities Plan
- IT - Information Technology
- ITH - Income Tax Holiday
- LDA - Less Developed Area
- PEZA - Philippine Economic Zone Authority
- RA - Republic Act
- RBOI – Regional Board of Investments
- RHQ - Regional or Area Headquarters
- ROHQ - Regional Operating Headquarters
- RW - Regional Warehouse

- R&D - Research and Development
- SBMA - Subic Bay Metropolitan Authority
- TCCP - Tariff and Customs Code of the Philippines
- TEZ - Tourism Enterprise Zone
- TIEZA - Tourism Infrastructure and Enterprise Zone Authority
- VAT - Value-Added Tax
- ZCSEZA - Zamboanga City Special Economic Zone Authority

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## ***Investment Incentive Laws***

Fiscal and non-fiscal incentives provided under investment laws in any investor-friendly country like the Philippines are intended to attract prospective investors.

### ***What are the major laws that provide incentives?***

- Omnibus Investments Code of 1987 (EO 226), as amended
- Bases Conversion and Development Act of 1992 (RA 7227)
- The Special Economic Zone Act of 1995 (RA 7916), as amended
- Other Special Economic Zone Acts
  - Zamboanga City Special Economic Zone Act of 1995 (RA 7903)
  - Cagayan Special Economic Zone Act of 1995 (RA 7922)
  - Aurora Pacific Economic Zone and Freeport Act of 2007 (RA 9490 as amended by RA 10083)
  - Freeport Area of Bataan Act of 2009 (RA 9728)
- Regional or Area Headquarters, Regional Operating Headquarters and Regional Warehouses Act (RA 8756)
- Export Development Act of 1994 (RA 7844)
- Tourism Act of 2009 (RA 9593)

### ***Who may qualify to avail of incentives under these laws?***

In general, Filipino and Non-Filipino investors may avail of the incentives under any of the afore cited laws for as long as the project is registered with the pertinent agency of the government authorized to grant and administer such incentives.

Special Economic Zone Authorities grant location specific incentives, i.e., a firm has to locate its business operations in the pertinent economic zone to qualify for registration with incentives under the governing incentive law.

Incentive Promotion Agencies generally align their respective rules with the provisions of the Omnibus Investments Code of 1987 or EO 226. They also defer to the policies and procedures adopted by the BOI in implementing the incentives. The BOI's Investment Priorities Plan (IPP) provides the list of priority areas of investments.

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# **Omnibus Investments Code of 1987 (EO 226), as amended**

## ***What is the Omnibus Investments Code of 1987 or EO 226? When did it become effective?***

The Omnibus Investments Code of 1987, as amended, integrates the basic laws on investments, clarifying and harmonizing their provisions to encourage and guide domestic and foreign investors. It was passed through EO 226, which took effect on 13 August 1987.

## ***Who can qualify for incentives under EO 226? What is the IPP?***

Qualified proponents who will invest in priority areas of activity listed in the Investment Priorities Plan (IPP) can qualify for incentives. The IPP identifies the investment areas eligible for incentives under the Code. The 2014 IPP shall be effective from 2014 until 2016, and shall be reviewed annually. Priority areas include: preferred activities; export activities; special laws; and Autonomous Region of Muslim Mindanao (ARMM) list.

## ***What are the preferred areas of activities under the 2012 IPP?***

The 2014 IPP listed the following preferred areas of investments:

1. Manufacturing
  - a. Motor vehicle<sup>1</sup> (excluding motorcycles, e-bikes and golf carts) and motor vehicle parts and components
  - b. Shipbuilding including parts and components
  - c. Aerospace parts and components
  - d. Chemicals

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<sup>1</sup> Based on Logistics Efficiency Index

- e. Virgin paper pulp
- f. Copper wires and copper wire rods
- g. Basic iron and steel products, steel grinding balls, long steel products (billets and reinforcing steel bars), and flat hot/cold-rolled products.
- h. Tool and Die

2. Agribusiness and Fishery

- a. Commercial production
- b. Commercial processing
- c. Production of animal and aqua feeds excluding those for game animals, fowls and other species for pet/leisure purposes.
- d. Production of fertilizers and pesticides
- e. Modernization of sugar mills
- f. Mechanized agriculture support services, e.g. harvesting, plowing, and spraying/dusting
- g. Agriculture support infrastructures, e.g. facilities for drying, cold chain storage, blast freezing, bulk handling and storage; packing houses; trading centers; ice plants in Less Developed Areas; AAA slaughterhouse; AAA dressing plant

3. Services

- a. Integrated Circuit Design
- b. Creative Industries/ Knowledge-Based Services
- c. Ship repair
- d. Charging stations for electric vehicles
- e. Maintenance, Repair and Overhaul (MRO) of aircraft
- f. Industrial waste treatment

4. Economic and Low-cost Housing (horizontal and vertical)

5. Hospitals

6. Energy

- a. Exploration and development of energy sources (including energy crops or upstream biofuels)
- b. Power generation plants
- c. Ancillary services

7. Public Infrastructure and Logistics

- a. Airports and seaports (includes RO-RO ports) for cargo and passenger
- b. Air, land and water transport (limited to brand new ships, aircraft, seaplanes, RO-RO; buses, boats, mass rail — limited to capital equipment incentive only)
- c. LNG Storage and Regasification Facility
- d. Bulk water treatment and supply

8. PPP Projects

### ***What are considered export activities under the 2014 IPP?***

Export activities cover the manufacture of export products, service exports and activities in support of exporters.

1. Production and Manufacture of Export Products - covers the production/ manufacture of non-traditional export products and with export requirement of at least 50% of its output, if Filipino-owned or at least 70%, if foreign-owned.
2. Services Exports - covers service activities rendered to clients abroad and paid for in foreign currency with export requirement of at least 50% of its revenue, if Filipino-owned or at least 70%, if foreign-owned.
3. Activities in Support of Exporters

### ***What are the covered activities under the special laws for 2014-2016?***

The activities covered under the special laws include:

1. Industrial Tree Plantation - covers extensive plantation of forest land of tree crops (except fruit trees) for commercial and industrial purposes
2. Exploration, Mining, Quarrying and Processing of Minerals - covers the exploration and development of mineral resources, mining/quarrying and processing of metallic and non-metallic minerals.
3. Publication or Printing of Books - covers content development intended for books and publication of books in print or digital format.
4. Refining, Storage, Marketing and Distribution of Petroleum Products - covers refining, storage, distribution, and marketing of petroleum products.
5. Rehabilitation, Self-Development and Self-Reliance of Persons with Disability - covers the manufacture of technical aids and appliances for the use and/or rehabilitation of persons with disability, and the establishment of special schools, day care centers, homes, residential communities or retirement villages solely to suit the needs and requirements of persons with disability.

6. Renewable Energy (RE) - covers developers of renewable energy facilities, including hybrid systems. This also covers manufacturers, fabricators and suppliers of locally-produced RE equipment and components
7. Tourism - covers tourism enterprises that are outside the tourism enterprise zones (TEZs)

### ***What are the covered activities under ARMM List for 2014?***

The ARMM List covers priority activities that have been identified by the Regional Board of Investments of the ARMM (RBOI-ARMM) in accordance with EO 458. The RBOI-ARMM may also register and administer incentives to activities in this IPP for projects locating in the ARMM. Projects in the ARMM should registered with the BOI-ARMM.

### ***What is the equity ownership requirement?***

Except as provided under the 1987 Philippine Constitution and the Foreign Investment Act (RA 7042, as amended), there are no restrictions on the extent of foreign ownership of export oriented and/or pioneer enterprise that will engage in the activities listed in the IPP.

In general, the minimum equity requirement to finance the project applied for registration with the Board of Investments (BOI) shall be equal to 25% of the project cost.

Equity could be in the form of paid-up capital or retained earnings that has been converted into paid-up capital of the applicant firm. Excluded from the equity requirement are projects with good track record in implementation, projects of publicly-listed companies, and projects not entitled to ITH.

For projects with a gestation period of more than three (3) years, the 25% equity requirement shall be based on the annual capital requirement of the project; provided that the total equity requirement of 25% is complied with on the first year of ITH availment. Non-compliance with this policy shall result in forfeiture of ITH incentives for the taxable year.

For multi-phase projects, the 25% equity requirement shall be based on the annual capital requirement of each phase; Provided that the total equity requirement for the first phase is complied with on the first year of ITH availment; and the corresponding cumulative equity requirement for the succeeding phases is complied with on the first ITH availment of each succeeding phase thereafter. Non-compliance with this policy shall result in forfeiture of ITH incentives for the taxable year.

## ***Which government agency is authorized to register companies for incentive purposes under EO 226?***

The BOI is the government agency tasked to accept and evaluate applications for registration to avail of incentives under EO 226.

## ***What are the incentive privileges that may be enjoyed by BOI-registered enterprises?***

Incentive privileges may be enjoyed only upon registration. Registered enterprises are entitled to the following incentives:

### ***Tax Exemptions***

#### **a. Income Tax Holiday (ITH)**

1. BOI registered enterprises shall be exempt from the payment of income tax reckoned from the approved target or actual date of commercial operations, whichever comes first, but in no case earlier than the date of registration, as follows:
  - Six (6) years for new projects granted pioneer status;
  - Six (6) years for projects located in Less Developed Areas (LDAs), regardless of status (pioneer or non-pioneer) or type of projects (new or expansion);
  - Four (4) years for new projects granted non-pioneer status; and
  - Three (3) years for expansion and modernization projects. (As a general rule, ITH shall be limited only to incremental sales given a specified base year.)
2. New registered pioneer and non-pioneer enterprises, expansion enterprises granted pioneer incentives under Article 40 of EO 226, and those located in LDAs may be granted one (1) bonus year of ITH incentive for each of the following criterion:
  - Capital Equipment to Labor Ratio Criterion. The ratio of derived dollar cost of capital equipment to the average number of direct labor does not exceed US\$10,000; or
  - Net Foreign Exchange Earnings/Savings Criterion. The net foreign exchange savings or earnings for the first three (3) years of commercial operation should at least be US\$500,000; or
  - Indigenous Raw Material Cost Criterion. The indigenous raw materials used in the manufacture or processing of the registered product is at least fifty percent (50%) of the total cost of raw materials for each of the taxable year beginning the start of

commercial operation up to when the extension using this criterion was applied for.

In no case shall a registered firm avail of ITH for a period exceeding eight (8) years.

- b. Duty free importation of capital equipment, spare parts and accessories, subject to conditions

A registered enterprise with a bonded manufacturing warehouse shall be exempt from customs duties and national internal revenue taxes on its importation of required supplies/spare parts for consigned equipment or those imported with incentives. The availment period shall not exceed ten (10) years from date of registration.

- c. Exemption from wharfage dues and export tax, duty, impost, and fees

All enterprises registered under the IPP will be given a ten (10) year period from the date of registration to avail of the exemption from wharfage dues and any export tax, impost, and fees on its non-traditional export products.

- d. Tax and duty-free importation of breeding stocks and genetic materials

Agricultural production and processing projects will be exempt from the payment of all taxes and duties on their importation of breeding stocks and genetic materials within ten (10) years from the date of registration or commercial operations.

### *Tax Credits*

- a. Tax credit on the purchase of domestic breeding stocks and genetic materials

A tax credit equivalent to one hundred percent (100%) of the value of national internal revenue taxes and customs duties that would have been waived (had these been imported) on the purchase of local breeding stocks and genetic materials within ten (10) years from the date of registration or commercial operations.

- b. Tax credit on raw materials and supplies

Tax credit equivalent to the national internal revenue taxes and duties paid on raw materials, supplies, and semi-manufactured products used in the manufacture of export products and forming part thereof.

### *Additional Deductions from Taxable Income*

- a. Additional deduction for labor expense (ADLE)

For the first five (5) years from date of registration, a registered enterprise shall be allowed an additional deduction from taxable income equivalent

to fifty percent (50%) of the wages of additional skilled and unskilled workers in the direct labor force. This incentive shall be granted only if the enterprise meets a prescribed capital to labor ratio and shall not be availed of simultaneously with ITH.

This additional deduction shall be doubled or become one hundred percent (100%) if the activity is located in an LDA. The privilege, however, is not granted to mining and forestry-related projects as they would naturally be located in certain areas to be near their source of raw materials.

ADLE cannot be simultaneously availed of with ITH.

b. Additional deduction for necessary and major infrastructure work

A registered enterprise locating in LDAs or in areas deficient in infrastructure, public utilities, and other facilities may deduct from taxable income an amount equivalent to the expenses incurred in the development of necessary and major infrastructure works.

### *Zero-rated Value-Added Tax (VAT)*

The BOI endorses to the BIR two types of zero percent (0%) VAT applications:

- a. For purchases of raw materials and supplies used in the manufacture and which form part of the registered export product; and
- b. For purchases of goods, services, or properties of firms exporting one hundred percent (100%) of their product. (Motor vehicles are not covered, except specialized vehicles such as backhoe, forklift, etc.)

### *Non-fiscal Incentives*

a. Employment of foreign nationals

A registered enterprise may be allowed to employ foreign nationals in supervisory, technical, or advisory positions for five (5) years from the date of registration. The position of president, general manager, and treasurer of foreign-owned registered enterprises or their equivalent shall not, however, be subject to the foregoing limitations.

- b. Simplification of customs procedures for the importation of equipment, spare parts, raw materials, and supplies and exports of processed products.
- c. Importation of consigned equipment for a period of ten (10) years from the date of registration, subject to posting of a re-export bond.
- d. The privilege to operate a bonded manufacturing/trading warehouse subject to Customs rules and regulations.

## ***What is the policy on industry dispersal?***

The BOI uses the incentive package under EO 226 to influence industry and encourage enterprises to locate outside the National Capital Region (NCR). In this connection, the BOI limits incentives to firms that locate in congested urban centers. Further, the law provides maximum incentives to registered enterprises that will locate in LDAs or in the thirty (30) poorest Philippine provinces.

Projects that otherwise may not be covered by ITH may become entitled if the projects will be located in LDAs.

## ***What is the most recent government initiative to promote priority industries?***

The government has applied its model project of “industry clustering” to the listed activities in the IPP. Clustering is the geographic concentrations of interconnected business entities and support institutions, and encompasses an array of linked industries and other entities important to competition. These may include suppliers of inputs, support facilities and service providers, and providers of specialized infrastructures.

Clustering is seen as an effective strategy in contributing to the attainment of regional goals such as poverty alleviation and enhancing economic productivity, within the context of the regional development strategies.

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## ***Bases Conversion and Development Act of 1992 (RA 7227), as amended***

### ***What is the objective of the Bases Conversion and Development Act of 1992?***

RA 7227, otherwise known as the Bases Conversion and Development Act of 1992, was enacted into law on 13 March 1992. The objective of the Act is to accelerate the sound and balanced conversion and development of the former United States military bases into special economic zones in order to promote the economic and social development of Central Luzon in particular, and the country in general.

### ***What are the agencies created to take charge in converting the former US Bases and administering incentives to locators?***

RA 7227 created two administrative bodies for the purpose of adopting, preparing, and implementing a comprehensive development program for the conversion of the Clark and Subic military reservations and their surrounding communities into special economic zones: (1) the Bases Conversion and Development Authority (BCDA) and (2) the Subic Bay Metropolitan Authority (SBMA).

- a. The BCDA is mandated to oversee and implement the conversion and development of Clark, John Hay Air Station, Wallace Air Station, O'Donnell Transmitter Station, Mt. Sta. Rita Station, and those portions of Metro Manila Military Camps, which may be transferred to it through Presidential Proclamations.
- b. The SBMA is mandated to oversee the implementation of the development programs of the Subic Bay Naval Station, its environs and surrounding communities.

The Clark Development Corporation (CDC) is the operating and implementing arm of the BCDA to manage the Clark Special Economic Zone and the Clark Freeport Zone (CFZ).

### ***What are the applicable incentives to registered special economic zone enterprises under RA 7227?***

The fiscal and non-fiscal incentives granted under either BCDA, SBMA, or CDC are basically the same, as follows:

#### *Fiscal Incentives*

- a. A final tax of five percent (5%) on gross income earned shall be paid in lieu of all local and national taxes.  
(Gross income refers to gross sales or gross revenues derived from the business activity within the zone, net of sales discounts and sales returns and allowances and less cost of sales, cost of production or direct cost of services.)
- b. Tax and duty-free importation of raw materials and capital equipment

#### *Non-fiscal Incentives*

- a. Permanent residency status for investors, their spouses and dependent children under twenty one (21) years of age, provided they have continuing investments of not less than US\$250,000.
- b. Employment of foreign nationals.

### ***What are the latest provisions amending RA 7227?***

On 23 October 2003, the Philippine Supreme Court ruled on the exclusivity of the benefits granted under RA 7227 to the Subic Special Economic Zone, which put the incentives granted to CSEZ companies as well as other ecozone locators outside Subic in question. However, these gaps in the tax incentives were addressed by the following laws that were enacted on 20 March 2007:

- a. RA 9399 granted one-time tax amnesty to locators in CSEZ and other special economic zones such as Poro Point Special Economic Zone and Freeport Zone, John Hay Special Economic Zone, and Morong Special Economic Zone by making these locators pay an amnesty tax of PHP25,000; and
- b. RA 9400 granted tax and duty incentives to the registered enterprises within the special ecozones of John Hay, Poro Point, Morong, and Clark, similar to those enjoyed by the Subic Bay Freeport. It also declared the 4,400 hectares under the CDC as a Freeport Zone.

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## ***The Special Economic Zone Act of 1995 (RA 7916), as amended***

### ***What is the Special Economic Zone Act of 1995 or RA 7916, as amended?***

RA 7916 was enacted on 24 February 1995 to encourage and promote the establishment and development of economic zones or “ecozones” in identified and selected areas in the country as a means to achieve sound and balanced industrial, economic, and social development.

It also created the Philippine Economic Zone Authority (PEZA) as the agency mandated to enforce the provisions and objectives of the law.

### ***What are the types of enterprises/activities that will be eligible for incentives under RA 7916?***

Under the current PEZA policies, the following may be eligible for incentives:

- Export manufacturing
- IT Service export
- Tourism
- Medical tourism
- Agro-industrial export manufacturing
- Agro-industrial bio-fuel manufacturing
- Logistics and warehousing services<sup>1</sup>
- Ecozone development/operation
  - Manufacturing economic zone development/operation

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<sup>1</sup> Incentives are limited to tax and duty-free importation.

- IT park development/operation<sup>2</sup>
- Tourism economic zone development/operation
- Medical tourism economic zone development/operation
- Agro-industrial economic zone development/operation<sup>3</sup>
- Retirement economic zone development/operation<sup>3</sup>
- Facilities providers
  - Facilities for manufacturing enterprises
  - Facilities for IT enterprises<sup>2</sup>
  - Retirement facilities<sup>3</sup>
- Utilities

### ***What are the incentives available to PEZA-registered enterprises?***

PEZA-registered enterprises located within the ecozones administered by PEZA may avail of the following incentives and benefits:

- All incentives under EO 226 which include ITH;
- Preferential final tax of five percent (5%) of gross income in lieu of all national and local taxes, after the ITH period (alternatively, this incentive may be waived by the registered enterprise subject to certain conditions);
- Tax and duty-free importation of capital equipment, spare parts, raw materials, and supplies, which are needed in the registered activity; and
- Tax credits for exporters using local materials as inputs under RA 7844 or the Export Development Act of 1994.

An amount equivalent to one-half (1/2) of the value of training expenses incurred in developing skilled or unskilled labor or for managerial or other management development programs incurred by a PEZA firm can be deducted from the national government's share of 3% (out of 5%) final tax.

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<sup>2</sup> Owners and/or developers of PEZA-registered IT parks and buildings in Metro Manila and Cebu City are not entitled to incentives.

<sup>3</sup> Incentives are limited to 5% preferential treatment tax rate; thus not entitled to ITH incentive.

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## **Other special economic zones**

### ***What are the other special economic zones established by special laws?***

Aside from the ecozones under PEZA, the Subic area under SBMA, and the Clark area under CDC, there are four other special economic zones established under special laws. These are:

- a. Zamboanga City Special Economic Zone created under RA 7903 on 23 February 1995;
- b. Cagayan Special Economic Zone and Freeport created under RA 7922 on 24 February 1995;
- c. Aurora Economic Zone created under RA 9490 on 29 June 2007, which later became the Aurora Pacific Economic and Freeport Zone in 2010 under RA 10083; and
- d. Freeport Area of Bataan created under RA 9728 on 23 October 2009.

### ***What are the incentives available to locators in these ecozones?***

Firms registered with and located within the territorial boundaries of these ecozones shall be entitled to fiscal and non-fiscal benefits similar to those available to PEZA-registered enterprises. (Refer to page 14 for details on PEZA incentives)

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## ***The Tourism Act of 2009 (RA 9593)***

### ***What is the Tourism Act of 2009 or RA 9593?***

RA 9593 was enacted to establish and develop Tourism Enterprise Zones (TEZs) in identified and selected areas in the country for the purpose of developing the Philippine Tourism industry as an engine of socioeconomic growth.

The law created the Tourism Infrastructure and Enterprises Zone Authority (TIEZA) which is tasked to designate, regulate, and supervise the TEZs, and exercises sole and exclusive jurisdiction in the grant and administration of incentives provided under the Act. The TIEZA is an attached agency to the Department of Tourism and is under its supervision in terms of policy and programs.

### ***What are the types of TEZs?***

TEZs are classified as (1) Greenfield Tourism Zones - which are areas with new or pioneer development, or (2) Brownfield Tourism Zones - which are areas with existing infrastructures or development as determined by the TIEZA.

### ***What are the types of enterprises/activities that are eligible for incentives under RA 9593?***

1. Primary Tourism Enterprises, which refer to facilities and services that are directly related to tourism such as, but not limited to the following:
  - travel and tour services;
  - inbound travel agencies and tour operators, local tour operators, ecotour operators, and tour guides;

- tourist transport services whether for land, sea, and air transport exclusively or majority of its seats are for tourist use, including airport taxis and tourist drivers;
- accommodation establishments such as but not limited to hotels, resorts, apartment hotels, tourist inns, motels, pension houses, private homes used for homestay, ecolodges, condotels, serviced apartments, and bed and breakfast facilities;
- hotel and tourism estate management services;
- meetings, incentives, conventions and exhibition organizers and facilities;
- sports and recreational facilities such as but not limited to dive shops, amusement parks, and adventure and ecotourism facilities; and
- foreign exchange dealers and such enterprises as may be identified by the Secretary, after due consultation with concerned sectors.

2. Secondary Tourism Enterprises, which refer to facilities and services that may be related to tourism such as, but not limited to the following:

- restaurants;
- specialty shops and department stores;
- sports facilities and recreational centers such as museums and galleries, theme parks, zoos;
- health and wellness facilities such as but not limited to spas, tertiary hospitals, ambulatory clinics, and medical concierge;
- rest areas in gas stations;
- agri-tourism farms and facilities;
- tourism training centers or institutes, including tourism trainers;
- outbound travel agencies; and
- other enterprises as may be identified by the Secretary after due consultation with concerned sectors.

### ***What are the incentives available to TIEZA-registered enterprises?***

Registered TEZ operators and enterprises are entitled to the following fiscal and non-fiscal incentives.

#### **1. Income Tax Holiday (ITH)**

- New enterprises in Greenfield and Brownfield Tourism Zones shall be entitled to six (6) years ITH from start of business operations, which may be extended up to a maximum of six (6) years if the enterprise

undertakes substantial expansion or upgrade prior to the expiration of its first six (6) years ITH.

- An existing enterprise in a Brownfield Zone may avail of a maximum of six (6) years non-extendible ITH if it undertakes extensive expansion or upgrade of facilities.
- Net operating losses for any taxable year immediately preceding the current taxable year which had not been previously offset as deduction from gross income, may be carried over as deduction from gross income for the next six (6) consecutive years immediately following the year of the loss.

## 2. Gross Income Taxation

Final tax of five percent (5%) on gross income earned in lieu of all other national and local taxes, license fees, imposts and assessments, except real estate taxes, and such fees as may be imposed by TIEZA, after the ITH.

3. Exemption of one hundred percent (100%) from all taxes and customs duties on importation of capital investment and equipment that will be used directly, actually, and exclusively by the enterprise in its registered activity.
4. Exemption from customs duties and national taxes on importation of transportation equipment and accompanying spare parts that are reasonably needed and will be exclusively used by the accredited enterprise, provided they are not manufactured locally in sufficient quantity, of comparable quality, and at reasonable prices.

## 5. Goods and Services

- Exemption of one hundred percent (100%) from all taxes and customs duties on importation of goods actually consumed in the course of services actually rendered by or through the registered enterprise, excluding goods imported for the purpose of operating a wholesale or retail establishment in competition with the Duty Free Philippines Corporation.
- Tax credit equivalent to all national internal revenue taxes paid on all locally sourced goods and services directly or indirectly used by the registered enterprise within the TEZ.

## 6. Social Responsibility Incentive

Tax deduction equivalent to a reasonable percentage, not exceeding fifty percent (50%), of the cost of environmental protection or cultural heritage preservation activities, sustainable livelihood programs for local communities, and other similar services.

7. Employment of foreign nationals in executive, supervisory, technical, and advisory positions for reasonable periods and under such terms as approved by TIEZA.
8. Special Investor's Resident Visa
  - A foreign national with a minimum investment of US\$200,000 in a registered enterprise shall be entitled to a special investor's resident visa enabling the foreign national to reside in the Philippines while his or her investment subsists.
  - Working visas renewable every two (2) years shall be issued to foreign personnel and other aliens possessing highly-technical skills, subject to certain conditions.
9. Foreign Currency Transactions

Subject to appropriate rules and regulations of the Bangko Sentral ng Pilipinas, registered enterprises are guaranteed the right to repatriate entire proceeds of the liquidation of the foreign investment or remit earnings from foreign investment, in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation; and in the case of foreign loans and foreign obligations arising from technological assistance contracts, the right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payment of interest and principal.

10. Requisition of Investment

Protection from requisition of the property of the registered enterprise except in cases of war or national emergency, subject to payment of just compensation and repatriation of such compensation.

11. Lease and Ownership of Land

- Subject to conditions set forth under the Investor's Lease Act, lands and buildings in each TEZ may be leased to foreign investors for a period not exceeding fifty (50) years, renewable once for a period not more than twenty-five (25) years.
- Leasehold right acquired under long-term contracts may generally be sold, transferred, or assigned.

## ***Are incentives also available to tourism enterprise located outside the TEZ?***

Subject to certain conditions, tourism enterprises location outside the TEZ may also be entitled to the following incentives:

1. Economic incentives found under existing laws such as the Omnibus Investment Code, the Foreign Investment Act, as amended, the Special Economic Zone Act, and the Bases Conversion and Development Act, among others; and
2. For existing accommodation facilities, six (6) years ITH for any significant expansion, renovation or upgrade of facilities, and tax and duty-free importation of necessary capital equipment.

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## ***Regional or Area Headquarters, Regional Operating Headquarters and Regional Warehouses Act (RA 8756)***

***What is the law that governs the licensing of Regional or Area Headquarters (RHQs), Regional Operating Headquarters (ROHQs), and Regional Warehouses (RWs) of multinational companies?***

RA 8756 provides for the terms, conditions, and licensing requirements of RHQs, ROHQs, and RWs.

### ***What constitute an RHQ and an ROHQ?***

An RHQ is an office whose purpose is to act as an administrative branch of a multinational company engaged in international trade which principally serves as a supervision, communications, and coordination center for its subsidiaries, branches, or affiliates in the Asia-Pacific Region and other foreign markets, and which does not earn or derive income in the Philippines.

An ROHQ refers to a foreign business entity which is allowed to derive income in the Philippines by performing qualifying services to its affiliates, subsidiaries, or branches in the Philippines, in the Asia-Pacific Region and in other foreign markets. Such services are general administration and planning, business planning and coordination, sourcing and procurement of raw materials and components, corporate finance advisory services, marketing control and sales promotion, training and personnel management, logistic services, research and development services and product development, technical support and maintenance, data processing and communication, and business development.

## **What are the incentives available to regional offices?**

The incentives available are as follows:

a. For RHQs

- Exemption from income tax
- Exemption from VAT
- VAT zero-rating on their purchase or lease of goods, property, and services

b. For ROHQs

- A special tax rate of 10% on taxable income

c. For RWs

- Tax and duty-free importation of warehouse equipment, as well as spare parts, components, semi-finished products, raw materials, and other items which are to be re-exported abroad
- Exemption from the maximum storage period of two (2) years under the Tariff and Customs Code of the Philippines (TCCP) of the imported articles entered for warehousing

d. Common incentives for RHQs and ROHQs

- Exemption from all kinds of local taxes, fees, or charges imposed by local government units, except real property tax on land improvements and equipment
- Tax and duty-free importation of equipment and materials for training and conferences
- Importation of new motor vehicles, subject to the payment of taxes and duties
- Various incentives to expatriate employees, such as:
  - A preferential 15% tax rate on gross income. Filipino employees occupying the same position as their alien colleagues shall also be entitled to the same tax treatment provided all the following conditions are met:
    1. The Filipino employee occupies a managerial or technical position and actually exercises the managerial or technical functions pertaining to said position;
    2. The Filipino employee must have received or is due to receive under a contract of employment, a gross annual taxable compensation of at least PHP975,000.00; and

3. The Filipino employee must be exclusively working for the RHQ or ROHQ as a regular employee and not just a consultant or contractual personnel.
- Special multiple entry visas with a three-year validity period for the foreign personnel, their spouses and unmarried children under twenty-one (21) years of age.
- Tax and duty-free importation of personal and household effects.
- Exemption from travel tax and specific immigration fees and requirements, subject to certain conditions.

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## ***Export Development Act of 1994 (RA 7844)***

### ***What is the purpose of the Export Development Act?***

The Export Development Act (EDA) or RA 7844 was issued to promote and develop the Philippine export industry as a means to achieve the country's economic goals of sustainable agri-industrial development, increased employment, and enhanced incomes.

### ***How does EDA define “exporter”?***

For purposes of the EDA, “exporter” means any person, natural or juridical, licensed to do business in the Philippines, engaged directly in the production, manufacture, or trade of products or services which earns at least 50% of its normal operating revenues from the sale of its products or services abroad for foreign currency.

In case of services, the same is limited to information technology services, construction services, and other services defined jointly by the Department of Finance and the Department of Trade and Industry. Services rendered by overseas contract workers are excluded.

### ***What are the incentives granted under the EDA?***

The following are the incentives granted to exporters under the EDA:

1. Exemption from Presidential Decree 1853 (requiring 100% deposit of duties due on importation upon opening of Letter of Credit), provided that the importation shall be used for the production of goods and services for export; and
2. Tax credit for incremental export performance. The tax credit for increase in current export revenues shall be computed as a percentage to be applied

on the incremental export revenue converted to pesos at current rate. The percentages or rates are as follows:

For the first 5% increase in annual export revenue over the previous year	2.5%
For the next 5% increase	5.0%
For the next 5% increase	7.5%
In excess	10%

(This incentive, however, is not available to exporters enjoying ITH or VAT exemption, exporters engaged in the re-exportation of imported goods, or exporters whose exports have local value-added of 10% and below.)

In addition, exporters registered with the BOI, PEZA, SBMA, CDC, or other investment promotion agencies may also avail of the incentives granted by such agencies.

*PwC member firms worldwide*

Afghanistan	Cayman Islands	Greece
Albania	Central America	Guatemala
Algeria	Chad	Guinea
Angola	Channel Islands	Honduras
Antigua	Chile	Hong Kong
Argentina	China	Hungary
Armenia	Colombia	Iceland
Aruba	Congo (Brazzaville)	India
Australia	Congo (Dem. Rep.)	Indonesia
Austria	Costa Rica	Interaméricas
Azerbaijan	Croatia	Iraq
Bahamas	Curaçao	Ireland
Bahrain	Cyprus	Isle of Man
Barbados	Czech Republic	Israel
Belarus	Denmark	Italy
Belgium	Dominican Republic	Jamaica
Bermuda	Dutch Caribbean	Japan
BES Islands	Ecuador	Jordan
Bolivia	Egypt	Kazakhstan
Bosnia and Herzegovina	El Salvador	Kenya
Botswana	Equatorial Guinea	Korea
Brazil	Estonia	Kosovo
British Virgin Islands	Finland	Kuwait
Bulgaria	France	Laos
Cambodia	Gabon	Latvia
Cameroon	Georgia	Lebanon
Canada	Germany	Libya
Cape Verde	Ghana	Lithuania
	Gibraltar	Luxembourg

Macau	Peru	Turkey
Macedonia	Philippines	Uganda
Madagascar	Poland	Ukraine
Malawi	Portugal	United Arab Emirates
Malaysia	Qatar	United Kingdom
Maldives	Romania	United States
Malta	Russia	Uruguay
Mauritius	Rwanda	Uzbekistan
Mexico	Saudi Arabia	Venezuela
Middle East region	Senegal	Vietnam
Moldova	Serbia	West Bank & Gaza
Monaco	Singapore	Zambia
Mongolia	Slovakia	Zimbabwe
Morocco	Slovenia	
Mozambique	South Africa	
Myanmar	Spain	
Namibia	Sri Lanka	
Netherlands	St. Kitts and Nevis	
New Caledonia	St. Lucia	
New Zealand	St. Maarten	
Nicaragua	Swaziland	
Nigeria	Sweden	
Norway	Switzerland	
Oman	Taiwan	
Pakistan	Tanzania	
Panama	Thailand	
Papua New Guinea	Trinidad and Tobago	
Paraguay	Tunisia	



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