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Tax Reform for Acceleration and Inclusion – Package 2

*House Bill No. 7458
(Package 2)*

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Corporate Income Tax and Incentives Reform Act – Package 2

In brief

Last 21 March 2018, House Representatives Dakila Carlo E. Cua, Raneo E. Abu and Aurelio D. Gonzales Jr. introduced and filed House Bill (HB) No. 7458, the proposed Corporate Income Tax and Incentives Reform Act, which complements the recently passed Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion and aims to further address the inequity in our taxation system.

As discussed in the explanatory notes, HB No. 7458 seeks to lower corporate income tax rate, reform the corporate income tax system, broaden tax base by modernizing investment tax incentives, remove excessive tax exemptions and privileges given to certain industries, and limit the grant of tax incentives to strategic industries and lagging regions.

The salient features of HB No. 7458 are summarized below:

- Corporate income tax rate for domestic corporations, resident foreign corporations (RFCs), and non-resident foreign corporations (NRFCs) shall be reduced by 1% point every year beginning 1 January 2019 but shall not be lower than 20%.
- Preferential income tax rate of 10% for proprietary educational institutions and hospitals and the income tax exemption for local water districts shall be removed.
- Preferential income tax rate of 10% for offshore banking units (OBUs) and regional operating headquarters (ROHQs) and the income tax exemption for regional headquarters shall be removed.
- Income tax rate on interest income derived by RFCs from a depository bank under the expanded foreign currency deposit system shall be increased from 7 ½ % to 15%.
- Capital gains tax rate on sale of shares of stocks not traded in the stock exchange by RFC and NRFCs shall be adjusted from 5%/10% to a flat rate of 15%.
- Special income tax rate granted to non-resident cinematographic film owners, lessors or distributors, owners/lessors of vessels chartered by Philippine nationals, and owners/lessors of aircraft, machineries and other equipment shall be removed.
- The optional standard deduction (OSD) rate shall be adjusted from 40% to 20% of gross income for individuals (except non-resident aliens) and corporations (excepts NRFCs).
- The option to apply for the issuance of tax credit certificate on the refund of input VAT attributable to zero-rated sales shall be removed.

- The PHP10m gross receipts threshold for franchise tax under Section 119 of the Tax Code shall be removed, and the telecommunication companies shall be included in the scope of the 3% franchise tax. Radio and/or television broadcasting and telecommunication companies shall also be required to VAT-register.
- All export activities and strategic investments, including those intended for domestic market under the “Strategic Investments Priority Plan” or the “SIPP”, which are eligible for registration and will qualify for incentives, may only be granted income tax and customs duty incentives:

Income tax incentives

- Income tax holiday (ITH) for a period not exceeding three years
- Preferential tax rate of 15% on taxable income with allowable deductions on investment, research and development, training, labor, infrastructure developments, etc.
- Five-year combined period to avail of both the ITH and the 15% preferential tax rate
- Those under ITH shall be allowed to continue with the availment for the remaining ITH period or for a period of five years, whichever comes first
- Those under the 5% Gross Income Tax (GIT) incentive shall be allowed to continue based on the following schedule:

2 years	3 years	5 years
for registered activities under the 5% GIT regime for more than ten years	for registered activities under the 5% GIT regime for five to ten years	for registered activities under the 5% GIT regime for less than five years

Customs duty incentives

- Registered enterprises qualified for incentives may be allowed a maximum of five years exemption on customs duty on the importation (including consignment) of capital equipment, machinery, spare parts exclusively used for capital equipment and machinery, raw materials used in manufacturing/processing of products, and source documents

Last 30 May 2018, the first Congressional Hearing was held to gather the views, comments and recommendations of various stakeholders on HB 7458 and other related bills.

Proposed amendments on Income taxation

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
Income taxation of individuals		
On the definition of non-resident citizen	<p>Sec. 22 (E) The definition of a non-resident citizen includes citizen of the Philippines who:</p> <ul style="list-style-type: none"> leaves the Philippines during the taxable year to reside abroad either as an immigrant or for employment on a permanent basis; and works and derives income from abroad and whose employment thereat requires him to be physically present abroad most of the time during the taxable year 	<ul style="list-style-type: none"> Exclusion of those who leave to reside abroad as an immigrant or for permanent employment Replaced the phrase “abroad most of the time” with “For 183 days or more”
On alien individuals and qualified Filipinos employed by specific employers	<p>Section 25 The alien individuals and Filipinos occupying the same positions who are employed by the following entities are entitled to a 15% preferential tax rate on salaries, wages, annuities, compensation, remuneration and other emoluments:</p> <ul style="list-style-type: none"> Regional or Area Headquarters (“RHQ”) and Regional Operating Headquarters (“ROHQ”) Offshore Banking Units (“OBU”) Petroleum service contractor and subcontractor. 	<ul style="list-style-type: none"> Removal of the 15% preferential income tax rate
Income taxation of domestic corporations		
On the regular corporate income tax (RCIT) rate	<p>Section 27(A) Domestic corporations are taxed on taxable income sourced from within and outside the Philippines based on the following tax rates:</p> <ul style="list-style-type: none"> 30% effective 1 January 2009; or Optional tax rate of 15% of gross income subject to certain conditions (e.g., ratios relating to the gross national product of the Philippines, ratio of cost of sales). 	<ul style="list-style-type: none"> Reduction of income tax rate by 1% point every year beginning 1 January 2019. Provided, that the RCIT rate shall not be lower than twenty percent (20%) Deletion of the optional tax rate of 15%
On the preferential income tax rate of proprietary educational institutions and hospitals	<p>Section 27 (B) The following are entitled to a lower corporate income tax rate of 10%:</p> <ul style="list-style-type: none"> Non-profit proprietary educational institutions; and Non-profit hospitals. 	<ul style="list-style-type: none"> Removal of the lower corporate tax of 10%

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
On the income tax exemption of certain government-owned and controlled corporations, agencies or instrumentalities	<p>Section 27 (C) The following are exempt from income tax:</p> <ul style="list-style-type: none"> • Government Service Insurance System (“GSIS”) • Social Security System (“SSS”) • Philippine Health Insurance Corporation (“PHIC”) • Local Water Districts 	<ul style="list-style-type: none"> • Exclusion of the local water districts from the coverage of income tax exemption
Income taxation of resident foreign corporations (“RFC”)		
On the RCIT rate	<p>Section 28 (A)(1) RFCs are taxed on taxable income sourced from within the Philippines based on the following tax rates:</p> <ul style="list-style-type: none"> • 30% effective 1 January 2009; or • Optional tax rate of 15% of gross income subject to certain conditions (e.g., ratios relating to the gross national product of the Philippines, ratio of cost of sales). 	<ul style="list-style-type: none"> • Reduction by 1% point every year beginning 1 January 2019. Provided, that the RCIT rate shall not be lower than 20% • Deletion of the optional tax rate of 15%
On the income tax rate / exemption of certain resident foreign corporations	<p>Section 28 (A)(4) and (6) The following RFCs are entitled to a lower income tax rate and exemption:</p> <p>Income tax at 10%:</p> <ul style="list-style-type: none"> • OBU • ROHQ <p>Exempt from income tax:</p> <ul style="list-style-type: none"> • RHQ 	<ul style="list-style-type: none"> • Removal of the applicable lower income tax rate and income tax exemption of these entities
On interest income derived from a depository bank under the expanded foreign currency deposit system	<p>Section 28 (A)(7)(a) Interest income of an RFC from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax rate of 7 ½%</p>	<ul style="list-style-type: none"> • Increase in the tax rate from 7 ½% to 15%
On capital gains tax from sale of shares of stock not traded in the stock exchange	<p>Section 28 (A)(7)(c) Capital gains from sale of shares of stock not traded in the stock exchange of an RFC shall be taxed as follows:</p> <ul style="list-style-type: none"> • 5% of the capital gain not exceeding PHP100,000; and • 10% on any amount in excess thereof. 	<ul style="list-style-type: none"> • Increase in the capital gains tax rate from 5%/10% to 15%

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Income taxation of non-resident foreign corporations (“NRFC”)		
On the RCIT rate	Section 28 (B)(1) NRFCs are subject to income tax on their Philippine-sourced gross income at the rate of 30%.	<ul style="list-style-type: none"> • Reduction by 1% point every year beginning 1 January 2019. Provided, that the RCIT rate shall not be lower than 20%
On special income tax rates of certain NRFCs	<p>Section 28 (B)(2), (3), (4) The following NRFCs are subject to the following income tax rates on their Philippine-sourced income:</p> <ul style="list-style-type: none"> • Non-resident cinematographic film owner, lessor or distributor – 25% on gross income; • Non-resident owner or lessor of vessels chartered by Philippine nationals – 4 ½% on gross rentals, lease, or charter fees; and • Nonresident owner or lessor of aircraft, machineries and other equipment - 7 ½% on gross rentals or fees. 	<ul style="list-style-type: none"> • Removal of the special income tax rates granted to these NRFCs
On intercorporate dividends	Section 28 (B)(5)(b) A final withholding tax of 15% shall be imposed on cash and/or property dividends received from a domestic corporation provided that the country of domicile of the NRFC shall allow a credit against the tax due from the taxes deemed to have been paid in the Philippines equivalent to 20%, which is the difference between the 15% and 35% RCIT.	<ul style="list-style-type: none"> • Adjusted the percentage of the required allowed credit against the tax due in the foreign country to 15% or the difference between the RCIT rate and 15% tax on dividends beginning 1 January 2019
On capital gains tax from sale of shares of stock not traded in the stock exchange	<p>Section 28 (B)(5)(c) Capital gains from sale of shares of stock not traded in the stock exchange of an NRFC shall be taxed as follows:</p> <ul style="list-style-type: none"> • 5% of the capital gain not exceeding PHP100,000; and • 10% on any amount in excess thereof. 	<ul style="list-style-type: none"> • Increase in the capital gains tax rate from 5%/10% to 15%
Allowable deductions for income tax purposes		
On expenses allowable to private educational institutions	<p>Section 34 (A)(2) Private educational institutions may, at its option, elect either:</p> <ul style="list-style-type: none"> • claim capital outlays for depreciable assets as an outright deduction during the taxable year for the expansion of school facilities; or • claim an allowance for depreciation. 	<ul style="list-style-type: none"> • Removal of the option given to private educational institutions to claim capital outlays as outright deductions
On interest expense limitation	Section 34 (B) (1) The deductible interest expense shall be reduced by 33% of the interest income subjected to final tax.	<ul style="list-style-type: none"> • The interest expense reduction shall be lowered to as low as 20% of the interest income subjected to final tax in consonance with the reduced RCIT.¹

¹ If CIT rate is 30%, interest expense reduction rate is 33%; If CIT rate is 29%, interest expense reduction rate is 31%; If the CIT rate is 28%, interest expense reduction rate is 29%; if the CIT rate is 27% and below, the interest expense reduction rate is equal to the reduced CIT rate.

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On optional standard deduction (“OSD”)	<p>Section 34 (L) The OSD shall be calculated as follows:</p> <ul style="list-style-type: none"> • 40% of gross sales or gross receipts for individuals other than a non-resident alien; or • 40% of gross income in case of domestic corporations and RFCs. 	<ul style="list-style-type: none"> • The OSD shall be equivalent to 20% of gross income for both individuals (except non-resident aliens) and corporations (except NRFCs).
Allowable deductions for income tax purposes		
On the determination of gain or loss on exchange of properties	<p>Section 40(C)(2) No gain or loss shall be recognized if in pursuance of a plan of merger or consolidation—</p> <ol style="list-style-type: none"> A corporation, which is a party to a merger or consolidation, exchanges property solely for stock in a corporation, which is a party to the merger or consolidation; or A shareholder exchanges stock in a corporation, which is a party to the merger or consolidation, solely for the stock of another corporation also a party to the merger or consolidation; or A security holder of a corporation, which is a party to the merger or consolidation, exchanges his securities in such corporation, solely for stock or securities in such corporation, a party to the merger or consolidation. <p>No gain or loss shall also be recognized if property is transferred to a corporation by a person in exchange for stock or unit of participation in such a corporation of which as a result of such exchange, the said person, alone or together with others not exceeding four (4) persons, gains control of said corporation: Provided, that stocks issued for services shall not be considered as issued in return for property.</p>	<ul style="list-style-type: none"> • Expansion of the tax-free exchange application to cover exchange of properties between parties pursuant to a reorganization • A “reorganization is defined as: <ul style="list-style-type: none"> – a statutory merger or consolidation – Exchange of property between corporations: <ul style="list-style-type: none"> o Acquisition of stocks in another corporation in exchange solely for all or a part of the voting stock of the transferee or of an entity that has control over the transferee, if immediately after the acquisition, the transferor acquires control or further control of the transferee o Acquisition by one corporation in exchange solely for all or a part of the voting stock of the transferee or of an entity that has control over the transferee, of substantially all of the properties of another corporation but the assumption of liability shall be disregarded – Recapitalization – Reincorporation • Removal of the “5-person limitation” on the number of transferors for tax-free transfers of property in exchange for shares and the “gain control” requirement on such transfers • Express inclusion of the bona fide or legitimate business purpose requirement of the transaction; Otherwise, Section 50 (i.e., on related-party transactions) would apply • Exemption from value-added tax (VAT) of transfer of properties used in business and covered by the tax-free provision

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
On allocation of income and deductions	<p>Section 50</p> <p>In the case of two or more organizations, trades or businesses (whether or not incorporated and whether or not organized in the Philippines) owned or controlled directly or indirectly by the same interests, the Commissioner of Internal Revenue (CIR) is authorized to distribute, apportion or allocate gross income or deductions between or among such organization, trade or business, if he determined that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organization, trade or business.</p>	<ul style="list-style-type: none"> • Amendment of the current provision to grant the CIR the authority to distribute, apportion, allocate and impute income and deductions between or among organizations in order to prevent avoidance of taxes • Addition of CIR’s authority to disregard and counteract “tax avoidance” arrangements, which include: <ol style="list-style-type: none"> 1. directly or indirectly altering the incidence of any income tax 2. directly or indirectly relieving a person from liability to pay income tax or from a potential or prospective liability to future income tax 3. directly or indirectly avoiding, postponing, or reducing any liability to income tax, or any potential or prospective liability to future income tax
On the distribution of dividends or assets by corporations	<p>Section 73(A) The term “dividends” means any distribution made by a corporation to its shareholders out of its earnings or profits and payable to its shareholders, whether in money or in other property.</p> <p>Where a corporation distributes all of its assets in complete liquidation or dissolution, the gain realized or loss sustained by the stockholder, whether individual or corporate, is a taxable income or a deductible loss, as the case may be.</p>	<ul style="list-style-type: none"> • Deleted the 2nd paragraph in Section 73(A) on distributions in complete liquidation or dissolution • Introduced a separate provision defining “liquidating dividends” as the remaining gains realized or loss sustained by the stockholder in a complete liquidation or dissolution by a corporation

Proposed amendments on Value-Added Taxation

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
On refund of input VAT attributable to zero-rated sales	Section 112 (A) VAT-registered person may apply for the issuance of a tax credit certificate or refund of creditable input tax attributable to zero-rated sales within 2 years after the close of the taxable quarter when such sales were made. Provided, however, that for certain zero-rated sales, the acceptable foreign currency exchange proceeds thereof has been duly accounted for in accordance with the rules and regulations of the <i>Bangko Sentral ng Pilipinas</i> .	<ul style="list-style-type: none"> • Removal of the option to apply for the “issuance of a tax credit certificate” • The following zero-rated sales paid for in acceptable foreign currency and accounted for in accordance with the rules of the <i>Bangko Sentral ng Pilipinas</i> shall no longer be considered as zero-rated upon the successful establishment and implementation of an enhanced VAT refund system: <ul style="list-style-type: none"> – sale of raw materials or packaging materials to a non-resident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of said buyer’s goods; and – processing, manufacturing or repacking goods for other persons doing business outside the Philippines that are subsequently exported
On the cancellation of VAT registration	Section 112 (B) A person whose registration has been cancelled may apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes within 2 years from the date of cancellation.	<p>Note: The proposed amendments are inconsistent with the transactions that will no longer be considered as zero-rated as provided in RA No. 10963 (TRAIN – package 1).</p> <ul style="list-style-type: none"> • Replacement of the phrase “apply for the issuance of tax credit certificate” with “apply for refund”

Proposed amendments on Other Percentage Taxes

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
On franchise taxes and VAT registration	<p>Section 119 Franchise tax at the following rates shall be imposed on:</p> <ul style="list-style-type: none"> • 3% on radio and/or television broadcasting companies whose annual gross receipts do not exceed PHP10m (but with optional VAT registration); and • 2% on gas and water utilities. 	<ul style="list-style-type: none"> • Removal of the PHP10m threshold • Inclusion of telecommunication within the coverage of Section 119 • Mandatory VAT registration for radio and/or television broadcasting and telecommunication companies <p>Note: Without the PHP10m threshold, all radio and/or television broadcasting companies shall be subject to VAT. The retained phrases of the provision on the 3% franchise tax rate on these franchisees become inoperative. Further, these proposed changes are inconsistent with Section 108(A) which provides that the phrase “sale or exchange of services” shall include services of franchise grantees of radio and television broadcasting except those under Section 119 (i.e., those subject to franchise tax).</p>

Proposed amendments on the authority of the Commissioner in the tax assessment process

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
On the issuance of a Subpoena Duces Tecum (“SDT”)	<p>None.</p> <p>Note: Under the current regulations, the issuance of the SDT shall be requested from: (1) Assistant Commissioner, Enforcement and Advocacy Service, through the Prosecution Division; (2) Assistant Commissioner, Large Taxpayers Service, through the Prosecution Division; (3) Revenue Regional Directors, through the Legal Division; and (4) any other officer duly delegated by the Commissioner.</p>	<p>Section 6-A Additional provisions to include the following rules on the issuance of a SDT:</p> <ul style="list-style-type: none"> • Authority of the CIR or his duly authorized representative to issue an SDT in case the information requested, pursuant to the authority of the CIR to examine taxpayers records, are not furnished within the period prescribed in the written notice, or when the information or records submitted are incomplete • Service of said SDT shall be effected by the revenue officers assigned to investigate the case or any other internal revenue officer authorized for the purpose. The SDT shall be served through personal service, but if not practicable, by substituted service. • A criminal action may be instituted for failure to obey the SDT.
On the service of Letter of Authority and assessment notices	<p>None.</p>	<p>Section 6 – B Additional provision on the service of Letter of Authority and assessment notices issued by the Bureau of Internal Revenue (BIR). Proper service shall be by way of personal delivery at the taxpayer’s registered or known address², or if not practicable, by substituted service in accordance with the rules of court³.</p>
On the authority to compromise taxes	<p>Section 204 Compromise payment involving a basic tax amount exceeding PHP1m or settlement offered is less than the prescribed minimum rates⁴ shall be subject to the approval of the Evaluation Board.</p>	<ul style="list-style-type: none"> • Increase in the minimum threshold of the basic tax from PHP1m to PHP10m

² A known address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.

³ **Substituted service in accordance with the rules of court:** If, for justifiable reasons, the defendant cannot be served in person within a reasonable time, the service of the summons may then be effected either: (1) by leaving a copy of the summons at his residence with some person of suitable age and discretion then residing therein; or (2) by leaving the copy at his office or regular place of business with some competent person in charge thereof.

⁴ Minimum of 10% of the basic assessed tax for cases of financial incapacity; minimum of 40% of the basic assessed tax in other cases (i.e., reasonable doubt as to the validity of the claim against the taxpayer exists)

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
Proceeding in actions arising under the NIRC	Section 220 Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the BIR shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the BIR but no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the CIR.	<ul style="list-style-type: none"> • Civil actions involving disputed assessments and collections or refunds or other matters arising under the Tax Code and other laws enforced by the BIR shall be exclusively handled by legal officers of the BIR in all stages of the proceedings. • Criminal actions involving violations of the Tax Code or other laws enforced by the BIR shall be exclusively investigated, prosecuted, and handled by the legal officers of the BIR. • The legal officers are also authorized to conduct the requisite preliminary investigation should there exist probable cause to hold the respondent (taxpayer) for trial. • Civil and criminal actions handled by BIR legal officers will not be referred by the BIR to the Office of the Solicitor General, Department of Justice, or any government agency.
On the execution of the Waiver of Statute of Limitations	Section 222 The CIR and the taxpayer may agree in writing to extend the tax assessment up to the period agreed upon. This must be done before the end of the three-year period limit as defined in Section 203 of the same law or before the expiration of the period previously agreed upon.	<ul style="list-style-type: none"> • Rather than “agreeing” on the extended assessment period with the Commissioner, the taxpayer would need to “apply” for an extension with the Commissioner. • Extension shall not exceed 6 months at any one time, subject to further extension upon filing a written application before the expiration of the period previously applied for.
On the penalty provisions	<p>The existing penalties for the following crimes, offenses and forfeitures are as follows:</p> <ol style="list-style-type: none"> 1. Attempt to evade or defeat tax (Section 254) Fine: PHP30,000 to PHP100,000 Imprisonment: 2-4 years 2. Failure to file return, supply correct and accurate information, pay tax, withhold and remit tax, and refund excess taxes withheld on compensation (Section 255, 1st par) Fine: PHP10,000 minimum Imprisonment: 1-10 years 	<p>The penalties for the following crimes, offenses and forfeitures are proposed to be increased, as follows:</p> <ol style="list-style-type: none"> 1. Attempt to evade or defeat tax Fine: PHP300,000 to PHP1m Imprisonment: 6-12 years 2. Failure to file return, supply correct and accurate information, pay tax, withhold and remit tax, and refund excess taxes withheld on compensation Fine: PHP100,000 minimum Imprisonment: 1-10 years

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
	<p>3. Making it appear that he or another filed the return or statement or actually files a return and subsequently withdraws the same after securing the official receiving seal or stamp of receipt of internal revenue office where the same was actually filed (Section 255, 2nd par) Fine: PHP10,000 to PHP20,000 Imprisonment: 1-3 years</p>	<p>4. Making it appear that he or another filed the return or statement or actually files a return and subsequently withdraws the same after securing the official receiving seal or stamp of receipt of internal revenue office where the same was actually filed Fine: PHP100,000 to PHP200,000 Imprisonment: 1-3 years</p>
	<p>4. Penal liability of corporations (Section 256) Fine: PHP50,000 to PHP100,000</p>	<p>4. Penal liability of corporations Fine: PHP100,000 to PHP300,000</p>
	<p>5. Willful attempt to evade or defeat any tax or knowingly uses fake or falsified revenue official receipts, letters of authority, certificates authorizing registration, tax credit certificates, tax debit memoranda and other accountable forms (Section 257(B)(8)) Fine: PHP50,000 to PHP100,000 Imprisonment: 2-6 years</p>	<p>5. Willful attempt to evade or defeat any tax or knowingly uses fake or falsified revenue official receipts, letters of authority, certificates authorizing registration, tax credit certificates, tax debit memoranda and other accountable forms Fine: PHP100,000 to PHP300,000 Imprisonment: 6-12 years</p>
	<p>6. Unlawful pursuit of business (Section 258) Fine: PHP5,000 to PHP20,000 Imprisonment: 6 months - 2 years</p> <p>*For persons engaged in the business of repacking and manufacturing any article subject to excise tax: Fine: PHP30,000 to PHP50,000 Imprisonment: 2-4 years</p>	<p>6. Unlawful pursuit of business Fine: PHP50,000 to PHP200,000 Imprisonment: 6 months – 2 years</p> <p>*For persons engaged in the business of repacking and manufacturing any article subject to excise tax: Fine: PHP300,000 to PHP500,000 Imprisonment: 2-4 years</p>
	<p>7. Unlawful possession of cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips (Section 260) Fine: PHP20,000 to PHP100,000 Imprisonment: 6 years and 1 day to 12 years</p>	<p>7. Unlawful possession of cigarette paper in bobbins or rolls, cigarette tipping paper or cigarette filter tips Fine: PHP100,000 to PHP500,000 Imprisonment: 6 years and 1 day to 12 years</p>
	<p>8. Unlawful use of denatured alcohol (Section 261) Fine: PHP20,000 to PHP100,000 Imprisonment: 6 years and 1 day to 12 years</p>	<p>8. Unlawful use of denatured alcohol Fine: PHP100,000 to PHP500,000 Imprisonment: 6 years and 1 day to 12 years</p>
	<p>9. Shipment or removal of liquor or tobacco products under false name or brand or as an imitation of any existing or otherwise known product name or brand (Section 262) Fine: PHP20,000 to PHP100,000 Imprisonment: 6 years and 1 day to 12 years</p>	<p>9. Shipment or removal of liquor or tobacco products under false name or brand or as an imitation of any existing or otherwise known product name or brand Fine: PHP200,000 to PHP500,000 Imprisonment: 6 years and 1 day to 12 years</p>

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	<p>10. Unlawful ownership or possession of imported articles subject to excise tax without payment of the tax (Section 263, 1st par) Fine: PHP1,000 to PHP100,000 Imprisonment: 60 days - 12 years, depending on the appraised value to be determined in the manner prescribed in the Tariff and Customs Code</p>	<p>10. Unlawful ownership or possession of imported articles subject to excise tax without payment of the tax Fine: PHP25,000 to PHP1.5m Imprisonment: 30 days and 1 day to 6 years, depending on the appraised value to be determined in the manner prescribed in the Customs Modernization and Tariff Act</p>
	<p>11. Possession of locally manufactured articles subject to excise tax without payment of the tax (Section 263, 2nd par) Fine: PHP500 or 10 times the amount of excise tax due on the articles found, whichever is higher Imprisonment: 2- 4 years</p>	<p>11. Possession of locally manufactured articles subject to excise tax without payment of the tax Fine: PHP25,000 or 10 times the amount of excise tax due on the articles found, whichever is higher Imprisonment: 2-4 years</p>
	<p>12. Unlawful removal of articles subject to excise tax without payment of the tax (Section 263, 3rd par) Fine: PHP1,000 or 10 times the amount of excise tax due on the articles found, whichever is higher Imprisonment: 1-2 years</p>	<p>12. Unlawful removal of articles subject to excise tax without payment of the tax Fine: PHP25,000 or 10 times the amount of excise tax due on the articles found, whichever is higher Imprisonment: 2-4 years</p>
	<p>13. Failure or refusal to issue receipts or sales or commercial invoices, violations related to the printing of such receipts or invoices and other violations (Section 264(A)) Fine: PHP1,000 to PHP50,000 Imprisonment: 2-4 years</p>	<p>13. Failure or refusal to issue receipts or sales or commercial invoices, violations related to the printing of such receipts or invoices and other violations Fine: PHP100,000 to PHP500,000 Imprisonment: 4-8 years</p>
	<p>14. Offenses relating to stamps (Section 265) Fine: PHP20,000 to PHP50,000 Imprisonment: 4-8 years</p>	<p>14. Offenses relating to stamps Fine: PHP200,000 to PHP500,000 Imprisonment: 4-8 years</p>
	<p>15. Failure to obey summons (Section 266) Fine: PHP5,000 to PHP10,000 Imprisonment: 1-2 years</p>	<p>15. Failure to obey summons Fine: PHP50,000 to PHP100,000 Imprisonment: 2-4 years Coverage of this penalty also includes violation to the authority of the CIR to issue SDT under proposed Section 6-A.</p>

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
	<p>16. Violation of other provisions in the NIRC or regulation promulgated by the Department of Finance, in general (Section 275) Fine: not more than PHP1,000 Imprisonment: not more than 6 months, or both</p>	<p>16. Violation of other provisions in the NIRC or regulation promulgated by the Department of Finance, in general Fine: not more than PHP10,000 Imprisonment: not more than 2 years, or both</p>

Proposed amendments on administrative provisions

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
<p>On electronic invoicing requirements of certain types of taxpayers</p>	<p>Section 237-A Within 5 years from effectivity of RA 10963 (TRAIN 1), the following taxpayers shall issue electronic receipts or commercial invoices:</p> <ul style="list-style-type: none"> • taxpayers engaged in export of goods and service; • taxpayers engaged in e-commerce; and • taxpayers under the Large Taxpayers Service. <p>The original, duplicate, and electronic copies of the receipts or invoices shall be preserved for a period of three years from the close of the taxable year in which such invoice or receipt was issued in the taxpayer’s and its customer’s place of business.</p>	<ul style="list-style-type: none"> • These taxpayers shall be required to “transmit” the electronic receipts and commercial invoices through designated electronic channels⁵ with a public certification system⁶ accredited by the BIR. • Electronic copies of the receipts and invoices to be preserved shall bear the approved electronic tax transaction number⁷ for sufficient compliance.

⁵ **“Designated electronic channel”** shall refer to any medium or portal identified by the Bureau with an ability to receive the transaction data of the electronic receipts or sales or commercial invoices for assignment of an approved electronic tax transaction number.

⁶ **“Public certification system”** shall refer to a digital personal authentication program with ability to verify the identity of issuing taxpayer and attest to the authenticity of the information in the electronic receipts or sales or commercial invoices. This may include the use of digital signature issued by the certification authority as accredited by the Bureau of Internal Revenue.

⁷ **“Approved tax transaction number”** shall refer to the unique assigned series of numbers and/or letters linked to a validated sales transaction reported through the designated electronic channel.

Tax Particulars	Current Tax Law The 1997 National Internal Revenue Code (“NIRC”), as amended by RA 10963, and Special Laws	Proposed Amendments under House Bill No. 7458 [Corporate Income Tax and Incentives Reform Act (CITIRA)]
On the grant of tax credit or incentives for the adoption of electronic sales reporting system	Sec. 237-A Within 5 years from the effectivity of RA 10963 (TRAIN 1), the taxpayers mentioned above shall be required to electronically report their sales data to the BIR through the use of electronic point of sales systems provided that such machines, fiscal devices, fiscal memory devices, shall be at the expense of the taxpayers.	<ul style="list-style-type: none"> • Requires the taxpayers mentioned above to use a system capable of issuing electronic receipt or sales or commercial invoices, collect transaction records and transmit the same through the designated electronic channels of the BIR in the standard format required. • In year 1 to 4 of the implementation period of the electronic sales reporting system, tax credit of 0.1% of the purchase value, net of value added tax shall be granted for every electronic receipt or sale or commercial invoice transmitted through the designated electronic channels of the BIR and issue an electronic tax transaction number. • In support of the electronic sales reporting system, the BIR may grant tax incentives in the form of allowable deductible expense of up to 10% of the electronically traceable payments⁸ made by the taxpayer, subject to an annual limit. • The BIR may likewise establish a receipt and invoice lottery program for electronic receipts or sales or commercial invoices transmitted through the designated electronic channels of the Bureau and issue an electronic tax transaction number.
Reporting responsibility to the Department of Finance (“DOF”)	<p>Sec. 20 The CIR has particular reporting responsibilities to the following:</p> <p>(a) Congress (in aid of legislation); and</p> <p>(b) Congressional Oversight Committee.</p>	<p>Additional provisions include the reporting responsibilities to the DOF subject to the condition that the Secretary of Finance must specifically identify the information needed and supply the justification for the request</p> <p>However, the Secretary and the relevant officers handling the information shall be subject to the provisions of Section 270 on unlawful divulgence of trade secrets, unless the taxpayer consents to such disclosure in writing.</p>

⁸ “Electronically traceable payments” refer to credit card, debit card, or other method of payment with a system to verify or link the payment to the identity of the payor.

Proposed additional provisions on tax incentives

Tax Particulars	Proposed Amendments Under House Bill No. 7458(Corporate Income Tax and Incentives Reform Act)
General provisions relating to export activities and strategic investments	Section 291 <ul style="list-style-type: none">• All export activities and strategic investments, including those intended for the domestic market under the Strategic Investments Priority Plan (“SIPP”), whether located inside or outside Ecozones and Freeport, eligible for registration in the respective Investment Promotion Agencies (“IPAs”) and which will qualify for incentives upon evaluation and review by the Fiscal Incentives Review Board (“FIRB”), may only be granted income tax and customs duty incentives.• VAT and local taxes shall not be used as investment tax incentives.• The tax incentives available to eligible enterprises shall be applicable to the registered activity or project only.• Income derived from non-registered activity or project shall be subject to appropriate taxes under the Tax Code.• The period of availment of incentives shall be reckoned from the start of commercial operation.
Composition of the FIRB	Section 296 <ul style="list-style-type: none">• Board<ul style="list-style-type: none">– Chairperson: Secretary of Finance– Members:<ul style="list-style-type: none">o Secretary of the Department of Trade and Industry (“DTI”)o Director General of the National Economic and Development Authority (“NEDA”)o Secretary of the Department of Budget and Management (“DBM”)o Executive Secretary of the Philippines⁹• Technical Committee<ul style="list-style-type: none">– Undersecretary of Finance– Undersecretary of the DTI– Undersecretary of the DBM– Deputy Director General of NEDA– Commissioner of Internal Revenue– Commissioner of Customs– Executive Director of the National Tax and Research Center (“NTRC”)• Secretariat - NTRC

⁹ Addition to the original composition of Board Members per Presidential Decree No. 776

Expanded functions of the FIRB

Section 295

- The functions of FIRB¹⁰ is proposed to be expanded to include the following:
 - a. to serve as the overall administrator of all investment incentives;
 - b. to review all IPA policy decisions related to the endorsement and availment of tax incentives;
 - c. to review and approve the grant of investment tax incentives as recommended by the IPAs;
 - d. to publish the names of the registered enterprises or beneficiaries of tax incentives with approved estimated amount of the corresponding incentives; and
 - e. to grant tax subsidies to Government-owned and/or controlled corporations (“GOCCs”), Government Instrumentalities (“GIS”), Government Commissaries, and State Universities and Colleges (“SUCS”) as may be provided under the Annual General Appropriations Act.
- The Secretary of Finance shall:
 - have veto power; Hence, may cancel or suspend the grant of incentives upon the review and recommendation of the FIRB; and
 - automatically serve as co-chair of all the existing and future IPAs.
- The NEDA and the DTI shall be members of existing and future IPAs.

General provisions on IPAs and representations of NEDA and DOF in the Board

Section 292

- All existing and future IPAs shall uniformly recommend the grant of tax incentives to the FIRB for its approval.
- The IPAs shall maintain their functions and powers as provided under the special laws governing them except to the extent modified by the provisions of this Tax Code, such as those pertaining to the review and grant of tax incentives.
- The DOF shall automatically serve as co-chair in the Board of Directors of the IPAs, and DTI and NEDA as members. **(Section 36 of HB 7458)**

As provided in PD No. 776, as amended “Qualified Activities for Tax Incentives - Formulation of the Strategic Investments Priority Plan (“SIPP)”

Section 297

- The SIPP shall be formulated by the BOI, in coordination with the Office of the President, concerned IPAs, and other government agencies and the private sector. The plan shall be submitted to the President for approval through the issuance of an executive order not later than December of the 3rd year set for periodic review. The SIPP shall be valid and subject to a periodic review every three years.
- **Activities in the SIPP:** The following criteria must be complied with in the list of economic activities in the plan:
 - a. Covered by the Philippine development plan or other government programs, and shall reflect the high-level priorities of the country;
 - b. Endeavored to be neutral in terms of nationality and market; Provided, that those intending for the domestic market be import-substituting or import-competing products or activities;
 - c. Measurable performance in terms of export sales, actual investments, actual job creation, investments in lagging regions as defined in the SIPP, investment and employment in research and development, linkages creation, and spill-over effects, among others;

.....
¹⁰ As provided in PD No. 776, as amended

- d. Not include those that are part of cross-subsidy schemes;
- e. Preference on lagging regions; and
- f. Other considerations¹¹.

• **Highly-desirable projects not in SIPP:** The President may grant incentives to highly desirable projects that may include those that are not in the SIPP. Provided, that the benefits that the government could derive from such investment is clear and convincing and by far outweighs the cost of incentives that will be granted. Criteria to be considered include criteria: (1) minimum investment of US\$500m; and (2) minimum direct employment generation of at least 1,500 within the 1st year of operation. The government may utilize its resources¹² for the grant of incentives.

Section 298

• **Amendments:** The BOI may alter the terms of the declaration of an investment area if it considers that such activity is no longer a priority. The IPAs shall not accept applications in an area of investment prior to its inclusion in the plan or after its deletion from the plan.

Definition of terms in relation to tax incentives provision

- **“Capital equipment”** refers to machinery, equipment, major components thereof, fittings and accompaniments which are directly and reasonably needed in the registered activity of the registered enterprise.
- **“Export enterprise”** shall mean a registered enterprise which is a manufacturer, processor, or service provider and whose export sale of its products or services is at least ninety percent (90%) of its total annual production of the preceding taxable year.
- **“Domestic enterprise”** shall mean a registered enterprise which produces goods for sale or renders services exclusively to the domestic market or does not meet the minimum export requirement of an export enterprise.
- **“Export sales of goods”** shall mean the sales of an export enterprise paid for in freely convertible foreign currency inwardly remitted to the Philippines, from the following:
 - (1) The sale and actual shipment of goods from the Philippines to a foreign country by an export enterprise;
 - (2) Sales to diplomatic missions and institutions covered by international treaty; and
 - (3) Sales of an export enterprise to an international sea or air transport operations of goods, equipment, spare parts, and supplies, except fuel, forming part of direct costs and to be used in the aircraft or seacraft, and capital equipment needed for the shipping or air transport operations.
- **“Export sales of services”** shall mean the sales of an export enterprise, paid for in freely convertible foreign currency inwardly remitted to the Philippines, for the following:
 - (1) Services rendered to non-resident foreign clients by export enterprises;
 - (2) Services rendered to diplomatic missions and institutions covered by international treaty; and
 - (3) Services for the overhaul, repair, and maintenance of international shipping, or air transport operations.

.....
¹¹ The activity shall take into account the following: (1) substantial amount of actual investments; (2) considerable generation of actual full time employment; (3) adopt inclusive business activities and value-added production by micro, small, and medium-size enterprises or MSMEs; (4) use of modern or new technology; (5) adoption of adequate environmental protection systems; (6) address missing gaps in the supply/value chain and/or move up the value chain or product ladder; (7) promotion of market competitiveness; and (8) commercialization of ideas and introduction of innovation activities whether product, process, marketing, or new business model.

¹² Resources such as land use, water appropriation, power provision, and the like.

- **“Investment Promotion Agencies” (IPAs)** shall refer to government entities created by law, executive order, decree or other issuance, in charge of promoting investments, administering tax and non-tax incentives, and/or overseeing the operations for the different economic zones and freeports in accordance with their respective charters. These include the Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCSEZA), Phividec Industrial Authority (PIA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and all other similar authorities that may be created by law in the future.
- **“Registered enterprise”** shall mean any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an Investment Promotion Agency (IPA) as defined under Republic Act No. 10708 or the Tax Incentives Management and Transparency Act (TIMTA Law) Provided, however, that the term “registered enterprise” shall not include any of the following service enterprises such as, but not limited to: those engaged in customs brokerage; trucking or forwarding services; janitorial services; security services; insurance, banking and other financial services; consumers’ cooperatives; credit unions; consultancy services; retail business; restaurants; or such other similar services as may be determined by the IPA Board, irrespective of location, whether inside or outside the zones, duly accredited and/or licensed by any of the IPAs and whose income delivered within the economic zones shall be subject to taxes under the NIRC of 1997, as amended.
- **“Special Economic Zone” or “Ecozone”** shall refer to a selected area which is highly developed or which has the potential to be developed into, agro-industrial, industrial, information technology, and tourist or recreational, whose metes and bounds are fixed or delimited by Presidential Proclamations and within a specific geographical area. An Ecozone may contain any or all of the following: Industrial Estates (IES); Export Processing Zones (EPZs); ICT Parks and Centers; and Free Trade Zones. Provided, however, that areas where mining extractions are undertaken shall not be declared Ecozones. Provided further, that the Ecozones should comply with the minimum contiguous land area to be determined by the FIRB.
- **“Freeport Zone”** refers to an isolated and policed area adjacent to a port of entry, which shall be operated and managed as a separate customs territory to ensure the free flow or movement of goods, except those expressly prohibited by law, within, into, and exported out of the Freeport Zone where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated without being subject to import duties. However, movement of these imported goods from the free-trade area to a non-free trade area in the country shall be subject to all applicable internal revenue taxes and duties.
- **“Tax expenditures”** refer to provisions of law that give relief in the form of tax subsidies or tax incentives that reduce tax revenues. For purposes of lowering the corporate income tax rate, the estimates of tax expenditures shall include all tax subsidies or tax incentives availed of by business taxpayers in a particular year as reported by the DOF, provided, that the VAT should be accounted net of refund.

Qualifications of a registered enterprise for tax incentives**Section 300**

- The following conditions should be satisfied to be granted tax incentives:
 - a. The activity must be included in the plan;
 - b. If the enterprise is involved in activities other than the registered projects, it shall install an adequate accounting system that identifies registered-activities separately from the non-registered-activities or establish a separate corporation for each project if the IPAs so require;
 - c. The enterprise must meet the performance targets identified in the SIPP; and
 - d. The enterprise must regularly report and comply with the reportorial requirements under the TIMTA Law.
- Non-compliance of the conditions above shall cause the revocation of the tax incentives granted and the enterprise shall be liable to penalties.
- Registered export enterprises inside economic zones and freeports may avail of the tax and duty free importation of capital equipment and raw materials directly and exclusively used in the registered activity inside the zones.

Income tax incentives**Section 294(A)**

- Income tax holiday (“ITH”) for a period not exceeding 3 years
- Preferential tax rate of **15% of the taxable income**, with the following additional allowable deductions:
 - **Investment:** Tax allowance of up to 50% of the actual qualified capital expenditure incurred within three years;
 - **Research and development (“R&D”):** Double deduction for R&D related to the registered activity identified and approved as such by the appropriate government agencies;
 - **Training:** Double deduction for training given to employees for the development of skills identified and approved as necessary by the appropriate government agencies;
 - **Labor expense:** 50% additional deduction for wages corresponding to the increment in the number of direct labor;
 - **Infrastructure development:** 100% deduction on necessary and major infrastructure works that may be undertaken for establishing activities in specific areas designated by the Strategic Investments Priority Plan¹³ with the prior approval of the IPA concerned. Excess deductions can be carried over for deduction for subsequent years not exceeding 5 years from commercial operation; and
 - **Reinvestment allowance to manufacturing industry:** Deduction equivalent to the amount of undistributed profit or surplus that is reinvested in any of the activities listed in the SIPP. The deduction shall be allowed for a period of 5 years from the time of reinvestment. Prior approval and recommendation by the concerned IPA shall be obtained.
- **5-year combined period** to avail of the foregoing incentives (i.e., ITH and 15% preferential tax rate)
- Superior non-fiscal incentives, as may be defined in the SIPP, may be granted in lagging areas and areas recovering from armed conflict or a major disaster.
- Registered activities prior to the effectivity of the CITIRA relocating from Metro Manila and selected areas of Regions III and IV-A to other areas of the country, may be allowed a 1 year income tax incentive as relocation incentive.

¹³ Those designated by the SIPP as necessary for country-wide development or in an area found to be deficient in facilities, such as irrigation, drainage, or other similar waterworks infrastructure.

Customs duty incentives

Section 294(B)

- Registered enterprises qualified for incentives may be allowed a **maximum of 5 years exemption on customs duty on the importation (including consignment)** of the following:
 - Capital equipment;
 - Machinery;
 - Spare parts exclusively used for capital equipment and machinery;
 - Raw materials used in manufacturing or processing¹⁴ of products; and
 - Source documents¹⁵.
- Expansion of registered activities may be granted duty exemption on **capital equipment only**, subject to the following conditions:
 - The activity is still covered by the SIPP;
 - Customs duty exemption will only apply on the incremental portion of the activity; and
 - The customs duty exemption extension shall not exceed 5 years.

Availment of income tax incentives

Section 301

- **Income tax-based incentives:** Registered enterprises are required to:
 - file all their tax returns using the electronic/online facilities of the BIR;
 - secure a Certificate of Entitlement issued by the FIRB and attach the same to the income tax return (ITR) or Annual Information Return (“AIR”); and
 - file its claim with the BIR for validation

Failure to secure and attach the certification to the ITR or AIR, and/or file the incentive availment application shall cause the forfeiture of the incentive for that taxable period.

Availment of customs duty incentives

Section 302

- **Customs duty exemption on capital equipment:** Registered enterprises may be exempted to the extent of 100% of the customs duty subject to the following conditions:
 - The capital equipment and/or spare parts is/are directly and reasonably needed and will be used exclusively in and as part of the direct costs. These are not manufactured domestically in sufficient quantity, of comparable quality, and at reasonable prices;
 - Part-time utilization of the equipment in a non-registered activity shall be allowed subject to the payment of the proportionate taxes and duties in proportion to its utilization. Use of the equipment for non-registered activities at any time within 5 years from the date of importation shall subject to prior approval and payment of the taxes and customs duties not paid upon its importation; and
 - Approval of the IPA was obtained prior to importation.

¹⁴ **“Processing”** shall refer to converting raw materials into marketable form through physical, mechanical, chemical, electrical, biochemical, biological, or other means, or by a special treatment or a series of actions, such as slaughtering, milling, pasteurizing, drying, or desiccating, quick freezing, that results in a change in the nature or state of the products. Mere packing or packaging shall not constitute processing.

¹⁵ **“Source documents”** refer to input materials and documents reasonably needed by I.T. and I.T.-enabled industries such as, but not limited to, books, directories, magazines, newspapers, brochures, pamphlets, medical records/files, legal records/files, instruction materials, and drawing/blueprints/outlines.

Subsequent sale, transfer or disposition of the capital equipment and/or spare parts which was granted tax and customs duty exemption

Section 302

- Subsequent sale, transfer or disposition of the capital equipment and/or spare parts which was granted tax and customs duty exemption shall be subject to the approval of the IPA and shall be allowed only under the following conditions:
 - If made to another enterprise enjoying customs duty exemption on imported capital equipment and/or spare parts;
 - If made to another enterprise not enjoying customs duty exemption on imported capital equipment and/or spare parts, upon payment of any taxes and duties due on the net book value of the capital equipment and/or spare parts to be sold;
 - Exportation of capital equipment, machinery, spare parts or source documents, or those required for pollution abatement and control; and
 - For reasons of proven technical obsolescence.
- The registered enterprise and the vendee, transferee, or assignee shall be **solidarily liable to pay twice the amount of duty exemption** that should have been paid during its importation for sales, transfers and dispositions without prior approval.
- Even if the sale, transfer or disposition of the capital equipment was made after 5 years from the date of importation with the approval of the IPA, the registered enterprise is still liable to pay the duties based on the net book value of the capital equipment if it has violated any of its registration terms and conditions.

Other provisions

- **No double registration:** Enterprises shall not be allowed to register their activities in more than 1 IPA.
- **Listing of shares of stock:** The IPAs may require domestic registered enterprises to list their shares of stock in any accredited stock exchange or directly offer a portion of their capital stock to the public and/or their employees within 15 years from the date of registration.
- **Suspension and forfeiture of tax incentives of registered enterprises, refund and penalties, waiver and condonation:** Registered enterprises which violated its registration terms and conditions shall be suspended from the availment of its incentives, until proven otherwise. In case of cancellation of the certificate of registration, the BIR, in coordination with the FIRB, will require the payment of incentives assessed to have been granted to the enterprise for its registered activity and impose corresponding fines and penalties.
- **Tax expenditure fund:** All tax incentives of qualified registered activities, including internal revenue tax and duty obligations of government corporations, shall be chargeable to the Tax Expenditure Fund.

Tax incentives of existing registered activities

- Those under ITH shall be allowed to continue with the availment for the remaining ITH period or for a period of 5 years, whichever comes first.
- Those under the 5% Gross Income Tax (“GIT”) incentive shall be allowed to continue based on the following schedule:
 - 2 years – for registered activities under the 5% GIT regime for more than 10 years;
 - 3 years - for registered activities under the 5% GIT regime for 5 to 10 years; or
 - 5 years – for registered activities under the 5% GIT regime for less than 5 years.

Repeal and/or amendment of other laws

Tax Particulars	Proposed Amendments Under House Bill No. 7458
<p>Amendment of various tax incentives enjoyed by several government instrumentalities and government-owned corporations which will now be charged to the Tax Expenditure Fund (“TEF”)</p>	<ul style="list-style-type: none"> Section 37 of HB7458 Amends the provisions on various laws with respect to the aforementioned specific tax exemptions and/or tax incentives. The resulting tax burden will be shouldered by the Tax Expenditure Fund (TEF) in the General Appropriations Act (GAA). <p>Various entities are affected by the provision, these are listed in Appendix A.</p>
<p>Amendment or repeal of the tax provisions of entities covered by franchises</p>	<p>The tax treatment provisions of entities covered by the following franchise laws of the entities in listed Appendix B are amended or repealed.</p>
<p>Repeal of various grants of tax incentives for the promotion and development of various industries and activities</p>	<p>The provisions of the laws granting tax incentives to the following are repealed:</p> <ol style="list-style-type: none"> Agriculture and fisheries; Banks and financial institutions; Book publishing industry; Ecological waste management and water quality development; Enterprises registered under the Board of Investments and Special Economic Zones; Export-oriented industries; Forestry; Healthcare; Housing; Infrastructure, construction and other related industries; Jewelry industry; Maritime industry; Micro, Small and Medium Enterprises (MSMEs); Mineral industry; Oil, gas, and energy industry; Public utilities; Regional or area headquarters and regional operating headquarters; Sports; Tourism industry; and Veterans fund management.

For reference, the specific details of the tax incentives repealed per industry may be viewed in **Appendix C**.

Repeal and/or amendment of other laws

Annex A. List of laws amended pursuant to Section 37 of HB 7458

1. APECO
2. Boy Scouts of the Philippines
3. Civil Aviation Authority
4. Credit Information Corporation
5. Girl Scouts of the Philippines
6. Home Development Mutual Fund (Pag-IBIG Fund)
7. Intramuros Administration
8. National Dairy Authority
9. National Electrification Administration
10. National Parks Development Committee
11. National Power Corporation
12. Nayong Pilipino Foundation
13. Partido Development Administration
14. The People's Television Network, Incorporated
15. Philippine Deposit Insurance Corporation (PDIC)
16. Philippine Ports Authority
17. Philippine Postal Corporation
18. Philippine Sports Commission
19. Phividec Industrial Authority
20. TIEZA
21. Tourism Promotions Board (TPB)
22. Veterans Federation of the Philippines
23. ZAMBOECOZONE Authority

Annex B. List of franchise grantees subjected by the amendment in section 38 of the HB 7458

1. ABS-CBN Broadcasting Corp. (Section 8 of RA no. 7966)
2. Agusan Communications Foundation, Inc. (Section 8 of RA no. 8068)
3. Allied Broadcasting Center, Incorporated (Section 8 of RA no. 8096)
4. Andres Bonifacio College Broadcasting System, Inc. (Section 5 of RA no. 8120)
5. Asian-Pacific Broadcasting Company, Inc. (Section 8 of RA no. 8080)
6. Azimuth Broadcasting Corporation (Section 7 of RA no. 8144)
7. Beacon Communications Systems, Inc. (Section 8 of RA no. 8063)
8. Bell Telecommunication Philippines, Inc. (Section 9 of RA no. 10900)
9. Broadcast Enterprises and Affiliated Media (BEAM), Inc. (Section 8 of RA no. 8098)
10. Cebu Broadcasting Co. (Section 8 of RA no. 7963)
11. Central ACTV, Inc. (Section 8 of RA no. 7969)
12. Cruztelco (Section 9 of RA 7961)
13. Fil-Asia Racing Club (Section 12 of RA no. 8446)
14. Good News Sorsogon Foundation, Inc. (Section 8 of RA no. 8119)
15. GV Broadcasting System, Inc. (Section 8 of RA no. 8169)
16. Ipil Broadcasting News Network, Inc. (Section 8 of RA no. 8094)

17. Isla Cellular Communications, Inc. (Section 9 of RA no. 8065)
18. Isla Paging Company (Section 9 of RA no. 8066)
19. Islatel Corporation (Section 10 of RA no. 8095)
20. Jorge D. Bayona (Section 4 of RA no. 8158)
21. Jose M. Luison and Sons, Inc. (Section 8 of RA no. 8132)
22. M.S. Network Management, Inc. (Section 8 of RA no. 8121)
23. Major Telecoms, Inc. (Section 14 of RA no. 7783);
24. Manila Jockey Club, Inc. (Section 12 of RA no. 8407)
25. Metro Manila Turf Club, Inc. (Section 9 of RA no. 8298)
26. Millennia Telecommunications Corp. (Section 13 of RA no. 8004)
27. Multi-media Telephony Incorporated (Section 9 of RA no. 7908)
28. National Grid Corporation (Section 9 of RA no. 9511)
29. OMARCO (Section 8 of RA no. 8128)
30. Pacific Broadcasting System, Inc. (Section 8 of RA no. 7967)
31. Palawan Broadcasting Corporation (Section 8 of RA no. 8060)
32. Partido Broadcasting Corporation (Section 8 of RA no. 8097)
33. Phil. Broadcasting Corp. (Section 8 of RA no. 7962)
34. Philippine Racing Act, Inc. (Section 9 of RA no. 7953)
35. Prime Broadcasting Network, Incorporated (Section 8 of RA no. 8154)
36. Radio Gubat Network, Inc. (Section 8 of RA no. 8067)
37. Radyo Pilipino Corporation (Section 8 of RA no. 8145)
38. Royal Broadcasting Corporation (Section 7 of RA no. 8123)
39. Sagay Broadcasting Corporation (Section 8 of RA no. 8099)
40. Smart Communications, Inc. (Section 5 of RA no. 10926)
41. Southern Broadcasting Network (Section 14 of RA no. 8147)
42. Tagbilaran Broadcasting System (Section 8 of RA no. 8149)
43. The Island Country Telecommunications, Inc. (Section 10 of RA no. 7939)
44. Ultimate Entertainment, Inc. (Section 7 of RA no. 8102)
45. Vimcontu Broadcasting Corporation (Section 8 of RA no. 8116)
46. Vismin Radio and Television Broadcasting Network, Inc. (Section 8 of RA no. 8071)
47. Worldwide Communications, Inc. (Section 3 of RA no. 7859)

Annex C. List of the provisions repealed in section 39 of the HB 7458 relating to tax incentives

Repealed section	Provisions proposed to be repealed in HB 7458
a. Agriculture and fisheries	
<p>Section 5 of Republic Act (RA) No. 9379</p> <p><i>Repeal of import duties and tax exemption on fish caught by Philippine Handline Fishing Boats in International Waters</i></p>	<p>Subject to registration and other requirements, handline fishing boats may operate in international waters or waters of other countries that allow them to do so.</p> <p>Any fish caught during such operations shall be considered as caught in the Philippine waters and are therefore not subject to import duties and taxes when landed on government designated fish landings and fish ports in the Philippines.</p>
<p>Section 16 of RA No. 10601</p> <p><i>Repeal of the incentives awarded by EO 226 to local manufacturers and assemblers of Agri-fisheries Machinery</i></p>	<p>The existing law provides that businesses involved in the manufacture and assembly of agri-fisheries machinery are considered as entities registered in preferred areas of activity and are therefore eligible to avail the tax incentives outlined in EO 226.</p>
<p>Section 32 of RA 10654</p> <p><i>Repeal of import duties and tax exemption on fish caught by Distant Water Fishing Vessels</i></p>	<p>Any fish caught during the operations of distant water fishing vessels shall be considered as caught in the Philippine waters and are therefore not subject to import duties and taxes when landed on government designated fish landings and fish ports in the Philippines.</p>

Repealed section	Provisions proposed to be repealed in HB 7458	Repealed section	Provisions proposed to be repealed in HB 7458
<p>Section 14 (B) of RA 7308</p> <p><i>Repeal of various tax exemptions and tax benefits for private entities to promote and develop the Local Seed Industry</i></p>	<p>In order to develop the local seed industry, the Act provides various tax benefits to the private entities who will be involved the said industry as listed below:</p> <ol style="list-style-type: none"> Technical equipments for use in seed processing, sowing, meristem culture, storage and quality testing are exempt from duties and taxes for the first five years of operation subject to conditions; Cooperatives organized and registered under Republic Act No. 6938 shall enjoy the tax exemption provided in the said Act; and Expenses for research, development and extension of private Filipino seed producers shall enjoy a two hundred percent (200%) deduction from their gross income for the first five years of operation. 	<p>Section 9 (E), (F), (I), (J) of the RA No. 7900</p> <p><i>Repeal of various local and national tax exemptions to develop and promote the production of High Value Crops (HVCs)</i></p>	<p>The following tax incentives were granted to the farmer cooperatives involved in the cultivation of the HVCs under the provision of this Act:</p> <ol style="list-style-type: none"> Tax exemptions from duties and taxes as provided by Article 62 of RA 6938, VAT in accordance with Section 103 of the NIRC, and local taxes under Title One of Book Two of the Local Government Code of 1991; Exemption from duties in relation to the importation of high quality seeds/planting materials; and Fiscal incentives granted by the Board of Investments. <p>Agro-processing firms buying directly from the farmer cooperatives involved with the program are also granted tax rebates.</p>
<p>Section 18 of RA No. 7884</p> <p><i>Repeal of several tax incentives to accelerate the development of the Dairy Industry</i></p>	<p>The following are the tax benefits given to the private sector by this Act:</p> <ol style="list-style-type: none"> National Dairy Authority shall be exempt from the payment of customs duties and taxes on the importation of dairy animals, veterinary and other supplies, etc. for distribution to dairy cooperatives, subject to conditions; Donation, contributions and financial aids given to the National Dairy Authority are exempt from donor's tax and are fully deductible from the gross income of the donor for income tax purposes; Small farmers and small farmers' dairy cooperative are exempt from all taxes on the sale of raw milk and milk products; and Milk processors shall enjoy a presumptive input VAT of 4%. 	<p>Section 35 (B), (C) and (D) of the RA No. 8550</p> <p><i>Repeal of fiscal incentives for commercial fishers to fish further in the Exclusive Economic Zone</i></p>	<p>The following tax incentives were granted to commercial fishing vessel operators are who will operate in the further areas of the Exclusive Economic Zone:</p> <ol style="list-style-type: none"> Duty and tax exemption on importation of fishing vessels not more than five (5) years old, equipment and paraphernalia; Duty and tax rebates on fuel consumption on commercial fishing operations; and All applicable benefits under EO 226.
		<p>Section 24 (A) and (F) of the RA No. 10068</p> <p><i>Repeal of tax incentives in view of promoting Organic Agriculture</i></p>	<p>The following tax incentives were granted to organic farmers as follows:</p> <ol style="list-style-type: none"> Exemption from duties with respect to importation of agricultural equipment, machinery and equipment as provided under RA 9281; and Income Tax Holiday and exemption for seven years.

Repealed section	Provisions proposed to be repealed in HB 7458	Repealed section	Provisions proposed to be repealed in HB 7458
Section 26 (a)(1)(3) of the RA no. 9275	Industrial wastewater treatment and/or adoption of water pollution control technology, cleaner production and waste minimization technology shall be classified as preferred areas of investment and shall enjoy the applicable fiscal and non-fiscal incentives as may be provided for under the Omnibus Investment Code, as amended. All legacies, gifts, and donations for the support and maintenance of the program for effective water quality management shall be exempt from donor's tax and shall be deductible from the gross income of the donor for income tax purposes.	c. Book publishing industry	
		Section 12 of RA no. 8047	Persons engaged in book publishing and its related activities duly registered with the National Book Development Board shall be entitled to the applicable fiscal and non-fiscal incentives provided under the Omnibus Investment Code. Further, books, magazines, periodicals, newspapers, including book publishing and printing, as well as its distribution and circulation, shall be exempt from the coverage of the expanded value added tax law.
		<i>Repeal of the tax incentives granted for Book Development</i>	
b. Banks and financial institutions		d. Ecological waste management and water quality development	
Section 37 of the RA No. 6848	The Islamic Bank shall be exempt from all the taxes enumerated in the NIRC commencing from the first taxable year, for one hundred per centum (100%) for the first five years and seventy-five per centum (75%) for the sixth through eighth year.	Section (B) (1) (C) of RA no. 9003	All legacies, gifts, and donations for the support and maintenance of the program for effective solid waste management shall be exempt from all internal revenue taxes and customs duties, and shall be deductible in full from the gross income of the donor for income tax purposes.
<i>Repeal of tax exemptions under the NIRC granted to Al-Amanah Islamic Investment Bank of the Philippines (The Islamic Bank)</i>	An investment in Islamic banking business to the extent of actual participation in profit and loss sharing scheme, paid in cash or property, were also granted an exemption from all taxes under the NIRC, except income tax.	<i>Repeal of tax incentives for donations in connection with Effective Solid Waste Management</i>	
Section 17 of the RA No. 7906	The law provides that thrift banks are exempt from the payment of all taxes, fees and charges of whatever nature and description, except the corporate income tax and local taxes, fees and charges, for a period of five years from the date of commencement of operations.	e. Enterprises registered under the Board of Investments and Special Economic Zones	
<i>Repeal of tax exemptions granted to Thrift Banks for the first five years of operations</i>		EO 226	This provides for tax incentives to registered enterprises.
Section 15 of the RA No. 7353	The law provides that rural banks are exempt from the payment of all taxes, fees and charges of whatever nature and description, except the corporate income tax and local taxes, fees and charges, for a period of five years from the date of commencement of operations.	<i>Repeal of the Omnibus Investments Code of 1987</i>	
<i>Repeal of tax exemptions granted to Rural Banks for the first five years of operations</i>			

Repealed section	Provisions proposed to be repealed in HB 7458	Repealed section	Provisions proposed to be repealed in HB 7458
<p>Section 1 of RA no.7918</p> <p><i>Repeal of incentives given to Board of Investment registered enterprises</i></p>	<p>Under the existing law, the following are allowed incentives for qualified enterprises:</p> <ol style="list-style-type: none"> a. Income Tax Holiday; b. Additional Deduction for Labor Expense; c. Tax and Duty Exemption on Imported Capital Equipment; d. Tax Credit on Domestic Capital Equipment; e. Exemption from Contractor’s Tax; f. Unrestricted Use of Consigned Equipment; g. Exemption on Breeding Stocks and Genetic Materials; h. Tax Credit on Domestic Breeding Stocks and Genetic Materials; i. Tax Credit for Taxes and Duties on Raw Materials; j. Exemption from Taxes and Duties on Imported Spare Parts; k. Exemption from Wharfage Dues and any Export Tax, Duty, Impost and Fee; l. Tax incentives of merchandise in the Zone of a registered enterprise; and m. A zone registered enterprise shall also enjoy all the incentive granted to registered enterprises. 	<p>Section 4(E) and (F) of RA no. 7903; Section 4(B)(C) of RA no. 7922; Section 23 and 24 of RA no.7916</p> <p><i>Repeal of tax incentives granted to the following:</i></p> <ul style="list-style-type: none"> • Zamboanga City Special Economic Zone; • Cagayan Special Economic Zone; and • Business establishment operating within the Ecozones 	<ul style="list-style-type: none"> • Shall be entitled to the existing fiscal incentives as provided under the law creating the Export Processing Zone Authority and the Omnibus Investment Code of 1987. • Any provisions of existing laws, rules or regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed on business establishments operating within the Zamboanga City Special Economic Zone. <p>In lieu of paying taxes, said business establishments shall pay and remit to the national government a certain percentage of their gross income and to the city government, if applicable.</p>
<p>Executive Order no.22</p> <p><i>Repeal of the 0% duty for any importation of items by BOI-registered enterprises</i></p>	<p>EO 22: Section 1. Zero Percent Duty. Any importation of capital equipment, spare parts and accessories by BOI-registered enterprises shall be subjected to zero percent duty, as indicated in Section 2 hereof.</p>	<p>Section 4 of RA no. 8748</p> <p><i>Repeal of the exemption from national and local taxes of establishments operating within the Ecozone</i></p>	<p>Existing law provides for an exemption from national and local taxes of business establishments operating within the ecozone.</p> <p>In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ecozone shall be paid and a certain percent is remitted to the national government and to the treasurer’s office of the municipality or city where the enterprise is located.</p>
<p>Section 17(1-8) and section 18(A)(B)(C)(F) of PD no. 66</p> <p><i>Repeal of the tax incentives given to a Zone Registered Enterprises</i></p>	<ol style="list-style-type: none"> a. Certain tax incentives of merchandise in the Zone of a registered enterprise are granted. b. The following additional incentives are granted to a zone registered enterprises: <ol style="list-style-type: none"> o Net-operating loss carry over; o Accelerated depreciation; o Exemption from export tax; and o Exemption from local taxes and licenses. 		

Repealed section	Provisions proposed to be repealed in HB 7458	Repealed section	Provisions proposed to be repealed in HB 7458
<p>Section 12 (C)(B) of RA no. 7227</p> <p><i>Repeal of tax incentives under the Bases Conversion and Development Act</i></p>	<p>Existing law provides for the following:</p> <ol style="list-style-type: none"> a. Incentives for tax and duty-free importations of raw materials, capital and equipment are granted in the following Zones: <ol style="list-style-type: none"> 1. Subic Special Economic Zone (SSEZ); 2. Clark Freeport Zone (CFZ); 3. Poro Point Freeport Zone (PPFZ); 4. Morong Special Economic Zone (MSEZ); and 5. John Hay Special Economic Zone (JHSEZ). b. No national and local taxes shall be imposed within the SSEZ, CFZ, PPFZ, MSEZ, and JHSEZ. In lieu of said taxes, a preferential tax rate on gross income is paid and remitted to the national government and zone authority/treasurer's office in the city/municipality by a certain percentage. c. Business enterprises presently registered and granted with tax and duty incentives by the Clark Development Corporation (CDC), Poro Point Management Corporation (PPMC), JHMC, and Bataan Technological Park Incorporated (BTPI), including such governing bodies, shall be entitled to the same incentives until the expiration of their contracts entered into prior to the effectivity of Bases conversion and development act of 1982. 	<p>Sections (5)(6)(7)(8) (9) of RA no. 9490</p> <p><i>Repeal of tax incentives granted to Aurora Special Economic Zone (ASEZ)</i></p>	<p>The following incentives to the registered enterprises located in the ASEZ to the extent of the activity/project are, as follows:</p> <ol style="list-style-type: none"> a. Income Tax Holiday; b. Net Operating Loss Carryover (NOLCO); c. Imposition of a tax rate of five percent (5%) on Gross Income Earned; d. Accelerated Depreciation; e. Capital Equipment Incentives; f. The importation of source documents by information technology-registered enterprises shall be eligible for tax and duty free importation; g. Raw Materials Incentives; h. Incentives on Breeding Stocks and Genetic Materials; i. Exemption from Wharfage Dues; j. Deferred Imposition of the Minimum Corporate Income Tax; k. Importations of raw materials and capital equipment; l. Employment of Foreign Nationals; m. Incentive to Investors; and n. Extension of Period of Availment.
<p>Section 1 of EO no. 619</p> <p><i>Repeal of tax incentives for enterprises operating within Clark Freeport Zone</i></p>	<p>Duly registered business enterprises that will operate in special economic zones to be created by proclamation inside the Clark Freeport Zone shall be entitled to the same tax and duty incentives as provided for under R.A. 7916, as amended.</p>		

Repealed section	Provisions proposed to be repealed in HB 7458	Repealed section	Provisions proposed to be repealed in HB 7458
<p>Section 4(f); Section (5)(6)(10) of RA no. 9728</p> <p><i>Repeal of tax incentives of enterprises operating within the Freeport Area of Bataan (FAB)</i></p>	<p>a. The registered enterprises operating within the FAB may be entitled to the existing pertinent fiscal incentives as provided for under the Special Economic Zone Act of 1995, or those provided under the Omnibus Investment Code of 1987;</p> <p>b. No taxes, local and national, shall be imposed on business establishments operating within the FAB. In lieu thereof, said business establishments shall pay a 5% final tax on their gross income earned;</p> <p>c. Enterprises registered with Authority of the Freeport Area of Bataan (AFAB) may enjoy the ITH or the NOLCO granted by the authority prior to the availment of the 5% gross income earned; and</p> <p>d. The FAB shall provide incentives such as tax and duty - free importations of raw materials, capital and equipment to registered enterprises located therein. However, exportation or removal of goods from the territory of the FAB to the other parts of the Philippine territory' shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines and the NIRC.</p>	<p>Section 4(F) 5(C)(K) of RA no. 10083</p> <p><i>Repeal of tax incentive granted to registered enterprises in the Aurora Pacific Economic Zone (APECO)</i></p>	<p>This law provides tax incentives, among others:</p> <p>a. Preferential rate of 5% on Gross Income Earned for registered enterprises;</p> <p>b. Foreign and domestic merchandise, except those prohibited by law, brought into the Aurora Ecozone, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances; and</p> <p>c. Importations of raw materials and capital equipment are tax and duty free.</p>
<p>Section 1(1.1) of EO no. 97-A</p> <p><i>Repeal of tax and duty free privilege within the secured area of the Subic Special Economic and Free Port Zone</i></p>	<p>This law provides tax incentives, as follows:</p> <p>a. The Secured Area consisting of the presently fenced-in former Subic Naval Base shall be the only completely tax and duty-free area in the SSEFPZ; and</p> <p>b. Business enterprises and individuals (Filipinos and foreigners) residing within the Secured Area are free to import raw materials, capital goods, equipment, and consumer items tax and duty-free.</p>	<p>Section 1 (c)(d) of EO no. 93;</p> <p>Section 1 (a)(b) of PD no. 1955</p> <p><i>Repeal of tax and duty incentives to enterprises registered with BOI, EPZA, Phil. Veterans investment development corp., and copper mining industry</i></p>	<p>The provisions of any general or special law to the contrary notwithstanding, all tax and duty incentives granted to government and private entities are hereby withdrawn, except:</p> <p>a. those enjoyed by enterprises registered with:</p> <ol style="list-style-type: none"> 1. the Board of Investments pursuant to Presidential Decree No. 1789, as amended; 2. the Export Processing Zone Authority, pursuant to Presidential Decree No. 66, as amended; 3. the Philippine Veterans Investment Development Corporation Industrial Authority pursuant to Presidential Decree No. 538, as amended; and <p>d. those enjoyed by the copper mining industry pursuant to the provisions of Letter of Instruction No. 1416.</p>

Repealed section Provisions proposed to be repealed in HB 7458

f. Export-oriented industries

Section 16 and 17 of RA no. 7844 In addition to existing incentives provided by the Board of Investments, the following incentives shall likewise be granted to exporters:

Repeal of tax incentives granted to exporters

- a. Exemption from Presidential Decree No. 1853;
- b. Importation of machinery and equipment and accompanying spare parts subject to 0% duty for a period of three years, until 1997;
- c. Tax credit for imported inputs and raw materials used for production;
- d. Tax credit for increase in current year export revenue; and
- e. For exporters of non-traditional products who use or substitute locally produced raw materials, capital equipment and/or spare parts, tax credits equivalent to 25% of the duties that would have been paid had these inputs been imported.

Section 13 of RA no. 10817 The Board of Investments, the Philippine Economic Zone Authority, and other investment promotion agencies shall, as their charters allow, grant fiscal and non-fiscal incentives to different economic zones and strategic locations in the country to attract investments in pioneering and essential industries to increase exports of Halal products or as raw materials or ingredients in the production of Halal products.

Repeal of fiscal and non-fiscal incentives for the promotion of Halal products

Repealed section Provisions proposed to be repealed in HB 7458

g. Forestry

Section 36(E)(F) of PD no. 705 To encourage qualified persons to engage in industrial tree plantation and/or tree farming, the following incentives are granted:

Repeal of tax incentives granted to entities engaging in Industrial Tree Plantation and/or Tree Farming

- a. Exemption from the payment of the percentage tax;
- b. A lessee of an industrial tree plantation or tree farm may either apply to the BOI for the tax and other benefits or avail of the following benefits:
 - 1. Amounts expended by a lessee in the development and operation of an industrial tree plantation or tree farm prior to the time when the production state is reached, may, at the option of said lessee, be regarded as ordinary and necessary business expenses or as capital expenditures; and
 - 2. Deduction from an investor's taxable income for the year, of an annual investment allowance equivalent to thirty-three and one-third per cent (33-1/3%) of his actual investment during the year in an enterprise engaged in industrial tree plantation or tree farm.

h. Healthcare

Section 14 of RA no. 8423 Manufacturers of traditional and alternative health care products like herbal medicinal plants shall enjoy such exemptions, deductions and other tax incentives as may be provided for under the Omnibus Investment Code, as amended.

Repeal of tax incentives granted to Manufacturers of Traditional and Alternative Health Care Products

Repealed section	Provisions proposed to be repealed in HB 7458
<p>Section 42(c) of RA no. 7277</p> <p><i>Repeal of tax incentives for the manufacturing of articles used by Disabled Persons</i></p>	<p>Local manufacturing of technical aids and appliances used by disabled persons shall be considered as a preferred area of investment and, as such, shall enjoy the rights, privileges and incentives as provided in the Omnibus Investment Code.</p>
i. Housing	
<p>Section 20 (D)(1) to (5) of RA no. 10884</p> <p><i>Repeal of incentives for Private Sector Participating in Socialized Housing</i></p>	<p>To encourage greater private sector participation in socialized housing, it is exempted from the payment of the following:</p> <ol style="list-style-type: none"> a. Project-related income taxes; b. Capital gains tax on raw lands used for the project; c. Value-added tax for the project contractor concerned; d. Transfer tax for both raw completed projects; and e. Donor's tax for lands certified by the local government units to have been donated for socialized housing purposes.

Repealed section	Provisions proposed to be repealed in HB 7458
j. Infrastructure, construction and other related industries	
<p>Section 6 (C) (D) (F), 7, 8 of RA no. 7103</p> <p><i>Repeal of incentives granted to eligible enterprises in the Steel Industry</i></p>	<p>All enterprises certified by the BOI, as eligible for incentives of the Iron and Steel Industry Act, shall be entitled to the following incentives:</p> <ol style="list-style-type: none"> a. Tax and Duty Exemption on Imported Equipment; b. Tax Credit on Domestic Capital Equipment equivalent to the national internal revenue taxes and customs duties that would have been waived had the machinery, equipment and spare parts been imported from abroad; c. Rational Tariff Incentives and Protection Scheme that shall enhance viability of the iron and steel industry; and d. Other incentives as may be available to the certified enterprise under the Omnibus Investments Code, laws creating export processing zones, and other laws.
<p>Republic Act no. 7718</p>	<p>Repeal of an Act amending certain sections of RA 6957, entitled "An act authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector, and for other purposes."</p>
k. Jewelry industry	
<p>Section 3 (A) to (D) and (H) of Republic Act No. 8502</p> <p><i>Repeal of tax incentives to develop the Jewelry Industry</i></p>	<p>The following tax incentives are granted by the qualified jewelry enterprises:</p> <ol style="list-style-type: none"> a. Zero (0) duty on imported raw materials and imported capital equipment, including spare parts and tooling; b. Exemption from excise tax on jewelry; c. Additional deduction on taxable income of fifty percent (50%) of training expenses; and d. Tax incentives under RA 7844, RA 7916 and EO 226, provided that the activity is export-oriented and that there is no double availment of the same incentives.

Repealed section	Provisions proposed to be repealed in HB 7458	Repealed section	Provisions proposed to be repealed in HB 7458
I. Maritime industry		m. Micro, Small and Medium Enterprises (MSMEs)	
<p>Chapter II, Section 4 And Chapter VIII, Section 19 Of Republic Act No. 9295</p> <p><i>Repeal of tax incentives for the development of Domestic Shipping Industry</i></p>	<p>In order to promote the development of the domestic shipping industry, the following tax incentives to domestic ship operators to:</p> <ol style="list-style-type: none"> All MARINA-registered domestic shipowners/operators shall be exempt from payment of VAT subject to conditions; Importation of the articles to be used by the registered shipowner/operator subject to conditions; and Accelerated depreciation of fixed assets based on the expected useful life. <p>On the other hand, domestic companies in the shipbuilding and ship repair industry enjoy the following tax incentives:</p> <ol style="list-style-type: none"> Importation of shipyard equipment machinery, spare parts, life-saving, navigational equipment, steel plates, and other metal plates including marine grade aluminium used and installed in the construction, repair, renovation, or alteration of any merchant marine ships operated or to be operated in the domestic trade subject to conditions; and Accelerated depreciation of fixed assets based on the expected useful life. <p>Note: The repeal also covered the limitations/restrictions on sale, transfer or disposition of ships and imported articles along with the penalty of twice the VAT that should have been paid upon breach of the restrictions.</p>	<p>Section 6 of Republic Act No. 7471</p> <p><i>Repeal of tax incentives for the development of Overseas Shipping Industry</i></p>	<p>The law provides tax incentives for the promotion and development of overseas fishing:</p> <ol style="list-style-type: none"> The importation by a Philippine shipping enterprise of oceangoing vessels for registration under the Philippine flag shall be exempt from the payment of import duties and taxes. The spare parts for the repair and/or overhaul of vessels shall likewise be exempt from the payment of import duties and taxes; and Local manufacturers or dealers who sell machinery, equipment, materials and spare parts to a Philippine shipping enterprise shall be entitled to tax credits for the full amount of import duties and taxes actually paid thereon, or on parts or components thereof.
		<p>Section 5 (A) (B) of Republic Act No. 10771</p> <p><i>Repeal of tax incentives to promote the establishment of Green Jobs</i></p>	<p>Business enterprises involved in the creation and operation of green jobs are granted the following incentives by the law:</p> <ol style="list-style-type: none"> Special deduction from taxable income of fifty percent (50%) of skills training and research and development expenses; and Tax and duty free importation of capital equipment.
		<p>Section 9 (H) (10) of Republic Act No. 9501</p> <p><i>Repeal of tax incentives on MSMEs</i></p>	<p>In order to promote entrepreneurship, MSMEs are eligible for the tax credits and other tax and duty incentive granted by EO 226 and other laws.</p>
		<p>Section 7 of RA No. 9178</p> <p><i>Repeal of exemption from taxes and fees</i></p>	<p>All Barangay Micro Business Enterprises shall be exempt from tax for income arising from the operations of the enterprise.</p>

Repealed section	Provisions proposed to be repealed in HB 7458
n. Mineral industry	
Chapter XV, Section 83; Chapter XVI, Sections 90, 91, 92, 93 of Republic Act No. 7942	The following tax incentives were granted to the contractors in the mineral industry: <ul style="list-style-type: none"> a. Income Tax Holiday as provided under the EO 226. After the lapse of ITH, the normal income tax in the NIRC shall apply; b. Exemption from real property tax of pollution control devices; c. Extended carryforward of losses of five years from the taxable year in which the net loss was incurred for the first ten years of operations; d. Accelerated depreciation of fixed assets based on estimated useful life; and e. Special rules on the deductibility of exploration and development expenditures.
<i>Repeal of tax incentives for the contractors in the Mineral Industry</i>	
Section 10 of PD no. 972	All valid and subsisting holders of coal revocable permits, coal leases and other existing rights granted by the government for the exploration and exploitation of coal lands is granted a special allowance.
<i>Repeal of allowance in Coal Operating Contracts</i>	
o. Oil, gas, and energy industry	
Sections 12, 21 and 22 of Presidential Decree No. 87 Restored by FIRB Resolution 19-87	The following tax incentives are granted to contractors involved in petroleum exploration, development and production: <ul style="list-style-type: none"> a. Exemption from all taxes except income tax; b. Exemption from payment of tariff duties and compensating tax on the importation of machinery and equipment, and spare parts and all materials required for petroleum operations subject to conditions; c. Deduction from gross income of the Filipino Participation Incentive and operating expenses reimbursable under Section 8 of the same Act;
<i>Repeal of tax incentives on Petroleum Concessionaires</i>	

Repealed section	Provisions proposed to be repealed in HB 7458
	<ul style="list-style-type: none"> d. Full deductibility of intangible exploration costs; and e. Ten year depreciation of tangible assets for tangible explorations costs. <p>Note: The repeal also covered the limitations/restrictions on sale, transfer or disposition of the items subject tax and duties exemption under item 2 above along with the penalty of twice the tax and duties that should have been paid upon breach of the restrictions.</p>
Presidential Decree No. 529 (Restored by FIRB Resolution 19-87)	Petroleum exploration concessionaires are exempted from the payment of customs duty and compensating tax on importations of machinery and equipment, spare parts and materials required for petroleum exploration operations subject to conditions.
<i>Repeal of tax and duty exemptions on the importations of Petroleum Exploration Concessionaires</i>	
Section 16 (A)(B) and (C) and Section 17 (A) to (E) of Presidential Decree No. 972	Under the law, the following tax incentives were granted to operators under a coal operating contract: <ul style="list-style-type: none"> a. Exemption from all taxes except income tax; b. Exemption from payment of tariff duties and compensating tax on importation of machinery and equipment and spare parts and materials required for the coal operations subject to conditions; and c. Accelerated depreciation.
<i>Repeal of tax incentives for the promotion of the Coal Industry</i>	

Repealed section	Provisions proposed to be repealed in HB 7458	Repealed section	Provisions proposed to be repealed in HB 7458
	<p>Tax incentives were also granted to enterprises/ industries who will convert existing oil fired plants and facilities to make the same adaptable for coal burning as enumerated below:</p> <ol style="list-style-type: none"> a. Tax exemption on imported capital equipment; b. Tax credit on domestic capital equipment. c. Net operating loss carryover (NOLCO) of six years immediately following the year of such loss on the first 10 years after the start of the implementation of the coal conversion program; d. Capital gains tax exemption from the sale, disposition or transfer of capital assets which are sold or disposed of as a result of the conversion of facilities to a coal burning plant; and e. Accelerated Depreciation of fixed assets based on the estimated useful life. 	<p>Section 9 of Republic Act No. 8479</p> <p><i>Repeal of tax incentives granted to new investments in the Downstream Oil Industry</i></p> <hr/> <p>Section 6, fifth Paragraph of Republic Act No. 9136</p> <p><i>Repeal of the VAT exemption on the sale of power generated by Generation Companies</i></p>	<p>New investments in refining, storage, marketing and distribution of petroleum products, shall be extended the same incentives granted to BOI-registered enterprises engaged in a preferred area of investments pursuant to EO No. 226 for a period of five years from registration with the BOI.</p> <hr/> <p>Under the provisions of the law, sales of generated power by generation companies shall be subject to zero percent (0%) VAT.</p>
<p>Section 4 (A) and (D) of Presidential Decree No. 1442</p> <p><i>Repeal of tax incentives to service contractors on the Geothermal Resources Industry</i></p>	<p>The following tax incentives were granted to service contractors in the geothermal resources industry:</p> <ol style="list-style-type: none"> a. Exemption from payment of tariff duties and compensating tax on the importation of machinery and equipment, and spare parts and all materials required for geothermal operations subject to conditions; and b. Tax incentives provided under Section 12 of PD 87 (Items a and b of the PD 87 summary). 	<p>Sections 15 except (h), 19, 21 (a) to (d), and 23 of Republic Act No. 9513</p> <p><i>Repeal of tax incentives to promote the development of Renewable Energy (RE) resources</i></p>	<p>Developer of renewable energy facilities and hybrid and cogeneration systems are provided the following tax incentives up to the extent that the equipment, machinery and/or devices utilize the RE resources:</p> <ol style="list-style-type: none"> a. Income Tax Holiday for the first seven years of its commercial operations. Additional investments in the project shall be entitled to additional income tax exemption but limited to not more than three (3) times the period of the initial availment of the ITH; b. Duty-free importation of RE machinery, equipment and materials within the first ten years upon the issuance of a certification of an RE developer subject to conditions; c. Realty and other taxes of not more than one and a half percent (1.5%) of the net book value of civil works, equipment, machinery, and other improvements of a Registered RE Developer actually and exclusively used for RE facilities; d. The NOLCO of the RE Developer during the first three years from the start of commercial operation may be carried over for seven consecutive taxable years immediately following the year of such loss;
<p>Section 10 (1) to (6) of Republic Act No. 7156</p> <p><i>Repeal of tax incentives granted to Mini-hydroelectric Power Developers</i></p>	<p>The law provides the following tax incentives to entities authorized to engage in mini-hydroelectric power development:</p> <ol style="list-style-type: none"> a. Special privilege tax of two percent (2%) of gross receipts; b. Tax and duty-free importation of machinery, equipment and materials within seven years from the date of award; c. Tax credit on domestic capital equipment; d. Special realty tax rates on equipment and machinery not more than two and a half percent (2.5%) of their original cost; e. Exemption from VAT of the gross receipts derived from the sale of electric power; and f. Income Tax Holiday for seven years from the start of commercial operations. 		

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	<ul style="list-style-type: none"> e. Corporate tax of ten percent (10%) of the taxable income after the lapse of the ITH; f. Accelerated Depreciation not exceeding twice the rate which would have been used; g. Zero-rated VAT on sale of fuel or power generated from renewable sources of energy; h. Tax exemption of carbon credits; and i. Tax credit on domestic capital equipment and services.
Sections 15 except (h), 19, 21 (a) to (d), and 23 of Republic Act No. 9513	All duly recognized and accredited manufacturers, fabricators and suppliers of locally-produced RE equipment and components were also granted the following tax incentives:
<i>Repeal of tax incentives to promote the development of Renewable Energy (RE) resources</i>	<ul style="list-style-type: none"> a. Tax and duty-free importation of components, parts and materials on all shipments necessary for the manufacture and/or fabrication of RE equipment and components; b. Tax credit on domestic capital components, parts and materials; c. Income Tax Holiday and exemption for seven years starting from the date of recognition/ accreditation; and d. All manufacturers, fabricators and suppliers of locally produced renewable energy equipment shall be subject to zero-rated value added tax.
	Rebates are also granted for all or part of the tax paid for the purchase of RE equipment for residential, industrial, or community use.
Section 6 (A) (B) of Republic Act No. 9367	The law provides the following tax incentives in view of promoting the biofuel industry:
<i>Repeal of the tax incentives to promote investments in the production, use and distribution of Biofuels</i>	<ul style="list-style-type: none"> a. The specific tax on local or imported biofuels component, per liter of volume shall be zero (0); and b. The sale of raw material used in the production of biofuels shall be exempt from the value added tax.

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p. Public utilities	
Section 5 (5.1)(5.2) of Executive Order No. 290	The following tax benefits were granted to the NGVPPT participants: <ul style="list-style-type: none"> a. Income Tax Holiday for pioneering projects qualifying under the BOI's Investments Priorities Plan; and b. One percent (1%) duty on imported NGVs, NGV engines and other NGV industry related equipment, facilities, parts and components as certified by the DOE.
<i>Repeal of tax incentives in view of promoting the Natural Gas Vehicles Program for Public Transportation (NGVPPT)</i>	
Section 23 of RA no 7925	Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall ipso facto become part of previously granted telecommunications franchises and shall be accorded immediately and unconditionally to the grantees of such franchises. Provided, however, that the foregoing shall neither apply to nor affect provisions of telecommunications franchises concerning territory covered by the franchise, the life span of the franchise, or the type of service authorized by the franchise.
<i>Repeal of equality of treatment in the Telecommunications Industry</i>	
Section 22 of RA no. 9337	The provisions of P.D. No. 1590 on the Franchise tax of Philippine Airlines, Inc., R.A. No. 7151 on the Franchise tax of Cebu Air, Inc., R.A. No. 7583 on the Franchise Tax of Aboitiz Air Transport Corporation, R.A. No. 7909 on the Franchise Tax of Pacific Airways Corporation, R.A. No. 8339 on the Franchise Tax of Air Philippines, or any other franchise agreement or law pertaining to a domestic airline to the contrary notwithstanding: <ul style="list-style-type: none"> a. The franchise tax is abolished; b. The franchisee shall be liable to the corporate income tax;
<i>Repeal of franchises of Domestic Airlines</i>	

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	<ul style="list-style-type: none"> c. The franchisee shall register for value-added tax under Section 236, and to account under Title IV of the NIRC of 1997, as amended, for value-added tax on its sale of goods, property or services and its lease of property; and d. The franchisee shall otherwise remain exempt from any taxes, duties, royalties, registration, license, and other fees and charges, as may be provided by their respective franchise agreement. 		<ul style="list-style-type: none"> f. RHQ and ROHQ shall enjoy tax and duty free importation of equipment and materials for training and conferences which are not locally available subject to the prior approval of the BOI.
<p>q. Regional or area headquarters and regional operating headquarters</p>		<p>Article 69 of RA 8756</p> <p><i>Repeal of the tax Treatment of Imported Articles in the Regional Warehouse</i></p>	<ul style="list-style-type: none"> a. Qualified Goods destined for re-exportation to the Asia-Pacific and other Foreign Markets shall not be subject to customs duty, internal revenue tax, export tax nor to local taxes, the provisions of law to the contrary notwithstanding. b. Payment of applicable duties and taxes on Qualified Goods subject to laws and regulations covering imported merchandise if destined for the local market.
<p>Article 62, 63, 64, 65, 66 and 67 of RA 8756</p> <p><i>Repeal of various incentives granted to Regional or Area Headquarters and Regional Operating Headquarters</i></p>	<ul style="list-style-type: none"> a. An alien executive of the RHQ and ROHQ of a multinational company shall enjoy tax and duty free importation of personal and household effects. b. Personnel of RHQ and ROHQ of multinational companies and the dependents of such foreign personnel if joining them during the period of their assignment in the Philippines, as certified by the Board of Investments, shall be exempted from the payment of travel tax. c. ROHQ shall be subject to a tax rate of ten percent (10%) of their taxable income as provided for under the NIRC, as amended by Republic Act No. 8424. d. The RHQ established in the Philippines by multinational companies shall be exempted from the value-added tax. In addition, the sale or lease of goods and property and the rendition of services to regional or area headquarters shall be subject to zero percent (0%) VAT as provided for in the NIRC, as amended. e. The RHQ and ROHQ of multinational companies shall be exempt from all kinds of local taxes, fees, or charges imposed by a local government unit except real property tax on land improvements and equipment. 	<p>r. Sports</p> <p>Section 18 and 20 of Republic Act No. 6847</p> <p><i>Repeal of tax exemption on use of Sports Facilities</i></p>	<p>Under the law, the use of sports facilities is exempt from any tax on the user, owner or operator of the sports facilities.</p> <p>Further, all donations to the Philippine Sports Commission in connection with its fund-raising projects and its continuing sports development programs shall be exempt from the donor's taxes.</p> <p>Donations to the Philippine Olympic Committee and/or the various national sports associations certified by the Commission shall likewise be exempt from the payment of the donor's and estate taxes and shall be deductible in full in computing the taxable net income of the donor.</p>

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s. Tourism industry	
Section 86, 88 and 95 (a) and (b) of Republic Act No. 9593	Under the law, the TEZ-registered enterprises enjoy the following tax incentives:
<i>Repeal of tax incentives granted to enterprises registered under the Tourism Enterprise Zones (TEZs)</i>	<ul style="list-style-type: none"> a. Income Tax Holiday for the new enterprises in Greenfield and Browdeld Tourism Zones for a period of six (6) years; b. Gross income tax of 5% in lieu of all taxes (except real estate tax and fees imposed by TIEZA); c. Exemption from all taxes and customs duties on importations of capital investment and equipment; d. Exemption from duties and national taxes on importation of transportation and the accompanying spare parts; e. Exemption from all taxes and customs duties on importation of goods consumed in the rendering of services; f. A 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 for services actually rendered within the TEZ; g. Tax deduction equivalent not exceeding 50% of the cost of environmental protection or cultural heritage preservation activities, sustainable livelihood programs for local communities, and other similar activities performed by the registered enterprise; h. Tax incentives granted by BOI and TIEZA subject to requirements and conditions; and i. Income Tax Holiday of six years and tax and duties exemption on capital equipment for any significant expansion, renovation or upgrade in its facilities in relation to the amount of the original investment.
	Further, The duty free Philippine corporation shall be exempt from duties and taxes, including excise taxes and VAT relative to the importation of merchandise for sale and local taxes and fees imposed by the LGU's.

Repealed section	Provisions proposed to be repealed in HB 7458
Section 8 (Last 2 Sentences/ Paragraphs) of Republic Act No. 10816	The TIEZA, BOI and other IPAs shall formulate incentives to promote and develop the farm tourism industry.
<i>Repeal of tax incentives granted to Farm Tourism Operators</i>	Farm tourism operators may avail of the existing tax incentives under the law.
t. Veterans fund management	
Sections 8 and 9 of Presidential Decree No. 538	The following tax incentives are granted in relation to the Phividec Industrial Areas:
<i>Repeal of tax incentives provided to Phividec Industrial Authority and enterprises in the Phividec Industrial Areas</i>	<ul style="list-style-type: none"> a. Raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought in the Phividec Industrial Areas and utilized in the production, storing, shall be exempt from customs duties, internal revenue taxes and local tax ordinances subject to conditions; and b. All industries or firms operating in the Phividec Industrial Areas shall be exempt from the payment of local taxes except for real property tax.

Let's talk

For a discussion on how these proposed changes may affect you and your business, please contact:



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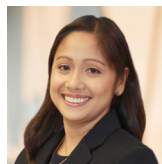
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