

Corporate Income Tax and Incentives Rationalization Act

House Bill No. 4157 (Package 2)



Corporate Income Tax and Incentives Rationalization Act – Package 2

In brief

The House of Representatives, under the 18th Congress of the Philippines, approved on third and final reading House Bill No. 4157 otherwise known as the Corporate Income Tax and Incentives Rationalization Act or CITIRA Bill last 13 September 2019. This Bill complements Package 1 of the comprehensive tax reform program (CTRP) or Republic Act (RA) No. 10963 known as the Tax Reform for Acceleration and Inclusion Act or “TRAIN” which became effective on 01 January 2018. TRAIN amended several provisions of the National Internal Revenue Code of 1997 (Tax Code) on individual income taxation, passive income for both individuals and corporations, estate tax, donor’s tax, value-added tax (VAT), excise tax, and documentary stamp tax (DST), among others.

CITIRA Bill, which replaced House Bill No. 8083 or the Tax Reform for Attracting Better and High-quality Opportunities (“TRABAHO Bill”) is the second (2nd) Package of the CTRP which proposes to gradually lower the corporate income tax rate and rationalize corporate tax incentives. The proposed provisions in this Bill are intended to enhance fairness, improve competitiveness, plug tax leakages and achieve fiscal sustainability. (Please see Appendix A for the summary of the substantial differences between TRABAHO and CITIRA).

The Bill was transmitted to the Senate last 16 September 2019. The Senate Committee on Ways and Means have already conducted two (2) public hearings last September 17 and 24, 2019. Currently, the CITIRA Bill is pending review and deliberation of the Senate Committee on Ways and Means.

The salient provisions of the CITIRA are as follows:

- 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 2020 until 1 January 2029, i.e. 20% beginning 1 January 2029. The President, upon recommendation of the Secretary of Finance, may suspend the scheduled decrease if the projected deficit target as a percentage of gross domestic product exceeds the programmed deficit based on the annual review of the medium term fiscal program. Also, the President may advance the reduction when adequate savings are realized from the additional provisions on realization of fiscal incentives.
- Repeal of the 15% branch profits remittance tax (BPRT) exemption of Philippine branches registered with the Philippine Economic Zone Authority (PEZA); repeal of the 10% special income tax rate of offshore banking units (OBUs); repeal of the 10% special income tax rate of regional operating headquarters (ROHQs) within 2 years from the effectivity of the law.
- Increase in income tax rates of: (a) interest income derived by RFCs from a depository bank under the expanded foreign currency deposit system from 7.5% to 15%; and (b) capital gains tax on sale of shares of stocks not traded in the stock exchange by RFCs and NRFCs from 5%/10% to 15%.
- 40% optional standard deduction (OSD) on gross income shall be applicable only to individuals (except non-resident aliens) and Micro, Small and Medium Enterprises (MSME) as determined by the Department of Trade and Industry (DTI).
- Expansion of tax-free exchange transactions under Section 40 (C)(2) of the Tax Code.
- Introduction of a general anti-avoidance rule.
- Removal of the option to apply for the issuance of tax credit certificate on the refund of input VAT attributable to zero-rated sales.
- Increased penalties and imprisonment period for specific violations of the Tax Code.

Rationalization of Tax Incentives

- Registered projects or activities under the Strategic Investment Priority Plan (SIPP) shall be entitled to the following incentives:

A. Income Tax

- Income Tax Holiday (ITH) shall be granted for a maximum period of 3 to 6 years. After which, in lieu of the ITH, either the preferential income tax rate of 18% or the enhanced deductions may be applied for a maximum period of 2 to 4 years. The incentive period varies depending on which area the registered project or activity will be located.

Area	ITH period	Period to avail preferential tax rate or enhanced deduction
a. National Capital Region (NCR)	3 years	2 years
b. Areas adjacent to Metro Manila composed of Laguna, Bulacan, Cavite, and Rizal	4 years	3 years
c. All other areas not covered by a and b	6 years	4 years

- The 18% preferential income tax rate shall be reduced by 1% every 2 years until 2030 (i.e. 18% to 13%). In the case of registered enterprises within economic zones and freeports, 3% of the preferential rate shall be directly remitted to the local government, which shall be in lieu of local business tax (LBT).
- The following enhanced deductions may be granted after the expiration of the ITH, subject to certain conditions, and if the taxpayer would not avail of the preferential income tax rate:
 - a. depreciation allowance for qualified capital expenditure
 - b. up to 50% additional deduction on direct labor expense
 - c. up to 100% additional deduction on research & development (R&D) expenses
 - d. up to 100% additional deduction on training expenses
 - e. up to 100% infrastructure development
 - f. reinvestment allowance to manufacturing industry
 - g. enhanced net operating loss carry over (NOLCO)
 - h. up to 50% additional deduction on the increment domestic input expense used in registered export activity
- Specific industries as determined by the Fiscal Incentives Review Board (FIRB) may be entitled to other special deductions in lieu of the ITH or 18% preferential tax rate.
- The availment of the income tax incentives shall not be extended beyond the initial grant, i.e. 3 to 6 years for ITH, 2 to 4 years for preferential income tax or enhanced deductions, except for (1) additional special deductions on infrastructure development and enhanced NOLCO; (2) agribusiness projects located outside Metro Manila and other urban areas; (3) projects in areas recovering from armed conflict/major disaster; and (4) projects relocating from Metro Manila and selected urbanized areas adjacent to Metro Manila to other areas of the country.

B. Customs duty incentives

- 5-year maximum period to avail of exemption from customs duty on importation of capital equipment and raw materials directly and exclusively used in the registered activity (the 5-year period shall not apply to freeport zones).
- 5-year maximum period to avail of exemption from customs duty on importation of capital equipment only on expansion projects.

C. VAT incentives

- VAT-exempt importation and VAT zero-rating on domestic purchases for registered enterprises located within an economic zone, freeport, or those utilizing customs bonded manufacturing warehouse, subject to the following conditions:
 - 90% export sales threshold is met
 - 90% export sales threshold is not met but complies with the rules on electronic receipts and invoices
- Registered enterprises that will not meet the 90% export threshold or are located outside an economic zone or freeport (regardless of the export sale threshold) shall be subject to VAT; export registered enterprises are entitled to refund the VAT paid on importation of capital equipment and raw materials.

Transitory Provisions for Existing Registered Activities

- For activities under ITH: 5-year maximum period to avail of the combined remaining ITH period and 5% Gross Income Tax (GIT) incentive, in lieu of all national and local taxes.
- For activities under the 5% GIT:
 - 2 years for activities enjoying the tax incentives for more than 10 years
 - 3 years for activities enjoying the tax incentives between 5 to 10 years
 - 5 years for activities enjoying the tax incentives below 5 years
- Existing registered activities which will qualify for registration under the SIPP may opt to avail of the incentives under CITIRA. In such case, the registered enterprise shall be required to surrender its certificate of registration, which shall be deemed as an express waiver of their privilege to avail of incentives provided in the incentives law under which they were previously registered.

Proposed amendments on income taxation

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
Income taxation of individuals		
On the definition of non-resident citizen	Section 22 (E) The definition of a non-resident citizen includes citizen of the Philippines who 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"> The phrase “most of the time” was replaced with “for 183 days or more”.
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. 	<ul style="list-style-type: none"> RCIT is 30% to be reduced by 1% point every year beginning 1 January 2020 until 1 January 2029, i.e. 20% beginning 1 January 2029. The scheduled rate reduction shall be subject to the review by the Secretary of Finance in 2025. The President, upon recommendation of the Secretary of Finance, may suspend the scheduled decrease if the projected deficit target as a percentage of gross domestic product exceeds the programmed deficit based on the annual review of the medium term fiscal program. The President may advance the reduction when adequate savings are realized from the additional provisions on realization of fiscal incentives. Deleted the optional tax rate of 15%.
On the preferential income tax rate of proprietary educational institutions	Section 27 (B) For purposes of applying the lower corporate income tax rate of 10%, a ‘proprietary educational institution’ is any private school maintained and administered by private individuals or groups with an issued permit to operate from the Department of Education, Culture and Sports (DECS), or the Commission on Higher Education (CHED), or the Technical Education and Skills Development Authority (TESDA), as the case may be, in accordance with existing laws and regulations.	<ul style="list-style-type: none"> Replaced DECS with “Department of Education (DepEd)”.

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]				
Income taxation of domestic corporations						
On the income tax exemption of certain government-owned or 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); and Local Water Districts. 	<ul style="list-style-type: none"> Included Home Development Mutual Fund (HDMF) in the coverage of income tax exempt government-owned or – controlled corporations (GOCCs), agencies or instrumentalities. 				
Income taxation of resident foreign corporations						
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. 	<ul style="list-style-type: none"> RCIT is 30% to be reduced by 1% point every year beginning 1 January 2020 until 1 January 2029, i.e. 20% beginning 1 January 2029. The scheduled rate reduction shall be subject to the review by the Secretary of Finance in 2025. The President, upon recommendation of the Secretary of Finance, may suspend the scheduled decrease if the projected deficit target as a percentage of gross domestic product exceeds the programmed deficit based on the annual review of the medium term fiscal program. The President may advance the reduction when adequate savings are realized from the additional provisions on realization of fiscal incentives. Deleted the optional tax rate of 15%. 				
On branch profits remittance tax	<p>Section 28 (A)(5) Any profit remitted by a foreign branch to its head office shall be subject to a tax of fifteen percent (15%) except those activities which are registered with the Philippine Economic Zone Authority (PEZA).</p>	<ul style="list-style-type: none"> Removed the exemption of PEZA-registered activities from the 15% BPRT. 				
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> <table border="0" data-bbox="509 1156 1401 1265"> <tr> <td data-bbox="509 1156 891 1192">Income tax at 10%:</td> <td data-bbox="891 1156 1401 1192">Exempt from income tax:</td> </tr> <tr> <td data-bbox="509 1192 891 1228"> <ul style="list-style-type: none"> OBU ROHQ </td> <td data-bbox="891 1192 1401 1228"> <ul style="list-style-type: none"> Regional headquarters (RHQ) </td> </tr> </table>	Income tax at 10%:	Exempt from income tax:	<ul style="list-style-type: none"> OBU ROHQ 	<ul style="list-style-type: none"> Regional headquarters (RHQ) 	<ul style="list-style-type: none"> Repealed the 10% special tax rate of OBUs. ROHQs shall be subject to the RCIT after 2 years from effectivity of CITIRA.
Income tax at 10%:	Exempt from income tax:					
<ul style="list-style-type: none"> OBU ROHQ 	<ul style="list-style-type: none"> Regional headquarters (RHQ) 					

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
Income taxation of resident foreign corporations		
On interest income derived from a depository bank under the expanded foreign currency deposit system	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%.	<ul style="list-style-type: none"> Increased the tax rate from 7 ½% to 15%.
On capital gains tax from sale of shares of stock not listed and traded in the stock exchange	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: <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"> Increased the capital gains tax rate from 5%/10% to 15%.
Income taxation of non-resident foreign corporations		
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"> RCIT is 30% to be reduced by 1% point every year beginning 1 January 2020 until 1 January 2029, i.e., 20% beginning 1 January 2029. The scheduled rate reduction shall be subject to the review by the Secretary of Finance in 2025. The President, upon recommendation of the Secretary of Finance, may suspend the scheduled decrease if the projected deficit target as a percentage of gross domestic product exceeds the programmed deficit based on the annual review of the medium term fiscal program. The President may advance the reduction when adequate savings are realized from the additional provisions on realization of fiscal incentives.
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%, which represents the difference between the RCIT rate and 15% tax on dividends beginning 1 January 2020.

Income taxation of non-resident foreign corporations		
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On capital gains tax from sale of shares of stock not listed and 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"> • Increased the capital gains tax rate from 5%/10% to 15%.
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Allowable deductions for income tax purposes		
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On interest expense limitation	<p>Section 34 (B)(1) The deductible interest expense shall be reduced by 33% of the interest income subjected to final tax.</p>	<ul style="list-style-type: none"> • The interest expense reduction shall be reduced to as low as nil of the interest income subjected to final tax in consonance with the reduced RCIT.¹
On optional standard deduction	<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"> • OSD shall be based on “gross income” and applicable only to the following: <ul style="list-style-type: none"> ○ Individuals (except non-resident alien); and ○ MSMEs as determined by the DTI. • Deleted the provision added by TRAIN prescribing that general professional partnerships and the partners comprising the partnership may avail of the OSD only once.

¹ If CIT rate is 29%, interest expense reduction rate is 31%; If CIT rate is 28%, interest expense reduction rate is 29%; If CIT rate is 27%, interest expense reduction rate is 26%; If CIT rate is 26%, interest expense reduction rate is 23%; If CIT rate is 25%, interest expense reduction rate is 20%; If the CIT rate is 24%, interest expense reduction rate is 16%; If the CIT rate is 23%, interest expense reduction rate is 13%; If the CIT rate is 22%, interest expense reduction rate is 9%; If CIT rate is 21%, interest expense reduction rate is 5%; If the CIT rate is 20%, interest expense reduction rate is 0%.

Other income tax provisions

On the determination of gain or loss on exchange of properties

Section 40(C)(2) No gain or loss shall be recognized if in pursuance of a plan of merger or consolidation—

- a. 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
- b. 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
- c. 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.

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, 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.

- Expansion of the tax-free exchange application to cover exchange of properties between parties pursuant to a reorganization.
- A “reorganization” is defined to include:
 - 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;
 - The acquisition by one corporation, in exchange solely for all or a part of its voting stock, or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation, of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation whether or not such acquiring corporation had control immediately before the acquisition;
 - The acquisition by one corporation, in exchange solely for all or a part of its voting stock or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation, or substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other shall be disregarded;
 - Recapitalization; or
 - Reincorporation.
- The phrase “gains control of said corporation” was replaced with “and immediately after, such person or persons are in control.”
- Expressly included the *bona fide* or legitimate business purpose requirement of the transaction; otherwise, Section 50 (i.e. on related-party transactions) would apply.
- Sale or exchanges of property used for business for shares of stock covered under this subsection shall not be subject to VAT.

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
<p>On allocation of income and deductions</p>	<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"> Grants the CIR the authority to distribute, apportion, allocate and impute income and deductions between or among organizations, trades, or business in order to prevent avoidance of taxes or to clearly reflect the income of any such organization, trade, or business. The CIR is authorized to disregard and consider a transaction or arrangement as void for income tax purposes, and may adjust the taxable income of a person affected by the arrangement in a way the CIR deems appropriate in order to counteract a tax advantage obtained by the person from or under the arrangement in cases when a transaction or arrangement is motivated by obtaining tax benefit or advantage with no commercial reality or economic effect, such as: <ul style="list-style-type: none"> directly or indirectly altering the incidence of any income tax; directly or indirectly relieving a person from liability to pay income tax or from a potential or prospective liability to future income tax; or directly or indirectly avoiding, postponing, or reducing any liability to income tax, or any potential or prospective liability to future income tax.
<p>On the distribution of dividends or assets by corporations</p>	<p>Section 73 (A) and (B) 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"> Provided definition for and corresponding taxation of liquidating dividends, which reads: <p>“(C) Liquidating dividends. – Liquidating dividends are dividends representing the remaining gains realized or loss sustained by the stockholder in a complete liquidation or dissolution by a corporation and shall be considered as taxable income or a deductible loss, as the case may be.”</p>

Proposed amendments on VAT

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
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 (BSP)</i> .	<ul style="list-style-type: none"> Removed the option to apply for the issuance of a tax credit certificate. The requirement that zero-rated sales should be paid in an acceptable foreign currency exchange proceeds duly accounted for in accordance with the rules and regulations of the BSP shall no longer apply to foreign currency denominated sales. This is to align with the revision made by TRAIN law which removed foreign currency denominated sales from zero-rated sale of goods under Section 106(A)(2).
On the cancellation of VAT registration	Section 112 (B) A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of this Code may, within two (2) years from the date of cancellation, 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.	<ul style="list-style-type: none"> Replacement of the phrase “apply for the issuance of tax credit certificate” with “apply for refund.”
On percentage tax to domestic carriers by land	Section 117 Owners of <i>bancas</i> and owners of animal drawn two wheeled vehicles are the only exceptions of the percentage tax of three percent (3%) on domestic carriers and keepers of garages.	<ul style="list-style-type: none"> Included owners/operators of tricycles operating not more than two (2) units among those not covered by the 3% percentage tax on domestic carriers and keepers of garages.

Proposed amendments on the tax assessment process

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
<p>On the issuance of a Subpoena Duces Tecum (SDT)</p>	<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 Divisions; and (4) any other officer duly delegated by the CIR.</p>	<p>Added subsection (F) in Section 5, to include the authority of the CIR or his duly authorized representative to issue an SDT in case the information or records requested are not furnished within the period prescribed in the written notice, or when the information or records submitted are incomplete, subject to the following rules:</p> <ul style="list-style-type: none"> • The information or records duly received or already within the custody of the Bureau of Internal Revenue (BIR) shall not be covered by any SDT; • 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 shall be instituted for failure to obey the SDT; and • The books, records, and documents submitted pursuant to an SDT shall be under the custody of the receiving officer who shall be responsible for its safekeeping and preservation, subject to applicable rules.
<p>On the service of Letter of Authority and Assessment Notices</p>	<p>None</p>	<p>Section 6-A - Added provision on the service of Letter of Authority and Assessment Notices issued by the BIR. Proper service shall be by way of personal delivery at the taxpayer's registered address; or if not practicable, by substituted service in accordance with the rules of court².</p>

² **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.

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
On the authority to compromise taxes	Section 204 Compromise payment involving a basic tax amount exceeding PHP1m or settlement offered is less than the prescribed minimum rates ³ shall be subject to the approval of the National Evaluation Board.	<ul style="list-style-type: none"> Increased the minimum threshold of the basic tax from PHP1m to PHP10m.
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 CIR, the taxpayer would need to “apply” for an extension. Extension shall not exceed 6 months at any one time, subject to further extension upon filing written application before the expiration of the period previously applied for.

³ 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).

Proposed amendments on administrative provisions

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
On electronic invoicing requirements of certain types of taxpayers	<p>Section 237</p> <p>Within 5 years from effectivity of RA 10963 (TRAIN), the following taxpayers shall issue electronic receipts or commercial invoices:</p> <ul style="list-style-type: none"> a. taxpayers engaged in export of goods and services; b. taxpayers engaged in e-commerce; and c. 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 3 years from the close of the taxable year in which such invoice or receipt was issued.</p>	<ul style="list-style-type: none"> • These taxpayers shall be required to “transmit” the electronic receipts and commercial invoices through the designated electronic channels⁴ with a public certification system⁵ accredited by the BIR. • Electronic copies of the receipts and invoices to be preserved shall bear the approved electronic tax transaction number⁶ for sufficient compliance.

⁴ “Designated electronic channel” shall refer to any medium or portal identified by the BIR with an ability to receive the transaction data of the electronic receipts of sales or commercial invoices for assignment of an approved electronic tax transaction number.

⁵ “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 BIR.

⁶ “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	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
<p>On the grant of tax credit or incentives for the adoption of electronic sales reporting system</p>	<p>Section 237-A Within 5 years from the effectivity of RA 10963 (TRAIN), the taxpayers specified in Section 237 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.</p>	<ul style="list-style-type: none"> ● The taxpayers mentioned should use a system capable of issuing electronic receipt or sales or commercial invoices, collect transaction records and transmit the same thru the designated electronic channels of the BIR in the standard format required. ● The Point of Sale (POS) machine, Value-Added Network (VAN) terminals, fiscal devices, and fiscal memory devices with the capacity to make such transmission shall be at the expense of the taxpayers. ● Incentives to support electronic sales reporting system: <ul style="list-style-type: none"> ○ In year 1 to 4 of the implementation: tax credit of 0.1% of the purchase value, net of VAT shall be granted for every electronic receipt or sale or commercial invoice transmitted through the designated electronic channels. ○ Allowable deductible expense of up to 10% of the electronically traceable payments⁷ made by the taxpayer, subject to an annual limit. ○ Receipt and invoice lottery program for electronic receipts or sales or commercial invoices transmitted through the designated electronic channels of the BIR and issued an electronic tax transaction number.
<p>On the CIR's power to interpret tax laws and decide tax cases</p>	<p>Section 4 The power to interpret the provisions of the Tax Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.</p>	<ul style="list-style-type: none"> ● Added a provision that the power to interpret the provisions on tax incentives under Title XIII shall be under the exclusive and original jurisdiction of the Secretary of Finance as Chair of the FIRB.

⁷ “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.

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
Reporting responsibility to the Department of Finance (DOF)	<p>Section 20</p> <p>The CIR has particular reporting responsibilities to the following:</p> <ol style="list-style-type: none"> a. Congress (in aid of legislation); and b. Congressional Oversight Committee. 	<ul style="list-style-type: none"> • Additional provision to 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. • The Secretary of Finance 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.
Congressional oversight committee	<p>Section 290 enumerates four (4) functions of the committee, as follows:</p> <ol style="list-style-type: none"> 1. Monitoring and ensuring the proper implementation of RA No. 8240; 2. Determination that the power of the CIR to compromise and abate is reasonably exercised; 3. Review of the collection performance of the BIR; and 4. Review of the implementation of the programs of the BIR. 	<p>Added the following functions of the committee:</p> <p>“5. Review the performance of functions of Investment Promotion Agencies (IPA) and the FIRB; and</p> <p>6. Evaluate the effectiveness of the incentives granted to registered enterprises and the formulation of the SIPP.”</p>

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
Structural Adjustment Fund	There is no existing provision for Structural Adjustment Fund in the Tax Code	<p>Section 312</p> <ul style="list-style-type: none"> • The following shall be appropriated to compensate workers that may be displaced by the rationalization of fiscal incentives, to mitigate its negative impact, and to improve employability of workers: <ul style="list-style-type: none"> – PHP500m shall be appropriated annually to provide targeted cash grants or other support programs to displaced workers. – PHP500m shall be appropriated annually to provide targeted training to displaced workers. – PHP5bn shall be allocated annually for the skills upgrade program of the IT-BPO industry. The fund shall solely be used to pay for formal academic or training programs of accredited private or public schools and training centers. – PHP15bn shall be appropriated for the development of infrastructure surrounding and within the areas/localities of special economic zones and freeports affected. This shall be utilized to support R&D, costs of power, water and other utilities, lease of properties, and other economic activities relevant to developing the areas/localities. • Releases to IPAs shall be governed by implementing guidelines to be promulgated by the DOF and the Department of Budget and Management. • Earmarking for these funds shall be terminated 5 years after the effectivity of CITIRA.
Annual report to be submitted by the IPAs to the Congress	None	<p>Section 314</p> <p>The FIRB shall submit an annual report to the Congress of the names of recipients of incentives and the amount of incentives availed of. Such report shall be made available to the public.</p>

Proposed amendments on penal provisions

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
On penalty provisions	The existing penalties for the following crimes, offenses and forfeitures are as follows:	The penalties for the following crimes, offenses and forfeitures are revised or retained, as follows:
	<ol style="list-style-type: none"> <li data-bbox="461 475 1518 646">1. 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 <li data-bbox="461 689 1518 889">2. 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 <li data-bbox="461 932 1518 1003">3. Penal liability of corporations (Section 256) Fine: PHP50,000 to PHP100,000 <li data-bbox="461 1046 1518 1246">4. 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 	<ol style="list-style-type: none"> <li data-bbox="1518 475 2458 646">1. 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 to PHP1,200,000 Imprisonment: 1-10 years <li data-bbox="1518 689 2458 889">2. 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 PHP1,200,000 Imprisonment: 1-3 years <li data-bbox="1518 932 2458 1003">3. Penal liability of corporations Fine: PHP200,000 to PHP2,400,000 <li data-bbox="1518 1046 2458 1246">4. 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: PHP300,000 to PHP1,200,000 Imprisonment: 2-6 years

Tax Particulars	Current Tax Law	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
	<p>5. Unlawful pursuit of business (Section 258) Fine: PHP5,000 to PHP20,000 Imprisonment: 6 months - 2 years</p> <p><i>*For persons engaged in the business of distilling, rectifying, repacking, compounding, or manufacturing any article subject to excise tax:</i> Fine: PHP30,000 to PHP50,000 Imprisonment: 2-4 years</p>	<p>5. Unlawful pursuit of business Fine: PHP50,000 to PHP300,000 Imprisonment: 6 months – 2 years</p> <p><i>*For persons engaged in the business of distilling, rectifying, repacking, compounding or manufacturing any article subject to excise tax:</i> Fine: PHP300,000 to PHP700,000 Imprisonment: 2-4 years</p>
	<p>6. Unlawful use of denatured alcohol (Section 261) Fine: PHP20,000 to PHP100,000 Imprisonment: 6 years and 1 day to 12 years</p>	<p>6. Unlawful use of denatured alcohol Fine: PHP1,500,000 to PHP15m Imprisonment: 6 years and 1 day to 12 years</p>
	<p>7. Unlawful possession or removal of articles subject to excise tax without payment of the tax (Section 263)</p>	<p>7. Unlawful possession or removal of articles subject to excise tax without payment of the tax</p> <p>Added (e) to (g)</p> <p>(e) Value of article: more than PHP5m to PHP50m Fine: PHP1.5m to PHP15m Imprisonment: 6 years and 1 day to 12 years</p> <p>(f) Value of article: more than PHP50m to PHP200m Fine: PHP15m to PHP50m Imprisonment: 12 years and 1 day to 20 years</p> <p>(g) Value of article: exceeding PHP200m Fine: not less than PHP50m Imprisonment: 20 years and 1 day to 30 years</p>

8. 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

9. Failure to obey summons (Section 266)

Fine: PHP5,000 to PHP10,000

Imprisonment: 1-2 years

10. Violation of other provisions in the Tax Code or regulations promulgated by the DOF, in general (Section 275)

Fine: not more than PHP1,000

Imprisonment: not more than 6 months, or both

8. 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

9. Failure to obey summons

Fine: PHP100,000 to PHP300,000

Imprisonment: 1-2 years

10. Violation of other provisions in the Tax Code or regulations promulgated by the DOF, in general

Fine: not more than PHP10,000

Imprisonment: not more than 2 years, or both

On other penal provisions None

A new provision (Section 282-A) is inserted providing for the meaning and penalty of acts constituting economic sabotage.

Economic sabotage: Any violation in attempting to evade or defeat tax (Section 254 of the Tax Code) that also undermines, weakens or renders into disrepute the economic system of viability of the country or tends to bring out such effects.

Penalty: Upon conviction, fine of not PHP50m and imprisonment of 12 years and one day but not more than 20 years.

Proposed additional provisions on tax incentives

Tax Particulars	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
General provisions on incentives	Section 291 <ul style="list-style-type: none">• The provisions on tax incentives cover all existing IPAs as defined in the Tax Code or related laws, and all other IPAs and other similar authorities that may be created by law.• IPAs shall maintain their functions and powers as provided under the special laws governing them except on the extent modified by the proposed provisions of the CITIRA.
Governing provision for IPAs	Section 292 <ul style="list-style-type: none">• All IPAs shall recommend to the FIRB the tax incentives to registered enterprises only to the extent of their approved registered projects or activities under the SIPP.• Income derived from non-registered activity or project shall be subject to appropriate taxes under the Tax Code.• Unless otherwise provided, direct exports are subject to VAT zero-rating and domestic sales are subject to regular VAT rate.
Definition of significant terms in relation to tax incentives provision	Section 293 (Selected terminologies only) <ul style="list-style-type: none">• “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:<ol style="list-style-type: none">1. 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; and3. 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:<ol style="list-style-type: none">1. Services rendered to non-resident foreign clients by export enterprises;2. Services rendered to diplomatic missions and institutions covered by international treaty; and3. Services for the overhaul, repair, and maintenance of international shipping, or air transport operations.

- **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, e.g. Board of Investments (BOI), Regional Board of Investments Autonomous Region in Muslim Mindanao (RBOI-ARMM), PEZA, Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC).
- **“Registered enterprise”** refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an IPA as defined under Republic Act No. 10708 or the Tax Incentives Management and Transparency Act (TIMTA Law).
- **“Special Economic Zone or Ecozone”** refers to a selected area, which shall be operated and managed as a separate customs territory that is highly developed or has the potential to be developed into an agro-industrial, industrial, information technology, or tourist/recreational area, whose metes and bounds are fixed or delimited by Presidential proclamations and within a specific geographical area: Provided, that for the ecozone to qualify as a separate customs territory, an ecozone shall have permanent customs control or customs office at its perimeter and may contain any or all of the following: industrial estates, export processing zones, information and communications technology parks and centers, and free trade zones: Provided, however, that areas where mining extraction is undertaken shall not be declared as an ecozone: Provided, further, that vertical economic zones, such as but not limited to, buildings, selected floors within buildings, and selected areas on a floor, need to comply with the minimum contiguous land area as determined by the FIRB.

Composition of the FIRB
Section 299

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| <ul style="list-style-type: none"> • Board <ul style="list-style-type: none"> – Chairperson: Secretary of Finance – Members: <ul style="list-style-type: none"> ○ Secretary of the Trade and Industry ○ Director General of the National Economic and Development Authority (NEDA) ○ Secretary of Budget and Management ○ Executive Secretary of the Office of the President • Secretariat - NTRC | <ul style="list-style-type: none"> • Technical Committee <ul style="list-style-type: none"> – Chairperson: Undersecretary of Finance – Members: <ul style="list-style-type: none"> ○ Undersecretary of Trade and Industry and Managing Head of the BOI ○ Undersecretary of Budget and Management ○ Deputy Director General of NEDA ○ Commissioner of Internal Revenue ○ Commissioner of Customs ○ Executive Director of the National Tax and Research Center (NTRC) |
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Expanded functions of the FIRB**Section 298**

- The functions of FIRB⁸ are proposed to be expanded to include the following:
 - a. exercise policy making and oversight functions over the IPAs and other government agencies by conducting the following:
 1. set and review of the general policy with regard to the grant of fiscal incentives;
 2. review and audit of the compliance of IPAs and other government agencies to the general policy on incentives set by the FIRB as mandated, the SIPP, and the respective charters of each, and impose sanctions on violation or noncompliance of the IPAs and other government agencies (e.g. suspension or cancellation of their power to grant fiscal incentives);
 3. determination of the minimum contiguous floor area that economic zones should comply with in case of vertical zones;
 4. regular monitoring and evaluation of investment and non-investment fiscal incentives to determine their impact on the economy and whether agreed performance targets are met; and
 5. check and verification of the compliance of registered enterprises which are granted fiscal incentives with the terms and conditions of their availment, relevant provisions and rules and regulations, and other relevant laws or issuances.
 - b. approve or disapprove the grant of fiscal incentives to the extent of the registered activity upon the recommendation of the IPA board.
 - The application for tax incentives shall be deemed approved if not decided by the FIRB after 45 days upon application.
 - c. approve applications for tax subsidies to GOCCs, government instrumentalities, government commissaries, and state universities and colleges;
 - d. cancel, suspend, or withdraw the enjoyment of fiscal incentives of concerned registered business enterprises and other registered entities, and endorse the same to the concerned revenue agencies for assessment and collection of taxes and duties due, including fines or penalties, if warranted for specific reasons;
 - e. cancel, suspend, or withdraw the enjoyment of tax subsidy of concerned GOCCs, government instrumentalities, government commissaries, and state universities and colleges, and endorse the same to the concerned revenue agencies for assessment and collection of taxes and duties due, including fines or penalties, if warranted, for violations of any of the conditions imposed in the grant of tax subsidy, or provisions of the Tax Code, or applicable rules;
 - f. require IPAs and other government agencies to submit, regularly or when necessary, summaries of approved investment and incentives granted, and firm- or entity-level fiscal incentives and benefits data as input to the FIRB's review and audit function and evaluation of performance of recipients of fiscal incentives;
 - g. publish the names of the registered enterprises and other registered entities with detailed estimated amount of fiscal incentives, tax payments, and other related information, including benefits data;

⁸ As provided in Presidential Decree (PD) No. 776, as amended.

Expanded functions of the FIRB

- h. require the submission and production of documents, records, books, or other data relevant or material to the evaluation of application for fiscal incentives and tax subsidies, from IPAs, other government agencies, registered enterprises, other registered entities, GOCCs, government instrumentalities, government commissaries, and state universities and colleges, local government units, among others;
 - i. obtain information, summon, examine, inquire and receive from IPAs, other government agencies, registered enterprises, other registered entities, GOCCs, government instrumentalities, government commissaries, and state universities and colleges, and local government units, documents, records, books, or other data relevant or material to the resolution of issues arising from the approval, disapproval, cancellation, suspension, withdrawal or forfeiture of fiscal incentives and tax subsidy or in imposing penalties for violations of the terms and conditions of the availment of fiscal incentives and tax subsidy, or any provisions of the Tax Code;
 - j. submit annual reports to the Office of the President, as part of the budget process covering its policy and activities in the administration of the Tax Code, including recommendations on fiscal incentive policies and approval of fiscal incentives;
 - k. submit to the Congress monthly reports on approvals, disapprovals, cancellations, suspensions, and withdrawals of fiscal incentives, including the methodology utilized in recommending the same;
 - l. fix and impose reasonable fees and charges for the processing of applications for fiscal incentives or tax subsidies. The proceeds thereof shall accrue directly and automatically to the FIRB;
 - m. exercise all other powers necessary or incidental to attain the purposes of CITIRA and other laws vesting additional functions on the FIRB; and
 - n. promulgate such rules and regulations as may be necessary to implement the intent and provisions of CITIRA.
- FIRB proper shall decide on issues after hearing, concerning the approval, disapproval, cancellation, suspension withdrawal or forfeiture of fiscal incentives or tax subsidy.
 - The Secretary of Finance shall automatically be co-chair of all existing and future IPAs.
 - The NEDA and the DTI shall be members of existing and future IPAs.

SIPP**Section 300**

- The BOI, in coordination with the Office of the President, the FIRB, the concerned IPAs, and other government agencies and the private sector, shall formulate the SIPP to be submitted to the President for his approval not later than December of the third year set for periodic review. The plan shall be valid for a period of three (3) years subject to review and amendment as the need arises.
- All sectors or industries that may be included in the SIPP shall undergo an evaluation process to determine the suitability and potential of the industry or the sector in promoting long-term growth and development, and the national interest.
- The SIPP shall:
 - include activities that are covered by the Philippine Development Plan or its equivalent and other government programs, and complies with certain conditions;⁹

⁹ 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 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; (8) export of at least 70% of products or services from its registered activity.

SIPP

- identify agribusiness activities, the less developed areas or those recovering from armed conflict or a major disaster;
- determine services and activities that can spur regional or global operations in the country; and
- include existing registered projects or activities that shall relocate from Metro Manila to other areas of the country.

The activities must comply with the specific qualification requirements or conditions for a particular sector or industry and other limitations as set and determined by the BOI and the threshold amount of investments and employment generation required for a specific activity shall be subject to a review every 3 years taking into consideration international standards and other indicators.

Section 301

- **Highly-desirable projects not in the SIPP:** The President, in the interest of national development and upon recommendation of the FIRB, may grant or deny incentives in addition to those that are already provided, including a longer period, to highly desirable projects. Provided, that the benefits that the government may derive from such investment are clear and convincing and far outweighs the cost of incentives that will be granted.
- Criteria in determining the types of incentives and its duration that may be granted are as follows:
 - the project has a comprehensive sustainable development plan with clear inclusive business approaches and innovations; or
 - minimum investment of US\$200m or minimum direct employment generation of at least 1,500 within **3 years from the start of commercial operations**; and
 - The threshold shall be subject to a periodic review every 3 years taking into consideration international standards and other indicators.
 - in the case of a freeport zone, the FIRB shall assess the totality of all economic activities within its jurisdiction.
- FIRB is granted the authority to impose other terms and conditions taking into consideration the amount or kind of incentives that will be granted to such investments.
- The government may utilize its resources¹⁰ for the grant of incentives.

Section 302

- **Amendments:** Subject to certain requirements, the BOI may (1) include additional areas in the SIPP; (2) alter any of the terms of the declaration of an investment area; and (3) temporarily or permanently suspend activities on the SIPP if it considers that such activity is no longer a priority.
- The IPAs shall not accept applications unless the activity is listed in the SIPP.

Section 303

- **Publication:** The plan or the amendment, upon approval, shall be published in at least 1 newspaper of general circulation or the Official Gazette, and all such areas shall be open for application until publication of an amendment or deletion thereof.

¹⁰ Resources such as land use, water appropriation, power provision, among others, as may be identified by the BOI.

Qualifications of a registered enterprise for tax incentives**Section 304**

A registered enterprise must:

- a. be engaged in an activity included in the SIPP;
- b. install an adequate accounting system that shall identify the investments, revenues, costs and profits or losses of each registered project undertaken by the enterprise separately from the aggregate investments, revenues, costs and profits or losses of the whole enterprise; or establish a separate corporation for each registered project if the IPA should so require;
- c. comply with the e-invoice and e-sales requirement in accordance with Section 237-A of the Tax Code; and
- d. submit annually reports or ownership of the organization.

Income tax incentives**Section 294, 294-A, 295, 296 and 297**

- **ITH** shall be granted for a maximum period of 3 to 6 years. After which, in lieu of the ITH, either the preferential income tax rate of 18% or the enhanced deductions may be applied for a maximum period of 2 to 4 years. The incentive period varies depending on which area the registered project or activity will be located.

Area	ITH period	Period to avail preferential tax rate or enhanced deductions
a. NCR	up to 3 years	up to 2 years
b. Areas adjacent to Metro Manila composed of Laguna, Bulacan, Cavite, and Rizal	up to 4 years	up to 3 years
c. All other areas not covered by a and b	up to 6 years	up to 4 years

- **Preferential tax rate is 18% of the taxable income**, which will be reduced by 1% point every 2 years, beginning 1 January 2022 until 1 January 2030 (i.e. 13% by 1 January 2030), provided that registered enterprises within economic zones and freeports shall pay 3% of the preferential tax to the local government as follows:
 - **1.5%** to the treasurer's office of the province where the enterprise is located, in lieu of LBT; and
 - **1.5%** to the treasurer's office of the municipality or component city where the enterprise is located, in lieu of LBT.

*If the enterprise is under the jurisdiction of a highly urbanized city (HUC) or independent component city (ICC), the 3% share of the LGU shall be directly remitted to the treasurer's office of the HUC or ICC.

Income tax incentives

- Specific industries as determined by the FIRB may be entitled to the other special deductions in lieu of the ITH or 18% preferential income tax.
- The following enhanced deductions may be granted after the expiration of the ITH and in lieu of the 18% preferential tax rate:
 - a. **Depreciation allowance of qualified capital expenditures:**
 - i. 10% tax allowance for buildings or may be computed using acceleration depreciation method;¹¹ and
 - ii. 20% tax allowance for machineries and equipment or may be computed using acceleration depreciation method.
 - b. **Labor expense:** up to 50% additional deduction on the labor expense as a consequence of an increase in direct local employment.
 - c. **R&D:** up to 100% additional deduction on the increment of R&D directly related to the registered activity/ies.
 - d. **Training:** up to 100% additional deduction for training given to employees directly engaged in the production of goods and services provided that the concerned IPA has issued a Certificate of Entitlement and a Certificate of Approval.
 - e. **Infrastructure development:** up to 100% deduction on necessary and major infrastructure works that may be undertaken for establishing activities in specific areas designated by the SIPP¹² with the prior approval and recommendation of the IPA concerned, provided that such infrastructure shall be open for use by the general public. Excess deductions can be carried over for deduction for subsequent years not exceeding 5 years from commercial operations. The title to all infrastructure works shall be transferred to the Philippine government upon completion.
 - f. **Reinvestment allowance to manufacturing industry:** maximum of 50% deduction on 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.
 - g. **Enhanced NOLCO:** net operating loss during the first 3 years from the start of commercial operations which had not been previously offset as deduction from gross income shall be allowed as a deduction. The deduction may be claimed within the next 5 consecutive taxable years immediately following the year of such loss.
 - h. **Domestic input expense:** up to 50% additional deduction on the increment of the domestic input expense directly related to and actually used in the registered export activity that was incurred in the taxable year.
- Additional 3 years incentive for **agribusiness and other projects in certain locations** - The following are entitled to avail additional 3 years of incentive under Section 294, of which 2 years may be additional years of ITH:
 - a. agribusiness projects or activities of registered enterprises located outside Metro Manila and other urban areas as identified in the SIPP;
 - b. projects or activities located in areas recovering from armed conflict and/or a major disaster as determined by the Office of the President; and
 - c. registered activities prior to the effectivity of the proposed law relocating from Metro Manila and selected urbanized areas adjacent to Metro Manila to other areas of the country.

¹¹Acceleration depreciation method or rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of Finance and the provisions of the Tax Code of 1997, as amended, provided that the assets are acquired directly for the entity's production of goods and services other than administrative and other support services.

¹²Those activities 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.

Income tax incentives

- **Period of availment:** Generally, income tax incentives shall in **no case be extended beyond 5 to 10 years (depending on the area where the registered enterprise is located), except** for the enhanced deductions under items (e), (f), and (g) above, and the additional 3-year incentives for (1) agribusiness projects, (2) activities in areas recovering from armed conflict or major disaster, and (3) relocation projects.

Availment of income tax incentives

Section 305. 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.

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 of capital equipment and raw materials directly and exclusively used in the registered activity. The 5-year limit shall not apply to freeport zones.
- Expansion of registered activities may be granted duty exemption also on capital equipment only, subject to the following conditions:
 - The activity is still covered by the SIPP or is an innovation project as defined in the SIPP
 - Exemption only applies to the incremental portion of the activity; and
 - Extension of exemption shall not exceed 5 years.

Section 306

- **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:
 1. 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; and
 2. Approval of the IPA shall be obtained prior to importation.
- 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 be subject to prior approval, and payment of the taxes and customs duties not paid upon its importation.

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

Section 306

- 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 circumstances:
 1. If made to another enterprise enjoying customs duty exemption on imported capital equipment and/or spare parts;
 2. 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;
 3. Exportation of capital equipment, machinery, spare parts or source documents, or those required for pollution abatement and control; or
 4. 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.

VAT incentives

Section 294 (C)

- The following entities are granted VAT incentives of (1) VAT exemption on importation and (2) VAT zero-rating on domestic purchases of capital equipment and raw materials used in the manufacturing and processing¹³ of products and importation of source documents:¹⁴
 - a. Registered enterprises whose export sales meet the 90% threshold and are located within an economic zone, freeport or those utilizing customs bonded manufacturing warehouse.
 - b. Registered enterprises whose export sales are below the 90% threshold and are located within an economic zone, freeport, or those utilizing customs bonded manufacturing warehouse, provided that they comply with electronic receipts or invoicing under Sections 237 and 237(A) of the Tax Code.
- For registered enterprises whose export sales are below 90% or are located outside an economic zone, or freeport, regardless of export sales threshold, the VAT provisions under Title IV and Section 307 of the Tax Code shall apply.

¹³“Processing” shall refer to the conversion of 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.

¹⁴“Source documents” shall refer to input materials and documents reasonably needed by information technology and information technology-enabled industries such as books, directories, magazines, newspapers, brochures, pamphlets, medical records or files, legal records or files, instruction materials, and drawings, blueprints, or outlines.

Tax Particulars

House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]

VAT refund mechanism on importation of capital equipment and raw materials

Section 307

- Refund of VAT on importation of capital and equipment and raw materials paid by export registered enterprises that did not meet the 90% threshold or are located outside the economic zone, freeport, or those utilizing the customs bonded manufacturing warehouse, regardless of the threshold shall be allowed following Sections 106 and 108 of the Tax Code.

Tax incentives of existing registered activities

Section 310

- 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% 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; and
 - 5 years - for registered activities under the 5% GIT regime for less than 5 years.
- The 5% GIT shall commence after the ITH period has lapsed only for the remaining years within the 5-year period.
- Existing registered activities which will qualify for registration under the SIPP may opt to be governed by the provisions of the CITIRA. In such case, the registered enterprise shall surrender its certificate of registration, which shall be deemed as an express waiver of their privilege to avail of incentives provided in the incentives law under which they were previously registered.

Other provisions

Section 308. No double registration: Enterprises shall not be allowed to register their activities in more than 1 IPA.

Section 309. 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 **five (5) years** from the date of registration.

Section 311. Suspension and forfeiture of tax incentives of registered enterprises, refund and penalties, waiver and condonation.

- The FIRB may impose fines and penalties, suspend or forfeit the incentives granted to the registered enterprises for violations of its registration terms and conditions, without prejudice to the cancellation of the registration of said enterprise.
- The FIRB, upon recommendation of IPA, shall suspend the availment of incentives of the registered enterprise when there is probable cause that it has violated its registration terms and conditions until proven otherwise.
- In case of cancellation of the Certificate of Registration, the concerned IPA may, in appropriate cases, require the refund of incentives availed and payment to the appropriate agency, and impose corresponding fines and penalties.

Other provisions

Section 313. Enhanced Tax Expenditure Fund (TEF): All internal revenue tax and duty obligations of GOCCs shall be chargeable to the Tax Expenditure Fund of the government upon establishment and implementation of TEF System that grants tax subsidy within 30 days from the filing of application with the FIRB.

¹⁵ The projects under Section 298(C) are (1) projects or activities which may pose risk to the environment, health, and economic stability; and (2) projects or activities whose approval in the IPA Board level encounters a deadlock.

Repeal and/or amendment of other laws

Particulars	House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]
Amended provision of laws to ensure that the DOF, NEDA and DTI are represented in the governing boards of all IPAs	<p>The following provisions of laws are amended to ensure that DOF, NEDA and DTI are represented in the governing boards of all IPAs, where the DOF shall automatically serve as co-chair, and the DTI and NEDA as members:</p> <ul style="list-style-type: none">• BOI [Article 4 of Executive Order (EO) 226];• BCDA [Sections 9 and 13(c) of RA 7227];• CDC (Section 3 of EO 80 series of 1993);• John Hay Management Corporation (JHMC) and Poro Point Management Corporation (PPMC) (Section 6 of EO 132 series of 2002);• Zamboanga City Special Economic Zone Authority (ZAMBOECOZONE) (Section 9 of RA 7903);• Authority of Freeport Area of Bataan (FAB) (Section 14 of RA 9728);• Tourism Infrastructure and Enterprise Zone Authority (TIEZA) (Section 65 of RA 9593);• Aurora Special Economic Zone Authority (Aurora Ecozone) (Section 15 of RA 9490);• Cagayan Economic Zone Authority (CEZA) (Section 7 of RA 7922);• Philippine Veterans Investment Development Corporation (PHIVIDEC) (Section 6 of PD 538); and• PEZA (Section 11 of RA 7916).
Transfer of the power to review, approve or disapprove fiscal incentives and applications from the IPAs' Board to the FIRB	<p>The following provisions of laws are repealed to transfer the power to review applications and approve or disapprove fiscal incentives from the governing boards of the IPAs to the FIRB:</p> <ul style="list-style-type: none">• BOI (Article 7 of EO 226);• ZAMBOECOZONE (Section 7 of RA 7903);• Autonomous Regional Government (Section 1 of EO 458);• FAB (Section 13 of RA 9728);• BCDA [Sections 13(b) of RA 7227 and Section 8 of RA 9400];• TIEZA [Section 69(n) of RA 9593];• Aurora Ecozone (Sections 7 and 12 of RA 9490);• CEZA (Section 6 of RA 7922);• PHIVIDEC (Section 6 of PD 538); and• PEZA (Section 13 and 21 of RA 7916).

Tax Particulars**House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]**

All internal revenue tax and duty obligations of the listed entities in herein appendix shall be chargeable to the Tax Expenditure Fund (TEF)

All internal revenue tax and duty obligations of certain entities shall be chargeable to the TEF under Section 313 of CITIRA. The various laws amended are listed in **Appendix B**.

Amendment or repeal of the tax provisions of entities covered by franchises

The tax treatment provisions of entities covered by the franchise laws of the entities listed in **Appendix C** are amended or repealed effective two (2) years from the implementation of CITIRA.

However, the tax treatment provisions of entities covered by franchise laws pertaining to energy and telecommunications shall be deferred for an additional two (2) years.

Repeal of various grants of tax incentives for the promotion and development of various industries and activities

The provisions of the laws granting tax incentives to the following are repealed effective two (2) years from the implementation of CITIRA:

- a. Agriculture and fisheries;
- b. Banks and financial institutions;
- c. Book and publishing industry;
- d. Ecological waste management and water quality development;
- e. Enterprises registered under the BOI and Special Economic Zones;
- f. Export-oriented industries;
- g. Forestry;
- h. National government and GOCCs;
- i. Healthcare;
- j. Infrastructure, construction and other related industries;

Tax Particulars**House Bill No. 4157 [Corporate Income Tax and Incentives Rationalization Act]****Repeal of various grants of tax incentives for the promotion and development of various industries and activities**

- l. Jewelry industry;
- m. Maritime industry;
- n. MSMEs;
- o. Mineral industry;
- p. Public utilities;
- q. Regional or area headquarters and ROHQs;
- r. Sports;
- s. Tourism industry; and
- t. Veterans fund management.

For reference, the specific details of the tax incentives repealed per industry are summarized in **Appendix D**.

Repeal of the existing composition of the FIRB in Memorandum Order No. 23 of 1986

The current composition of the FIRB below is repealed:

- Minister of Finance
- Minister of Trade and Industry
- Minister of the Budget
- Director General of the NEDA
- CIR
- Commissioner of Customs
- Director of the NTRC

Let's talk

To help you understand and appreciate the CITIRA Bill provisions, please contact:



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Thank you

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