CREATE MORE Act

Republic Act No. 12066
Signed 8 November 2024. Published 13 November 2024. Effective 28 November 2024.

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CREATE MORE

In brief

On November 8, 2024, President Ferdinand R. Marcos Jr. signed the Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy (CREATE MORE) Act into law (Republic Act No. 12066). The CREATE MORE Act aims to generate jobs and spur economic growth. It builds on the earlier CREATE Act by enhancing the tax regime and incentive framework to attract both domestic and international investments, particularly, in strategic industries. The CREATE MORE Act took effect on 28 November 2024.

Here are the salient features of the law:

- Registered business enterprises under the Enhanced Deduction Regime subject to the 20% corporate income tax rate
- Sales to export-oriented enterprises (70% export sales) Value-Added Tax (VAT) zero-rated **if directly attributable** to export activities
- Export sales as defined under Executive Order No. 226 generally omitted from enumeration of VAT zero-rated sales
- Sales to bonded manufacturing warehouses of export-oriented enterprises are VAT zero-rated
- Additional due process requirements in the processing of input VAT refund claims
- Mandatory issuance of electronic invoices (e-Invoices) for certain taxpayers
- Additional deduction for micro/small taxpayers and medium/large using e-Invoices
- The 5% Special Corporate Income Tax is in lieu of all taxes **including local fees and charges**
- Additional deductions for export and domestic market enterprises under the Enhanced Deductions Regime
- Local government units may impose local taxes on RBEs up to 2% of gross income

CREATE MORE

In brief

The tax incentives of registered projects or activities shall be approved by either Investment Priority Agency (IPA) or Fiscal Incentives Review Board (FIRB) subject to the following respective availment periods:

Options	Approved by IPAs		Approved by FIRB	
	REE	DME	REE	DME/High Value DME
1	ITH 4-7 years + SCIT/EDR 10 years	ITH 4-7 years + EDR 10 years	ITH 4-7 years + SCIT/EDR 20 years	ITH 4-7 years + EDR 20 years
2	SCIT/EDR 14 to 17 years	EDR 14 to 17 years	SCIT/EDR 24 to 27 years	EDR 24 to 27 years

DME - Domestic Market Enterprise
EDR - Enhanced Deduction Regime
ITH - Income Tax Holiday
REE - Registered Export Enterprise
SCIT - Special Corporate Income Tax

Income Tax

- Registered business enterprises (RBEs) under the Enhanced Deduction regime (EDR) are now subject to the 20% corporate income tax rate. (Sections 27(A) and 29(A)(1))
- Income exempt under treaty includes income exempt under agreements entered by the President with economies and administrative regions. (Section 32(B)(5))
- Allowable deductions from gross income now expressly include input tax paid on local purchases that are attributable to VAT-exempt sales. (Section 34(C)(8))
- Creditable withholding taxes cannot exceed 15%. (Section 57(B))

Value-added tax

Sales of goods and services to export-oriented enterprises with export sales of at least 70% of total annual production of the **preceding taxable year** are subject to the VAT zero rate if such goods and services are **directly attributable** to the export activity of the export-oriented enterprise. (Sections 106(A)(2)(a)(3) and 108(B)(5))

Before the CREATE MORE Act, raw materials or packaging materials were the only goods specifically covered and it was not required that the goods and services (sold to export-oriented enterprises) should be directly attributable to the latter's export activities.

Export-oriented enterprises that fail to meet the above 70% threshold shall be disqualified from availing the VAT zero-rated treatment of local purchases **in the next taxable year**.

Value-added tax

- The term **“directly attributable”** introduced by the CREATE MORE Act refers to goods and services that are **incidental to** and **reasonably necessary** for the export activity of the export-oriented enterprise. Such services include janitorial, security, financial consultancy, marketing and promotion services and services rendered for administrative operations (e.g., human resources, legal and accounting). (Sections 106(A)(2)(a)(3) and 108(B)(5))

- Export sales as defined under Executive Order (EO) No. 226 (Omnibus Investment Code of 1987) have been **removed** from the enumeration of VAT zero-rated export sales under Section 106(A)(2)(a). (Section 106(A)(2)(a)(5))

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- However, sales to bonded manufacturing warehouses of export-oriented enterprises, which is one of the transactions classified as an “export sale” under EO No. 226, have been **added** to the enumeration of VAT zero-rated export sales. (Section 106(A)(2)(a)(5))

- Sales of goods and services subject to zero percent VAT under special laws have been added to the enumeration of VAT zero-rated sales. (Sections 106(D) and 108(B)(8))

Value-added tax

Amendments to the VAT-exempt transactions under Section 109

- The importation of fuel, goods and supplies is VAT-exempt if used for international shipping or air transport operations. The reference to "persons engaged in international shipping and air transport operations" in the original provision was **removed**. Such amendment appears to clarify that these importations shall be VAT-exempt even if the person is engaged in both domestic and international shipping or air transport operations as long as the fuel, goods and supplies are only used for international shipping or air transport operations. (Section 109(1)(U))

- The importation of goods by export-oriented enterprises with export sales that are at least 70% of the total annual production of the preceding taxable year is VAT-exempt if such goods are directly attributable to the export activity of the export-oriented enterprise. (Section 109(1)(DD))

Amendments to the input VAT refund procedure

- The Commissioner of Internal Revenue shall grant the refund of creditable input taxes within 90 days of submission of **certified true copies** of invoices and **other documents specifically limited to those prescribed in revenue issuances**. In case of denial, the taxpayer must be informed in writing of the legal and factual basis therefor, including the deficiencies of the refund claim. The taxpayer has 15 days to file a request for reconsideration, otherwise, the denial becomes final. Upon receipt of the request for reconsideration, the CIR has 15 days to decide thereon. (Section 112(C))

Compliance Requirements

- Taxpayers who are required or who voluntarily choose to issue electronic invoices and to electronically report their sales data to the BIR shall be allowed the following one-time additional deductions related to the cost of setting up of their electronic sales reporting system:

  a. Micro and Small Taxpayers - 100% of total cost
  b. Medium and Large Taxpayers - 50% of total cost

- Importations of electronic sales reporting systems shall be tax-exempt.

- If the BIR has already established a system capable of storing and processing the required data, it shall require the following taxpayers to issue electronic invoices:
  1. Those engaged in the export of goods and services;
  2. Those engaged in e-commerce; and
  3. Those under the jurisdiction of the Large Taxpayers Service.

- The Secretary of Finance, upon recommendation of the BIR may require taxpayers in general to issue electronic invoices. (Section 237-A)

Tax Incentives

Amendments to Section 294 (Incentives)

- The following deductions for export enterprises and Domestic Market Enterprises (DMEs) under the Enhanced Deduction Regime (EDR) have been amended or introduced:

Type of deductions	Prior to CREATE MORE Act	CREATE More Act
Additional deduction on power expenses – Section 294(C)(6)	50% Additional Deduction	100% Additional Deduction
Deduction of up to 50% of undistributed profits or surplus reinvested – Section 294(C)(7)	Applies to manufacturing RBEs only	Applies to manufacturing & tourism RBEs* **only up to 31 December 2034*
Expenses on exhibitions, trade missions, or trade fairs – Section 294(C)(8)	No provision	50% Additional deduction
Deduction of the net operating loss carry-over – Section 294(C)(9)	Within the next 5 consecutive taxable years immediately following the year of such loss	Within the next 5 consecutive taxable years immediately following the last year of the ITH entitlement period of the project

Tax Incentives

Amendments to Section 294 (Incentives)

- The income tax holiday (ITH) applies to all RBEs with respect to their registered project or activity. (Section 294(A))
- Local government units (LGUs) may impose a **local tax** on RBEs **not to exceed 2% of gross income**. This RBE local tax (RBELT) is in lieu of all local taxes and local fees and charges imposed by LGUs. The RBELT shall **not** apply to RBEs under the **SCIT regime**. (Section 294(F))

Section 295(D) Amendments (Conditions of Availment)

- The VAT exemption on importation or the VAT zero-rating of local purchases only applies to goods and services **directly attributable** to the registered project or activity of an **REE** or of a **registered high-value DME** including incidental expenses.
- Local sales of goods and services by an RBE, **regardless of income tax incentives regime and location**, shall be subject to the 12% VAT unless otherwise VAT-exempt or VAT zero-rated. The term “local sales” covers sales to DMEs or non-RBEs, regardless of where the sales take place.
- Any REE that fails to meet the 70% export sales threshold in the immediately preceding year or any high-value DME that fails to meet the export sale or investment capital requirement shall be disqualified from availing the duty exemption on importation and the VAT zero-rating of local purchases.

Tax Incentives

Availment Period of Incentives Approved by Investment Promotion Agencies (Section 296)

- Export enterprises under the Strategic Investment Priority Plan (SIPP) may be entitled to either (1) an ITH of 4 to 7 years followed by the SCIT or EDR for 10 years, or (2) SCIT or EDR for a maximum period of 14 to 17 years.

- On the other hand, DMEs under the SIPP may be entitled to (1) an ITH of 4 to 7 years followed by EDR for 10 years, or (2) EDR for a maximum period of 14 to 17 years.

- The application for extension of availment of incentives shall only be allowed for the same registered project or activity if the latter employs **at least 10,000 direct local employees** and maintains such number during registration. The extension shall not exceed 5 years.

- The period of availment of the above income tax-based incentives shall commence from the actual start of commercial operations with the RBE availing of the tax incentives within 3 years from the date of registration.

Tax Incentives

Availment Period of Incentives Approved by Investment Promotion Agencies (Section 296)

Options	Approved by IPAs		Approved by FIRB	
	REE	DME	REE	DME/High Value DME
1	ITH 4-7 years + SCIT/EDR 10 years	ITH 4-7 years + EDR 10 years	ITH 4-7 years + SCIT/EDR 20 years	ITH 4-7 years + EDR 20 years
2	SCIT/EDR 14 to 17 years*	EDR 14 to 17 years*	SCIT/EDR 24 to 27 years	EDR 24 to 27 years

Tax Incentives

Availment Period of Incentives Approved by Investment Promotion Agencies (Section 296)

- **Tier III activities** shall include those that are critical to the structural transformation of the economy and require substantial catch-up efforts including **cyber-security, artificial intelligence and data-center facilities**.

- RBEs may continue to avail of the VAT zero-rating on local purchases, VAT exemption on importation and duty exemption on importation for the entire registration period as an RBE commencing from the date of registration provided that the RBEs continue to meet the terms and conditions of registration and maintain at least 70% of total annual production/output as export sales.

- Registered DMEs may avail of duty exemption from the date of registration until the expiration of their income tax-based incentives.

- After the expiration of entitlement to VAT zero-rating on local purchases and VAT exemption of importations, REEs may avail of the VAT zero-rating on local purchases and VAT exemption on importations under Sections 106, 108 and 109 of the Tax Code.

Tax Incentives

Availment Period of Incentives Approved by Fiscal Incentives Review Board (Section 296-A)

1. **Export enterprises under the SIPP** – (a) ITH of 4 to 7 years followed by SCIT or EDR for 20 years, or (b) SCIT or EDR for a maximum period of 24 to 27 years. Extension shall not exceed 10 years. No ITH for REEs that applied for extension of availment for the same project or activity.

   A qualified expansion project or activity may qualify for EDR for 13 years. Existing registered projects or activities prior to the CREATE More Act may avail of the incentives under the latter RA subject to the criteria and conditions in the SIPP.

2. **DMEs under the SIPP** – (a) ITH of 4 to 7 years followed by EDR for 20 years, or (b) EDR for a maximum period of 24 to 27 years. Extension up to 10 years. No ITH for DMEs that applied for extension of availment for the same project or activity.

   A qualified expansion project or activity may qualify for EDR for 13 years. Existing registered projects or activities prior to the CREATE MORE Act may avail of the incentives subject to the criteria and conditions in the SIPP. The qualified expansion project or activity may be entitled to VAT/duty exemption on importation and VAT zero-rating on local purchases.

   Period of availment of income tax-based incentives shall commence from actual start of commercial operations with the RBE availing of the tax incentives within 3 years from date of registration.

Tax Incentives

Availment Period of Incentives Approved by Fiscal Incentives Review Board (Section 296-A)

Options	Approved by IPAs		Approved by FIRB	
	REE	DME	REE	DME/High Value DME
1	ITH 4-7 years + SCIT/EDR 10 years	ITH 4-7 years + EDR 10 years	ITH 4-7 years + SCIT/EDR 20 years	ITH 4-7 years + EDR 20 years
2	SCIT/EDR 14 to 17 years*	EDR 14 to 17 years*	SCIT/EDR 24 to 27 years	EDR 24 to 27 years

Tax Incentives

Other Amendments to Title XIII (Tax Incentives)

- The FIRB shall decide on applications for tax incentives within 20 working days from the receipt of all requirements. (Section 297-A)
- The President has the power to craft the appropriate fiscal and non-fiscal support package for a highly desirable project or a specific industrial activity based on defined development strategies for creating high-value jobs, building new industries and attracting capital or investment.
- RBEs may institute telecommuting programs as defined under Republic Act No. 11165 including work-from-home arrangements which shall not cover more than 50% of the total workforce and shall be subject to the rules and regulations of the IPA. (Section 309)
- Double registration for purposes of availing of other incentives under special laws is prohibited. (Section 309)

Tax Incentives

Investments prior to the effectivity of Republic Act No. 11534

These RBEs with incentives granted **prior to the effectivity of Republic Act No. 11534** shall be subject to the incentives granted in their certificates or registration or certificates of registration and tax exemption **until December 31, 2024**:

- RBEs under ITH before effectivity of RA No. 11534 and entitled to the 5% GIT after the ITH shall be allowed to avail of the **5% GIT including all corresponding exemptions** from national taxes, local taxes and local fees and charges.
- RBEs currently under the 5% GIT before effectivity of RA No. 11534 shall be allowed to avail of the same including all corresponding exemptions from national taxes, local taxes and local fees and charges..
- RBEs availing duty exemptions, VAT exemption on importation and VAT zero-rating of local purchases before the effectivity of RA No. 11534 shall be allowed to avail of the same. However, **REEs** shall continue to avail of these incentives **after December 31, 2034**. (Section 311)

Tax Incentives

Transitory Provisions (Section 31 of CREATE MORE Act)

The following shall apply **prospectively**:

1. National and local tax exemption for projects or activities under the SCIT;
2. Availment of additional enhanced deductions under Sections 294(C)(6), (7), (8) and (9);
3. 20% income tax on RBEs under the EDR;
4. RBELT imposition on RBEs under the ITH or the EDR; and
5. Conditions for availment of duty and VAT exemption on importation and VAT zero-rating on local purchases under Sections 295(C) and (D).

Let’s talk

To help you understand and appreciate the CREATE MORE Act provisions, you may contact:

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