



Republic of the Philippines
House of Representatives
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 7364



Introduced by REP. SHARON S. GARIN, REP. RODEL M. BATOCABE

**AN ACT RATIONALIZING THE GRANT AND ADMINISTRATION
OF FISCAL INCENTIVES**

EXPLANATORY NOTE

The Philippines lags behind its regional neighbors in attracting foreign direct investments (FDIs) due in part to gaps in infrastructure, energy, and government policies. For decades, fiscal incentives were given to investors to fill in for these gaps. However, the poor design and mismanagement of the country's fiscal incentives regime has made it prone to systematic abuse and caused major tax leakages. The government estimates that the current investment tax incentive regime costs some P301 billion in foregone income tax, customs duties, and VAT. This is also tax revenue that could have been better spent for the government's priority infrastructure and social protection programs.

With fiscal policy and tax reform being a legislative priority of this administration, the time has come to institute changes in the fiscal incentives regime that increase transparency and fairness for all.

Thus, this bill aims to streamline the design and administration of fiscal incentives to reduce tax leakages and increase transparency and fairness. A secondary objective is to align the role of the private sector with the country's overall industrial development which will have an impact on job generation and linkages in the value chain.

Specifically, this bill endeavors to address the following policy issues:

1. The current fiscal incentives regime is overbroad, poorly targeted, and not strategic. The Department of Finance (DOF) listed 357 laws that allow for incentives in sectors ranging from agriculture to the youth sector, often without clear or precise criteria. Some incentives are granted in perpetuity, even if firms no longer need them. This facilitates inefficiencies and redundancies. It also comes at the cost of not being able to give the same incentives to other investors that need them. Fiscal incentives should target sectors with greater positive externalities and multiplier effects – in the form of technology transfer, linkage formation, employment generation, investment signaling effects, and indirect tax generation, for the domestic economy.
2. The administration of fiscal incentives is complex. Despite the many investment promotion agencies (IPAs), there is a lack of coordination among them and the national government. To simplify the administration of fiscal incentives, a coordinating entity or review board is essential. Given the twin goals of managing fiscal instruments and their deployment for industrial policy objectives, a multi-agency board that

incorporates the Department of Finance and the Department of Trade and Industry, at the minimum, is needed.

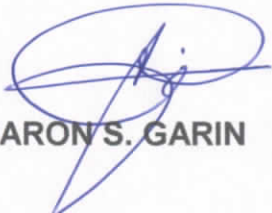
3. The accountability mechanism is also weak: the manner of graduation from and termination of incentives are not clear; reporting and transparency requirements are limited; and there is no monitoring and evaluation for results and impact. It is essential that the granting of fiscal incentives is based on eligibility and performance criteria and substantively aligned with industrial policy objectives.

Thus, all new incentives must be time bound, performance based, targeted, and transparent. The administration of incentives also needs to be modernized and well-coordinated to ensure optimum allocation and fair distribution to investments that will truly develop the economy.

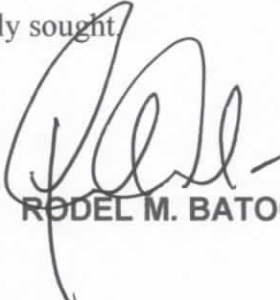
This bill does not seek to remove incentives or punish firms that enjoy existing incentives. Rather, this bill is a rebalancing of the interests of the present with the needs of future generations who will benefit from a sustainable fiscal policy that promotes investments and increases the country's competitiveness.

This reform package is consistent with the principles of the recently passed Tax Reform for Acceleration and Inclusion (TRAIN) Act (RA 10963), whose ultimate goal is to reduce poverty through proper tax administration, industry development, investment promotion, and job creation.

In view of the foregoing, urgent approval of this bill is earnestly sought.



SHARON S. GARIN



RODEL M. BATOCABE

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AN ACT RATIONALIZING THE GRANT AND ADMINISTRATION
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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER 1
TITLE AND DECLARATION OF POLICY

SECTION 1. *Title.* This Act shall be known as the “*Fiscal Incentives Rationalization Act*”

SECTION 2. *Declaration of Policy.* The national economy shall be developed through policies that encourage investments, promote countrywide development, generate employment, and enhance global competitiveness while maintaining fiscal prudence and stability at all times. Consistent with this, tax incentives must be simple, time-bound, performance-based, and aligned with the country’s industrial policy. Accordingly, the following are the declared policies of the State:

1. The State shall pursue a market-responsive regime and to that end shall ensure that the incentives promote substantial positive social and economic spillovers and equitable development, are fiscally sustainable and economically justifiable, and are consistent with international treaties. The State shall provide the means for ascertaining that these objectives are being attained.
2. The State shall grant the necessary incentives that encourage long-term and recurrent investment, which are simple to administer, time-bound, transparent, and whose performance and outcome are easily verifiable.
3. The State shall devote resources towards monitoring enterprises benefitting from incentives, and shall vigorously prosecute abuses. The State shall closely monitor the level of tax expenditures arising from the provision of incentives and shall ensure that concerned government agencies are well-informed of these.
4. The State shall make efforts to ascertain that the incentives are not redundant: that the investments they benefit require and are truly motivated by the incentives, and not given to investments that would be made even in absence of incentives.
5. The State shall ensure that the grant of tax incentives to investments shall be conducted in a manner that respects the laws of the land, including the protection of the environment, natural resources, labor, and good corporate governance principles.

SECTION 3. Definition of terms – As used herein, the following shall mean:

(a) '*Investment Promotion Agencies (IPAs)*' shall refer to government entities created by law, executive order, or other issuance, in charge of promoting investment, administering tax and non-tax incentives, and/or overseeing the operations of the different economic zones and freeports in accordance with their respective charters. These shall include the Board of Investments (BOI), Philippine Economic Zone (PEZA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Bataan Technological Park Inc., (BTPI), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCEZA), PHIVIDECA Industrial Authority (PIA), Aurora Special Economic Zone Authority (ASEZA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and all other similar authorities that may be created by law.

(b) '*Registered enterprise*' shall refer to any individual, partnership, corporation, Philippine Branch of a foreign corporation, or other entity incorporated and/or organized and existing under Philippine laws and registered with any of the IPAs, whether established within or without a freeport or special economic zone, and whose income shall be subject to taxes under the National Internal Revenue Code, as amended; *Provided, however,* That the term "registered enterprise" in an economic zone shall not include those entities engaged in activities such as, but not limited to, customs brokerage; trucking or forwarding services; janitorial services; security services; insurance and/or banking and other financial services; consumers' cooperatives; credit unions; consultancy services; retail business; restaurants; and other similar services as may be determined by the Fiscal Incentives Review Board (FIRB).

(c) The term '*export enterprise*' shall refer to a registered enterprise which is a manufacturer, processor, or service provider and whose export sale of its products or services is at least seventy percent (70%) of its total annual production in the preceding taxable year.

A registered enterprise engaged in the provision of information technology (IT) services shall be considered as an export enterprise if at least seventy percent (70%) of its services are paid for in freely convertible foreign currency.

Provided, however, that enterprises engaged in activities such as, but not limited to, customs brokerage, trucking or forwarding services, parcel services, janitorial services, security services, insurance and/or banking, or other financial services, consumers' cooperatives, credit unions, consultancy services, retail business, restaurants, or such other services as may be determined by the board of the concerned authority or the Fiscal Incentives Review Board (FIRB), within the freeport and/or special economic zones, shall not be deemed as an export enterprise.

(d) The term '*domestic enterprise*' shall refer to a registered enterprise which produces goods for sale or renders services exclusively for the domestic market or which does not meet the minimum export requirement of an export enterprise.

(e) The term '*capital equipment*' shall refer to machinery, equipment, major components thereof, fittings and accompaniments, which form part of the direct cost and are directly and reasonably needed in the registered activity of the registered enterprise.

- 1
2 (f) The term '*export sales of goods*' shall refer to the sales revenues of an export
3 enterprise paid for in freely convertible foreign currency, determined from
4 invoices, bills of lading, inward letters of credit, landing certificates, or other
5 commercial documents, of the following:
6
7 1. The sale and actual shipment of goods from the Philippines to a foreign
8 country by an export enterprise;
9 2. Sales to diplomatic missions and institutions covered by international
10 treaty;
11 3. Sales of an export enterprise to an international sea or air transport
12 operations of goods, equipment, spare parts, and supplies, except: fuel,
13 forming part of direct costs and to be used in the aircraft or seacraft, and
14 capital equipment needed for the shipping or air transport operations;
15
16 (g) The term '*export sales of services*' shall refer to the sales revenues and/or gross
17 receipts of an export enterprise, paid for in freely convertible foreign currency,
18 determined from contracts, invoices, vouchers, official receipts, or other
19 commercial documents of the following:
20
21 1. Services rendered to non-resident foreign clients by export enterprises;
22 2. Services rendered to diplomatic missions and institutions covered by
23 international treaty;
24 3. Services for the overhaul, repair, and maintenance of international
25 shipping, or air transport operations.
26
27 (h) The term '*special economic zone*' or '*ecozone*' shall refer to a selected area with
28 highly developed or which has the potential to be developed into agro-industrial,
29 industrial, information technology, or tourist/recreational areas, whose metes and
30 bounds are fixed or delimited by presidential proclamations and are within a
31 specific geographical area. An ecozone may contain any or all of the following:
32 industrial estates (IEs), export processing zones (EPZs), information and
33 communications technology (ICT) parks and centers, and free trade zones;
34 *Provided, however*, that areas where mining extractions are undertaken shall not
35 be declared as ecozones. *Provided further*, that the ecozones should comply with
36 the minimum contiguous land area to be determined by the Fiscal Incentives
37 Review Board (FIRB).
38
39 (i) The term '*freeport zones*' shall refer to an isolated and policed area adjacent to a
40 port of entry, which shall be operated and managed as a separate customs territory
41 to ensure free flow or movement of goods, except those expressly prohibited by
42 law, within, into, and exported out in the freeport zone where imported goods may
43 be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or
44 otherwise manipulated without being subject to import duties. However,
45 movement of these imported goods from the free-trade area to a non-free trade
46 area in the country shall be subject to all applicable internal revenue taxes and
47 duties.
48
49 (j) '*Gross Income Earned*' shall refer to the gross sales or gross revenues derived by
50 the registered enterprise from its registered business activity net of sales discounts,
51 sales returns and allowances minus cost of sales or direct costs but before any
52 deductions for administrative, marketing, selling, operating expenses or incidental
53 losses during a given taxable year.
54
55 (k) '*Strategic Investments*' shall refer to the list of industries, services, and other
56 economic activities eligible for incentives under this Act, prepared and determined
57 as priority activities in accordance with the Strategic Investments Priority Plan
58 (SIPP).

1
2
3 CHAPTER 2
4 QUALIFIED ACTIVITIES
5

6 **SECTION 4.** *'Strategic Investments Priority Plan'* (SIPP). – The Board of
7 Investments (BOI), after consultation with the Department of Finance (DOF),
8 Department of Trade and Industry (DTI), National Economic and Development
9 Authority (NEDA), the concerned IPAs, and other government agencies such as the
10 Department of Labor and Employment (DOLE) and Department of Agriculture (DA), and
11 the private sector, shall submit to the Office of the President for its approval a Strategic
12 Investments Priority Plan (SIPP).

13
14 The SIPP shall be prepared once every three years and submitted to the President for his
15 approval through an Executive Order not later than December of the year immediately
16 preceding the three-year period to be covered by the SIPP. The SIPP shall be subject to
17 review and amendment as the need arises.

18
19 In the listing of the activities in the SIPP, the following requirements shall be complied
20 with:

- 21
22 a. The activity shall be covered by the Philippine Development Plan or its
23 equivalent;
24
25 b. The activity shall be covered by the National Comprehensive Industrial
26 Strategy or its equivalent: *provided*, that the activity shall be neutral in terms
27 of nationality and market, and that those intended for the domestic market
28 shall be import-substituting or import-competing products or activities;
29
30 c. The activity's performance shall be measurable in terms of export sales, actual
31 investments, actual job creation, investments in lagging regions as defined in
32 the SIPP, investment and employment in research and development, linkages
33 creation, and spill-over effects, among others;
34
35 d. The activity in regions with shares of 1.5% of GDP or lower, or in the 30 poorest
36 provinces, shall be given preference;
37
38 e. The SIPP shall assess qualified activities based on the following indicators:
39 1) Substantial amount of investments;
40 2) Considerable generation of full time employment;
41 3) Adoption of inclusive business activities and value-added production by
42 micro, small, and, medium-size enterprises (MSMEs);
43 4) Use of cleaner, energy-saving, and other relevant new technology;
44 5) Installation of adequate environmental protection systems;
45 6) Addressing gaps in the supply/value chain and/or moving up the value
46 chain or product ladder;
47 7) Stimulation of forward and backward linkages or creation of value added
48 activities;
49 8) Commercialization of ideas and introduction of innovation activities
50 whether product, process, marketing, or new business model;
51

52 The threshold amount of investments and employment generation required for a specific
53 activity to be granted tax incentives and retain the tax incentive shall be subject to periodic
54 review every three (3) years, taking into consideration international standards and other
55 indicators.
56

1 The specific activity must also comply with the specific qualifications, requirements,
2 conditions and/or limitations for a particular sector or industry, as set and determined by
3 the BOI.
4

5 **SECTION 5.** *Amendments to the SIPP.* Subject to publication requirements and
6 the criteria for investment priority determination, and consistent with national economic
7 development goals, the BOI may, at any time, include additional areas in the plan, alter
8 any of the terms of the declaration of an investment area, and temporarily or permanently
9 suspend activities on the plan if it considers that such activity is no longer a priority. In
10 no case, however, shall any amendment of the SIPP impair the incentives conferred on a
11 registered enterprise under the previous SIPP. The IPA shall not accept applications in
12 an area of investment prior to the approval of the same as a preferred area, nor after
13 approval of its deletion as a preferred area of investment.
14

15 **SECTION 6.** *Publication of SIPP.* Upon approval of the SIPP, or upon approval
16 of an amendment thereof, the SIPP or the amendment, specifying and declaring the areas
17 of investment shall be published in at least one (1) newspaper of general circulation,
18 within fifteen (15) days from the approval or amendment thereof, and all such areas of
19 investment shall be open for application until the publication of an amendment or
20 deletion thereof.
21

22 **SECTION 7.** *Qualifications for Export Activities.* – Export activities are entitled
23 to fiscal incentives, *provided*, that said activities comply with the following:

- 24 a. The activity earns substantial foreign exchange;
- 25 b. The activity shows progressively increasing value-addition; and
- 26 c. The activity shows progressively increasing linkages to the domestic economy.
27

28 The required minimum levels of foreign exchange earnings and contribution to the
29 domestic economy necessary for a specific activity to be granted and to retain the tax
30 incentives under this Section shall be subject to periodic review every three (3) years,
31 taking into consideration international standards and other indicators.
32

33 34 CHAPTER 3 35 QUALIFIED REGISTERED ENTERPRISES 36

37 **SECTION 8.** *Qualified Enterprises.* – The following may register with an IPA to avail
38 of the incentives provided in this Act:
39

- 40 a) Export enterprises, with special provisions applicable to the extractives industry;
41 and
- 42 b) Domestic enterprises under the Strategic Investments Priority Plan (SIPP).
43

44 **SECTION 9.** *Qualifications of a registered enterprise for tax incentives.* – a
45 registered enterprise must satisfy the following conditions for consideration in the review
46 and grant of tax incentives:
47

- 48 A. It will engage in an activity included in the SIPP;
49
- 50 B. If the applicant is engaged or proposes to engage in activities other than the
51 registered activity, it shall install an adequate accounting system that shall
52 identify the investments, revenues, costs and profits or losses of each registered
53 project undertaken by the enterprise separately from the aggregate
54 investments, revenues, costs and profits or losses of the whole enterprise, or
55 establish a separate corporation for each registered project if the IPAs should
56 so require;
57

1 C. It shall satisfy the performance targets set forth in the SIPP in relation to export
2 sales, actual investments, actual job creation, investments in lagging regions as
3 defined in the SIPP, investment and employment in research and development,
4 and investment and employment in intermediate parts and components,
5 supplies, and raw materials, among others.

6
7 D. It shall regularly report and comply with the relevant reportorial requirements
8 under Republic Act No. 10708 or the TIMTA law, and under this Act.
9

10 Non-compliance with any of the above-mentioned conditions shall cause the revocation
11 of the tax incentives granted and the registered enterprise shall be liable to the penalties
12 under this Act.
13

14 15 CHAPTER 4 16 INCENTIVES 17

18 **SECTION 10. General Provisions.** All existing and future IPAs shall recommend
19 the grant of tax incentives provided in this title to the FIRB for its approval. The period
20 of availment of incentives shall be reckoned from the start of commercial operation of the
21 enterprise.
22

23 All existing and future export enterprises and strategic enterprises may only be granted
24 fiscal incentives under this Act: *Provided*, That the incentives granted under this Act shall
25 be applicable only to the extent of the registered activity or project only. Income derived
26 by the enterprise from non-registered activities or projects shall be subject to appropriate
27 taxes under the National Internal Revenue Code (NIRC), as amended.
28

29 Registered activities for which fiscal incentives have been granted and fully utilized by the
30 enterprise shall no longer be eligible for the incentives under this Act for the same
31 activities: *Provided*, that all tax incentives presently enjoyed by existing enterprises shall
32 continue until the end of the period for which it is granted or for a period of not more than
33 five (5) years from the effectivity of this Act, whichever comes first.
34

35 **SECTION 11. Existing charters of IPAs.** – The IPAs shall maintain their functions
36 and powers as provided under the special laws governing them except to the extent
37 modified by the provisions of this Act, such as those pertaining to the review and grant of
38 tax incentives.
39

40 **SECTION 12. Incentives to Registered Export Enterprises.** – The following tax
41 and customs duty incentives may be granted to qualified registered enterprises, subject
42 to the review and approval of the FIRB.
43

44 (a) *Income tax holiday (ITH).* – An income tax holiday may be granted for three
45 (3) years following the effectivity of this Act to a newly-registered export
46 enterprise.
47

48 *Provided*, that after the period of ITH, one of the following incentives may be
49 applied for a period not exceeding five (5) years, which includes the period of
50 ITH.
51

- 52 1. *Preferential Tax* – Registered export enterprises shall have an
53 option between the preferential tax rate of fifteen percent (15%)
54 on taxable income as defined under Section 31 of the National
55 Internal Revenue Code, as amended; or
56
- 57 2. *Five percent (5%) of the gross income earned* in lieu of all
58 national and local taxes, except value-added tax (VAT) and real

1 property tax on land. The five percent (5%) of the gross income
2 earned by the registered export enterprises shall be paid and
3 remitted as follows:

- 4 i. Sixty percent (60%) to the National Government; and
- 5 ii. Forty percent (40%) to the treasurer's office of the
6 municipality or city where the enterprise is located.

7
8 Once a registered export enterprise has made an option provided in this
9 subsection, such option shall be irrevocable for the duration of its registration.

10
11 (b) *Double deduction for Research and Development.* – Expenses incurred for
12 research and development relating to the business activity of the registered
13 export enterprise, identified and approved as such by the appropriate
14 government agency/ies, shall be deductible from gross income for income tax
15 purposes to the extent of 200% on the year the said research and development
16 expenses were incurred.

17
18 (c) *Double deduction for Training.* - expenses incurred for training given to
19 employees by the registered export enterprise for the development of skills of
20 its employees, identified and approved as necessary by the appropriate
21 government agency/ies shall be deductible from the gross income for income
22 tax purposes to the extent of two hundred percent (200%) on the year the said
23 training expense was incurred.

24
25 The same incentive under this subsection may be applied to expenses incurred
26 for mandatory internship or apprenticeship of senior high school, college or
27 technical and vocational students enrolled in public institutions administered
28 by the registered export enterprise. *Provided, however,* that in line with such
29 programs, the registered export enterprise shall closely coordinate with the
30 Department of Education (DepEd), Technical Education and Skills
31 Development Authority (TESDA), or Commission on Higher Education
32 (CHED), for the same.

33
34 (d) *Additional deduction for labor expense.* – a registered export enterprise may be
35 allowed an additional deduction from its taxable income of fifty percent (50%)
36 of the wages corresponding to the increment in the number of its direct labor
37 generated per year.

38
39 (e) *Accelerated Depreciation.* – accelerated depreciation of plant, machinery, and
40 equipment that are reasonably needed and actually used for the production and
41 transport of goods and services by the registered export enterprise may be
42 depreciated using a rate not exceeding twice the rate which would have been
43 used had the annual allowance been computed in accordance with the rules and
44 regulations prescribed by the Secretary of Finance and the provision of the
45 National Internal Revenue Code, as amended.

46
47 (f) *Customs duty incentives.* – registered export enterprises qualified for incentives
48 may be exempted to the extent of one hundred percent (100%) of the customs
49 duty, allowed for a maximum of five (5) years, on imported capital equipment,
50 machinery, and spare parts exclusively used for capital equipment and
51 machinery, all including consignment thereof, raw materials used in the
52 manufacture, processing of products, and importation of source documents by
53 the registered enterprise. *Provided,* that the duty-free importation shall be used
54 exclusively for the registered export activity of the enterprise. *Provided further,*
55 that expansion of registered activities may be granted duty exemption on capital
56 equipment only, subject to the following conditions:

1. The activity is still covered by the Strategic Investments Priority Plan (SIPP);
2. Customs duty exemption will only apply on the incremental portion of the activity; and
3. The customs duty exemption extension shall not exceed five (5) years.

Provided, further, that:

- i. The capital equipment and/or spare parts is directly and reasonably needed and will be used exclusively in and as part of the direct cost of the registered activity of the registered enterprise, and are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices. Prior approval of the FIRB may be secured for the part time utilization of said equipment in a non-registered activity to maximize usage thereof, provided the proportionate taxes and duties are paid on a specific equipment and machinery in proportion to its utilization for non-registered activities. In the event that it shall be used for non-registered activity of the registered enterprise at anytime within the first five (5) years from date of importation, the registered enterprise shall first seek prior approval of the FIRB, and pay the taxes and customs duties that were not paid upon its importation; and
- ii. The approval of the FIRB was obtained by the registered enterprise prior to the importation of such capital equipment and/or spare parts.

Provided further, that: Approval of the FIRB must be secured before any sale, transfer or disposition of the capital equipment and/or spare parts which was granted tax and customs duty exemption hereunder is made, and it shall be allowed only under the following circumstances: (A) If made to another enterprise enjoying customs duty exemption on imported capital equipment and/or spare parts; (B) If made to another enterprise not 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; (C) Exportation of capital equipment, machinery, spare parts or source documents, or those required for pollution abatement and control; or (D) For reasons of proven technical obsolescence.

Provided, that if the registered enterprise sells, transfers or disposes the aforementioned imported items without prior approval, the registered enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of the duty exemption that should have been paid during its importation. *Provided further,* that even if the sale, transfer or disposition of the capital equipment was made after five (5) years from date of importation with the approval of the FIRB, 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.

- f) *Duty exemption on raw materials.*- importation of raw materials, supplies, and semi-finished products by export enterprises inside or outside the ecozone or freeports may be exempted to the extent of one hundred percent (100%) of the duty, *provided,* that the raw materials, supplies, and semi-finished products imported are exclusively used by an export enterprise in the manufacture, processing or production of the export products covered by its registered activity and it actually forms part of the product exported.

SECTION 14. *Special provision on extractives industry.* Enterprises in the extractives industry or entities engaged in the exploration, extraction, development or disposition of oil, gas and mining resources, registered as export enterprises or qualifying under the SIPP, are entitled to receive the incentives, *provided*, that said enterprises are engaged in the intermediate processing, or the upgrading of the mined minerals into concentrates and/or transforming them into intermediate products, of 100% of their output.

CHAPTER 5 ADMINISTRATION OF TAX INCENTIVES

SECTION 15. *Scope and coverage.* This title shall cover all existing investment promotion agencies (IPAs) as defined in this code or related laws, and all other IPAs and other similar authorities that may be created by law.

The existing IPAs are the Board of Investments (BOI), Philippine Economic Zone (PEZA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Bataan Technological Park Inc., (BTPI), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCEZA), PHIVIDEC Industrial Authority (PIA), and Aurora Special Economic Zone Authority (ASEZA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA).

IPAs shall maintain their functions as provided for in their respective Charters except to the extent modified by the provisions of this Act.

SECTION 16. *Duties and responsibilities of IPAs.* The following are the duties and responsibilities of IPAs:

- a) Use their resources to attract the types of investments qualified under the Strategic Investment Priority Plan (SIPP), which is then aligned with the Philippine Inclusive Innovation Industrial Strategy, or the country's comprehensive national industrial strategy;
- b) Adopt uniform and consistent procedures of administering incentives, monitoring the recipients, and to coordinate efforts in this regard;
- c) Adopt and implement systems and procedures affecting trade and customs policies in accordance with the requirements jointly set by the Fiscal Incentives Review Board;
- d) Submit data and information to the Fiscal Incentives Review Board to ascertain consistency of investments policies and incentives, including their implementation, and to ensure the proper implementation of systems and procedures affecting trade and customs policies;
- e) Perform all other duties as may be required in relation to the foregoing.

SECTION 17. *Application for Incentives with the IPAs.* Based on the application for incentives received from a registered enterprise, the IPAs shall recommend the incentives that may be granted to the respective registered enterprises under their jurisdiction. The IPAs shall transmit the said recommendation to the Fiscal Incentives Review Board (FIRB) within a period of thirty (30) days from the IPA's finalization of its recommendation. The IPAs shall also be responsible in collecting, consolidating and processing data in relation to the respective tax expenditures based on the computed cost

1
2 *Provided*, that registered activities prior to the effectivity of this act relocating from Metro
3 Manila and selected areas of Regions III and IV-A to other areas of the country may be
4 allowed a one-year income tax incentive as relocation incentive.

5
6 Unless otherwise provided under this Section, a registered export enterprise may avail of
7 the foregoing incentives for the entire duration of registration of the enterprise, provided
8 that the registered export enterprise complies with the requirements applicable to the
9 same under this Act.

10
11 **SECTION 13.** *Incentives to Registered Non-Export Enterprises in the Strategic*
12 *Investments Priority Plan.* The following tax and customs duty incentives may be granted
13 for qualified registered domestic enterprises, subject to the review and approval of the
14 FIRB.

15
16 a) *Preferential Tax Rate* – Registered domestic enterprises shall be provided
17 with a preferential tax rate of fifteen percent (15%) on taxable income as
18 defined under Section 31 of the National Internal Revenue Code, as amended.

19
20 b) *Double deduction for Research and Development.* – Expenses incurred for
21 research and development relating to the business activity of the registered
22 domestic enterprise, identified and approved as such by the appropriate
23 government agency/ies, shall be deductible from gross income for income tax
24 purposes to the extent of 200% on the year the said research and development
25 expenses were incurred.

26
27 c) *Double deduction for Training.* - expenses incurred for training given to
28 employees by the registered enterprise for the development of skills, identified
29 and approved as necessary by the appropriate government agency/ies, shall be
30 deductible from the gross income for income tax purposes to the extent of two
31 hundred percent (200%) on the year the said training expense was incurred.

32
33 The same incentive under this subsection may be applied to expenses incurred
34 for mandatory internship or apprenticeship of senior high school, college or
35 technical and vocational students enrolled in public institutions administered
36 by the registered export enterprise. *Provided, however*, that in line with such
37 programs, the registered export enterprise shall closely coordinate with the
38 Department of Education (DepEd), Technical Education and Skills
39 Development Authority (TESDA), or Commission on Higher Education
40 (CHED), for the same.

41
42 d) *Additional deduction for labor expense.* – a registered domestic enterprise
43 may be allowed an additional deduction from its taxable income of fifty percent
44 (50%) of the wages corresponding to the increment in the number of its direct
45 labor generated per year.

46
47 e) *Accelerated Depreciation* – accelerated depreciation of plant, machinery, and
48 equipment that are reasonably needed and actually used for the production
49 and transport of goods and services by the registered domestic enterprise may
50 be depreciated using a rate not exceeding twice the rate which would have been
51 used had the annual allowance been computed in accordance with the rules
52 and regulations prescribed by the Secretary of Finance and the provision of the
53 National Internal Revenue Code, as amended.

54
55 *Provided*, that registered activities prior to the effectivity of this act relocating from Metro
56 Manila and selected areas of Regions III and IVA to other areas of the country may be
57 allowed a one-year income tax incentive as relocation incentive.

1 in terms of revenue foregone on the tax incentives granted to their respective enterprises,
2 and other data related to the grant of investment incentives, on a quarterly basis. Such
3 data collection and processing shall cover all the registered enterprises under the IPA's
4 jurisdiction including those whose incentives are provided for by investment incentive
5 laws prior to the effectivity of this Act.

7 Application for incentives shall be filed with the IPA, and evaluated based on the
8 following:

- 9 a) Impact of the project on the overall economy and fiscal sustainability
- 10 b) Overall viability of the project or activity
- 11 c) Extent of employment and skills generation
- 12 d) Extent to which technological advances are applied and adopted to local
13 conditions
- 14 e) The extent to which supply linkages would be formed with domestic enterprises
- 15 f) Extent to which the output supports national export objectives
- 16 g) Extent to which incentives contribute to the reduction of poverty and inequality
- 17 h) Extent to which incentives promote investments that help improve the quality
18 of the environment

20 All registered enterprises are required to file all their tax returns using the
21 electronic/online facilities of the Bureau of Internal Revenue (BIR). In availing of the
22 income tax-based incentives, the registered enterprise shall be required to secure a
23 certificate of entitlement issued by the FIRB and attach the same to Its Income Tax Return
24 (ITR) or Annual Information Return (AIR), whichever is applicable. Thereafter, the
25 registered enterprise shall file its claim with the BIR.

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

30 **SECTION 18.** Certificate of Registration. A registered enterprise that qualified as
31 a tax incentive beneficiary shall be issued a certificate of registration under the seal of the
32 corresponding IPA with the signature of its Director-General and/or such other officer or
33 employee of that IPA as may be authorized, and of a duly authorized representative of the
34 FIRB. The certificate shall be in such form and style as the Board may determine and shall
35 state, among others, the following information:

- 36 a) The name of the registered enterprise;
- 37 b) The area of investment in which the registered enterprise is proposing to
38 engage;
- 39 c) The type of the activity the registered enterprise is undertaking or proposing to
40 undertake; and
- 41 d) The other terms and conditions to be observed by the registered enterprise by
42 virtue of the registration.

44 **SECTION 19.** Validity of Registration. The certificate of registration issued under
45 this Act shall be valid for a period of ten (10) years from the start of commercial operations
46 of the registered enterprise.

48 The validity period is non-extendible except in the event that the registered enterprise has
49 suffered operational *force majeure* that has impaired its viability, equivalent for the
50 period thereto, and subject to the approval of the FIRB.

53 CHAPTER 6 54 THE FISCAL INCENTIVES REVIEW BOARD

56 **SECTION 20.** The Fiscal Incentives Review Board. The Fiscal Incentives Review
57 Board (FIRB) created under Presidential Decree No. 776, as amended by PD 1931 and PD
58 1955, and Office of the President Memorandum Order No. 23 series of 1986, and

1 Executive Order No. 93 series of 1986, is hereby granted sole authority to approve all
2 applications for tax incentives recommended by the administering Investment Promotion
3 Agency (IPA) as defined under this Act. *Provided, however,* That applications for
4 incentives shall be acted upon by the FIRB within sixty (60) days upon submission by the
5 IPA of its recommendation together with the complete attachments for application
6 required from the applicant. Failure to act within the aforementioned period shall mean
7 that the application for incentives by the concerned enterprise is considered
8 recommended.

9
10 The FIRB shall be reorganized and shall be composed of representatives from the
11 following government agencies:

- 12 a) Department of Finance (Chair);
- 13 b) Department of Trade and Industry;
- 14 c) National Economic Development Authority;
- 15 d) Department of Budget and Management
- 16 e) Department of Labor and Employment;

17
18 In carrying out the tasks of the FIRB, the member government agencies shall consult
19 pertinent agencies such as the Department of Science and Technology, Department of
20 Environment and Natural Resources and the Department of Agriculture, as may be
21 necessary.

22
23 The Fiscal Incentives Review Board (FIRB) shall have the following functions and powers:

- 24
25 a) To review all incentives applications being endorsed by IPAs based on the
26 standards provided in this Act;
 - 27
28 b) To monitor, review, and coordinate decisions of all IPAs in relation to the
29 endorsement and availment of tax incentives;
 - 30
31 c) To review and endorse, for approval of the Secretary of Finance, the grant of
32 investment tax incentives as recommended by the IPAs;
 - 33
34 d) To create a single database of all incentives provided by all IPAs, containing the
35 names of the registered enterprises or beneficiaries of tax incentives with
36 approved estimated amount of the corresponding incentives. The Fiscal
37 Incentives Review Board shall monitor and review the incentives granted to the
38 registered enterprises, and publish an annual report available to the public in
39 relation to the TIMTA law and this Act. Such annual report shall contain
40 indicators such as actual investments, employment generation, production and
41 exports, to demonstrate the effect of the approved fiscal incentives;
 - 42
43 e) To approve, deny, suspend, revoke applications for registration with IPAs,
44 impose terms and conditions as it may deem necessary to promote the purposes
45 of this Act, including the refund and forfeiture of incentives when appropriate,
46 restrict availment of incentives not needed by the enterprise as determined by
47 the FIRB, and require payment of application, registration, publication, and
48 other fees when warranted.
 - 49
50 f) Cancel the registration or suspend the incentives of a registered enterprise
51 and/or require refund as well as impose interest and monetary penalties. The
52 FIRB shall recommend to the appropriate agency to levy the properties of the
53 registered enterprise for grave failure to comply with the substantive terms and
54 conditions of its registration; provided, however, that the registration of an
55 enterprise whose project timetable for implementation, as approved by the
56 FIRB, is delayed by one year shall be automatically considered cancelled, unless
57 otherwise reinstated as a registered enterprise by the FIRB.
- 58

1 g) Monitor and evaluate the development and requirements of registered
2 enterprises and recommend to relevant authorities the appropriate incentives
3 required or to be made available for said enterprises.
4

5 h) Decide controversies arising from the implementation of this Act that may arise,
6 within thirty (30) days after the controversy has been submitted for decision;
7 Provided, that the enterprise may appeal the decision by the FIRB within thirty
8 (30) days from receipt thereof to the Office of the President. The Board shall
9 have the power to subpoena witnesses, administer oaths, and compel the
10 production of books, papers and other evidence and cite for contempt any
11 person/organization that fails to comply with the aforesaid processes;
12 provided further, that the Board may grant immunity from prosecution to any
13 person whose testimony or document or other evidence is necessary to the case.
14

15 *Provided further*, that the Secretary of Finance shall automatically be the co-chair of all
16 the existing and future IPAs.
17

18 *Provided finally*, that the National Economic and Development Authority (NEDA) shall
19 be a member of all IPAs, both existing and future.
20

21 22 CHAPTER 7 23 FISCAL INCENTIVES REPORTING AND MONITORING 24

25 **SECTION 21.** *Reporting of fiscal incentives.* – The IPAs shall submit a report,
26 specifically containing the names of the registered enterprises or beneficiaries of tax
27 incentives with approved amount of the corresponding incentives, to the Philippine
28 Statistical Authority, Congress and to the FIRB, within sixty (60) days from the statutory
29 deadline for filing of the relevant tax returns as mandated by the Bureau of Internal
30 Revenue.
31

32 **SECTION 22.** *Monitoring of results.* – Data related to performance criteria and
33 outcomes set forth in Section 4 of this Act, such as data on export sales, actual
34 investments, actual number of jobs generated, investments in lagging regions as defined
35 in the SIPP, investment in research and development, linkages creation, introduction of
36 new technology and other spill-over effects brought about by the registered enterprise,
37 shall be monitored and properly collected on a yearly basis by the Philippine Statistical
38 Authority in coordination with the FIRB. Said data shall be a basis by the FIRB for its
39 regular review and monitoring of fiscal incentives to be granted under this Act.
40

41 **SECTION 23.** *Publication of information on fiscal incentives and their results.* –
42 The FIRB and the PSA shall annually publish and make available to the public the data
43 collected and processed under Sections 21 and 22 of this Act.
44

45 46 CHAPTER 8 47 FINAL PROVISIONS 48

49 **SECTION 24.** *No double registration of enterprises.* – registered enterprises
50 shall not be allowed to register their activities in more than one (1) IPA. In the event that
51 an enterprise shall transfer to another IPA, only the remaining unutilized incentives may
52 be granted to the enterprise or the transfer, vendee, or assignee.
53

54 **SECTION 25.** *Investments prior to the effectivity of this Act.* – Existing
55 registered enterprises granted the income tax holiday shall be allowed to
56 continue with the availment of the said incentive for the remaining period of
57 the ITH or for a period of five (5) years only, whichever is shorter.
58

SECTION 26. *Suspension and forfeiture of tax incentives of registered enterprises, refund and penalties; waiver and condonation.* – Any enterprise which violates any provision of this Act, its implementing rules and regulations, the terms and conditions of its registration or any lawful directive of the FIRB or of the concerned IPA, or in the availment of the incentives, including all official reports to be submitted to the FIRB, shall be subject to a fine not exceeding One Million Pesos (P1,000,000) but without prejudice to the cancellation of its registration: Provided that any willful commission of fraudulent misrepresentation in its application for registration or submission of reports or gross violation of this Act, and its implementing rules and regulations, a fine of at least One million pesos(P1,000,000) but not to exceed Ten million pesos (P10,000,000) shall be imposed, in addition to other penalties that may be imposed by the FIRB.

When there is probable cause to believe that the registered enterprise has violated its registration terms and conditions, the IPA or the FIRB may suspend its availment of incentives, unless proven otherwise, after due notice and hearing.

In case of cancellation of the certificate of registration granted under this act, the BIR, in coordination with the FIRB, will require the payment of incentives assessed to have been granted to the said enterprise for its registered activity and impose corresponding fines and penalties.

SECTION 27. *Effectivity of Implementing Rules and Regulations.* The Department of Trade and Industry (DTI), Department of Finance (DOF), National Economic Development Authority (NEDA), in consultation with the IPAs, the BIR, and the BOC, and other concerned government agencies, shall promulgate the rules and regulations to implement the intent and provisions of this Act.

SECTION 28. *Repealing Clause.* – All other laws, acts, presidential decrees, executive orders, issuances, presidential proclamations, rules and regulations or parts thereof which are contrary to or inconsistent with any provision of this Act are hereby repealed, amended or modified accordingly.

SECTION 29. *Separability Clause.* – If any provision of this Act is declared invalid and unconstitutional, the other provisions which are not affected thereby shall remain in force and effect.

SECTION 30. *Effectivity.* This Act shall take effect on January 1, 2019 or fifteen (15) days following its publication in the *Official Gazette* or in a newspaper of general circulation, whichever is earlier.

Approved.

Approved,