

Republic of the Philippines
HOUSE OF REPRESENTATIVES
CONGRESS OF THE PHILIPPINES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. 7974



Introduced by Honorable REYNALDO V. UMALI

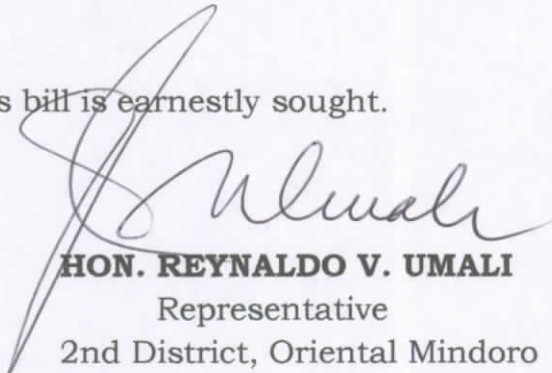
EXPLANATORY NOTE

The proliferation of laws and policies granting tax incentives to different sectors and entities – resulting in considerable foregone revenue for government – warrants compelling justification and proof of the effectiveness of these incentives in terms of generating the expected growth and socio-economic development of the covered sectors. At present, there are more than 300 tax incentive provisions found in various special laws and the National Internal Revenue Code of 1997, as amended, which are aimed to either stimulate investment or enhance social benefits. While there is acknowledgment of the noble purposes of these policies, there should likewise be an evaluation of these incentives in order to ensure that the right types of subsidies are in place and serving their purpose.

Non-investment incentives are especially important since there is a need to identify the link between the provision of tax concessions and the delivery of social services vis-à-vis collecting the revenues and using the same to provide for the needs of the concerned sectors through direct subsidy. These sectors include, among others, the cooperatives, non-government organizations, state universities, and privileged individuals and entities.

The proposal to include the tax incentives data of the above-mentioned sectors within the ambit of the TIMTA (Tax Incentives Management and Transparency Act) or RA No. 10708 is deemed a necessary move to improve the tax treatment of these sectors and the tax system as a whole, and to gather the essential information and data that will enable more in-depth analysis of the needs and requirements of the sectors.

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


HON. REYNALDO V. UMALI

Representative
2nd District, Oriental Mindoro

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Introduced by Honorable REYNALDO V. UMALI

AN ACT AMENDING REPUBLIC ACT NO. 10708, OTHERWISE KNOWN AS THE
“TAX INCENTIVES MANAGEMENT AND TRANSPARENCY ACT”, EXPANDING
ITS COVERAGE TO ENHANCE FISCAL TRANSPARENCY AND
ACCOUNTABILITY, AND FOR OTHER PURPOSES

*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled:*

SECTION 1. Section 3 (a) and (b) of TIMTA is hereby amended to read as
follows:

“a. *Investment Promotion Agencies (IPAs)* shall refer to government entities created by law, executive order, decree or other issuance, in charge of promoting investments, administering tax and non-tax incentives, and/or overseeing the operations of the different economic zones and freeports in accordance with their respective charters. These **SHALL** include, **BUT NOT LIMITED TO**, the Board of Investments (BOI), **REGIONAL BOARD OF INVESTMENTS-AUTONOMOUS REGION IN MUSLIM MINDANAO (RBOI-ARMM)**, Philippine Economic Zone Authority (PEZA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), [Bataan Technology Park, Inc. (BTPI)] Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCSEZA), Phividec Industrial Authority (PIA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and all other similar authorities that may be created by law in the future;

b. *Tax incentives* shall refer to fiscal incentives such as those which come in the form of income tax holidays (ITH), exemptions, deductions, credits or exclusions from the tax base, as provided by law, to registered business entities **AND OTHER REGISTERED ENTITIES**; [and]

SEC. 2. Section 3 is hereby amended to insert new subsections (d) and (e), as follows:

"D. OTHER REGISTERED ENTITY SHALL REFER TO ANY INDIVIDUAL, PARTNERSHIP, ORGANIZATION, CORPORATION, PHILIPPINE BRANCH OF A FOREIGN CORPORATION, OR OTHER ENTITY INCORPORATED AND/OR ORGANIZED AND EXISTING UNDER PHILIPPINE LAWS, AND REGISTERED WITH OTHER GOVERNMENT AGENCIES (OGA) ADMINISTERING TAX INCENTIVES.

E. OTHER GOVERNMENT AGENCIES ADMINISTERING TAX INCENTIVES (OGA) SHALL REFER TO GOVERNMENT AGENCIES OTHER THAN IPAs WHICH ADMINISTER TAX INCENTIVES OF ANY KIND TO ANY SPECIFIC ENTITIES AND/OR CLASS OF PERSONS PURSUANT TO ANY LAW. THESE SHALL INCLUDE BUT NOT LIMITED TO THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA), DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD), COMMISSION ON HIGHER EDUCATION (CHED), BUREAU OF INTERNAL REVENUE (BIR) AND OTHERS."

SEC. 3. Section 4 of the TIMTA is hereby amended to read as follows:

"SEC. 4. Filing of Tax Returns and Submission of Tax Incentives Reports. – All registered business entities **AND OTHER REGISTERED ENTITIES, WHETHER TAXABLE OR EXEMPT**, are required to file their tax returns and/OR pay their tax liabilities, on or before the deadline as provided under the National Internal Revenue Code (NIRC), as amended, using the electronic system for filing and payment of taxes of the Bureau of Internal Revenue (BIR). **PROVIDED, THAT FOR PURPOSES OF COMPLYING WITH THEIR TAX OBLIGATIONS, OTHER REGISTERED ENTITIES WITHOUT ACCESS TO THE ELECTRONIC FACILITIES SHALL FILE WITH THEIR RESPECTIVE REVENUE DISTRICT OFFICES (RDOs).**

For registered business entities **AND OTHER REGISTERED ENTITIES** availing of incentives administered by the IPAs **AND OGAS**, they shall file with their respective IPAs **OR OGAS** a complete annual tax incentives report of their income-based tax incentives, value-added tax and duty exemptions, deductions, credits or exclusions from the tax base, **INCLUDING EXEMPTIONS FROM LOCAL TAXES**, as provided in the charter of the IPA concerned **AND RESPECTIVE LAWS**, within thirty (30) days from the statutory deadline for filing of tax returns and payment of taxes.

The IPAs **AND OGAS**, shall within sixty (60) days from the end of the statutory deadline for filing of the relevant tax returns, submit to the BIR, their respective annual tax incentives reports based on the list of the registered business entities who have filed said tax incentives report.

The details of the tax incentives reports, as provided in the preceding paragraphs, shall be provided in the implementing rules and regulations (IRR) of this Act.

The foregoing provisions shall be without prejudice to the right of the BIR and the Bureau of Customs (BOC) to conduct assessment within the prescribed period provided in the NIRC, as amended, and the [Tariff and Customs Code of the Philippines (TCCP)] **CUSTOMS MODERNIZATION AND TARIFF ACT (CMTA)**, respectively.

SEC. 4. Section 5 of the TIMTA is hereby amended to read as follows:

"SEC. 5. *Monitoring of Tax Incentives.* – The BIR and the BOC shall submit to the Department of Finance (DOF), notwithstanding any law to the contrary: (a) the tax and duty incentives of registered business entities **AND OTHER REGISTERED ENTITIES** as reflected in their filed tax returns and import entries; and (b) actual tax and duty incentives as evaluated and determined by the BIR and the BOC.

The DOF shall maintain a single database for monitoring and analysis of tax incentives granted.

For purposes of monitoring and transparency, the DOF shall submit to the Department of Budget and Management (DBM) the aggregate data on a sectoral and per industry basis of: (1) the amount of tax incentives availed OF by registered business entities **AND OTHER REGISTERED ENTITIES**; (2) the estimate claims of tax incentives immediately preceding the current year; (3) the programmed tax incentives for the current year; and (4) the projected tax incentives for the following year. Such information shall be given to the Oversight Committee created under Section 9 of this Act.

The aforesaid data shall be reflected by the DBM in the annual Budget of Expenditures and Sources of Financing (BESF), which shall be known as the Tax Incentives Information (TII) section: *Provided*, That the TII shall be limited to the aggregate data related to incentives availed of by registered business entities **AND OTHER REGISTERED ENTITIES** based on the submissions of the DOF and the concerned **IPAS AND OGAS**, categorized by sector, by IPA **OR OGA** and **BY** type of incentive.

Nothing in this Act shall be construed to diminish or limit, in whatever manner, the amount of incentives that IPAs **OR OGAS** may grant pursuant to their charters and existing laws; or to prevent, deter, or delay the promotion and regulation of investments, processing of applications for registrations, and evaluation of entitlement of incentives by IPAs **OR OGA**."

SEC. 5. Section 6 of the TIMTA is hereby amended to read as follows:

“SEC. 6. Conduct of Cost-Benefit Analysis on Investment Incentives.– The **FISCAL INCENTIVES AND REVIEW BOARD (FIRB)** [National Economic and Development Authority (NEDA)] is mandated to conduct cost-benefit analysis on the investment **AND NON-INVESTMENT** incentives to determine the impact of tax incentives on the **RELEVANT SECTOR AND THE** Philippine economy.

For this purpose, all heads of the IPAs **AND OGAS** shall submit to the **FIRB** [NEDA]: **(1)** the aggregate tax incentives[,] based on the submissions of registered business entities **AND OTHER REGISTERED ENTITIES**, as provided in Section 4 of this Act; and **(2) THE** aggregate investment **AND NON-INVESTMENT**-related data [both on a sectoral or per industry basis] **PER REGISTERED ENTITY OR ACTIVITY**, which **SHOULD** [may] include, but not limited to, **APPROVED AND ACTUAL** investment [projects, investment] cost, **APPROVED AND** actual employment **GENERATED**, [and] export **SALES** [earnings], **PROFIT, RETAINED EARNINGS, DIVIDENDS PAYOUT, TAXES PAID PER TYPE OF TAX, DOMESTIC VALUE-ADDED AND FISCAL AND OTHER SOCIO-ECONOMIC BENEFITS.**

SEC. 6. Section 7 of the TIMTA is hereby amended to read as follows:

“SEC. 7. Penalties for Noncompliance with Filing and Reportorial Requirements.– Any registered business entity **OR REGISTERED ENTITY** which fail[s] to comply with filing and reportorial requirements with the appropriate IPAs **OR OGAS** and/or which fail[s] to show proof of filing of tax returns using the electronic system for filing and payment of taxes of the BIR shall imposed the following penalties **BY THE APPROPRIATE IPA OR OGA:**

- a. xxx
- b. xxx
- c. Third (3rd) violation – cancellation of the registration **WITH THE IPA OR OGA** [of the registered business entity].

Provided, That if the failure to show such proof is not due to the fault of the registered business entity **OR OTHER REGISTERED ENTITY**, the same shall not be a ground for the suspension of the ITH and/or other income-based tax incentives availment. **PROVIDED FURTHER, THAT COLLECTIONS FROM THE PENALTIES SHALL ACCRUE TO THE GENERAL FUND.**

xxx”

SEC. 7. *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.

SEC. 8. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in a newspaper of national circulation.

Approved,