

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



Senate
Office of the Secretary

'15 FEB 25 P5:09

SENATE

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COMMITTEE REPORT NO. 104

Submitted by the Committee on Ways and Means on FEB 25 2015.

Re: Senate Bill No. 2669, prepared by the Committee.

Recommending its approval in substitution of Senate Bill Nos. 469 and 1187.

Sponsors: Senators Angara, Drilon and Recto

MR. PRESIDENT:

The Committee on Ways and Means, to which were referred Senate Bill No. 469, introduced by Senator Drilon, *entitled*:

**“AN ACT
ESTABLISHING A SYSTEM FOR TAX INCENTIVES
MANAGEMENT AND TRANSPARENCY, AND
FOR OTHER PURPOSES”**

and Senate Bill No. 1187, introduced by Senator Recto, *entitled*:

**“AN ACT
ESTABLISHING A SYSTEM FOR TAX INCENTIVES
TRANSPARENCY, AND FOR OTHER PURPOSES”**

has considered the same and has the honor to report these bills back to the Senate with the recommendation that the attached bill, S. No. 2669 prepared by the Committee, *entitled*:

**“AN ACT
INSTITUTING A SYSTEM FOR TAX INCENTIVES
MANAGEMENT AND TRANSPARENCY, AND
FOR OTHER PURPOSES”**

be approved in substitution of Senate Bill Nos. 469 and 1187 with Senators Drilon, Recto and Angara as authors thereof.

Respectfully submitted:



SONNY ANGARA
Chairperson


MIRIAM DEFENSOR SANTIAGO
Vice-Chairperson

Members:


LOREN LEGARDA
PAOLO BENIGNO "BAM" AQUINO IV
ANTONIO "SONNY" F. TRILLANES IV
FRANCIS "CHIZ" G. ESCUDERO

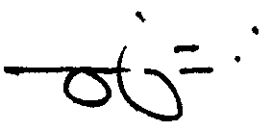
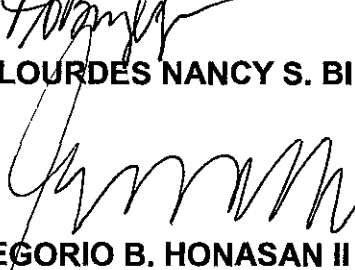
AQUILINO "KOKO" PIMENTEL III

RAMON BONG REVILLA, JR.

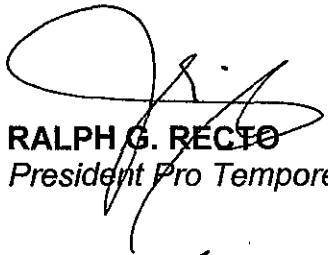

MANUEL "LITO" M. LAPID

PIA S. CAYETANO

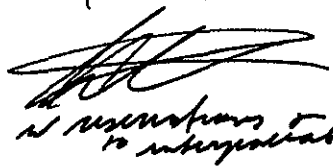
TEOFISTO L. GUINGONA III


MA. LOURDES NANCY S. BINAY
JOSEPH VICTOR G. EJERCITO
GREGORIO B. HONASAN II

Ex-Officio Members

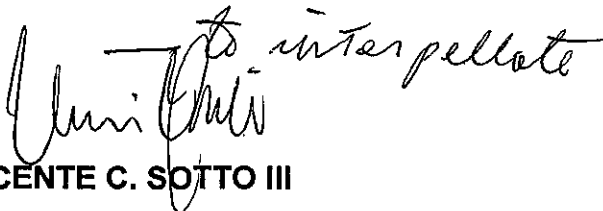


RALPH G. RECTO
President Pro Tempore



*at recessions or
to interpellate*

ALAN PETER "COMPAÑERO" S. CAYETANO
Majority Leader



to interpellate

VICENTE C. SOTTO III
Acting Minority Leader

HON. FRANKLIN M. DRILON

The Senate President

'15 FEB 25 P5 :10

SENATE
S. No. 2669

RECEIVED BY: WJ

Prepared by the Committee on Ways and Means with Senators Drilon,
Recto and Angara as authors

AN ACT
INSTITUTING A SYSTEM FOR TAX INCENTIVES MANAGEMENT AND
TRANSPARENCY, AND FOR OTHER PURPOSES

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

1 **SECTION 1. Title.** – This Act shall be known as “The Tax Incentives Management and
2 Transparency Act (TIMTA).”

3 **SECTION 2. Declaration of Policy.** – It is hereby declared the policy of the State to
4 promote fiscal accountability and transparency in the grant and management of tax incentives by
5 developing means to promptly measure the government’s fiscal exposure on these grants and to
6 enable the government to monitor, review and analyze the economic impact thereof and thereby
7 optimize the social benefit of such incentives.

8 **SECTION 3. Definition of Terms.** – As used herein,

9 (a) "*Investment Promotions Agencies (IPAs)*" shall refer to government entities created
10 by law, executive order, decree or other issuance, in charge of promoting
11 investments, administering tax and non-tax incentives, and/or overseeing the
12 operations of the different economic zones and freeports in accordance with their
13 respective charters. These include the Board of Investments (BOI), Philippine
14 Economic Zone Authority (PEZA), Bases Conversion Development Authority
15 (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development
16 Corporation (CDC), John Hay Management Corporation (JHMC); Poro Point
17 Management Corporation (PPMC), Bataan Technology Park, Inc. (BTPI), Cagayan
18 Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone
19 Authority (ZCSEZA), Phividec Industrial Authority (PIA), Aurora Pacific Economic
20 Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan
21 (AFAB), Tourism Infrastructure And Enterprise Zone Authority (TIEZA), and all
22 other similar authorities that may be created by law in the future.

1 (b) *“Other Government Agencies” (OGAs)* shall refer to national government agencies
2 other than IPAs which administer tax incentives of any kind granted by law to any
3 person, natural or juridical.

4 (c) *“Tax Incentives”* shall refer to fiscal incentives such as those which come in the form
5 of income tax holidays, exemptions, deductions, credits or exclusions from the tax
6 base as provided by law to registered business entities and qualified private
7 individuals or corporations.

8 (d) *“Registered Business Entity”* shall refer to any individual, partnership, corporation,
9 Philippine branch of a foreign corporation or other entity incorporated and/or
10 organized and existing under Philippine laws and registered with an IPA.

11 (e) *“Qualified Private Individuals or Corporations”* shall refer to any person, natural or
12 juridical, enjoying tax incentives as provided for under existing laws.

13 (f) *“Tax Incentives Tracking Program”* shall refer to the single database which shall be
14 used by the Department of Finance (DOF), Bureau of Internal Revenue (BIR),
15 Bureau of Customs (BOC), IPAs and OGAs in monitoring the incentives
16 administered by IPAs or OGAs to registered business entities and qualified private
17 individuals or corporations, as the case may be.

18 **SECTION 4. *Monitoring of Tax Incentives.*** - The amounts pertaining to tax
19 incentives administered by IPAs and OGAs to registered business entities and qualified private
20 individuals or corporations, as the case may be, shall be clearly specified in accordance with the
21 schedule prepared by the DOF. Tax incentives administered by the relevant IPAs and/or OGAs
22 shall be reflected in the Tax Incentives Information provided in Section 5 of this Act. For
23 purposes of this Act, tax incentives administered shall refer to tax incentives claimed by
24 registered business entities and qualified private individuals or corporations from IPAs/OGAs, as
25 reflected in their tax returns.

26 **SECTION 5. *Tax Incentives Information.*** - For purposes of monitoring and
27 transparency, a section shall be created in the annual Budget of Expenditures and Sources of
28 Financing (BESF), which shall be known as the Tax Incentives Information (TII) section, under
29 which tax incentives administered by the IPAs and OGAs are accounted: *Provided, That,* only
30 aggregate data related to incentives availed of by registered business entities and qualified
31 private individuals and corporations shall be reflected in the TII. The following tax incentives
32 data shall be included in the TII: (1) actual claims for at least one (1) full
33 year; (2) estimate claims immediately preceding the current year; (3) programmed for the

1 current year; and (4) projected tax incentives for the following year: *Provided*, That within two
2 (2) years from the effectivity of this Act, the DOF, BOC, BIR, IPAs and OGAs concerned are
3 mandated to reconcile and provide updated data on actual tax incentives administered in the
4 previous years to establish a comprehensive TII system.

5 **SECTION 6. *Administration, Implementation, Reporting and Tracking of Tax***
6 ***Incentives.*** – The IPAs and OGAs concerned shall be responsible for the administration and
7 implementation of tax incentives to registered business entities and qualified private individuals
8 or corporations. An annual report shall be submitted by the registered business entities and
9 qualified private individuals or corporations to the respective IPAs or OGAs, stating the amount
10 of tax incentives it availed of for the year and other relevant information that may be required,
11 such as, but not limited to, project profile, employment, investments made, and taxes, licenses
12 and fees paid. These reports, including the type and amount of tax incentives administered, shall
13 be consolidated and reflected in the TII Report to be submitted to the DOF by the IPAs or OGAs
14 within six (6) months from the deadline of filing of tax returns.

15 The DOF, together with the BIR and the BOC, shall create a Tax Incentives Tracking
16 Program of all tax incentives administered by the IPAs and OGAs, monitor the incentives
17 granted, and submit an annual TII Report to the President and to the Chairpersons of the
18 Committees on Finance and on Appropriations of the Senate and the House of Representatives,
19 respectively, as part of the annual BESF, copy furnished the Chairpersons of the Committees on
20 Ways and Means of both Houses of Congress, and the Chairpersons of the Committees on Trade
21 and Commerce of the Senate, and the Chairperson of the Committee on Trade, Commerce and
22 Entrepreneurship of the House of Representatives.

23 The Tax Incentives Tracking Program shall be used by the DOF, BIR and BOC to
24 monitor tax incentives granted by the IPAs and OGAs, project tax incentives for future years,
25 and to conduct an annual evaluation study to determine the impacts of the tax incentives on the
26 Philippine economy: *Provided*, That the monitoring function of the DOF, BIR and BOC shall
27 incorporate those registered business entities and qualified private individuals or corporations
28 whose incentives have expired in order to assess whether the same provide benefits that extend
29 beyond its prescribed duration.

30 **SECTION 7. *Non-compliance with Reportorial Requirements; Penalties.*** – The failure
31 of a registered business entity or qualified private individual or corporation to submit a complete
32 annual TII Report shall be a ground for the suspension of the incentives being enjoyed for the
33 particular taxable year. Repeated violation shall be penalized with the cancellation of the
34 registration of the registered business entity or qualified private individual or corporation, subject
35 to the Implementing Rules and Regulations (IRR) of this Act.

1 The erring registered business entity or qualified private individual or corporation shall
2 then be subject to the aforementioned penalties, the terms of and procedure for which shall be
3 prepared by the IPAs and OGAs for inclusion in the IRR of this Act, in addition to the applicable
4 penalties provided for under the National Internal Revenue Code (NIRC) of 1997, as amended.

5 The DOF shall issue to the IPAs or OGAs a notice of non-compliance with this Act and
6 its IRR, and direct the latter to explain its failure to comply and the actions it took, if any, to
7 address such failure. If the failure is attributable to the fault of a registered enterprise, the IPAs or
8 OGAs concerned shall state such fact in its explanation, attach supporting documents, and cause
9 the issuance of a notice of violation of registration terms and conditions against the registered
10 enterprises.

11 Any government official or employee who fails without justifiable reason to provide or
12 furnish data or information, as required under this Act, shall be punished by a fine equivalent to
13 that official's or employee's basic salary for a period of one (1) month to six (6) months, or by
14 suspension from government service for not more than one (1) year, or both, at the discretion of
15 the competent authority, in addition to the applicable penalties provided for in Section 11 of R.A.
16 No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees.

17 **SECTION 8. *Implementing Rules and Regulations.*** – The Secretary of Finance, in
18 coordination with the DBM, DTI and NEDA, and in consultation with BIR and BOC and
19 concerned IPAs and OGAs shall, within sixty (60) days from the effectivity of this Act,
20 promulgate rules and regulations to faithfully implement the intent and provisions of this Act:
21 *Provided*, That the failure of the Secretary of Finance to promulgate the said rules and
22 regulations shall not prevent the implementation of this Act upon its effectivity.

23 **SECTION 9. *Amending Clause.*** – All other laws, decrees, executive orders,
24 administrative orders, rules and regulations or parts thereof which are inconsistent with the
25 provisions of this Act are hereby amended or modified accordingly.

26 **SECTION 10. *Separability Clause.*** – In the event that any provision of this Act is
27 declared unconstitutional or invalid, the other parts or provisions hereof not affected shall
28 continue to be in full force and effect.

29 **SECTION 11. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
30 publication in a newspaper of general circulation in the Philippines or in the Official Gazette.

31 Approved,

FACT SHEET

Senate Bill No. _____

(In Substitution to Senate Bill Nos. 469 and 1187)

AN ACT INSTITUTING A SYSTEM FOR TAX INCENTIVES MANAGEMENT AND TRANSPARENCY, AND FOR OTHER PURPOSES

Introduced by Senators Drilon, Recto and Angara

Committee Referral : Committee on Ways and Means

Committee Chairperson : HON. SONNY ANGARA

OBJECTIVE

- To establish a system for the administration, implementation and monitoring of tax incentives granted by law to registered business entities and qualified private individuals and corporations and administered by Investment Promotion Agencies (IPAs) and other government agencies (OGAs) to improve transparency with respect to such incentives.

KEY PROVISIONS

- Creation of a Tax Incentives Information (TII) section in the annual Budget of Expenditures and Sources of Financing (BESF), from which tax incentives administered by Investment Promotion Agencies (IPAs) and other government agencies (OGAs), shall be accounted;
- Establishment of a Tax Incentives Tracking Program of all tax incentives administered; and
- Establishment of a reportorial process to the President and to Congress as part of the annual BESF.

RELATED LAWS

- Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, as amended;
- Republic Act No. 7916, otherwise known as the Special Economic Zone of 1995, as amended;

- Other Investment laws creating various Investment Promotion Agencies (IPAs) including R.A. 7227, as amended – Bases Conversion Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), Poro Point Management Corporation (PPMC) and Bataan Technology Park, Inc. (BTPI); R.A. 7922 – Cagayan Economic Zone Authority (CEZA); R.A. 7903 – Zamboanga City Special Economic Zone Authority (ZCSESA); P.D. 538 – Phividec Industrial Authority (PIA); R.A. 9490 – Aurora Pacific Economic Zone and Freeport Authority (APECO), as amended; R.A. 9728 – Authority of the Freeport Area of Bataan (AFAB); R.A. 9593 – Tourism Infrastructure and Enterprise Zone Authority (TIEZA).

MEETINGS CONDUCTED

- February 12, 2014 - Public Hearing
- May 28, 2014 - Public Hearing
- June 5, 2014 - Technical Working Group (TWG) Meeting
- August 12, 2014 - Public Hearing
- February 2, 2015 - Public Hearing

HOUSE COUNTERPART MEASURE(S)

- HBN 2492, entitled, “AN ACT ENHANCING THE CURRENT TAX SYSTEM BY IMPLEMENTING MEASURES THAT ENSURE TRANSPARENCY IN THE MANAGEMENT AND ACCOUNTING OF TAX INCENTIVES GRANTED TO GOVERNMENT AND NONGOVERNMENT ENTITIES AND FOR OTHER PURPOSES” (Reps. Maria Leonor Robredo, Gabriel Quisumbing, Christopher Co, Rodel Batocabe, Victoria Noel, Ging Suansing, and Angelina Tan)
- Pending with the House Committee on Ways and Means (Referred on August 28, 2013)
- Public Hearings Conducted on September 9, 2014; November 25, 2014; and January 26, 2015