

SENATE

S. No. 2684

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Introduced by Senator JUAN MIGUEL F. ZUBIRI

AN ACT

ENHANCING PHILIPPINE TAX INCENTIVES POLICY AND ADMINISTRATION, AMENDING FOR THE PURPOSE SECTIONS 27, 28, 32, 106, 108, 109, 112, 292, 293, 294, 295, 296, 297, 300, 301, 309, AND 311, AND ADDING NEW SECTIONS 295-A AND 296-A IN THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Republic Act No. 11534 or the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act was enacted in 2021 to revitalize and stimulate economic growth following the COVID-19 pandemic and to enhance the Philippines' attractiveness as an investment destination. It also introduced long overdue reforms to rationalize the fiscal incentives regime in the country, making it transparent, performance-based, targeted, and time-bound.

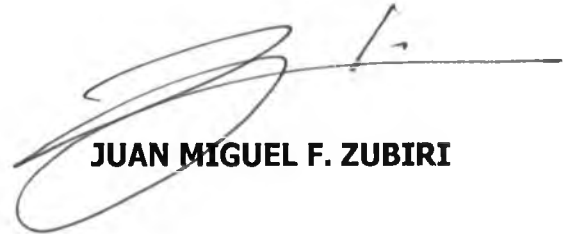
The Fiscal Incentives Review Board (FIRB) reported that as of 2023, the CREATE Act has incentivized 1,011 registered projects, with an estimated total committed investment capital of PHP 1.07 trillion. Despite these gains, there remains significant room for improvement, particularly in ensuring consistency in the law and its implementing rules and regulations. Additionally, delays and unexplained denials of Value Added Tax (VAT) refund claims raise transparency and ease of doing business issues. These problems potentially undermine CREATE Act's intended benefits and may dissuade existing foreign investors and discourage new ones from even considering the Philippines.

To address these issues, this bill aims to enhance the Philippine tax incentive regime, making it more investment-friendly, globally competitive and predictable by introducing the following amendments:

1. Enhanced income-based incentive package of up to 30 years, extended duration of the enhanced deductions (ED) regime from 5 years to 10 years for domestic market enterprises for investment promotion agency (IPA)-approved projects, and immediate availment of the special corporate income tax (SCIT) or ED at the start of commercial operations.
2. Reduced corporate income tax (CIT) rate of 20% for registered business enterprises (RBEs) under the ED regime;
3. Expansion of the ED regime to provide additional relief to RBEs by: (i) doubling the additional power expense deduction; (ii) allowing an additional deduction for expenses related to approved trade fairs, exhibitions, and missions, and (ii) changing the reckoning period of Net Operating Loss Carry Over (NOLCO) to "last year of the project's income tax holiday period (ITH);

4. Simplification of local taxation rules for all RBEs by: (i) imposing a uniform RBE local tax rate fixed at two percent (2%) based on gross sales in lieu of all local taxes, fees, and charges during the ITH and ED period; and (ii) imposition of the RBE local tax after the duration of the SCIT; and
5. Alternative working arrangements as a business model for RBEs in the IT-Business Process Outsourcing or other similar sectors.

To be able to establish clearer policies and properly define taxpayer liabilities, the passage of this measure is earnestly sought.



JUAN MIGUEL F. ZUBIRI

24 MAY 16 A8:17

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ENHANCING PHILIPPINE TAX INCENTIVES POLICY AND ADMINISTRATION, AMENDING FOR THE PURPOSE SECTIONS 27, 28, 32, 106, 108, 109, 112, 292, 293, 294, 295, 296, 297, 300, 301, 309, AND 311, AND ADDING NEW SECTIONS 295-A AND 296-A IN THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

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

Section 1. Section 27 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 27. Rates of Income [t]Tax on Domestic Corporations. –

(A) In General. – Except as otherwise provided in this Code, an income tax rate of twenty-five percent (25%) effective July 1, 2020, is hereby imposed upon the taxable income derived during each taxable year from all sources within and without the Philippines by every corporation, as defined in Section 22(B) of this Code and taxable under this Title as a corporation, organized in, or existing under the laws of the Philippines[-]:

"Provided, That corporations with net taxable income not exceeding Five million pesos (P5,000,000.00) and with total assets not exceeding One hundred million pesos (P100,000,000.00), excluding land on which the particular business entity's office, plant, and equipment are situated during the taxable year for which the tax is imposed, shall be taxed at twenty percent (20%).

"PROVIDED, FURTHER, THAT REGISTERED DOMESTIC MARKET ENTERPRISES UNDER THE ENHANCED DEDUCTIONS REGIME PROVIDED IN SECTION 294(C) OF THIS CODE, IS HEREBY IMPOSED A TAX RATE EQUIVALENT TO TWENTY PERCENT (20%) UPON THEIR TAXABLE INCOME DERIVED FROM REGISTERED PROJECTS OR ACTIVITIES DURING EACH TAXABLE YEAR."

1 "xxx"

2 **SEC. 2.** Section 28 of the National Internal Revenue Code of 1997, as amended, is
3 hereby further amended to read as follows:

4 "SEC. 28. *Rates of Income Tax on Foreign Corporations.* –

5 "(A) *Tax on Resident Foreign Corporations.* –

6 "(1) *In General.* – Except as otherwise provided in this Code, a
7 corporation organized, authorized, or existing under the laws of any foreign
8 country, engaged in trade or business within the Philippines, shall be subject
9 to an income tax equivalent to twenty-five percent (25%) of the taxable
10 income derived in the preceding taxable year from all sources within the
11 Philippines effective July 1, 2020~~[-]~~:

12 **"PROVIDED, THAT REGISTERED DOMESTIC MARKET**
13 **ENTERPRISES UNDER THE ENHANCED DEDUCTIONS REGIME**
14 **PROVIDED IN SECTION 294(C) OF THIS CODE, IS HEREBY IMPOSED**
15 **A TAX RATE EQUIVALENT TO TWENTY PERCENT (20%) UPON THEIR**
16 **TAXABLE INCOME DERIVED FROM REGISTERED PROJECTS OR**
17 **ACTIVITIES DURING EACH TAXABLE YEAR."**

18 xxx"

19
20 **SEC. 3.** Section 32 of the National Internal Revenue Code of 1997, as amended, is
21 hereby further amended to read as follows:

22 "SEC 32. *Gross Income.* –

23 (A) *General Definition.*– xxx

24 (B) *Exclusion from Gross Income.* – The following items shall not be
25 included in **THE** gross income and shall be exempt from taxation
26 under this Title:

27 (1) xxx;

28 (2) xxx;

29 (3) xxx;

30 (4) xxx;

31 (5) *Income Exempt under Treaty.* - Income of any kind, to the
32 extent required by any treaty obligation, **INCLUDING**
33 **DOUBLE TAXATION AGREEMENTS ENTERED INTO BY**
34 **THE PRESIDENT WITH ECONOMIES AND**
35 **ADMINISTRATIVE REGIONS,** binding upon the
36 Government of the Philippines."

(6) xxx; and

(7) xxx."

SEC. 4. Section 106 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC 106. *Value-Added Tax on Sale of Goods or Properties.* –

"(A) *Rate and Base of Tax.* – xxx.

"(1) The term '*goods or properties*' xxx;

"(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales.* – The term 'export sales' means:

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

~~[(3)]~~(2) Sale of raw materials, ~~[or]~~ packaging materials **AND OTHER GOODS** to a non-resident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;

~~[(4)]~~**(3)** Sale of raw materials, ~~[or]~~ packaging materials **AND OTHER GOODS** to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;

~~[(5)]~~~~Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws; and]~~

~~[(6)]~~**(4)** The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations: *Provided, That* the goods,

supplies, equipment and fuel shall be used for international shipping or air transport operations; **AND**

(7) SALE OF RAW MATERIALS, PACKAGING MATERIALS AND OTHER GOODS TO EXPORT-ORIENTED ENTERPRISE WHOSE EXPORT SALES IS AT LEAST TEN BILLION PESOS (PHP10,000,000,000.00), OR ITS FOREIGN CURRENCY EQUIVALENT, ON AVERAGE FOR THE PRECEDING THREE TAXABLE YEARS AND WHOSE EXPORT SALES EXCEED SEVENTY PERCENT (70%) OF TOTAL ANNUAL PRODUCTION DULY VERIFIED BY INVESTMENT PROMOTION AGENCY, OR THE BOARD OF INVESTMENT.

~~"[Provided, That subparagraphs (3), (4), and (5) hereof shall be subject to the twelve percent (12%) value added tax and no longer be considered export sales subject to zero percent (0%) VAT rate upon satisfaction of the following conditions:~~

~~(1) The successful establishment and implementation of an enhanced VAT refund system that grants refunds of creditable input tax within ninety (90) days from the filing of the VAT refund application with the Bureau: *Provided*, That, to determine the effectivity of item no. 1, all applications filed from January 1, 2018 shall be processed and must be decided within ninety (90) days from the filing of the VAT refund application; and~~

~~(2) All pending VAT refund claims as of December 31, 2017 shall be fully paid in cash by December 31, 2019.]"~~

"Provided, That the Department of Finance (**DOF**) shall establish a VAT refund center in the Bureau of Internal Revenue (BIR) and in the Bureau of Customs (BOC) that will handle the processing and granting of cash refunds of creditable input tax.

"An amount equivalent to five percent (5%) of the total VAT collection of the BIR and the BOC from the immediately preceding year shall be automatically appropriated annually and shall be treated as a special account in the General Fund or as trust receipts for the purpose

1 of funding claims for VAT refund: *Provided*, That any unused fund, at
2 the end of the year shall revert to the General Fund:

3 " *Provided, further*, That the BIR and the BOC shall be required
4 to submit to the Congressional Oversight Committee on the
5 Comprehensive Tax Reform Program (COCCTRP) a quarterly report of
6 all pending claims for refund and any unused funds.

7 (b) Sales to persons or entities whose exemption under special
8 laws or international agreements to which the Philippines is a signatory
9 effectively subjects such sales to zero rate.

10
11 **SEC. 5.** Section 108 of the National Internal Revenue Code of 1997, as amended,
12 is hereby further amended to read as follows:

13 "SEC 108. *Value-added Tax on Sale of Services and Use or Lease of*
14 *Properties.* –

15 "(A) *Rate and Base of Tax.* – xxx

16 "(B) *Transactions Subject to Zero Percent (0%) Rate.* – The following
17 services performed in the Philippines by VAT-registered persons shall
18 be subject to zero percent (0%) rate:

19 (1) Processing, manufacturing or repacking goods for other
20 persons doing business outside the Philippines which goods
21 are subsequently exported, where the services are paid for
22 in acceptable foreign currency and accounted for in
23 accordance with the rules and regulations of the BSP;

24 (2) Services other than those mentioned in the preceding
25 paragraph, rendered to a person engaged in business
26 conducted outside the Philippines or to a non-resident
27 person not engaged in business who is outside the
28 Philippines when the services are performed, the
29 consideration for which is paid for in acceptable foreign
30 currency and accounted for in accordance with the rules
31 and regulations of the BSP;

32 (3) Services rendered to persons or entities whose exemption
33 under special laws or international agreements to which the
34 Philippines is a signatory effectively subjects the supply of
35 such services to zero percent (0%) rate;

- 1 (4) Services rendered to persons engaged in international
2 shipping or international air transport operations, including
3 leases of property for use thereof: *Provided*, That these
4 services shall be exclusive for international shipping or air
5 transport operations;
- 6 (5) Services performed by subcontractors and/or contractors in
7 processing, converting, or manufacturing goods for an
8 enterprise whose export sales exceed seventy percent
9 (70%) of total annual production;
- 10 (6) Transport of passengers and cargo by domestic air or sea
11 vessels from the Philippines to a foreign country; and
- 12 (7) Sale of power or fuel generated through renewable sources
13 of energy such as, but not limited to, biomass, solar, wind,
14 hydropower, geothermal, ocean energy, and other
15 emerging energy sources using technologies such as fuel
16 cells and hydrogen fuels.

17
18 XXX

19
20 **(10) SERVICES PERFORMED BY SUBCONTRACTORS**
21 **AND/OR CONTRACTORS IN PROCESSING,**
22 **CONVERTING, OR MANUFACTURING GOODS FOR AN**
23 **ENTERPRISE WHOSE EXPORT SALES IS AT LEAST**
24 **TEN BILLION PESOS (PHP10,000,000,000.00), OR**
25 **ITS FOREIGN CURRENCY EQUIVALENT, ON**
26 **AVERAGE FOR THE PRECEDING THREE TAXABLE**
27 **YEARS AND WHOSE EXPORT SALES EXCEED**
28 **SEVENTY PERCENT (70%) OF TOTAL ANNUAL**
29 **PRODUCTION DULY VERIFIED BY INVESTMENT**
30 **PROMOTION AGENCY, OR THE BOARD OF**
31 **INVESTMENTS:**

32
33 ~~【Provided, That subparagraphs (B)(1) and (B)(5) hereof shall~~
34 ~~be subject to the twelve percent (12%) value-added tax and no longer~~
35 ~~be subject to zero percent (0%) VAT rate upon satisfaction of the~~
36 ~~following conditions:~~

1 ~~(1) The successful establishment and implementation of an~~
2 ~~enhanced VAT refund system that grants refunds of~~
3 ~~creditable input tax within ninety (90) days from the filing~~
4 ~~of the VAT refund application with the Bureau: *Provided,*~~
5 ~~That, to determine the effectivity of item no. 1, all~~
6 ~~applications filed from January 1, 2018 shall be processed~~
7 ~~and must be decided within ninety (90) days from the filing~~
8 ~~of the VAT refund application; and~~

9 ~~(2) All pending VAT refund claims as of December 31, 2017~~
10 ~~shall be fully paid in cash by December 31, 2019:]~~

11 *Provided,* That the ~~[Department of Finance]~~ **DOF** shall
12 establish a VAT refund center in the ~~[Bureau of Internal Revenue]~~ BIR
13 and in the ~~[Bureau of Customs]~~ BOC that will handle the processing
14 and granting of cash refunds of creditable input tax.

15 An amount equivalent to five percent (5%) of the total value-
16 added tax collection of the BIR and the BOC from the immediately
17 preceding year shall be automatically appropriated annually and shall
18 be treated as a special account in the General Fund or as trust receipts
19 for the purpose of funding claims for VAT Refund: *Provided,* That any
20 unused fund, at the end of the year shall revert to the General Fund:

21 *Provided, further,* That the BIR and the BOC shall be required
22 to submit to the COCCTRP a quarterly report of all pending claims for
23 refund and any unused fund.

24 **SEC. 6.** Section 109 of the National Internal Revenue Code of 1997, as amended,
25 is hereby further amended to read as follows:

26 "SEC. 109. *Exempt Transactions.* — (1) Subject to the provisions of Subsection (2)
27 hereof, the following transactions shall be exempt from the value-added tax:

28 **"(DD) IMPORTATION OF RAW MATERIALS, PACKAGING MATERIALS**
29 **AND GOODS OF EXPORT-ORIENTED ENTERPRISE WHOSE GROSS**
30 **ANNUAL EXPORT SALES IS AT LEAST TEN BILLION PESOS**
31 **(PHP10,000,000.00), OR ITS FOREIGN CURRENCY EQUIVALENT, ON**
32 **AVERAGE FOR THE PRECEDING THREE TAXABLE YEARS DULY VERIFIED**
33 **BY THE BOARD OF INVESTMENTS."**

1 **SEC. 7.** Section 112 of the National Internal Revenue Code of 1997, as amended,
2 is hereby further amended to read as follows:

3 "SEC. 112. *Refunds of Input Tax.* –

4 "(A) *Zero-rated or Effectively Zero-rated Sales.* – xxx

5 "(B) *Cancellation of VAT Registration.* – xxx

6 "(C) *Period within which the Refund of Input Taxes shall be*
7 *Made.* - In proper cases, the Commissioner shall grant a refund for
8 creditable input taxes within ninety (90) days from the date of
9 submission of invoices and other documents **PRESCRIBED BY THE**
10 **COMMISSIONER, WHICH SHALL BE DEEMED EXHAUSTIVE**
11 **AND SHALL BE LIMITED TO THOSE REQUIRED BY LAW,** in
12 support of the application filed in accordance with Subsections (A) and
13 (B) hereof: *Provided,* That for this purpose, the VAT refund claims shall
14 be classified into low-, medium-, and high-risk claims, with the risk
15 classification based on **THE** amount of VAT refund claim, tax
16 compliance history, frequency of filing VAT refund claims, [~~among~~
17 ~~others:~~] **AND OTHER CRITERIA BASED ON REGULAR PUBLIC**
18 **CONSULTATION: PROVIDED, FURTHER, THAT THE BIR SHALL**
19 **ESTABLISH AN EXPEDITED REFUND LANE FOR LOW-RISK**
20 **CLAIMS: Provided, [further,] FURTHERMORE,** That medium- and
21 high-risk claims shall be subject to audit or other verification processes
22 in accordance with the[**BIR's** national audit program for the relevant
23 year: *Provided, finally,* That should the Commissioner find that the
24 grant of refund is not proper, the Commissioner must state in writing
25 the legal and factual basis for the denial within the ninety (90)-day
26 period **AND PROVIDE THE TAXPAYER AT LEAST FIVE (5) DAYS**
27 **TO FILE AND SUBSTANTIATE A REQUEST FOR**
28 **RECONSIDERATION. THE DENIAL SHALL NOT BE FINAL**
29 **UNLESS THE TAXPAYER HAS BEEN PROVIDED THE**
30 **OPPORTUNITY TO REQUEST FOR A RECONSIDERATION.**
31 **PROVIDED, FINALLY, THAT THE TAXPAYER MAY SUBMIT**
32 **SUPPORTING DOCUMENTS AS MAY BE NECESSARY TO**
33 **ADDRESS THE FINDINGS OF THE COMMISSIONER AND IN**
34 **SUPPORT OF THE REQUEST FOR RECONSIDERATION.**
35

1 **THE REFUND SHALL BE GRANTED IF THE VALIDITY AND**
2 **EXISTENCE OF THE ZERO-RATED SALES AND RELATED**
3 **PURCHASES IN ACCORDANCE WITH THE DOCUMENTS**
4 **SUBMITTED HAVE BEEN ESTABLISHED. IT IS PROHIBITED TO**
5 **ASSESS AND/OR DEDUCT POSSIBLE DEFICIENCY VAT**
6 **ASSESSMENT ON THE REFUND CLAIM.**

7
8 “In case of full or partial denial of the claim for tax refund, or
9 the failure on the part of the Commissioner to act on the application
10 within the period prescribed **[]HEREIN**, the taxpayer affected may,
11 within thirty (30) days from the receipt of the decision denying the claim
12 or after the expiration of the ninety (90)-day period, **IN CASES WHERE**
13 **NO ACTION IS MADE BY THE BIR**, appeal the decision with the
14 Court of Tax Appeals: *Provided, however,* That failure on the part of any
15 official, agent, or employee of the ~~[Bureau of Internal Revenue]~~ **BIR** to
16 act on the application within **THE** ninety (90)-day period shall be
17 punishable under Section 269 of this Code.

18 “(D) *Manner of Giving Refund.* - Refunds shall be made upon warrants
19 drawn by the Commissioner or by his duly authorized representative without
20 the necessity of being countersigned by the Chairperson, Commission on Audit
21 **(COA)**, the provisions of the Administrative Code of 1987 to the contrary
22 notwithstanding: *Provided,* That refunds under this paragraph shall be subject
23 to post audit by the ~~[Commission on Audit]~~ **COA** following the risk-based
24 classification ~~[above]~~ **HEREIN** described: **PROVIDED, FURTHER, THAT, IN**
25 **CASE OF FULL OR PARTIAL DENIAL OF THE CLAIM FOR TAX REFUND,**
26 **THE COMMISSIONER SHALL PREPARE CERTIFIED COPIES OF ALL**
27 **DOCUMENTS SUBMITTED BY THE TAXPAYER TO BE TRANSMITTED TO**
28 **THE COMMISSION ON AUDIT FOR POST AUDIT PURPOSES AND**
29 **SHALL RETURN ALL DOCUMENTS SUBMITTED TO SUPPORT THE**
30 **CLAIM FOR REFUND TO THE TAXPAYER NO LATER THAN TEN (10)**
31 **DAYS FROM ISSUANCE OF THE DECISION FOR THE FILING OF AN**
32 **APPEAL WITH THE COURT OF TAX APPEALS, IF THE TAXPAYER**
33 **DEEMED WARRANTED. PROVIDED, FURTHERMORE, THAT A**
34 **SIMPLIFIED AND STREAMLINED TAX REFUND SYSTEM FOR**
35 **REGISTERED BUSINESS ENTERPRISES UNDER TITLE XIII OF THIS**
36 **CODE SHALL BE ESTABLISHED IN CONSULTATION WITH THE COA**

1 **AND THE INVESTMENT PROMOTION AGENCIES (IPAs).**
2 **NOTWITHSTANDING RELEVANT LAWS, RULES, AND REGULATIONS**
3 **ON DATA PRIVACY AND CONFIDENTIALITY OF TAXPAYER**
4 **INFORMATION, THE BIR SHALL PUBLISH STATISTICS ON THE**
5 **VOLUME, PROCESSING TIME, AND RATE OF APPROVAL OF REFUND**
6 **CLAIMS, AND OTHER RELEVANT STATISTICS:** *Provided, [further]*
7 ***FINALLY,*** That in case of disallowance by the [~~Commission on Audit~~] **COA,**
8 only the taxpayer shall be liable for the disallowed amount without prejudice
9 to any administrative liability on the part of any **OFFICER OR** employee of the
10 [~~Bureau of Internal Revenue~~] **BIR** who may be found to be grossly negligent
11 in the grant of refund.

12 **"THE EXPEDITED REFUND MECHANISM SHALL REQUIRE**
13 **MINIMAL DOCUMENTARY REQUIREMENTS OR REDUCED**
14 **PROCESSING TIME FROM TAXPAYERS WHO QUALIFY AS LOW-RISK,**
15 **SUBJECT TO THE RULES AND REGULATIONS PRESCRIBED BY THE**
16 **BIR."**

17 **SEC. 8.** Section 113 of the National Internal Revenue Code of 1997, as amended,
18 is hereby further amended to read as follows:

19 "SEC.113. Invoicing and Accounting Requirements for VAT-Registered Persons
20 (D)

21 (3) If a VAT-registered person issues a VAT invoice to another VAT-registered
22 person with lacking information required under subsection (B) hereof, the issuer
23 shall be liable for non-compliance with the invoicing requirement, however, the
24 VAT shall still be allowed to be used as input tax credit on the part of the purchaser
25 pursuant to Section 110 of this Code if the lacking information do not pertain to
26 the amount of sales, amount of VAT, name and TIN of both the purchaser and
27 issuer/seller, description of goods or nature of services, and the date of the
28 transaction; **PROVIDED THE DESCRIPTION OF GOODS OR NATURE OF**
29 **SERVICES MAY BE ADDRESSED IN A SEPARATE TRACEABLE**
30 **SUPPLEMENTARY DOCUMENTS; PROVIDED FURTHER THE ISSUER OR A**
31 **DULY AUTHORIZED PERSON SHALL BE ALLOWED TO MANUALLY ADD OR**
32 **REVISE THE LACKING OR ERRONEOUS INFORMATION ON INVOICES,**
33 **INCLUDING INVOICES ISSUED USING COMPUTERIZED ACCOUNTING**

1 SYSTEM, WITHOUT PRIOR NOTIFICATION TO OR APPROVAL FROM THE
2 BIR.

3 **(4) IF A VAT-REGISTERED PERSON ISSUES A VAT INVOICE FOR ZERO-**
4 **RATED SALES OR EXEMPT SALES WITH LACKING INFORMATION**
5 **REQUIRED UNDER SUBSECTION (B) HEREOF, THE ISSUER SHALL BE**
6 **LIABLE FOR NON-COMPLIANCE WITH THE INVOICING REQUIREMENT,**
7 **HOWEVER, THE INVOICE SHALL STILL BE VALID FOR THE PURPOSE OF**
8 **ESTABLISHING ZERO-RATED OR EXEMPT SALES IF THE LACKING**
9 **INFORMATION DO NOT PERTAIN TO THE AMOUNT OF SALES, NAME AND**
10 **TIN, WHERE APPLICABLE, OF BOTH THE PURCHASER AND**
11 **ISSUER/SELLER, DESCRIPTION OF GOODS OR NATURE OF SERVICES,**
12 **AND THE DATE OF TRANSACTION; PROVIDED THE DESCRIPTION OF**
13 **GOODS OR NATURE OF SERVICES MAY BE ADDRESSED IN A SEPARATE**
14 **TRACEABLE SUPPLEMENTARY DOCUMENTS; PROVIDED FURTHER THE**
15 **ISSUER OR A DULY AUTHORIZED PERSON SHALL BE ALLOWED TO**
16 **MANUALLY ADD OR REVISE THE LACKING OR ERRONEOUS**
17 **INFORMATION ON INVOICES, INCLUDING INVOICES ISSUED USING**
18 **COMPUTERIZED ACCOUNTING SYSTEM, WITHOUT PRIOR**
19 **NOTIFICATION TO OR APPROVAL FROM THE BIR.”**

20 **SEC. 9.** Section 292 of the National Internal Revenue Code of 1997, as amended,
21 is hereby further amended to read as follows:

22 “SEC. 292. *Extent of Authority to Grant Tax Incentives.* – The ~~{Fiscal~~
23 ~~Incentives Review Board, or the}~~ Investment Promotion Agencies, ~~{under a~~
24 ~~delegated authority from}~~ **OR** the Fiscal Incentives Review Board, **AS THE**
25 **CASE MAY BE**, shall grant the appropriate tax incentives provided in this Title ~~{to~~
26 ~~be granted}~~ to registered business enterprises only to the extent of their
27 approved registered project or activity under the Strategic Investment Priority
28 Plan.

29 **“MATTERS PENDING WITH THE FISCAL INCENTIVES REVIEW**
30 **BOARD INCLUDING APPLICATIONS FOR REGISTRATION, REQUESTS**
31 **FOR RECONSIDERATION AND APPEAL, SHALL BE IMMEDIATELY**
32 **REFERRED BACK TO THE CONCERNED INVESTMENT PROMOTION**
33 **AGENCY FOR PROPER AND IMMEDIATE RESOLUTION.”**

1 **SEC. 10.** Section 293 of the National Internal Revenue Code of 1997, as amended,
2 is hereby further amended to read as follows:

3 "Sec. 293. *Definitions.* – When used in this Title:

4 "xxx

5 **(F) *Freeport zones*** refer to an isolated and policed [area] **AREAS**
6 adjacent to a port of entry, which shall be operated and managed as a separate
7 customs territory **FOR VAT AND CUSTOMS DUTY PURPOSES, SUBJECT**
8 **TO THE PROVISIONS OF SECTIONS 295(D) AND (E) AND THE LAST**
9 **PARAGRAPH OF SECTIONS 296 and 296-A OF THIS CODE**, to ensure
10 free flow or movement of goods, except those expressly prohibited by law,
11 within, into, and exported out of the freeport zone where imported goods may
12 be unloaded for immediate transshipment or stored, repacked, sorted, mixed,
13 or otherwise manipulated without being subject to import duties. However,
14 movement of these imported goods from the free-trade area to a non-free
15 trade area in the country shall be subject to all applicable internal revenue
16 taxes and duties: *Provided*, That for the freeport to qualify as a separate
17 customs territory, a freeport shall have a permanent customs control or
18 customs office at its perimeter: **PROVIDED, FURTHER, THAT POINTS OF**
19 **EXIT OF GOODS FROM THE TERRITORY OF THE FREEPORT ZONES TO**
20 **THE OTHER PARTS OF THE PHILIPPINE TERRITORY SHALL BE**
21 **CONSIDERED PORTS OF ENTRY AND POLICED AS SUCH, AS MAY BE**
22 **DETERMINED BY THEBOC;**

23 **"(G) *INVESTMENT CAPITAL*** REFERS TO THE VALUE OF
24 **INVESTMENT INDICATED IN PHILIPPINE CURRENCY, THAT SHALL**
25 **BE USED TO CARRY OUT A REGISTERED PROJECT OR ACTIVITY SUCH**
26 **AS PRE-OPERATING EXPENSES, COST OF LAND AND LAND**
27 **IMPROVEMENTS, BUILDINGS, LEASEHOLD IMPROVEMENTS,**
28 **WORKING CAPITAL, AND MACHINERY AND EQUIPMENT,**
29 **INVENTORY AND OTHER CURRENT AND NON-CURRENT ASSETS;**

30 **"(H) *Investment Promotion Agencies (IPAs)*** refer to government
31 entities created by law, executive order, decree, or other issuances, in charge
32 of promoting investments, granting and administering tax and non-tax
33 incentives, and overseeing the operations of the different economic zones and
34 freeports in accordance with their respective special laws. These include the
35 Board of Investments (BOI), ~~[Regional Board of Investments—Autonomous~~

1 ~~Region in Muslim Mindanao (RBOI — ARMM)]~~ **BANGSAMORO BOARD OF**
2 **INVESTMENTS (BBOI), BANGSAMORO ECONOMIC ZONE AUTHORITY**
3 **(BEZA)**, Philippine Economic Zone Authority (PEZA), Bases Conversion and
4 Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA),
5 Clark Development Corporation (CDC), John Hay Management Corporation
6 (JHMC), Poro Point Management Corporation (PPMC), Cagayan Special
7 Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone and
8 Freeport Authority (ZCSEZA), PHIVIDEC Industrial Authority (PIA), Aurora
9 Pacific Economic Zone Authority (APECO), Authority of the Freeport Area of
10 Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA),
11 and all other similar existing authorities or that may be created by law unless
12 otherwise specifically exempted from the coverage of this Code.”

13 xxx.”

14 **SEC. 11.** Section 294 of the National Internal Revenue Code of 1997, as amended,
15 is hereby further amended to read as follows:

16 “SEC. 294. *Incentives.* – Subject to the conditions and period of
17 availment in Sections 295, 296, **AND 296-A**, respectively, the following types
18 of tax incentives may be granted to registered projects or activities:

19 “(A) *Income Tax Holiday (ITH)*;

20 “(B) *Special Corporate Income Tax (SCIT) Rate.* – For export
21 enterprise, a tax rate equivalent to 5% [effective July 1, 2020,] based on the
22 gross income earned, in lieu of all national and local taxes, **INCLUDING**
23 **LOCAL FEES AND CHARGES, EXCEPT REAL PROPERTY TAX ON LAND**
24 **OWNED BY DEVELOPERS.**

25 “xxx

26 “(C) *Enhanced Deductions (ED) **REGIME.*** – For [export-enterprise
27 and] domestic market enterprise, the following may be allowed as deductions:

28 “(1) xxx;

29 “(2) xxx;

30 “(3) xxx;

31 “(4) xxx;

32 “(5) xxx;

33 “(6) **ONE HUNDRED PERCENT (100%)** [Fifty percent (50%)]
34 additional deduction on power expense incurred in the taxable year;

1 “(7) *Deduction for reinvestment allowance to manufacturing*
2 **AND TOURISM industry.** – When a manufacturing **OR TOURISM**
3 registered business enterprise reinvests its undistributed profit or
4 surplus in any of the projects or activities listed in the Strategic
5 Investment Priority Plan, the amount reinvested to a maximum of fifty
6 percent (50%) shall be allowed as a deduction from its taxable income
7 within a period of five (5) years from the time of such reinvestment;
8 ~~{and}~~

9 **“(8) ONE HUNDRED PERCENT (100%) ADDITIONAL**
10 **DEDUCTION ON EXPENSES RELATING TO TRADE FAIRS,**
11 **EXHIBITIONS OR TRADE MISSIONS; AND**

12 ~~“(8)“(9)~~ *Enhanced Net Operating Loss Carry-Over (NOLCO).* –
13 The net operating loss of the registered project or activity during the
14 first three (3) years from the start of commercial operation, which had
15 not been previously offset as deduction from gross income, may be
16 carried over as deduction from gross income within the next five (5)
17 consecutive taxable years immediately following the **LAST** year of
18 ~~{such loss}~~ **OF THE INCOME TAX HOLIDAY ENTITLEMENT**
19 **PERIOD OF THE PROJECT.**

20 “(D) Duty exemption on importation of capital equipment, raw
21 materials, spare parts, or accessories; ~~{and}~~

22 “(E) ~~[]~~VAT exemption on importation and VAT zero-rating on local
23 purchases~~{.}~~;

24 **“(F) REGISTERED BUSINESS ENTERPRISE LOCAL TAX. – IN**
25 **LIEU OF ALL LOCAL TAXES, FEES, AND CHARGES IMPOSED BY THE**
26 **LOCAL GOVERNMENT UNIT (LGU), THERE SHALL BE IMPOSED A**
27 **REGISTERED BUSINESS ENTERPRISE LOCAL TAX AT THE RATE OF**
28 **TWO PERCENT (2%) BASED ON THE GROSS SALES OF REGISTERED**
29 **BUSINESS ENTERPRISES DURING THE PERIOD OF THEIR**
30 **AVAILMENT OF INCOME TAX HOLIDAY AND ENHANCED DEDUCTION**
31 **AS PROVIDED UNDER SECTION 294(A) AND (C) OF THIS CODE,**
32 **RESPECTIVELY, EXCEPT DURING THE PERIOD OF SPECIAL**
33 **CORPORATE INCOME TAX, OR UNLESS A LOWER RATE IS IMPOSED**
34 **OR AN EXEMPTION IS GRANTED BY THE CONCERNED LGU OR OTHER**

1 **LAWS: *PROVIDED*, THAT THE REGISTERED BUSINESS ENTERPRISE**
2 **LOCAL TAX SHALL NOT INCLUDE REAL PROPERTY TAX ON LAND**
3 **OWNED BY DEVELOPERS; AND**

4 **"(G) *SPECIAL VISAS*. – AN IPA IS HEREBY AUTHORIZED TO**
5 **ISSUE THE FOLLOWING SPECIAL VISAS:**

6 **"(1) SPECIAL SKILLS VISA FOR FOREIGN NATIONALS**
7 **WHO POSSESS HIGHLY SPECIALIZED SKILLS AS**
8 **DETERMINED TO BE NECESSARY OR STRATEGIC BY THE**
9 **CONCERNED IPA IN THE OPERATION OF REGISTERED**
10 **BUSINESS ENTERPRISES; AND**

11 **"(2) EXECUTIVE WORKING VISA FOR FOREIGN**
12 **NATIONALS HOLDING EXECUTIVE POSITIONS, INCLUDING**
13 **PRESIDENTS, VICE-PRESIDENTS, TREASURERS, MANAGERS,**
14 **OR THEIR EQUIVALENTS, AND TO NON-RESIDENT ALIENS**
15 **EMPLOYED IN SUPERVISORY, TECHNICAL, AND ADVISORY**
16 **POSITIONS.**

17 **"THE CONCERNED IPA AND THE BUREAU OF IMMIGRATION**
18 **SHALL FORMULATE THE NECESSARY GUIDELINES FOR THE**
19 **SUBMISSION AND APPROVAL OF APPLICATIONS, AS WELL AS THE**
20 **MONITORING OF VISA GRANTEES UNDER THIS PARAGRAPH:**
21 ***PROVIDED*, THAT THE VISA APPLICATION SHALL BE SPONSORED BY**
22 **REGISTERED BUSINESS ENTERPRISES THAT REQUIRE THE**
23 **EXPERTISE OF THE APPLICANTS."**

24 **SEC. 12.** Section 295 of the National Internal Revenue Code of 1997, as amended,
25 is hereby further amended to read as follows:

26 **"SEC. 295. *Conditions of Availment*. – The **AVAILMENT OF** tax**
27 **incentives in the preceding Section shall be governed by the following rules**
28 **AT THE OPTION OF THE REGISTERED BUSINESS ENTERPRISE:**

29 ~~["(A) The income tax holiday shall be followed by the Special~~
30 ~~Corporate Income Tax Rate or Enhanced Deductions;]~~

31 **(A) FOR REGISTERED EXPORT ENTERPRISES:**

32 **(1) AN INCOME TAX HOLIDAY SHALL BE FOLLOWED**
33 **BY A SPECIAL CORPORATE INCOME TAX; OR**

34 **(2) A SPECIAL CORPORATE INCOME TAX**
35 **IMMEDIATELY AT THE START OF COMMERCIAL OPERATIONS.**

(B) FOR REGISTERED DOMESTIC MARKET ENTERPRISES:

(1) AN INCOME TAX HOLIDAY SHALL BE FOLLOWED BY ENHANCED DEDUCTIONS; OR

(2) AN ENHANCED DEDUCTIONS IMMEDIATELY AT THE START OF COMMERCIAL OPERATIONS.

PROVIDED, THAT THE ELECTED INCENTIVE PACKAGE SHALL BE IRREVOCABLE FOR THE ENTIRE DURATION OF ENTITLEMENT TO SUCH INCENTIVES UNDER SECTION 296 OF THIS CODE.

~~"[(B)](C) [At the option of the export enterprise, the Special Corporate Income Tax rate or enhanced deductions shall be granted: *Provided,* That in no case shall the enhanced deductions be granted simultaneously with the Special Corporate Income Tax.]~~

"The following conditions for the availment of each enhanced ~~{deductions}~~ **DEDUCTION** shall **BE** complied with:

"(1) xxx;

"(2) xxx;

"(3) xxx;

"(4) xxx;

"(5) xxx;

"(6) The additional ~~{deduction}~~ **DEDUCTIONS** on power expense shall only apply to power utilized for the registered project or activity;

"(7) xxx;

"(8) THE ADDITIONAL DEDUCTION ON EXPENSES RELATING TO TRADE FAIRS, EXHIBITIONS OR TRADE MISSIONS SHALL INCLUDE EXPENSES INCURRED IN PROMOTING THE EXPORT OF GOODS OR THE PROVISION OF SERVICES TO FOREIGN MARKETS APPROVED BY THE CONCERNED IPA, WHICH SHALL COVER:

A. EXPENSES INCURRED IN ESTABLISHING, MAINTAINING, OR PARTICIPATING IN A TRADE FAIR, TRADE EXHIBITION, TRADE MISSION, OR TRADE PROMOTION ACTIVITY HELD OR CONDUCTED OUTSIDE THE PHILIPPINES, OR A TRADE FAIR OR TRADE EXHIBITION APPROVED BY

1 THE DEPARTMENT OF TRADE AND INDUSTRY AND
2 HELD IN THE PHILIPPINES;

3 B. EXPENSES FOR SECURING A SPOT TO SPEAK AT A
4 TRADE MISSION OR TRADE PROMOTION ACTIVITY
5 IN PARAGRAPH (A);

6 C. EXPENSES FOR THE TRANSPORTATION OF ANY
7 SAMPLE FOR USE AT A TRADE MISSION OR TRADE
8 PROMOTION ACTIVITY MENTIONED IN
9 PARAGRAPH (A);

10 D. EXPENSES FOR THE ENGAGEMENT OF A
11 CONSULTANT (NOT BEING A RELATED PARTY OF
12 THE APPROVED FIRM OR COMPANY OR AN OFFICER
13 OR EMPLOYEE OF SUCH RELATED PARTY) TO
14 ORGANIZE A BUSINESS NETWORKING EVENT
15 DURING A TRADE MISSION OR TRADE PROMOTION
16 ACTIVITY MENTIONED IN PARAGRAPH (A);

17 E. EXPENSES INCURRED IN ESTABLISHING,
18 MAINTAINING, OR PARTICIPATING IN A TRADE
19 FAIR OR TRADE EXHIBITION HELD OR CONDUCTED
20 (WHETHER WHOLLY OR PARTLY) BY MEANS OF
21 TELECONFERENCE, VIDEOCONFERENCING, OR ANY
22 OTHER ELECTRONIC MEANS OF COMMUNICATION;

23 F. EXPENSES INCURRED FOR THE TRANSPORTATION
24 OF ANY SAMPLE TO ANY POTENTIAL CLIENT
25 OUTSIDE OF THE PHILIPPINES, FOLLOWING THE
26 POTENTIAL CLIENT'S ATTENDANCE AT OR
27 PARTICIPATION IN A TRADE FAIR OR TRADE
28 EXHIBITION; AND

29 G. EXPORT MARKET DEVELOPMENT EXPENDITURE
30 FOR THE CARRYING OUT OF ANY APPROVED
31 MARKETING PROJECT.

32 *PROVIDED*, THAT ANY AND ALL COSTS BORNE BY THE
33 PHILIPPINE GOVERNMENT RELATED TO THE CONDUCT OF
34 TRADE FAIRS, EXHIBITIONS, OR TRADE MISSIONS SHALL BE
35 EXCLUDED FROM THE COVERAGE OF DEDUCTIBLE EXPENSES.

1 ~~"[(C)](D)~~ The duty exemption shall only apply to the importation of
2 capital equipment, raw materials, spare parts, or accessories ~~[(directly and~~
3 ~~exclusively used in)]~~ **DIRECTLY ATTRIBUTABLE TO** the registered project
4 or activity by registered business enterprise: *Provided*, That the following
5 conditions are complied with:

6 "(1) xxx; and

7 "(2) xxx.

8 **"AN IPA MAY AUTHORIZE THE IMPORTATION OF CAPITAL**
9 **EQUIPMENT, RAW MATERIALS, SPARE PARTS, OR ACCESSORIES**
10 **PENDING ISSUANCE OF THE CERTIFICATE OF REGISTRATION,**
11 **SUBJECT TO THE POSTING OF PERFORMANCE BOND OR BANK**
12 **GUARANTEE EQUIVALENT TO THE TAXES AND DUTIES WAIVED ON**
13 **THE IMPORTED CAPITAL EQUIPMENT, RAW MATERIALS, SPARE**
14 **PARTS, OR ACCESSORIES AND OTHER CONDITIONS AS MAY BE**
15 **DETERMINED BY THE CONCERNED IPA, AND SUBJECT TO**
16 **APPLICABLE RULES TO BE PRESCRIBED BY THE BUREAU OF**
17 **CUSTOMS.**

18 **"NO DUTIES SHALL BE IMPOSED ON SUBSEQUENT SALE,**
19 **TRANSFER, OR DISPOSITION OF THE CAPITAL EQUIPMENT, RAW**
20 **MATERIALS, SPARE PARTS, OR ACCESSORIES, WHICH WERE**
21 **GRANTED TAX AND CUSTOMS DUTY EXEMPTION HEREUNDER**
22 **WITHIN** the first five (5) years from date of importation: ***PROVIDED, THAT***
23 **THE** approval of the ~~[Investment Promotion Agency]~~ **IPA** must be secured
24 before **SUCH** [the] sale, transfer, or disposition of the capital equipment, raw
25 materials, spare parts, or accessories ~~[which were granted tax and customs~~
26 ~~duty exemption hereunder,]~~ and ~~[shall be allowed]~~ only under the following
27 circumstances:

28 ~~"[(a)](1)~~ If made to another enterprise availing customs duty
29 exemption on imported capital equipment, raw materials, spare parts,
30 or accessories;

31 ~~"[(b)]~~ If made to another enterprise not availing of duty
32 exemption on imported capital equipment, raw materials, spare parts,
33 or accessories, upon payment of any taxes and duties due on the net
34 book value of the capital equipment, raw materials, spare parts, or
35 accessories to be sold;]

~~"[(e)](2)~~ Exportation of capital equipment, raw materials, spare parts, accessories, source documents, or those required for pollution abatement and control; **OR**

~~"[(d)] Proven technical obsolescence of the capital equipment, raw materials, spare parts, or accessories; or]~~

~~"[(e)](3)~~ If donated to the **Technical Education and Skills Development Authority (TESDA)**, State Universities and Colleges (SUCs)~~[-or]~~ **THE DEPARTMENT OF EDUCATION (DepEd)** ~~[and]~~ **OR COMMISSION ON HIGHER EDUCATION (CHED)**-accredited schools: *Provided*, That the donation shall be exempt from import duties and taxes, including donor's tax.

"IN CASE OF THE FOLLOWING SALE, TRANSFER, OR DISPOSITION OF TAX AND DUTY-FREE CAPITAL EQUIPMENT, RAW MATERIALS, SPARE PARTS, OR ACCESSORIES WITHIN THE FIRST FIVE (5) YEARS FROM THE DATE OF IMPORTATION, THERE SHALL BE TAXES AND DUTIES ASSESSED BASED ON THE NET BOOK VALUE OR SELLING PRICE, WHICHEVER IS HIGHER, OF THE CAPITAL EQUIPMENT, RAW MATERIALS, SPARE PARTS OR ACCESSORIES:

"(1) IF MADE TO ANOTHER ENTERPRISE NOT AVAILING OF DUTY EXEMPTION ON IMPORTED CAPITAL EQUIPMENT, RAW MATERIALS, SPARE PARTS, OR ACCESSORIES; OR

"(2) PROVEN TECHNICAL OBSOLESCENCE OF THE CAPITAL EQUIPMENT, RAW MATERIALS, SPARE PARTS, OR ACCESSORIES:

"Provided, That if the registered business enterprise sells, transfers, or disposes the aforementioned imported items without prior approval, the registered business 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 the sale, transfer, or disposition of the capital equipment, raw materials, spare parts, or accessories made after five (5) years from date of importation shall require that prior notice be given by the registered business enterprise to the ~~[Investment Promotion Agency]~~ **IPA**: *Provided, [finally]* **FURTHERMORE**, That even if the sale, transfer, or disposition of the capital equipment, raw materials, spare parts or accessories was made after five (5) years from date of importation with notice to the ~~[Investment Promotion Agency]~~ **IPA**, the

1 registered business enterprise is still liable to pay the duties based on the net
2 book value of the capital equipment, raw materials, spare parts, or accessories
3 if it has violated any of its registration terms and conditions~~[-.]:~~ **PROVIDED,**
4 **FINALLY, THAT NET BOOK VALUE AS USED IN THIS SECTION SHALL**
5 **REFER TO HISTORICAL COST LESS ACCUMULATED DEPRECIATION,**
6 **AS APPEARING IN THE BOOKS OF ACCOUNTS OR FINANCIAL**
7 **STATEMENTS, AND DETERMINED IN ACCORDANCE WITH ACCEPTED**
8 **ACCOUNTING STANDARDS AND APPROVED BY THE BIR.**

9 “~~[(D)]~~**(E)** The VAT exemption on importation and VAT zero-rating on
10 local purchases shall only apply to goods and services ~~[directly and exclusively~~
11 ~~used in]~~ **DIRECTLY ATTRIBUTABLE TO** the registered project or activity
12 ~~[by]~~ **OF** a registered business enterprise,~~[-.]~~ **SUBJECT TO THE FOLLOWING**
13 **RULES:**

14 “(1) **SALE OF GOODS AND/OR SERVICES BY A VAT-**
15 **REGISTERED SELLER TO REGISTERED EXPORT**
16 **ENTERPRISES, REGARDLESS OF LOCATION, SHALL BE**
17 **SUBJECT TO ZERO PERCENT (0%) VAT;**

18 “(2) **SALE OF GOODS AND/OR SERVICES BY A NON-VAT**
19 **REGISTERED SELLER TO REGISTERED EXPORT**
20 **ENTERPRISES, REGARDLESS OF LOCATION, SHALL BE**
21 **EXEMPT FROM VAT;**

22 “(3) **SUBSEQUENT SALE, TRANSFER, OR DISPOSAL OF**
23 **PREVIOUSLY VAT-EXEMPT IMPORTED CAPITAL EQUIPMENT,**
24 **RAW MATERIALS, SPARE PARTS, AND ACCESSORIES WITHIN**
25 **THE FIRST FIVE (5) YEARS FROM THE DATE OF THE**
26 **ORIGINAL SALE SHALL BE SUBJECT TO TWELVE PERCENT**
27 **(12%) VAT BASED ON THE NET BOOK VALUE OR SELLING**
28 **PRICE, WHICHEVER IS HIGHER, OF THE CAPITAL**
29 **EQUIPMENT, RAW MATERIALS, SPARE PARTS, OR**
30 **ACCESSORIES, UNLESS THE SALE IS MADE UNDER THE**
31 **FOLLOWING CIRCUMSTANCES, WHICH SHALL BE SUBJECT**
32 **TO ZERO PERCENT (0%) VAT;**

33 **A. MADE TO ANOTHER REGISTERED EXPORT**
34 **ENTERPRISE;**

35 **B. EXPORTATION OF CAPITAL EQUIPMENT, RAW**
36 **MATERIALS, SPARE PARTS, ACCESSORIES, SOURCE**

DOCUMENTS, OR THOSE REQUIRED FOR
POLLUTION ABATEMENT AND CONTROL; AND

C. IF DONATED TO THE TESDA, SUCs, OR DEPED AND
CHED-ACCREDITED SCHOOLS: *PROVIDED*, THAT
THE DONATION SHALL BE EXEMPT FROM IMPORT
DUTIES AND TAXES, INCLUDING DONOR'S TAX.

"(4) SALE OF GOODS AND/OR SERVICES TO A DOMESTIC
MARKET ENTERPRISE, WHETHER REGISTERED OR
UNREGISTERED AND REGARDLESS OF LOCATION, SHALL BE
SUBJECT TO TWELVE PERCENT (12%) VAT: *PROVIDED*,
HOWEVER, THAT THE VAT EXEMPTION ON IMPORTATION
AND VAT ZERO-RATING ON LOCAL PURCHASES MAY BE
GRANTED TO REGISTERED DOMESTIC MARKET
ENTERPRISES WHEN THE BUSINESS ENTERPRISE HAS AN
INVESTMENT CAPITAL EXCEEDING FIFTEEN BILLION PESOS
(PHP15,000,000,000.00) OR AN ANNUAL COMMITTED
EXPORT SALES OF AT LEAST ONE HUNDRED MILLION US
DOLLARS (US\$100,000,000.00) OR ITS EQUIVALENT IN AN
ACCEPTABLE FOREIGN CURRENCY: *PROVIDED, FURTHER*,
THAT THE THRESHOLD AMOUNTS PROVIDED HEREIN MAY BE
INCREASED BY THE FISCAL INCENTIVES REVIEW BOARD.

"PROVIDED, FURTHERMORE, THAT THE LOCAL SALES OF
GOODS AND/OR SERVICES BY A REGISTERED BUSINESS
ENTERPRISE, REGARDLESS OF LOCATION, MARKET
ORIENTATION, OR REGISTRATION STATUS, SHALL BE
SUBJECT TO TWELVE PERCENT (12%) VAT.

"PROVIDED, FINALLY, THAT AS A CONDITION FOR THE
AVAILMENT OF VAT INCENTIVES HEREIN GRANTED, ALL
REGISTERED BUSINESS ENTERPRISES SHALL REGISTER AS
VAT TAXPAYERS.

"Notwithstanding the provisions in the preceding paragraphs, sales
receipts and other income derived from non-registered project or activity shall
be subject to appropriate taxes imposed under this Code.

"[(E)](F) xxx
"[(F)](G) xxx;
"[(G)](H) xxx; AND

1 “(I) UNLESS EXEMPT UNDER OTHER LAWS, THE REGISTERED
2 BUSINESS ENTERPRISE LOCAL TAX SHALL BE IMPOSED ON
3 REGISTERED BUSINESS ENTERPRISES DURING THE PERIOD OF
4 INCOME TAX HOLIDAY AND THE ENHANCED DEDUCTION REGIME.”

5 “THE TAX SHALL BE DIRECTLY REMITTED BY THE
6 REGISTERED BUSINESS ENTERPRISE TO THE TREASURER'S OFFICE
7 OF THE MUNICIPALITY OR CITY WHERE THE ENTERPRISE IS
8 LOCATED.”

9 “WHERE TWO (2) OR MORE LGUs COVER THE SAME
10 ENTERPRISE, THE SHARING BETWEEN SUCH LGUs SHALL BE AS
11 FOLLOWS:”

12 (1) “FIFTY PERCENT (50%) OF REVENUES SHALL BE
13 SHARED EQUALLY AMONG THELGUs; AND”

14 (2) “FIFTY PERCENT (50%) OF REVENUES SHALL BE
15 APPORTIONED BASED ON THE POPULATION OF THELGUs.”

16 “LGUs MAY REDUCE OR WAIVE THE RATE OF TAX, OR THEIR
17 SHARE THEREOF IN THE CASE OF TWO (2) OR MORE LGUs COVERING
18 THE SAME ENTERPRISE.”

19 “Registered business enterprises, whose performance commitments
20 include job generation, shall maintain their employment levels to the extent
21 practicable, and in the case of reduced employment or when the performance
22 commitment for job generation is not met, the registered business enterprises
23 must submit to their respective Investment Promotion Agencies and the Fiscal
24 Incentives Review Board their justification for the same.”

25
26 **SEC. 13.** A new section designated as Section 295-A is hereby inserted in the
27 National Internal Revenue Code of 1997, as amended which shall read as follows:

28 **“SEC. 295-A. REGISTERED BUSINESS ENTERPRISES**
29 **TAXPAYER SERVICE. – THERE IS HEREBY CREATED A SEPARATE**
30 **SERVICE OR UNIT WITHIN THE BIR FOR REGISTERED BUSINESS**
31 **ENTERPRISES. THE COMMISSIONER SHALL PRESCRIBE THE**
32 **MANNER AND PLACE OF FILING OF RETURNS AND PAYMENTS OF**
33 **TAXES BY REGISTERED BUSINESS ENTERPRISES THROUGH THE**
34 **SAID SERVICE OR UNIT. FOR EASE OF COMPLIANCE WITH TAX**

RULES AND REGULATIONS, SIMPLIFIED FILING AND PAYMENT PROCESSES SHALL BE IMPLEMENTED FOR REGISTERED BUSINESS ENTERPRISES."

SEC. 14. Section 296 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 296. *Period of Availment* **OF INCENTIVES FOR PROJECTS OR ACTIVITIES APPROVED BY THE IPAs.** - The period of availment of ~~{incentive}~~ **INCENTIVES GRANTED** by the **IPAs TO** registered business enterprise**S** shall be as follows:

"(A) For export enterprise, income tax holiday of four (4) to seven (7) years, depending on location and industry priorities as specified in this Section, and followed by special corporate income tax rate for ten (10) years~~[-.]~~, **OR SPECIAL CORPORATE INCOME TAX RATE FOR A MAXIMUM PERIOD OF FOURTEEN (14) TO SEVENTEEN (17) YEARS, DEPENDING ON LOCATION AND INDUSTRY PRIORITIES, EXCEPT WHEN GRANTED BY THE FISCAL INCENTIVES REVIEW BOARD UNDER SECTION 296-A OF THIS TITLE: PROVIDED, THAT REAPPLICATION FOR INCENTIVES SHALL NOT BE ALLOWED FOR THE SAME REGISTERED PROJECT OR ACTIVITY.**

~~["A qualified expansion or entirely new project or activity registered under this Act may qualify to avail of incentives, subject to the qualifications set forth in the Strategic Investment Priority Plan and performance review by the Fiscal Incentives Review Board: Provided, That existing registered projects or activities prior to the effectivity of this Act may qualify to register and avail of the incentives granted under this Act for the prescribed period, subject to the criteria and conditions set forth in the Strategic Investment Priority Plan;"]~~

"xxx

"(B) For domestic market enterprise under the Strategic Investment Priority Plan, income tax holiday for four (4) to seven (7) years followed by enhanced deductions for ~~[five-(5)]~~ **TEN (10) years[-.]**, **OR ENHANCED DEDUCTIONS FOR A MAXIMUM PERIOD OF FOURTEEN (14) TO SEVENTEEN (17) YEARS, DEPENDING ON LOCATION AND INDUSTRY PRIORITIES, EXCEPT WHEN GRANTED BY THE FISCAL INCENTIVES REVIEW BOARD UNDER SECTION 296-A OF THIS TITLE: PROVIDED, THAT REAPPLICATION FOR INCENTIVES SHALL NOT BE ALLOWED FOR THE SAME REGISTERED PROJECT OR ACTIVITY.**

1 “**PROVIDED, THAT [A]** a qualified expansion or entirely new project
2 or activity registered under this Act may qualify to avail of incentives, subject
3 to the qualifications set forth in the Strategic Investment Priority Plan and
4 performance review by the Fiscal Incentives Review Board. [~~:- Provided, That~~
5 ~~existing registered projects or activities prior to the effectivity of this Act may~~
6 ~~qualify to register and avail of the incentives granted under this Act for the~~
7 ~~prescribed period, subject to the criteria and conditions set forth in the~~
8 ~~Strategic Investment Priority Plan.~~]

9 “The period of availment of the foregoing incentives shall commence
10 from the actual start of commercial operations with the registered business
11 enterprise availing of the tax incentives within three (3) years from the date of
12 registration, unless otherwise provided in the Strategic Investment Priority Plan
13 and its corresponding guidelines. [~~:- Provided, That after the expiration of the~~
14 ~~transitory period under Section 311 (C), export enterprises registered prior to~~
15 ~~the effectivity of this Act shall have the option to reapply and avail of the~~
16 ~~incentives granted under Section 294(B) for the same period provided under~~
17 ~~this Section, subject to the conditions and qualifications set forth in the~~
18 ~~Strategic Investment Priority Plan and performance review by the Fiscal~~
19 ~~Incentives Review Board.~~]

20 “xxx

21 “(3) Tier III activities shall include (i) research and development
22 resulting in demonstrably significant value-added, higher productivity,
23 improved efficiency, breakthroughs in science and health, and high-paying
24 jobs; (ii) generation of new knowledge and intellectual property registered
25 and/or licensed in the Philippines; (iii) commercialization of patents, industrial
26 designs, copyrights and utility models owned or co-owned by a registered
27 business enterprise; (iv) highly technical manufacturing; or (v) are critical to
28 the structural transformation of the economy and require substantial catch-up
29 efforts, **INCLUDING BUT NOT LIMITED TO CYBER-SECURITY,**
30 **ARTIFICIAL INTELLIGENCE, DATA-CENTER FACILITIES, AND**
31 **TOURISM-RELATED PROJECTS OR ACTIVITIES;**

32 “The period of availment of incentives based on the combination of
33 both location and industry priorities, as determined in the strategic investment
34 priority plan, shall be as follows:

35 For exporters:

Location/Industry Tiers	Tier I	Tier II	Tier III
National Capital Region	4 ITH + 10 SCIT, OR 14 SCIT	5 ITH + 10 SCIT, OR 15 SCIT	6 ITH + 10 SCIT, OR 16 SCIT
Metropolitan areas or areas contiguous and adjacent to the National Capital Region	5 ITH + 10 SCIT OR 15 SCIT	6 ITH + 10 SCIT, OR 16 SCIT	7 ITH + 10 SCIT, OR 17 SCIT
All other areas	6 ITH + 10 SCIT, OR 16 SCIT	7 ITH + 10 SCIT, OR 17 SCIT	7 ITH + 10 SCIT, OR 17 SCIT

1 For domestic market activities:

Location/Industry Tiers	Tier I	Tier II	Tier III
National Capital Region	4 ITH + [5] 10 ED, OR [9] 14 ED	5 ITH + [5] 10 ED, OR 15 ED	6 ITH + [5] 10 ED, OR 16 ED
Metropolitan areas or areas contiguous and adjacent to the National Capital Region	5 ITH + [5] 10 ED, OR 15 ED	6 ITH + [5] 10 ED, OR 16 ED	7 ITH + [5] 10 ED, OR 17 ED
All other areas	6 ITH + [5] 10 ED, OR 16 ED	7 ITH + [5] 10 ED, OR 17 ED	7 ITH + [5] 10 ED, OR 17 ED

2
3 "In addition to the incentives provided in tiers above, projects or
4 activities of registered enterprises located in areas recovering from armed
5 conflict or a major disaster, as determined by the Office of the President, shall
6 be entitled to two (2) additional years of income tax holiday.

7 "xxx

8 "The industry and locational prioritization specified herein shall be
9 subject to review and revision every three (3) years in accordance with the
10 Strategic Investment Priority Plan, subject to the standards in Section 300
11 hereof or in exceptional circumstances, to attract substantial investment to
12 respond to a situation or crisis or to target specific industries:"

1 **"PROVIDED, THAT REGISTERED BUSINESS ENTERPRISES**
2 **THAT CONTINUE TO MEET THE TERMS AND CONDITIONS OF THEIR**
3 **REGISTRATION WITH THEIR RESPECTIVE IPAs MAY AVAIL OF THE**
4 **DUTY EXEMPTION ON IMPORTATION OF CAPITAL EQUIPMENT, RAW**
5 **MATERIALS, SPARE PARTS, OR ACCESSORIES, VAT EXEMPTION ON**
6 **IMPORTATION FOR THE ENTIRE REGISTRATION PERIOD:**

7 **"PROVIDED, FURTHER, THAT REGISTERED BUSINESS**
8 **ENTERPRISES MAY AVAIL OF THE VAT ZERO-RATING ON LOCAL**
9 **PURCHASES AND VAT EXEMPTION ON IMPORTATION FOR THE**
10 **ENTIRE REGISTRATION PERIOD WITH THE IPA IF THE FOLLOWING**
11 **REQUIREMENTS ARE MET:**

12 **(1) FOR REGISTERED EXPORT ENTERPRISES,**
13 **MAINTAIN AT LEAST SEVENTY PERCENT (70%) OF TOTAL**
14 **ANNUAL PRODUCTION OR OUTPUT AS EXPORT SALES AND**
15 **CONTINUE TO MEET THE TERMS AND CONDITIONS OF THEIR**
16 **REGISTRATION; AND**

17 **(2) FOR REGISTERED DOMESTIC MARKET**
18 **ENTERPRISES, SATISFY THE INVESTMENT CAPITAL OR**
19 **EXPORT REQUIREMENT UNDER SECTION 295(E)(4) OF THIS**
20 **CODE FOR THE IMMEDIATELY PRECEDING YEAR AND**
21 **CONTINUE TO MEET THE TERMS AND CONDITIONS OF THEIR**
22 **REGISTRATION:**

23 **"PROVIDED, FINALLY, THAT THE AVAILMENT PERIOD OF DUTY**
24 **EXEMPTION ON IMPORTATION OF CAPITAL EQUIPMENT, RAW**
25 **MATERIALS, SPARE PARTS, OR ACCESSORIES, VAT EXEMPTION ON**
26 **IMPORTATION, AND VAT ZERO-RATING ON LOCAL PURCHASES**
27 **SHALL BE RECKONED FROM THE DATE OF REGISTRATION."**

28 **SEC. 15.** A new section designated as Section 296-A is hereby inserted in the
29 National Internal Revenue Code of 1997, as amended which shall read as follows:

30 **"SEC. 296-A. PERIOD OF AVAILMENT OF INCENTIVES FOR**
31 **PROJECTS OR ACTIVITIES APPROVED BY THE FISCAL INCENTIVES**
32 **REVIEW BOARD. - THE PERIOD OF AVAILMENT OF INCENTIVES**
33 **GRANTED BY THE FISCAL INCENTIVES REVIEW BOARD TO**
34 **REGISTERED BUSINESS ENTERPRISES SHALL BE AS FOLLOWS:**

1 “(A) FOR EXPORT ENTERPRISE, INCOME TAX HOLIDAY OF
2 SEVEN (7) TO TEN (10) YEARS, DEPENDING ON LOCATION AND
3 INDUSTRY PRIORITIES AS SPECIFIED IN THIS SECTION, AND
4 FOLLOWED BY SPECIAL CORPORATE INCOME TAX RATE FOR
5 TWENTY (20) YEARS, OR SPECIAL CORPORATE INCOME TAX RATE
6 FOR A MAXIMUM PERIOD OF TWENTY-SEVEN (27) TO THIRTY (30)
7 YEARS, DEPENDING ON LOCATION AND INDUSTRY PRIORITIES.

8 “(B) FOR DOMESTIC MARKET ENTERPRISE, INCOME TAX
9 HOLIDAY OF SEVEN (7) TO TEN (10) YEARS, FOLLOWED BY
10 ENHANCED DEDUCTIONS FOR TWENTY (20) YEARS, OR ENHANCED
11 DEDUCTIONS FOR A MAXIMUM PERIOD OF TWENTY-SEVEN (27) TO
12 THIRTY (30) YEARS, DEPENDING ON LOCATION AND INDUSTRY
13 PRIORITIES:

14 “*PROVIDED*, THAT A QUALIFIED EXPANSION OR ENTIRELY
15 NEW PROJECT OR ACTIVITY REGISTERED UNDER THIS ACT MAY
16 QUALIFY TO AVAIL OF INCENTIVES, SUBJECT TO THE
17 QUALIFICATIONS SET FORTH IN THE STRATEGIC INVESTMENT
18 PRIORITY PLAN AND PERFORMANCE REVIEW BY THE FISCAL
19 INCENTIVES REVIEW BOARD.

20 “THE PERIOD OF AVAILMENT OF THE FOREGOING
21 INCENTIVES SHALL COMMENCE FROM THE ACTUAL START OF
22 COMMERCIAL OPERATIONS WITH THE REGISTERED BUSINESS
23 ENTERPRISE AVAILING OF THE TAX INCENTIVES WITHIN THREE (3)
24 YEARS FROM THE DATE OF REGISTRATION, UNLESS OTHERWISE
25 PROVIDED IN THE STRATEGIC INVESTMENT PRIORITY PLAN AND
26 ITS CORRESPONDING GUIDELINES.

27 THE PERIOD OF AVAILMENT OF INCENTIVES BASED ON THE
28 COMBINATION OF BOTH LOCATION AND INDUSTRY PRIORITIES, AS
29 DETERMINED IN THE STRATEGIC INVESTMENT PRIORITY PLAN,
30 SHALL BE AS FOLLOWS:

31 FOR EXPORTERS:

LOCATION/INDUSTRY TIERS	TIER I	TIER II	TIER III
NATIONAL CAPITAL REGION	7 ITH + 20	8 ITH + 20 SCIT, OR 28	9 ITH + 20 SCIT, OR 29

	SCIT, OR 27 SCIT	SCIT	SCIT
METROPOLITAN AREAS OR AREAS CONTIGUOUS AND ADJACENT TO THE NATIONAL CAPITAL REGION	8 ITH + 20 SCIT, OR 28 SCIT	9 ITH + 20 SCIT, OR 29 SCIT	10 ITH + 20 SCIT OR 30 SCIT
ALL OTHER AREAS	9 ITH + 20 SCIT, OR 29 SCIT	10 ITH + 20 SCIT, OR 30 SCIT	10 ITH + 20 SCIT, OR 30 SCIT

1 **FOR DOMESTIC MARKET ACTIVITIES:**

LOCATION/INDUSTRY TIERS	TIER I	TIER II	TIER III
NATIONAL CAPITAL REGION	7 ITH + 20 ED, OR 27 ED	8 ITH + 20 ED, OR 28 ED	9 ITH + 20 ED, OR 29 ED
METROPOLITAN AREAS OR AREAS CONTIGUOUS AND ADJACENT TO THE NATIONAL CAPITAL REGION	8 ITH + 20 ED, OR 28 ED	9 ITH + 20 ED, OR 29 ED	10 ITH + 20 ED, OR 30 ED
ALL OTHER AREAS	9 ITH + 20 ED, OR 29 ED	10 ITH + 20 ED, OR 30 ED	10 ITH + 20 ED, 30 ED

2 **"THE ADDITIONAL YEARS OF INCOME TAX HOLIDAY**
3 **PROVIDED UNDER SECTION 296 OF THIS CODE MAY ALSO BE**
4 **GRANTED TO REGISTERED BUSINESS ENTERPRISES AVAILING OF**
5 **INCENTIVES UNDER THIS SECTION:**

6 **"PROVIDED, THAT REGISTERED BUSINESS ENTERPRISES**
7 **THAT CONTINUE TO MEET THE TERMS AND CONDITIONS OF THEIR**
8 **REGISTRATION WITH THEIR RESPECTIVE IPAs MAY AVAIL OF THE**
9 **DUTY EXEMPTION ON IMPORTATION OF CAPITAL EQUIPMENT, RAW**
10 **MATERIALS, SPARE PARTS, OR ACCESSORIES, VAT EXEMPTION ON**
11 **IMPORTATION FOR THE ENTIRE REGISTRATION PERIOD:**

1 **"PROVIDED, FURTHER, THAT REGISTERED BUSINESS**
2 **ENTERPRISES MAY AVAIL OF THE VAT ZERO-RATING ON LOCAL**
3 **PURCHASES AND VAT EXEMPTION ON IMPORTATION FOR THE**
4 **ENTIRE REGISTRATION PERIOD WITH THE IPA IF THE FOLLOWING**
5 **REQUIREMENTS ARE MET:**

- 6 **1. FOR REGISTERED EXPORT ENTERPRISES, MAINTAIN AT**
7 **LEAST SEVENTY PERCENT (70%) OF TOTAL ANNUAL**
8 **PRODUCTION OR OUTPUT AS EXPORT SALES AND**
9 **CONTINUE TO MEET THE TERMS AND CONDITIONS OF**
10 **THEIR REGISTRATION; AND**
- 11 **2. FOR REGISTERED DOMESTIC MARKET ENTERPRISES,**
12 **SATISFY THE INVESTMENT CAPITAL OR EXPORT**
13 **REQUIREMENT UNDER SECTION 295(E)(4) OF THIS CODE**
14 **FOR THE IMMEDIATELY PRECEDING YEAR AND CONTINUE**
15 **TO MEET THE TERMS AND CONDITIONS OF THEIR**
16 **REGISTRATION:**

17 **"PROVIDED, FINALLY, THAT THE AVAILMENT PERIOD OF DUTY**
18 **EXEMPTION ON IMPORTATION OF CAPITAL EQUIPMENT, RAW MATERIALS,**
19 **SPARE PARTS, OR ACCESSORIES, VAT EXEMPTION ON IMPORTATION, AND**
20 **VAT ZERO-RATING ON LOCAL PURCHASES SHALL BE RECKONED FROM THE**
21 **DATE OF REGISTRATION.**

22

23 **SEC. 16.** Section 297 of the National Internal Revenue Code of 1997, as amended,
24 is hereby further amended to read as follows:

25 **"SEC. 297. Expanded Functions of the Fiscal Incentives Review Board. –**
26 The functions and powers of the Fiscal Incentives Review Board created under
27 Presidential Decree No. 776, as amended, shall be expanded as follows:

28 **"(A)** To exercise policy making and oversight functions on the
29 administration and grant of tax incentives by the Investment Promotion
30 Agencies and other government agencies administering tax incentives. In
31 particular, the Fiscal Incentives Review Board shall:

32 **"(1)** Determine the target performance metrics as conditions to
33 avail of tax incentives;

34 **"(2)** Review and [audit] **MONITOR** the compliance of **IPAs AND**
35 other government agencies administering tax incentives, with respect
36 to the administration and grant of tax incentives and impose sanctions

such as, but not limited to, withdrawal, suspension, or cancellation of their **AUTHORITY** [~~power~~] to grant tax incentives **UNDER THIS TITLE, WITHOUT PREJUDICE TO THE FILING OF APPROPRIATE CRIMINAL AND ADMINISTRATIVE CASES AGAINST ERRING OFFICIALS AND EMPLOYEES IN ACCORDANCE WITH THE PROCEDURES PRESCRIBED UNDER EXISTING LAWS;**

~~“(3) [Determine the minimum contiguous land area that vertical economic zones should comply with]~~ **RECOMMEND TO THE PRESIDENT STANDARDS FOR PROCLAIMING ECONOMIC ZONES;**

~~“(4) Conduct regular monitoring and evaluation of investment and non-investment tax incentives, such as using cost-benefit analysis (CBA) to determine their impact on the economy and whether agreed performance targets are met; and~~

~~“(5) Check and verify, as necessary, the compliance of registered business enterprises with the terms and conditions of their availment, in particular the agreed target performance metrics, rules and regulations of this Act, and other relevant laws or issuances, **AND IMPOSE, AFTER DUE PROCESS, FINES NOT EXCEEDING ONE HUNDRED THOUSAND PESOS (Php100,000.00) FOR ANY WILLFUL VIOLATIONS: PROVIDED, THAT NO FINES OR PENALTIES SHALL BE IMPOSED ON REGISTERED BUSINESS ENTERPRISES THAT MERELY RELIED IN GOOD FAITH ON THE REPRESENTATIONS OF THE IPAs, UNLESS THE CONTRARY IS ESTABLISHED: PROVIDED, FURTHER, THAT COLLECTIONS FROM THE PENALTIES HEREIN IMPOSED SHALL ACCRUE TO THE GENERAL FUND.**~~

“FOR THIS PURPOSE, ALL IPAs AND OTHER GOVERNMENT AGENCIES ADMINISTERING TAX INCENTIVES SHALL FURNISH THE FISCAL INCENTIVES REVIEW BOARD WITH ALL ITS ISSUANCES RELATED TO THE GRANT AND ADMINISTRATION OF INCENTIVES.

~~“(B) To approve or disapprove, the grant of tax incentives to the extent of the registered project or activity upon the recommendation of the Investment Promotion Agency: *Provided*, That the application for tax incentives shall be duly accompanied by a cost-benefit analysis: *Provided*,~~

1 further, That the **IPAs SHALL USE THE FISCAL INCENTIVES REVIEW**
2 **BOARD—PRESCRIBED**~~[shall—prescribe—the]~~ data requirements **AND**
3 **METHODOLOGIES** for the application of incentives **FOR PURPOSES OF** ~~[to~~
4 ~~allow for]~~ the calculation of costs and benefits upon application: *Provided,*
5 *further,* That the **IPAs SHALL** grant **THE** ~~[of]~~ tax incentives **OF** ~~[to]~~
6 registered projects or activities with investment capital of **FIFTEEN** ~~[One]~~
7 billion pesos (**Php15,000,000,000.00**) and below **TO THE EXTENT OF THE**
8 **REGISTERED PROJECT OR ACTIVITY** ~~[shall be delegated by the Fiscal~~
9 ~~Incentives Review Board to the concerned Investment Promotion Agency to~~
10 ~~the extent of the registered project or activity]~~: *Provided, furthermore,* That
11 the Fiscal Incentives Review Board, **UPON THE RECOMMENDATION OF**
12 **THEIPAs,** may increase the threshold amount of **FIFTEEN** ~~[One]~~ billion pesos
13 (**Php15,000,000,000.00**);

14 “(C) To approve applications for tax subsidies to government-owned
15 or -controlled corporations, government instrumentalities, government
16 commissaries, and state universities and colleges~~[-];~~;

17 “For this purpose, the other government agencies shall ensure
18 complete submission of applications, documents, records, books, or other
19 relevant data or material;

20 “(D) To formulate **ADDITIONAL TIME-BOUND OR** place-specific
21 **PROJECTS OR ACTIVITIES FOR INCLUSION IN THE** ~~{strategie~~
22 ~~investment—plans}~~ **STRATEGIC INVESTMENT PRIORITY PLAN** during
23 periods of recovery from calamities and post-conflict situations and where the
24 Fiscal Incentives Review Board determines that there is a need to attract many
25 classes, firms, that would accelerate the growth of a region's flagship
26 industries, in accordance with the Medium-Term Development Plan, The Fiscal
27 Incentives Review Board may formulate and approve place-specific strategic
28 investment plans and recommend incentives to the President, following the
29 same procedure in Section 297;

- 30 “(E) xxx;
- 31 “(F) xxx;
- 32 “(G) xxx;
- 33 “(H) xxx;
- 34 “(I) xxx;
- 35 “(J) xxx;
- 36 “(K) xxx;

“(L) To promulgate such rules and regulations as may be necessary to implement **AND/OR CLARIFY** the intent and provisions of this [Section] **TITLE. FOR PURPOSES OF PUBLICATION, THE FISCAL INCENTIVES REVIEW BOARD MAY MAKE USE OF ANY ELECTRONIC MEANS OF PUBLICATION IN THE OFFICIAL GAZETTE OR ITS OFFICIAL WEBSITE;**

“(M) xxx;

“(N) xxx; [and]

“(O) To exercise all other powers necessary or incidental to attain the purposes of this Act and other laws vesting additional functions on the Fiscal Incentives Review Board.

“xxx.”

SEC. 17. Section 300 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 300. *Strategic Investment Priority Plan.* – The Board of Investments, in coordination with the Fiscal Incentives Review Board, Investment Promotion Agencies, other government agencies administering tax incentives, and the private sector, shall formulate the Strategic Investment Priority Plan to be submitted to the President for approval, which may contain recommendations for types of non-fiscal support needed to create high-skilled jobs to grow a local pool of enterprises, particularly micro, small and medium enterprises (MSMEs), that can supply to domestic and global value chains, to increase the sophistication of products and services that are produced and/or sourced domestically, to expand domestic supply and reduce dependence on imports, and to attract significant foreign capital or investment. The Strategic Investment Priority Plan shall be valid for a period of three (3) years, subject to review and amendment every three (3) years thereafter unless there would be a supervening event that would necessitate its review[-]: **PROVIDED, THAT THE BOARD OF INVESTMENTS SHALL CAUSE THE PUBLICATION OF THE RULES AND REGULATIONS IMPLEMENTING THE STRATEGIC INVESTMENT PRIORITY PLAN, INCLUDING ANY AMENDMENTS THEREOF, IN A NEWSPAPER OF GENERAL CIRCULATION AND ON ITS OFFICIAL WEBSITE, TO BE EFFECTIVE.**

“The Strategic Investment Priority Plan shall contain the following:

“(A) Priority projects or activities that are included in the Philippine Development Plan or its equivalent, or other government programs, taking into account any of the following:

“(1) Substantial amount of investments;

“(2) Considerable generation of employment, especially towards less developed areas;

“(3) Considerable amount of net exports;

“(4) Use of modern, advance, or new technology;

“(5) Processes and innovations that will lead towards the attainment of the sustainable development goals, shall include, but not be limited to, adoption of adequate environmental protection systems and sustainability strategies;

“(6) Addressing missing links and other gaps in the supply or value chain or otherwise moving up the value chain or product ladder;

“(7) Promotion of market competitiveness;

“(8) Enhancement of the capabilities of Filipino enterprises and professionals to produce and offer increasingly sophisticated products and services;

“(9) Contribution to Philippine food security and increase incomes in the agriculture and fisheries sector; or

“(10) Services and activities that can promote regional and global operations in the country.

“(B) Scope and coverage of location and industry tiers in Section 296; and

“(C) Terms and conditions on the grant of enhanced deductions under Section 294(C), **AS DETERMINED BY THE DOF.**

“All sectors or industries that may be included in the Strategic Investment Priority Plan shall undergo an evaluation process **AND SHALL CONSIDER REDUNDANCY** to determine the suitability and potential of the industry or the sector in promoting long-term growth and sustainable development, and the national interest. In no case shall a sector or industry be included in the Strategic Investment Priority Plan unless it is supported by a formal evaluation process or report. **FOR THIS PURPOSE, THE FISCAL INCENTIVES REVIEW BOARD SHALL PROMULGATE THE GUIDELINES ON THE CONSIDERATION OF REDUNDANCY IN THE STRATEGIC INVESTMENT PRIORITY PLAN FORMULATION.**

1 "ACTIVITIES, WHOSE BUSINESS VIABILITY ARE
2 DETERMINED PRIMARILY BY THE PRESENCE AND SIZE OF THE
3 MARKET, LOCATION OR BY THE NATURE AND SCOPE OF THEIR
4 OPERATIONS, AND CAN ONLY CATER TO A SPECIFIC MARKET OR
5 ONLY OPERATE IN A GIVEN LOCATION PRIMARILY TO TAKE
6 ADVANTAGE OF ITS AVAILABLE RESOURCES, SHALL BE
7 CONSIDERED REDUNDANT EXCEPT WHEN SUCH ACTIVITIES ALSO
8 INVOLVE EXPORTATION OF GOODS AND SERVICES.

9 "The projects or activities must comply with the specific qualification
10 requirements or conditions for a particular sector or industry and other
11 limitations as set and determined by the Board of Investments, and in
12 coordination with the Fiscal Incentives Review Board.

13 "In no case shall the Investment Promotion Agencies accept
14 applications unless the project or activity is listed in the Strategic Investment
15 Priority Plan. Projects or activities not listed in the Strategic Investment Priority
16 Plan shall be automatically disapproved."

17
18 **SEC. 18.** Section 301 of the National Internal Revenue Code of 1997, as amended,
19 is hereby further amended to read as follows:

20 "SEC. 301. *Power of the President to Grant Incentives.* –
21 Notwithstanding the provisions of Sections 295, 296, AND 296-A the President
22 may, in the interest of national economic development, ~~[and]~~ **OR** upon the
23 recommendation of the Fiscal Incentives Review Board, modify the mix, period
24 or manner of availment of incentives provided under this Code **OR CRAFT**
25 **THE APPROPRIATE [financial] FISCAL AND NON-FISCAL SUPPORT**
26 **PACKAGE** for a highly desirable project or a specific industrial activity based
27 on defined development strategies for creating high-value jobs, building new
28 industries to diversify economic activities, and attracting significant foreign and
29 domestic capital or investment, and the fiscal requirements of the activity or
30 project, subject to maximum incentive levels recommended by the Fiscal
31 Incentives Review Board: *Provided*, That the grant of income tax holiday shall
32 not exceed ~~[eight-(8)]~~ **TEN (10)** years; and thereafter, a special corporate
33 income tax rate of five percent (5%) **OR ENHANCED DEDUCTIONS** may be
34 granted: *Provided, further*, That the total period of incentive availment shall
35 not exceed forty (40) years.

1 “The Fiscal Incentives Review Board shall determine whether the
2 benefits that the Government may derive from such investment are clear and
3 convincing and far outweigh the cost of incentives that will be granted in
4 determining whether a project or activity is highly desirable.

5 “The exercise by the President of his powers under this Section shall
6 be based on a positive recommendation from the Fiscal Incentives Review
7 Board upon its determination that the following conditions are satisfied:

8 “(1) The project has a comprehensive sustainable development
9 plan with clear inclusive business approaches, and high level of
10 sophistication and innovation; and

11 “(2) Minimum investment capital of Fifty billion pesos
12 (Php50,000,000,000.00) or its equivalent in US dollars, or a minimum
13 direct local employment generation of at least ten thousand (10,000)
14 within three (3) years from the issuance of the certificate of
15 entitlement.

16 “*Provided,* That the threshold shall be subject to a periodic review by
17 the Fiscal Incentives Review Board every three (3) years, taking into
18 consideration international standards or other economic indicators: *Provided,*
19 *further,* That if the project fails to substantially meet the projected impact on
20 the economy and agreed performance targets, the Fiscal Incentives Review
21 Board shall recommend to the President the cancellation of the tax incentive
22 or **FISCAL AND NON-FISCAL** [financial] support package or the modified
23 period or manner of availment of incentives, after due hearing and an
24 adequate opportunity to substantially comply with the agreed performance
25 targets and outputs.

26 “For this purpose, **THE PRESIDENT MAY GRANT** [financial] **NON-**
27 **FISCAL** support **PACKAGE LIMITED TO THE** [includes] utilization of
28 government resources such as land use[,]
29 ~~AND water appropriation.[, power~~
30 ~~provision, and budgetary support provision under the annual General~~
31 ~~Appropriations Act.]~~

32 “~~This power of the President, in as far as it commands additional~~
33 ~~public sector expenditures in support of investors, is suspended during fiscal~~
34 ~~years when, an [unimaginable] UNMANAGEABLE fiscal deficit is declared by~~
35 ~~the President on the advice of the Development Budget Coordination~~
36 ~~Committee with a consequence that even core budgetary obligations, such as,~~
 but not limited to, mandatory revenue allotments for local government units

and budget for the National Economic and Development Authority's core public investments program, cannot be fully financed.

"Notwithstanding the provisions in the preceding paragraphs, tax and duty incentives granted through legislative franchises shall be excepted from the foregoing powers of the President to review, withdraw, suspend, or cancel tax incentives and subsidies."

SEC. 19. Section 309 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 309. *Prohibition on Registered Activities.* – A qualified registered project or activity under an Investment Promotion Agency administering an economic zone or freeport shall be exclusively conducted or operated within the geographical boundaries of the zone or freeport being administered by the Investment Promotion Agency in which the project or activity is registered: *Provided,* That a registered business enterprise may conduct or operate more than one qualified registered project or activity within the same zone or freeport under the same Investment Promotion Agency: *Provided, further,* That any project or activity conducted or performed outside the geographical boundaries of the zone or freeport shall not be entitled to the incentives provided in this Act, unless [~~such project or activity is conducted or operated under another Investment Promotion Agency:~~] **THE REGISTERED BUSINESS ENTERPRISES ARE ENGAGED IN THE INFORMATION TECHNOLOGY – BUSINESS PROCESS OUTSOURCING SECTOR, OR OTHER SIMILAR SECTORS THAT MAY BE ALLOWED TO CONDUCT BUSINESS UNDER ALTERNATIVE WORK ARRANGEMENTS. PROVIDED, FINALLY, THAT DOUBLE REGISTRATION FOR PURPOSES OF AVAILING OTHER INCENTIVES UNDER SPECIAL LAWS SHALL NOT BE ALLOWED.**"

SEC. 20. Section 311 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 311. *Investments Prior to the Effectivity of [this Act]* **REPUBLIC ACT NO. 11534.** – Registered business enterprises with incentives granted prior to the effectivity of [~~this Act~~] **REPUBLIC ACT NO. 11534** shall be subject to the following rules:

"(A) xxx;

“(B) Registered business enterprises, whose projects or activities were granted an income tax holiday prior to the effectivity of this Act and that are entitled to the five percent (5%) tax on gross income earned incentive after the income tax holiday, shall be allowed to avail of the five percent (5%) tax on gross income earned incentive based on Subsection (C), **INCLUDING ALL CORRESPONDING EXEMPTIONS FROM LOCAL TAXES, FEES AND CHARGES, AND NATIONAL TAXES UNTIL DECEMBER 31, 2033;** and

“(C) Registered business enterprises currently availing of the five percent (5%) tax on gross income earned granted prior to the effectivity of this Act shall be allowed to continue availing the said tax incentive at the rate of five percent (5%), **INCLUDING ALL CORRESPONDING EXEMPTIONS FROM LOCAL TAXES, FEES AND CHARGES, AND NATIONAL TAXES** [~~for~~ ~~ten (10) years~~] **UNTIL DECEMBER 31, 2033.**

“PROVIDED, THAT AFTER THE END OF THE TRANSITORY PERIOD HEREIN GRANTED, ALL REGISTERED EXPORT ENTERPRISES, WHO CONTINUE TO MEET THE TERMS OF THEIR REGISTRATION WITH THEIR CONCERNED IPA AND MAINTAIN AT LEAST SEVENTY PERCENT (70%) OF TOTAL ANNUAL PRODUCTION OR OUTPUT AS EXPORT SALES MAY CONTINUE AVAILING OF DUTY EXEMPTION ON IMPORTATION UNDER SECTIONS 294(D) AND 295(D), VAT EXEMPTION ON IMPORTATION AND VAT ZERO-RATING ON LOCAL PURCHASES UNDER SECTIONS 294(E) AND 295(E) FOR THE ENTIRE REGISTRATION PERIOD.”

SEC. 21. *Transitory Provisions.* – The exemption from local and national taxes under Section 294(B) of this Act shall have retroactive application: *Provided,* That no tax refund or credit shall be granted to registered business enterprises covered by Section 311 of the National Internal Revenue Code of 1997, as amended, as a result of the exemption from local and national taxes.: *Provided, further,* That registered business enterprises granted incentives under Republic Act No. 11534 or the CREATE Act shall continue with their existing incentives, subject to the applicable enhanced deductions under Sections 294(C)(6), (7), (8) and (9): *Provided, furthermore,* That the ten (10)-year enhanced deductions granted under Section 296(B) of this Act shall automatically apply to domestic market enterprises registered under Republic Act No. 11534 or the CREATE Act.

1 **SEC. 22. *Implementing Rules and Regulations.*** – Within ninety (90) days from the
2 effectivity of this Act, the Secretary of Finance, upon the recommendation of the
3 Commissioner of Internal Revenue, shall promulgate the necessary rules and regulations
4 for its effective implementation: *Provided*, That for the provisions under Title XIII of the
5 National Internal Revenue Code of 1997, as amended, the Secretary of Finance and the
6 Secretary of Trade and Industry shall jointly promulgate the necessary rules and
7 regulations thereof within the same period, after due consultations with the Commissioner
8 of Internal Revenue, the Board of Investments, and other IPAs, for their effective
9 implementation. Failure to promulgate the rules and regulations shall not prevent the
10 implementation of this Act upon its effectivity.

11
12 **SEC. 23. *Separability Clause.*** – If any provision of this Act is declared
13 unconstitutional, the remaining parts or provisions hereof not affected thereby shall
14 remain in full force and effect.

15
16 **SEC. 24. *Repealing Clause.*** – All laws, presidential decrees, executive orders, letters
17 of instructions, proclamations, administrative regulations, implementing rules and
18 regulations, or any part thereof inconsistent with the provisions of this Act are hereby
19 repealed, amended, or modified accordingly.

20
21 **SEC. 25. *Effectivity.*** – This Act shall take effect after fifteen (15) days following its
22 complete publication in the *Official Gazette* or in a newspaper of general circulation.

23
 Approved,