

FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Third Regular Session )

OFFICE

10 JAN 26 P5:10

SENATE

RECEIVED BY: 

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**COMMITTEE REPORT NO. 784**

Submitted jointly by the Committees on Economic Affairs (upon the recommendation of the Subcommittee on Investments and the Incentives Code of the Philippines), Trade and Commerce and Ways and Means on JAN 26 2010

Re: House Bill No. 5241

Recommending its approval with amendments, taking into consideration Senate Bill Nos. 1640, 2375 and 3136.

Sponsors: Senators Defensor-Santiago and Angara

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**MR. PRESIDENT:**

The Committees on Economic Affairs (upon the recommendation of the Subcommittee on Investments and the Incentives Code of the Philippines), Trade and Commerce and Ways and Means, to which were referred House Bill No. 5241 introduced by Reps. Javier, Cua J., Almario, Codilla, Teodoro, Susano, Puentevella, Chatto, Olaño, Gonzales N., De Guzman, Agbayani, Velarde and Romulo, entitled:

**“THE INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES”**

Senate Bill No. 1640, introduced by Senator Villar, entitled:

**“AN ACT ORDAINING A CONSOLIDATED INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES”;**

Senate Bill No. 2375 introduced by Senator Legarda, entitled:

**“THE INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES” and**

Senate Bill No. 3136 introduced by Senator Lacson, , entitled:

**“THE INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES”**

have considered the same and have the honor to report them back to the Senate with the recommendation that House Bill No. 5241 be approved with the following amendments, taking into consideration Senate Bill Nos. 1640, 2375 and 3136:

1. On Page 3 line 1, delete “two (2)” and replace with the words “FOUR (4)”
  2. From Page 3 line 27 to Page 4 line 2, delete the phrase “(3) GATHER, CONSOLIDATE AND MONITOR INVESTMENT DATA AND INFORMATION (BOTH DOMESTIC AND FOREIGN DIRECT INVESTMENTS) FROM ALL IPAS AND OTHER CONCERNED GOVERNMENT AGENCIES FOR SUBMISSION TO THE PRESIDENT AND TO CONGRESS;”  
  
Re-number succeeding numbers accordingly.
  3. On Page 4 line 12, after the word “(NFID)”, add a period “(.)” and the following sentence: “THE NFID SHALL IDENTIFY KEY EMERGING MARKETS OR INDUSTRIES THAT WILL SUBSTANTIALLY ENHANCE THE COMPETITIVENESS OF THE COUNTRY’S INDUSTRIES, SUCH AS, BUT NOT LIMITED TO AGRICULTURAL TECHNOLOGY, BIOMEDICAL DEVICES AND SYSTEMS, RENEWABLE ENERGY, LOGISTICS AND INFORMATION COMMUNICATIONS AND TECHNOLOGIES”
  4. Insert the word “BOI” before the words “registered enterprises” in Page 6 lines 2, 5, 7, 20, 23 and 27.
  5. On Page 7 line 13, after the word “of”, insert the words “OTHER IPAS SUCH AS”
  6. On Page 10 line 1, delete the words “PARCEL SERVICES,”
  7. On Page 12 line 27, after the words “taxable year.”, insert the following sentence: “THE EXPORT REQUIREMENT HEREIN PROVIDED MAY BE REDUCED, BUT SHALL NOT BE LESS THAN FIFTY (50%), IN MERITORIOUS CASES UNDER SUCH CONDITIONS AS THE BOARD MAY DETERMINE.”
  8. On Page 18 line 12, after the word “value-added.”, insert a new 3<sup>rd</sup> paragraph to Section 15 to read as follows: “NOTWITHSTANDING THE PRECEDING PARAGRAPHS OF THIS SECTION OR ANY LAW TO THE CONTRARY, A PROJECT WHICH SHALL LEAD TO SIGNIFICANT IMPROVEMENTS IN PRODUCTIVITY AND VALUE ADDED AND THAT WILL (A) PRODUCE OR MANUFACTURE NEW, EMERGING AND TECHNOLOGICALLY ADVANCED PRODUCT, OR (B) INVOLVE BREAKTHROUGH PROCESS INNOVATION, OR (C) INVOLVE NEW AND INNOVATIVE SERVICE, SHALL ALSO BE DEEMED AS “STRATEGIC PROJECT” ”
  9. From Page 27 line 26 to Page 28 line 1, delete the phrase “NOT ENGAGED IN STRATEGIC PROJECTS UNDER THE SECTORS OR INDUSTRIES UNDER THE IPP INCLUDING REGISTERED MICRO, SMALL AND MEDIUM ENTERPRISES (SMES) AS DEFINED BY THE APPROPRIATE AGENCY,”
  10. On Page 48 line 25, after the word “those”, insert the words “EXPORT-ORIENTED ACTIVITIES”;
- Still on the same page but in line 26, delete the word “PEZA” and replace with “IPAS”

11. On Page 49 line 4, after the word **“Administration”**, delete the comma (,) and replace with the word **“AND”**;

Still on the same page and line, after the word **“Implementation”**, delete the words **“AND MONITORING”**

Still on the same page but on line 7, delete the following sentences: **“THEY SHALL SUBMIT TO THE DOF THEIR RESPECTIVE TAX EXPENDITURES BASED ON THE COMPUTED COST IN TERMS OF REVENUE FOREGONE ON THE TAX INCENTIVES GRANTED TO THEIR REGISTERED ENTERPRISES, AND OTHER DATA RELATED TO THE GRANT OF INVESTMENT INCENTIVES, ON A QUARTERLY BASIS AND TO COVER ALL THEIR REGISTERED ENTERPRISES INCLUDING THOSE WHOSE INCENTIVES ARE PROVIDED BY INVESTMENT INCENTIVE LAWS PRIOR TO THE EFFECTIVITY OF THIS ACT. FOR PROPER MONITORING, THE DOF SHALL CREATE A SINGLE DATABASE OF ALL INCENTIVES PROVIDED BY ALL IPAS. THE DOF SHALL MONITOR AND REVIEW THE INCENTIVES GRANTED AND SUBMIT AN ANNUAL REPORT TO THE PRESIDENT AND TO THE CHAIRMAN OF THE COMMITTEE ON WAYS AND MEANS OF BOTH HOUSES OF CONGRESS.”**

12. From Page 53 line 26 to Page 54 line 1, delete the following: **“TITLE I, CHAPTER III, ARTICLE 32(1)(B); TITLE III, ARTICLE 39(A), (B), (D), (E), (G), (I), (J), (K), (L), (M) AND (N); TITLE IV, ARTICLE 40(A) AND (B); BOOK III, CHAPTER II, ARTICLES 61 AND 62; BOOK III, CHAPTER III, ARTICLES 63, 64, 65, 66 AND 67; BOOK IV, ARTICLES 69 AND 70; AND BOOK VI, ARTICLE 77”** and replace with the words **“BOOKS I, V AND VI”**

On Page 54 line 23, delete the word **“Secion”** and replace with the word **“SECTION”**

On Page 54 line 25, delete **“SECTION 16(A). (C), (D), (E)”** and replace with **“SECTION 16 (C) AND (D)”**.

On Page 55 line 24, after the semi-colon (;), insert the word **“AND”**

On Page 55 line 1, delete the words **“CHAPTER XV, SECTION 83;”** and the number **“91”**


From Page 55 line 25 to Page 56 line 4, delete the following subsections:


**“(O) SECTIONS 4(B) OF REPUBLIC ACT NO. 7922 OTHERWISE KNOWN AS THE “CAGAYAN SPECIAL ECONOMIC ZONE ACT OF 1995”;**

**“(P) SECTION 12(B) OF REPUBLIC ACT NO. 7227, OTHERWISE KNOWN AS THE “BASES CONVERSION AND DEVELOPMENT ACT OF 1992”;**

**“(Q) SECTION 1(B), SECTIONS 5, 6 AND 7 OF REPUBLIC ACT NO. 9400, OTHERWISE KNOWN AS, “AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992, AND FOR OTHER PURPOSES”;**

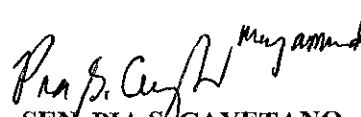
Respectfully Submitted:

  
**SEN. MIRIAM DEFENSOR SANTIAGO**  
Chair, Committee on Economic Affairs

  
**SEN. EDGARDO J. ANGARA**  
Chair, Subcommittee on Investments and  
Incentives Code of the Philippines  
Member, Committee on Ways & Means


**SEN. M A R ROXAS**  
Chair, Committee on Trade and Commerce  
Member, Committees on Economic Affairs &  
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**SEN. PANFILO M. LACSON**  
Chair, Committee on Ways and Means


  
**SEN. PIA S. CAYETANO**  
Vice-Chair, Committee on Economic Affairs

Members:

**SEN. BENIGNO S. AQUINO III**  
Member, Committees on Economic Affairs,  
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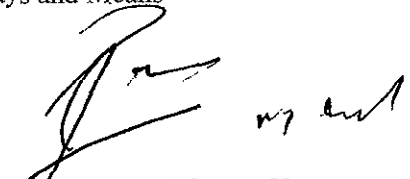
  
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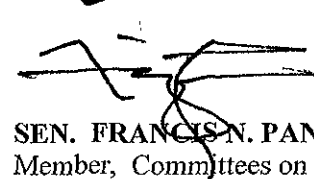
**SEN. FRANCIS "Chiz" G. ESCUDERO**  
Member, Committees on Trade & Commerce  
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**SEN. RAMON "Dong" REVILLA, JR.**  
Member, Committee on Trade & Commerce



**SEN. MANUEL "Lito" M. LAPID**  
Member, Committee on Ways and Means

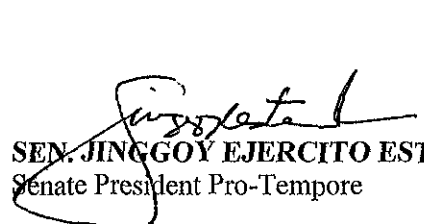


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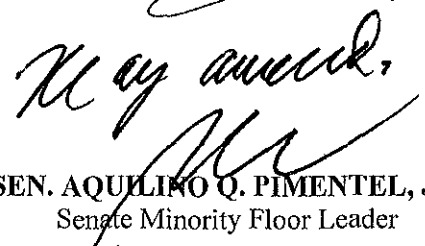
Ex-Officio Members:



**SEN. JINGGOY EJERCITO ESTRADA**  
Senate President Pro-Tempore



**SEN. JUAN MIGUEL F. ZUBIRI**  
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**SEN. AQUILINO Q. PIMENTEL, JR.**  
Senate Minority Floor Leader

**SEN. JUAN PONCE ENRILE**  
Senate President  
Senate of the Philippines  
Pasay City



## HOUSE OF REPRESENTATIVES

H. No. 5241

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BY REPRESENTATIVES JAVIER, CUA (J.), ALMARIO, CODILLA, TEODORO,  
SUSANO, PUENTEVELLA, CHATTO, OLAÑO, GONZALES (N.),  
DE GUZMAN, AGBAYANI, VELARDE AND ROMULO, PER COMMITTEE  
REPORT NO. 1332

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### THE INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES

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

1 PRELIMINARY TITLE

2 CHAPTER I

3 TITLE AND DECLARATION OF POLICY

4 SECTION 1. *Title.* – This Act shall be known as “The Investments and  
5 Incentives Code of the Philippines”.

6 SEC. 2. *Declaration of Investment Policies.* – The national economy  
7 shall be developed so as to enhance its competitiveness in the global economy  
8 through investment promotion and industrial development activities geared  
9 towards employment generation and countrywide development. Accordingly,  
10 the following are the declared policies of the State:

11 (a) The State shall pursue a market-responsive investment regime;

1 (b) The State shall formulate industry and sectoral development  
2 programs;

3 (c) The State shall undertake investment promotion activities;

4 (d) The State shall grant incentives that are simple to administer,  
5 time-bound and performance-based; and

6 (e) The State recognizes that industrial peace is essential to attracting  
7 investments.

## 8 CHAPTER II

### 9 ORGANIZATION AND FUNCTIONS OF THE BOARD OF INVESTMENTS

10 SEC. 3. *The Board of Investments (BOI).* – The Board of Investments  
11 hereinafter referred to as the “BOI” shall implement the provisions of this  
12 Code except as otherwise provided therein.

13 SEC. 4. *Composition of the BOI Board of Governors.* – The BOI Board  
14 of Governors, hereinafter referred to as the “Board”, shall be composed of nine  
15 (9) governors: the Secretary of the Department of Trade and Industry (DTI),  
16 the Secretary of the Department of Finance (DOF), the Director General of the  
17 National Economic and Development Authority (NEDA), the DTI  
18 Undersecretary for Investments and Industry Group (IIG), the DTI  
19 Undersecretary of International Trade Group (ITG), the DTI Undersecretary of  
20 Regional Operations Group (ROG) and three (3) representatives from the  
21 private sector. The Secretary of the DTI shall concurrently be the Chairman of  
22 the BOI and the DTI Undersecretary for Investments and Industry Group shall  
23 be the concurrent Vice Chairman and Managing Governor of the BOI. The  
24 three (3) representatives from the private sector shall be appointed by the  
25 President for a term not exceeding four (4) years: *Provided*, That a governor  
26 may be reappointed: *Provided, further*, That a governor shall serve as such  
27 until his successor shall have been appointed and qualified.

1           The Managing Governor of the BOI shall be assisted by two (2) career  
2 officials with the rank of Deputy Managing Governor, who shall be appointed  
3 by the Board, upon the recommendation of the Managing Governor.

4           Members of the Board shall receive a reasonable *per diem* for every  
5 meeting attended.

6           SEC. 5. *Qualifications of the BOI Board of Governors.* – The  
7 governors of the BOI shall be citizens of the Philippines, at least thirty-five  
8 (35) years old, with proven probity and integrity, of good moral character and  
9 of recognized competence in economics, business, marketing, advertising,  
10 management or its equivalent.

11           SEC. 6. *Powers and Functions of the Board.* – The Board shall be  
12 responsible for the regulation and promotion of investments. It shall hold  
13 meetings at least once a week for the conduct of business or as often as may be  
14 necessary upon the call of the Chairman or upon the request of the Managing  
15 Governor. The notice of regular and special meetings shall be given to all the  
16 members of the Board and the presence of five (5) members shall constitute a  
17 quorum and the affirmative vote of five (5) members in a meeting validly held  
18 shall be necessary to exercise its powers and perform its functions which shall  
19 include the following:

20           A. Investment Promotion-Related Functions:

21           (1) Formulate an evolving National Framework for Investment  
22 Promotions (NFIP) that will govern all Investments Promotion Agencies  
23 (IPAs);

24           (2) Promulgate rules, regulations and policies to implement the NFIP in  
25 consultation with all IPAs and exercise monitoring functions over all  
26 investment promotion activities of all IPAs;

27           (3) Gather, consolidate and monitor investment data and information  
28 (both domestic and foreign direct investments) from all IPAs and other



1 concerned government agencies for submission to the President and to  
2 Congress;

3 (4) Enter into agreements with other agencies for the simplification of  
4 systems and procedures involved in the promotion of investments, operation of  
5 economic zones and registered enterprises, and other activities necessary for  
6 the effective implementation of this Code;

7 (5) Establish the Investment Promotion Action Center (*i-PAC*);

8 (6) Establish and operate regional investment centers in the  
9 Philippines, and establish and operate overseas investment offices.

10 B. Regulatory Functions:

11 (1) Formulate an evolving National Framework for Industrial  
12 Development (NFID);

13 (2) Promulgate rules, regulations and policies to implement the NFID  
14 in consultation with the private sector;

15 (3) Plan and implement industrial programs to hasten economic  
16 development including those relating to the implementation of international  
17 trade, investment and industry-related environmental agreements and  
18 protocols;

19 (4) Formulate positions for bilateral, multilateral and regional  
20 investments and investment-related trade agreements and/or arrangements;

21 (5) Act on investment projects covered by bilateral, multilateral, and  
22 regional agreements subject to rules and guidelines to be formulated by the  
23 Board;

24 (6) Recommend to the President the suspension of the nationality  
25 requirement provided for in this Code in appropriate cases such as those  
26 involving bilateral, multilateral, or regional investments, or other trading  
27 agreements of the Philippines with other countries; or when the existing laws  
28 of another country where the investor comes from provides no nationality

1 restrictions for Filipino investors or provides for reciprocal nationality  
2 accommodations;

3 (7) Promulgate rules, regulations and policies on incentives which the  
4 IPAs are mandated to implement;

5 (8) Gather, consolidate and monitor incentives data and information  
6 from all IPAs and other concerned government agencies for submission to the  
7 President, the DOF and Congress;

8 (9) Prepare the Investments Priorities Plan (IPP) in accordance with  
9 Title III, Chapter I of this Code;

10 (10) Formulate rationalization programs for certain industries whose  
11 operation may result in dislocation, oversupply or inefficient use of resources  
12 that impedes economic growth. In the interest of national development and  
13 upon approval of the President, the Board may restrict, either totally or  
14 partially, the importation or exportation of any equipment, raw materials,  
15 intermediate goods or finished goods;

16 (11) Prepare an annual list of products and services that are not  
17 sufficiently manufactured/rendered locally;

18 (12) Assist micro and small enterprises in the preparation of feasibility  
19 and other pre-investment project studies;

20 (13) Regulate the implementation of Regional Operating Headquarters,  
21 Retail Trade Law, Long-Term Lease and other laws as mandated;

22 (14) Process and approve, deny, suspend, revoke applications for  
23 registration, imposing terms and conditions as it may deem necessary to  
24 promote the purposes of this Code, including the refund and forfeiture of  
25 incentives when appropriate, restricting availment of incentives not needed by  
26 the project as determined by the Board, requiring performance bonds from  
27 BOI-accredited bonding companies, and payment of application, registration,  
28 publication and other fees, when warranted;

1           (15) After due notice and hearing, cancel the registration or suspend the  
2 incentives of a registered enterprise and/or require refund of incentives,  
3 including interests and monetary penalties;

4           (16) Establish a mediation center to resolve controversies and/or  
5 disputes between registered enterprises;

6           (17) After due hearing, decide controversies that may arise between  
7 registered enterprises or investors therein which espouse conflicting interests  
8 arising from the implementation of this Code. The Board shall have the power  
9 to subpoena witnesses, administer oaths, and compel the production of books,  
10 papers and other evidence, and to cite for contempt any person or organization  
11 that fails to comply with the aforestated processes: *Provided*, That the Board  
12 may grant immunity from prosecution to any person whose testimony or  
13 documents or other evidence is necessary or relevant to the case:  
14 *Provided, further*, That a registered enterprise may file a motion for  
15 reconsideration of a decision or final order within fifteen (15) days from notice  
16 thereof, with proof of service on the parties affected. No second motion for  
17 reconsideration of a decision or final order by the same party shall be  
18 entertained;

19           (18) Recommend to the Commissioner of the Bureau of Immigration  
20 the employment of foreign nationals in registered enterprises and the grant of  
21 Investor's Visa;

22           (19) Ascertain by inspection or verified reports, the proportion of the  
23 participation of Philippine nationals in a registered enterprise to ensure  
24 compliance with the nationality requirements of Philippine laws to retain  
25 registration under this Code or to verify the compliance by registered  
26 enterprises with the terms and conditions of registration;

27           (20) Waive, condone or reduce fines or penalties imposed on registered  
28 enterprises;

1           (21) Determine the organizational structure of the BOI. Appoint,  
2 discipline or remove its personnel consistent with the provisions of civil  
3 service laws, rules and regulations; and

4           (22) Exercise all the powers necessary or incidental to attain the  
5 purposes of this Code and other laws vesting additional functions on the  
6 Board.

7           SEC. 7. *Appointment of BOI Personnel.* – The Managing Governor,  
8 upon recommendation of the Board, shall appoint its personnel subject to civil  
9 service laws, rules and regulations. All positions in the BOI shall be governed  
10 by compensation, position classification systems, and qualification standards  
11 approved by the Board based on a comprehensive job analysis and audit of  
12 actual duties and responsibilities. The compensation plan shall be comparable  
13 with the prevailing compensation plan of Philippine Economic Zone Authority  
14 (PEZA) and shall be subject to periodic review by the Board without prejudice  
15 to yearly merit reviews or increases based on productivity. The BOI shall  
16 therefore be exempt from existing laws, rules and regulations on compensation,  
17 position classification and qualification standards.

18           SEC. 8. *The Investment Promotion Action Center (i-PAC).* – There is  
19 hereby created an *i-PAC* in the BOI in place of the current One Stop Action  
20 Center (OSAC) created under Executive Order No. 136, series of 1987,  
21 entitled “Establishing the Council for Investment in Trade, Industry, Tourism,  
22 Agriculture, Natural Resources, Transportation, Communication and Services,  
23 and for Other Purposes”. The *i-PAC* shall serve as the source of investment  
24 information and as the link to all government agencies to facilitate entry,  
25 retention, expansion and diversification of investments.

26           The *i-PAC* shall be composed of all government agencies involved in  
27 the establishment or operation of business including, but not limited to, all  
28 IPAs, the Securities and Exchange Commission (SEC), the Bureau of Internal

1 Revenue (BIR), the Bureau of Customs (BOC), the Bureau of Immigration  
2 (BI), the Department of Trade and Industry (DTI), the Department of the  
3 Interior and Local Government (DILG), the Department of Agriculture (DA),  
4 the Department of Environment and Natural Resources (DENR), the  
5 Department of Labor and Employment (DOLE), the Department of Foreign  
6 Affairs (DFA), the Department of Energy (DOE), the Department of Public  
7 Works and Highways (DPWH), the Department of Agrarian Reform (DAR)  
8 and such other agencies as may be determined by the Board. The government  
9 agencies involved shall designate representatives to the *i-PAC* that are clothed  
10 with authority to act and approve/deny any matter relative to their respective  
11 agencies.

12 SEC. 9. *Powers and Functions of the i-PAC.* – The *i-PAC* shall  
13 exercise and perform the following powers and functions:

14 (a) Provide advice, guidance, information and procedure on various  
15 laws, rules and regulations governing investments and the conduct of business  
16 in the Philippines.

17 (b) Ensure that all investment-related requirements are acted upon  
18 within ten (10) working days. In cases of applications not acted upon within  
19 ten (10) working days, the same shall be deemed approved: *Provided,*  
20 *however,* That deferment shall be considered as an action.

21 (c) Recommend the streamlining of existing procedures to ensure that  
22 all frontline agencies, dealing with the operation of business, perform their  
23 tasks for identified government to business transactions.

24 (d) Establish an on-line investment facilitation system.

25 (e) Act, in coordination with appropriate government offices or  
26 agencies, such as the Office of the Ombudsman and the Civil Service  
27 Commission (CSC), on complaints filed by any investor or potential investor  
28 against any public official or employee or any office, agency or

instrumentality, including local government units (LGUs) and officials, as well as any government-owned and -controlled corporation (GOCC), in connection with any act or duty required by law to facilitate the entry of local and foreign investments.

(f) Perform such other functions as may be directed by the Board.

SEC. 10. *Honoraria and Allowances.* – The Board shall provide for reasonable honoraria and allowances for the i-PAC members and its personnel.

## TITLE II

### DEFINITION OF TERMS

SEC. 11. *Definition of Terms.* – As used herein, the following shall mean:

(a) “BOI” shall refer to the Board of Investments created under this Code.

(b) “Investments promotion agencies (IPAs)” shall include the BOI, the PEZA, the Bases Conversion Development Authority (BCDA), the Subic Bay Metropolitan Authority (SBMA), the Clark Development Corporation (CDC), the John Hay Management Corporation (JHMC), the Poro Point Management Corporation (PPMC), the Bataan Technology Park Inc. (BTPI), the Cagayan Economic Zone Authority (CEZA), the Zamboanga City Special Economic Zone Authority (ZCSEZA), the PHIVIDECA Industrial Authority (PIA), the Aurora Special Economic Zone Authority (ASEZA), and all other IPAs that may be created by law.

(c) “Registered enterprise” shall mean any individual, partnership, corporation, Philippine branch of a foreign corporation or other entity incorporated and/or organized and existing under Philippine laws and registered with an IPA, in accordance with this Code: *Provided, however,* That the term “registered enterprise” shall not include any of the following service enterprises such as, but not limited to, those engaged in customs brokerage,

1 trucking/forwarding services, parcel services, janitorial services, security  
2 services, insurance and/or banking and other financial services, consumers  
3 cooperatives, credit unions, consultancy services, restaurants or such other  
4 services, within the economic zones, as may be determined by the IPA Board,  
5 duly accredited and/or licensed by any of the IPAs and whose income derived  
6 within the economic zones shall be subject to taxes under the National Internal  
7 Revenue Code (NIRC) of 1997, as amended.

8 (d) "Investments priorities plan (IPP)" shall refer to the list of  
9 industries, services and other economic activities, which will be eligible for  
10 incentives under this Code, prepared and determined as priority or preferred  
11 activities in accordance with Title III, Chapter 1 of this Code.

12 (e) "New product or service" shall refer to any product or service not  
13 locally or not sufficiently manufactured/rendered to meet the demand.

14 (f) "Gross income earned" refers to gross sales or gross receipts  
15 derived from the registered activity less sales returns, discounts and allowances  
16 and cost of goods sold.

17 (g) "Tax credit" shall mean any credits against taxes and/or duties  
18 equal to those actually paid or would have been paid. Tax credit certificate  
19 shall be issued by the Secretary of Finance or his representative,  
20 or the concerned IPA, if so delegated by the Secretary of Finance. The tax  
21 credit certificate issued pursuant to this Code shall not be transferable to  
22 another registered enterprise under this Code. In case the industry is in a state  
23 of distress, as declared by the Board, the tax credit certificate held by  
24 enterprises of such distressed industry shall be freely transferable. The tax  
25 credit shall be valid only for a period of five (5) years from the date of  
26 issuance.

27 The tax credit certificate shall be used to pay taxes, duties, charges and  
28 fees due to the national government, except withholding tax.

1           (h) "Export sales of goods" shall mean the sales revenues paid for in  
2 freely convertible foreign currency, determined from invoices, bills of lading,  
3 inward letters of credit, landing certificates, or other commercial documents, of  
4 the following:

5           (1) the sale and actual shipment of goods from the Philippines to a  
6 foreign country by a registered enterprise;

7           (2) sales of goods to an export enterprise registered in accordance with  
8 this Code; to diplomatic missions and to agencies or institutions allowed to  
9 import said goods tax and duty-free; to international shipping or international  
10 air transport operations; and to foreign military aircraft or seacraft;

11           (3) sales to a nonresident buyer for delivery to a resident local export  
12 enterprise of capital equipment, raw materials, production supplies, packaging  
13 materials and other production requirements needed for the registered activity  
14 of the export enterprise; or

15           (4) sales of goods to a nonresident buyer, except automobiles and  
16 non-essential goods, manufactured or processed in the Philippines, for delivery  
17 to a resident in the Philippines: *Provided*, That they are paid for in acceptable  
18 foreign currency.

19           *Provided*, That in the case of paragraph (2) above, only sales to an  
20 export enterprise of capital equipment, raw materials, production supplies,  
21 packaging materials and other production requirements needed for the  
22 registered activity of the export enterprise; and sales to international sea or air  
23 transport operations of goods, equipment, spare parts and supplies, except fuel,  
24 to be used in the aircraft or seacraft and capital equipment needed for the  
25 shipping or air transport operations, shall be entitled to incentives for export  
26 enterprises under this Code.



1 Sales of locally manufactured or assembled goods for household and  
2 personal use under the Internal Export Program and similar programs of the  
3 government shall be deemed as "export sales".

4 (i) "Export sales of services" shall mean the sales revenues or receipts,  
5 determined from contracts, invoices, vouchers, official receipts, or other  
6 commercial documents of the following:

7 (1) services rendered for clients abroad by registered enterprises;

8 (2) services rendered for an export enterprise registered in accordance  
9 with this Code; to diplomatic missions and to other agencies or institutions  
10 with tax and duty-free privileges;

11 (3) services rendered to international airlines or shipping lines, or  
12 foreign military aircraft or seacraft, or information and communication  
13 technology enterprises, even if rendered locally.

14 *Provided*, That in the case of paragraph (2) above, only services for an  
15 export enterprise performed by subcontractors and/or contractors in the  
16 manufacture or processing of goods; other services necessary for the registered  
17 activity of an export enterprise; and in the case of paragraph (3), only services  
18 for the overhaul, repair and maintenance for international shipping or air  
19 transport operations, and foreign military aircraft or seacraft, shall be entitled  
20 to incentives for export enterprises under this Code.

21 The foregoing notwithstanding, services rendered locally by registered  
22 enterprises that are paid for in freely convertible foreign currency shall be  
23 considered as "export sales".

24 (j) An "export enterprise" shall mean a registered enterprise which is a  
25 manufacturer, processor or service provider and whose export sale of its  
26 products or services exceeds seventy percent (70%) of its total annual  
27 production of the preceding taxable year.

1           An export trader that buys and sells for its own account products of  
2   micro and small enterprises and earns one hundred percent (100%) of its  
3   annual sales from exports of the same shall be deemed to be an export  
4   enterprise.

5           (k) A "domestic enterprise" shall mean a registered enterprise, which  
6   produces goods for sale or renders services exclusively to the domestic market  
7   or does not comply with the minimum export requirement of an export  
8   enterprise.

9           (l) "Service enterprise" is an enterprise engaged or proposing to  
10   engage in rendering technical, professional or other services listed in the IPP.

11          Service enterprise that earns more than seventy percent (70%) of its  
12   revenues paid for in foreign currency generated from nonresident clients shall  
13   be entitled to the incentives provided to an "export" enterprise.

14          (m) "Source documents" shall refer to input materials and documents  
15   reasonably needed by information technology (IT) and IT-enabled industries  
16   such as, but not limited to, books, directories, magazines, newspapers,  
17   brochures, pamphlets, medical records or files, legal records or files,  
18   instruction materials, drawings, blueprints or outlines.

19          (n) "Processing" shall mean converting raw materials into marketable  
20   form through physical, mechanical, chemical, electrical, biochemical,  
21   biological or other means, or by a special treatment or a series of actions, such  
22   as slaughtering, milling, pasteurizing, drying or desiccating, quick freezing,  
23   that results in a change in the nature or state of the products. Processing shall  
24   include assembly provided that a distinct or new product is formed. Mere  
25   packing or packaging shall not constitute processing.

26          (o) "Industrial Estate (IE)" shall refer to a tract of land subdivided and  
27   developed according to a comprehensive plan under a unified continuous  
28   management and with provisions for basic infrastructure and utilities, with or

1 without pre-built standard factory buildings and community facilities for the  
2 use of a community of industries. It includes government industrial estates  
3 such as the PHIVIDECA Industrial Authority.

4 (p) "ECOZONES" or "Special economic zones (SEZ)" shall refer to  
5 selected areas with highly developed or which have the potential to be  
6 developed into agro-industrial, industrial, supply chain city, information  
7 technology, tourist/recreational, commercial, banking, investment and financial  
8 centers, retirement and medical zones whose metes and bounds are fixed or  
9 delimited by presidential proclamations. An ecozone may contain any or all of  
10 the following: industrial estates (IEs), export processing zones (EPZs), supply  
11 chain cities, ICT parks and centers, free trade zones and tourism estates:  
12 *Provided, however,* That areas where mining operations are undertaken shall  
13 not be declared as ecozones.

14 (q) "Ecozone developer" shall refer to a business entity duly registered  
15 with the PEZA to develop, operate and maintain an ecozone that will put up  
16 the required infrastructure facilities and utilities, to include among others, light  
17 and power system, water supply and distribution system, sewerage and  
18 drainage system, pollution control devices, communication facilities, paved  
19 road network, administration building, standard factory buildings, and other  
20 facilities as may be required by enterprises registered with the PEZA.

21 (r) "Export Processing Zone (EPZ)" or "Export Zone" shall refer to a  
22 specialized industrial estate located physically and/or administratively outside  
23 the customs territory and predominantly oriented to export production.

24 (s) "Freeport" is an isolated and policed area adjacent to a port of entry  
25 as defined by Section 3519 of the Tariff and Customs Code, which shall be  
26 operated and managed as a separate customs territory to ensure free flow or  
27 movement of goods, except those expressly prohibited by law, within, into and  
28 exported out in the freeport zone where imported goods may be unloaded for

1 immediate transshipment or stored, repacked, sorted, mixed or otherwise  
2 manipulated without being subject to taxes and duties.

3 (t) "Tourism estate" is a tract of land with defined boundaries, suitable  
4 for development into an integrated resort complex to render tourism services  
5 for both local and foreign tourists, travelers and investors, with prescribed  
6 carrying capacities, of tourist facilities and activities such as, but not limited to,  
7 sport, gaming and recreation centers, accommodations including hotels,  
8 apartelles, tourist inns/villas, pension houses, convention and cultural facilities,  
9 food and beverage outlets, commercial establishments and other special  
10 interest and attraction activities/establishments, and provided with roads, water  
11 supply facilities, power distribution facilities, drainage and sewage systems,  
12 and other necessary infrastructures and facilities. A tourism estate shall be  
13 under unified and continuous management, and can either be a component of  
14 an ecozone or the whole ecozone itself.

15 (u) "ICT park" or "information and communications technology (ICT)  
16 park" shall refer to an area which has been developed into an integrated  
17 development complex capable of providing infrastructure and other support  
18 facilities required by ICT enterprises, as well as amenities required by  
19 professionals and workers involved in ICT enterprises, or easy access to such  
20 amenities.

21 (v) "ICT center" shall refer to a building which has been developed by  
22 public or private corporate entities to provide infrastructure and other support  
23 facilities required by ICT enterprises, as well as amenities required by  
24 professionals and workers involved in ICT enterprises, or easy access to such  
25 amenities.

26 (w) "Capital equipment" refers to machinery, equipment, major  
27 components thereof, spare parts, accessories, tools, devices, apparatus,  
28 fixtures, fittings and accompaniments which are directly and/or reasonably

1 needed in the registered activity of the enterprise and those required for  
2 pollution abatement and control, cleaner production and water reduction/  
3 conservation.

4 (x) "Supply chain city" shall refer to a self-contained zone that includes  
5 manufacturing facility with hub operations in an economic zone. The  
6 manufacturing facility covers whole or partial operations, and the hub  
7 operations include Business Process Outsourcing (BPO) in support of the  
8 manufacturing activity of the registered enterprise. The BPO activities cover  
9 finance and accounting, high end processes such as marketing, client or buyer-  
10 manufacturer relationship, procurement of materials, logistics management,  
11 and other related activities of a borderless global manufacturing set-up.

12 (y) "Less Developed Area (LDA)" shall refer to an area that is included  
13 in the list prepared by the BOI, after consultation with appropriate government  
14 agencies. Such listing shall take into consideration the following criteria: low  
15 per capita gross domestic product, low level of investments, high rate of  
16 unemployment and/or underemployment and low level of infrastructure  
17 development including its accessibility to developed urban centers.

### 18 TITLE III

#### 19 INVESTMENTS WITH INCENTIVES

#### 20 CHAPTER I

#### 21 QUALIFIED ACTIVITIES

22 SEC. 12. *Investments Priorities Plan (IPP)*. – The BOI, upon  
23 consultation with the Office of the President, concerned IPAs and appropriate  
24 government agencies and the private sector, shall formulate the IPP to be  
25 submitted to the President for his/her approval.

26 In the listing of the activity in the IPP, the following shall be complied  
27 with:

1 (a) The activity shall be covered by the current Medium Term  
2 Philippine Development Plan (MTPDP) and Medium Term Philippine  
3 Investment Plan (MTPIP) or its equivalent;

4 (b) The activity shall satisfy the following conditions:

5 (1) Substantial amount of investments;

6 (2) Considerable generation of employment;

7 (3) Use of modern or new technology; or

8 (4) Installation of adequate environmental protection systems:

9 *Provided*, That items b(1) and b(4) above shall be present in all  
10 activities, and the threshold amount of investments and employment generation  
11 required for a specific activity shall be subject to a periodic review every three  
12 (3) years taking into consideration international standards and other indicators.

13 (c) The activity must comply with the specific qualification  
14 requirements and/or conditions for a particular sector or industry as set by the  
15 Board and other limitations the Board may determine.

16 SEC. 13. *Amendments*. – Subject to publication requirements and the  
17 criteria for investment priority determination, the Board may, at any time,  
18 include additional areas in the IPP, alter any of the terms of the declaration of  
19 an investment area, and temporarily or permanently suspend activities on the  
20 IPP if it considers that such activity is no longer a priority. In no case,  
21 however, shall any amendment of the IPP impair the incentives conferred on a  
22 registered enterprise. The Board shall not accept applications in an area of  
23 investment prior to the approval of the same as a preferred area or after  
24 approval of its deletion as a preferred area of investment in the IPP.

25 SEC. 14. *Publication*. – Upon approval of the IPP, in whole or in part,  
26 or upon approval of an amendment thereof, the IPP or the amendment,  
27 specifying and declaring the areas of investment shall be published in at least

1 one (1) newspaper of general circulation and all such areas shall be open for  
2 application until publication of an amendment or deletion thereof.

3 SEC. 15. *Strategic Projects*. – The President, upon recommendation of  
4 the Board, may allow registration of a strategic project that may not be listed in  
5 the IPP, but will locate in the country as a result of stiff competition with other  
6 countries.

7 A strategic project is a project that exhibits high social economic returns  
8 and requires large investments that will significantly contribute to the country's  
9 economic development. In the exercise of this authority, any three (3) of the  
10 following criteria shall be taken into account: (1) large capital investments;  
11 (2) generate sizeable employment; (3) use of new and internationally accepted  
12 high level of technology; and (4) creation of value-added.

## 13 CHAPTER II

### 14 INCENTIVES TO REGISTERED ENTERPRISES

15 SEC. 16. *Performance-Based Incentives*. – This Act shall provide two  
16 (2) types of performance-based incentives to qualified enterprises, as herein  
17 classified: (1) the direct taxes incentives such as, Net Operating Loss  
18 Carryover (NOLCO), accelerated depreciation and double deduction for  
19 training expenses and double deduction for research and development; and (2)  
20 the indirect taxes incentives, such as zero percent (0%) rate of value-added tax  
21 (VAT) on sales, exemption from taxes and/or customs duties on importation of  
22 capital equipment, raw materials and source documents and wharfage dues and  
23 export tax.

24 Qualified enterprises which avail of the Income Tax Holiday (ITH), or  
25 Reduced Income Tax, or the five percent (5%) tax rate on Gross Income  
26 Earned (GIE), as the case may be, shall be precluded from availing of the  
27 performance-based direct taxes incentives.

1        SEC. 17. *Incentives to Registered Export Enterprises.* – All IPAs may  
2 administer the following incentives to their respective registered export  
3 enterprises to the extent of their registered activity:

4        (a) *Income Tax Holiday (ITH).* – Activities of an export enterprise  
5 shall be entitled to six (6) years of ITH from the date of start of its commercial  
6 operations.

7        The BIR shall require a registered export enterprise availing of ITH to  
8 secure a certificate of eligibility from the appropriate IPA before filing an  
9 official copy of its income tax return (ITR). Thereafter, the registered export  
10 enterprise shall file its claim with the appropriate IPA for validation.

11       Failure to secure certification and/or to file the ITH availment for  
12 validation by the appropriate IPA shall cause the forfeiture of the ITH  
13 availment for the taxable period.

14       (b) *Reduced Income Tax.* – After entitlement to ITH, a registered  
15 export enterprise, regardless of location, may be entitled to a preferential tax  
16 rate of fifteen percent (15%) of taxable income as defined under Section 31 of  
17 the NIRC of 1997, as amended.

18       (c) *Five percent (5%) Tax Rate on Gross Income Earned (GIE).* –  
19 Instead of the above Reduced Income Tax rate, a registered export enterprise  
20 located inside or outside the ecozone, industrial estate or freeport zone may opt  
21 and apply with the concerned IPA for the five percent (5%) tax of the GIE in  
22 lieu of all national and local taxes, including but not limited to, VAT on their  
23 registered activity, VAT on importation directly related to their registered  
24 activity, documentary stamp taxes (DST) and excise taxes, except real property  
25 tax on land owned by private developers. The allocation of the five percent  
26 (5%) GIE pertaining to the LGU foregoing taxes hereunder shall be governed  
27 by the charter or governing law of the IPA. Once the registered export



1 enterprise has made the choice, such choice shall be irrevocable for the  
2 duration of its registration.

3 A registered export enterprise enjoying the five percent (5%) tax on GIE  
4 may generate income from domestic sales up to thirty percent (30%) of its total  
5 income from all sources: *Provided*, That should a registered export enterprise's  
6 income from domestic sales exceed thirty percent (30%) of its total income  
7 from all sources, the entire income shall be subject to the regular income tax. If  
8 the thirty percent (30%) threshold is not exceeded, the domestic sales of a  
9 registered export enterprise shall continue to enjoy the five percent (5%) tax on  
10 GIE.

11 (d) Net Operating Loss Carryover (NOLCO). – The net operating loss  
12 of the registered activity during the first five (5) years from start of commercial  
13 operation which had not been previously offset as deduction from gross  
14 income shall be carried over as a deduction from gross income for the next five  
15 (5) consecutive taxable years immediately following the year of such loss:  
16 *Provided, however*, That the NOLCO shall be the actual loss without the  
17 benefit of the incentives provided herein.

18 The BIR shall require a registered export enterprise availing of the  
19 NOLCO to secure a certificate of eligibility from the appropriate IPA before  
20 filing an official copy of its ITR with the appropriate IPA for validation of the  
21 NOLCO claim.

22 Failure to secure a certification and/or to file the NOLCO availment for  
23 validation by the BOI or appropriate IPA shall cause the forfeiture of the  
24 availment for the taxable period.

25 (e) Accelerated Depreciation. – Accelerated depreciation of plant,  
26 machinery and equipment that are reasonably needed and actually used for the  
27 production and transport of goods and services may be depreciated using a rate  
28 not exceeding twice the rate which would have been used had the annual

allowance been computed in accordance with the rules and regulations prescribed by the Secretary of Finance and the provisions of the NIRC of 1997, as amended.

(f) Double Deduction for Training Expenses or Training Expenses Credit. – Expenses incurred for local training given to employees and training expenses of potential employees for the development of skills identified as necessary by the appropriate government agencies, upon approval by the concerned IPA, shall entitle the registered export enterprise to a special deduction from the taxable income equivalent to one hundred percent (100%) of the total expenses over and above the allowable ordinary and necessary business deductions for said expenses under the NIRC of 1997, as amended. The same benefit of double deduction shall likewise extend to expenses paid or incurred by the registered export enterprise in its training projects in collaboration with schools and universities accredited by the Department of Education (DepEd) or Commission on Higher Education (CHED).

The training expenses incurred shall be deductible from taxable income on the taxable year the said training expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application for training expenses credit, otherwise, the training expense credit shall be deemed waived.

(g) Double Deduction for Research and Development or Research and Development Credit. – Expenses incurred for research and development conducted in the Philippines relating to the business shall entitle the registered export enterprise to a special deduction from taxable income equivalent to one hundred percent (100%) of the total expenses over and above the allowable ordinary and business deductions for said expenses under the NIRC of 1997, as amended.

1       The expenses for research and development shall be deductible from  
2 taxable income on the taxable year the said research and development expenses  
3 were incurred.

4       The concerned IPA shall issue the corresponding certificate of  
5 entitlement for this incentive upon filing of an application for research and  
6 development expenses credit; otherwise, the research and development  
7 expenses credit shall be deemed waived.

8       (h) Capital Equipment Incentives. – (1) Importations of capital  
9 equipment, including consignment thereof, by registered export enterprises  
10 regardless of location and whether enjoying the ITH or reduced income tax or  
11 the five percent (5%) tax on GIE shall be exempted to the extent of one  
12 hundred percent (100%) of the taxes and customs duties: *Provided*, That the  
13 following conditions are complied with:

14       (i) The capital equipment is directly and/or reasonably needed and will  
15 be used exclusively in the registered activity of the export enterprise unless  
16 prior approval of the IPA is secured for the part time utilization of said  
17 equipment in a non-registered activity to maximize usage thereof or the  
18 proportionate taxes and duties are paid on a specific equipment and machinery  
19 being permanently used for non-registered activities; they are not manufactured  
20 domestically in sufficient quantity, of comparable quality and at reasonable  
21 prices; and

22       (ii) The approval of the IPA was obtained by the registered export  
23 enterprise for the importation of such machinery, equipment and spare parts.

24       Approval of the IPA must be secured before any sale, transfer or  
25 disposition of the imported capital equipment is made: *Provided*, That if such  
26 sale, transfer or disposition is made within the first five (5) years from date of  
27 importation, any of the following conditions must be present:

1 (aa) If made to another enterprise enjoying tax and duty exemption on  
2 imported capital equipment;

3 (bb) If made to another enterprise, upon payment of any taxes and  
4 duties due on the net book value of the capital equipment to be sold;

5 (cc) Exportation of the capital equipment, machinery, spare parts or  
6 source documents or those required for pollution abatement and control; or

7 (dd) For reasons of proven technical obsolescence.

8 When the aforementioned sale, transfer or disposition is made under any  
9 of the conditions provided for in the foregoing paragraphs other than paragraph  
10 (ii), the registered export enterprise shall not pay the taxes and duties waived  
11 on such items: *Provided, further*, That if the registered export enterprise sells,  
12 transfers or disposes the aforementioned imported items without prior approval  
13 within five (5) years from date of importation, the registered export enterprise  
14 and the vendee, transferee or assignee shall be solidarily liable to pay twice the  
15 amount of the tax and duty exemption given it: *Provided, finally*, That even if  
16 the sale, transfer or disposition of the capital equipment is approved after five  
17 (5) years from date of importation, the registered export enterprise is still liable  
18 to pay the taxes and duties based on the net book value of the capital  
19 equipment, if it has violated any of its registration terms and conditions.  
20 Otherwise, it shall no longer be subject to the payment of the taxes and duties  
21 waived thereon.

22 (2) The sale by a domestic manufacturer to a registered export  
23 enterprise of machinery and capital equipment and raw materials, supplies,  
24 parts and semi-finished products, used in the fabrication of machinery and  
25 capital equipment used in the registered activity of the latter shall be subject to  
26 a zero-percent (0%) VAT rate.

27 The registered export enterprise availing of the incentives provided  
28 under the immediately preceding two (2) paragraphs shall be subject to the

1 following: (i) that said capital equipment will be used exclusively by the  
2 registered export enterprise in its registered activity; (ii) that the capital  
3 equipment where the raw materials, supplies, parts and semi-finished products  
4 were used would have qualified for tax and duty-free importation; and (iii) that  
5 the approval of the concerned IPA is obtained by the registered export  
6 enterprise. If the registered export enterprise sells, transfers or disposes of the  
7 capital equipment, the provision in the preceding paragraphs for such  
8 disposition shall apply.

9 (i) Raw Material Incentives. – Importations of raw materials  
10 exclusively used by a registered export enterprise in the manufacture,  
11 processing or production of its export products shall be exempted from the  
12 payment of customs duties and taxes.

13 (j) Tax and Duty-Free Importation of Source Documents. – The  
14 importation of source documents by ICT-registered export enterprises shall be  
15 eligible for tax and duty-free importation.

16 (k) Zero Percent (0%) Rate of VAT on the Sale by a Domestic  
17 Enterprise to a Registered Export Enterprise. – The provisions of law to the  
18 contrary notwithstanding, the sale by a domestic enterprise of goods and/or  
19 services to a registered export enterprise, regardless of the latter's location and  
20 whether enjoying the ITH, the Reduced Income Tax or the five percent (5%)  
21 tax on GIE shall be subject to zero percent (0%) VAT rate: *Provided*, That  
22 such goods and/or services are required by registered export enterprise's  
23 activity.

24 (l) Exemption from Wharfage Dues and Export Tax. – The provisions  
25 of law to the contrary notwithstanding, exports by a registered export  
26 enterprise shall be exempted from wharfage dues and export taxes.

27 (m) Access to Bonded Manufacturing Warehouse. – Registered export  
28 enterprises located outside ecozones or freeports shall have access to the

1 utilization of bonded warehousing system required by the project subject to  
2 such guidelines as may be issued by the Board.

3 (n) Employment of Foreign Nationals. – Subject to the provisions of  
4 Section 29 of Commonwealth Act No. 613, as amended, a registered export  
5 enterprise may employ foreign nationals in managerial, technical or advisory  
6 positions.

7 Foreign nationals under employment contract within the purview of this  
8 incentive, their spouses and unmarried children under twenty-one (21) years of  
9 age, who are not excluded by Section 29 of Commonwealth Act No. 613, as  
10 amended, shall be permitted to enter and reside in the Philippines during the  
11 period of employment of such foreign nationals.

12 SEC. 18. *Tax Treatment/Other Incentives for Registered Enterprises*  
13 *in Ecozones and Freeport Zones.* – In addition to the applicable incentives  
14 provided under the preceding section on export incentives, registered  
15 enterprises locating in the Special Economic Zones and Freeport Zones shall  
16 be entitled to the following incentives:

17 (a) Tax Treatment of Merchandise in Ecozones or Freeports. – (1)  
18 Except as otherwise provided in this Code, foreign and domestic merchandise,  
19 raw materials, supplies, articles, equipment, machineries, spare parts and wares  
20 of every description, except those prohibited by law, brought into the ecozones  
21 or freeports to be sold, stored, broken up, repacked, assembled, installed,  
22 sorted, cleaned, graded, or otherwise processed, manufactured, mixed with  
23 foreign or domestic merchandise whether directly or indirectly related in such  
24 activity, shall not be subject to customs and internal revenue laws and  
25 regulations nor to local tax ordinances, the provisions of law to the contrary  
26 notwithstanding.

27 (2) Merchandise purchased by a registered enterprise located in the  
28 ecozones or freeports from the customs territory, and subsequently brought

1 into the ecozones or freeports, shall be considered as export sales and  
2 exportation thereof shall be entitled to the benefits allowed by law for such  
3 transaction.

4 (3) Merchandise sent from the ecozones or freeports to the customs  
5 territory shall, whether or not combined with or made part of other articles  
6 likewise of local origin or manufactured in the Philippines while in the  
7 ecozones or freeports, be subject to internal revenue and customs laws of the  
8 Philippines as domestic goods sold, transferred or disposed of for local  
9 consumption. If the finished goods have imported components, the duties shall  
10 be based on the value of said imported materials, except when the final product  
11 is exempt.

12 (4) Qualified merchandise or articles manufactured by registered  
13 ecozone or freeport locators, which are made available for sale in the domestic  
14 market shall be imposed the applicable ASEAN Common Effective  
15 Preferential Tariff (CEPT) rate, if qualified, or applicable tariff rates under  
16 bilateral or regional trade agreements, if qualified, or Most Favoured Nation  
17 (MFN) rate on imported raw materials and MFN rates on non-qualified raw  
18 materials used in the manufacture of the qualified merchandise or articles. In  
19 case of bilateral agreements, the applicable rate shall be the agreed rate.

20 (5) Domestic merchandise on which all internal revenue taxes have  
21 been paid, if subject thereto, and foreign merchandise previously imported on  
22 which duty or tax has been paid, or which have been admitted free of duty and  
23 tax, may be taken into the ecozones or freeports from the customs territory of  
24 the Philippines and be brought back thereto free of quotas, duty or tax.

25 (6) Subject to such regulations respecting identity and safeguarding of  
26 the revenue as the concerned IPA may deem necessary when the identity of an  
27 article entered into the ecozones or freeports under the immediately preceding  
28 paragraph has been lost, such article when removed from the ecozones or

1 freeports and taken to the customs territory shall be treated as foreign  
2 merchandise entering the country for the first time, under the provisions of the  
3 Tariff and Customs Code of the Philippines, as amended.

4 (7) Articles produced or manufactured in the ecozones or freeports and  
5 exported therefrom shall, on subsequent importation into the customs territory,  
6 be subject to the import laws applicable to like articles manufactured in a  
7 foreign country.

8 (8) Articles regulated by law for sale to the domestic market shall only  
9 be allowed to be used or consumed within the ecozones or freeports.

10 (9) Unless the contrary is shown, merchandise taken out of the  
11 ecozones or freeports shall be considered, for tax purposes, to have been sent  
12 to customs territory.

13 Special Economic Zones declared by presidential proclamations or  
14 created by law may avail of the incentives provided herein as conferred by the  
15 appropriate IPA subject to such terms and conditions as may be provided by  
16 law.

17 (b) Tax Treatment of Services in the Ecozones or Freeports. – (1) Sale  
18 of service by an entity from the customs territory to a registered ecozone or  
19 freeport enterprise or by a registered ecozone or freeport enterprise to another  
20 ecozone or freeport enterprise shall be treated as indirect export, and hence,  
21 shall not be subjected to internal revenue taxes for such transaction.

22 (2) Sale or service by a registered ecozone or freeport enterprise to the  
23 customs territory shall be subject to the applicable internal revenue laws and  
24 regulations.

25 SEC. 19. *Incentives for Registered Domestic Enterprises.* – Registered  
26 domestic enterprises not engaged in strategic projects under the sectors or  
27 industries under the IPP including registered micro, small and medium



1 enterprises (SMEs) as defined by the appropriate agency, shall be qualified to  
2 the following incentives to the extent of their registered activity:

3 (a) Income Tax Holiday (ITH). – Activities of a registered domestic  
4 enterprise shall be entitled to four (4) years of ITH from the date of start of its  
5 commercial operations.

6 The BIR shall require a registered domestic enterprise availing of ITH  
7 to secure a certificate of eligibility from the appropriate IPA before filing an  
8 official copy of its income tax return (ITR). Thereafter, the registered domestic  
9 enterprise shall file its claim with the appropriate IPA for validation.

10 Failure to secure a certification and/or to file the ITH availment for  
11 validation by the appropriate IPA shall cause the forfeiture of the ITH  
12 availment for the taxable period.

13 (b) Net Operating Loss Carryover (NOLCO). – The net operating loss  
14 of the registered activity during the first five (5) years from start of commercial  
15 operation which had not been previously offset as deduction from gross  
16 income shall be carried over as a deduction from gross income for the next five  
17 (5) consecutive taxable years immediately following the year of such loss:  
18 *Provided, however,* That the NOLCO shall be the actual loss without the  
19 benefit of the incentives provided herein.

20 The BIR shall require a registered domestic enterprise availing of the  
21 NOLCO to secure a certificate of eligibility from the appropriate IPA before  
22 filing an official copy of its ITR with the appropriate IPA for validation of the  
23 NOLCO claim.

24 Failure to secure a certification and/or to file the NOLCO availment for  
25 validation by the BOI or appropriate IPA shall cause the forfeiture of the  
26 availment for the taxable period.

27 (c) Accelerated Depreciation. – Accelerated depreciation of plant,  
28 machinery and equipment that are reasonably needed and actually used for the

1 production and transport of goods and services may be depreciated using a rate  
2 not exceeding twice the rate which would have been used had the annual  
3 allowance been computed in accordance with the rules and regulations  
4 prescribed by the Secretary of Finance and the provisions of the NIRC of  
5 1997, as amended.

6 (d) Double Deduction for Training Expenses or Training Expenses  
7 Credit. – Expenses incurred for local training given to employees and training  
8 expenses of potential employees for the development of skills identified as  
9 necessary by the appropriate government agencies, upon approval by the  
10 concerned IPA, shall entitle the registered domestic enterprise to a special  
11 deduction from the taxable income equivalent to one hundred percent (100%)  
12 of the total expenses over and above the allowable ordinary and necessary  
13 business deductions for said expenses under the NIRC of 1997, as amended.  
14 The same benefit of double deduction shall likewise extend to expenses paid or  
15 incurred by the registered domestic enterprise in its training projects in  
16 collaboration with schools and universities accredited by the Department of  
17 Education (DepEd) or the Commission on Higher Education (CHED).

18 The training expenses incurred shall be deductible from taxable income  
19 on the taxable year the said training expenses were incurred.

20 The concerned IPA shall issue the corresponding certificate of  
21 entitlement for this incentive upon filing of an application for training expenses  
22 credit, otherwise, the training expense credit shall be deemed waived.

23 (e) Double Deduction for Research and Development or Research and  
24 Development Credit. – Expenses incurred for research and development  
25 conducted in the Philippines relating to the business shall entitle the registered  
26 domestic enterprise to a special deduction from taxable income equivalent to  
27 one hundred percent (100%) of the total expenses over and above the

allowable ordinary and business deductions for said expenses under the NIRC of 1997, as amended.

The expenses for research and development shall be deductible from taxable income on the taxable year the said research and development expenses were incurred.

The concerned IPA shall issue the corresponding certificate of entitlement for this incentive upon filing of an application for research and development expenses credit; otherwise, the research and development expenses credit shall be deemed waived.

(f) VAT and Duty Incentives on Importations of Capital Equipment and/or Raw Material. – Importations of capital equipment and/or raw materials by registered domestic enterprises shall be subject to a VAT and customs duty refund mechanism.

In order to facilitate the immediate processing, clearance and release of VAT and customs duty refunds as provided in this Act, a trust liability account (TLA) is hereby authorized to be established in the Bureau of the Treasury (BTr). All VAT and customs duty payments pertaining to the importation of registered domestic enterprises of capital equipment or raw materials shall be deposited in the TLA for the purpose of funding valid VAT and customs duty refund claims. The claims for VAT and customs duty refunds shall be made by the registered domestic enterprise to the DOF which, in turn, shall process, approve and release the VAT and customs duty refund.

The VAT and customs duty paid on imported capital equipment may be refunded: *Provided*, That the capital equipment is being used by the registered domestic enterprise pursuant to its registered activity.

The amount of VAT and customs duty refund on a particular shipment of raw materials shall be equivalent to the proportion of raw materials used in the production to the total raw materials imported multiplied by the amount of

1 VAT and customs duty paid on such importation. No claim for refund shall be  
2 allowed on VAT and customs duty paid on raw materials which are not or no  
3 longer intended to be used in the registered activity.

4 The registered domestic enterprise shall file a claim for VAT and  
5 customs duty refund within two (2) years after the payment was made. All  
6 amounts paid but no longer allowed for refund shall immediately accrue to the  
7 general fund of the national government.

8 All applications for VAT and customs duty refund shall be processed  
9 and acted upon within thirty (30) days after submission of complete  
10 documents. The refund shall be in a form of cash or manager's/cashier's check  
11 payable to the registered domestic enterprise.

12 In case of dispute under the VAT and customs duty refund mechanism  
13 provided in this section, the pertinent provisions of the NIRC of 1997, as  
14 amended, and the Tariff and Customs Code of the Philippines, as amended,  
15 shall apply.

16 The registered domestic enterprise availing of the above incentives shall  
17 be subject to the following: (1) that said capital equipment will be used  
18 exclusively by the registered domestic enterprise in its registered activity; (2)  
19 that the capital equipment where the raw materials, supplies, parts and semi-  
20 finished products were used would have qualified for tax and duty-free  
21 importation; and (3) that the approval of the concerned IPA is obtained by the  
22 registered domestic enterprise. If the registered domestic enterprise sells,  
23 transfers or disposes of the capital equipment, the provision of subsection (h)  
24 of Section 17 of this Act shall apply.

25 (g) Preferential Access to Financing and Acceptable Form of  
26 Collaterals. – Registered SMEs shall be accorded access to financing from  
27 government financial institutions at preferential rates below the market rates.

1 Further, capital goods acquired from loans secured from government  
2 financial institutions shall be an acceptable form of collateral for the same  
3 loan.

4 (h) Assistance in the Preparation of Project Study. – Registered SMEs  
5 may be provided assistance in the preparation of project study for purposes of  
6 registration under this Code.

7 SEC. 20. *Incentives for Domestic “Strategic” Enterprises.* – All IPAs  
8 may administer the following incentives to registered domestic enterprises  
9 engaged in strategic projects, as defined under Section 15 of this Act,  
10 whenever applicable, to the extent of their registered activity:

11 (a) Income Tax Holiday (ITH). – A registered domestic “strategic”  
12 enterprise shall be entitled to an ITH equivalent to six (6) years from the date  
13 of start of its commercial operations.

14 The BIR shall require a registered domestic “strategic” enterprise  
15 availing of the ITH to secure a certificate of eligibility from the appropriate  
16 IPA before filing an official copy of its income tax return (ITR). Thereafter,  
17 the registered domestic “strategic” enterprise shall file its claim with the  
18 appropriate IPA for validation.

19 Failure to secure a certification and/or file the ITH availment for  
20 validation by the appropriate IPA shall cause the forfeiture of the ITH  
21 availment for the taxable period.

22 (b) Reduced Income Tax. – A registered domestic “strategic”  
23 enterprise may be entitled to a preferential tax rate of fifteen percent (15%) of  
24 taxable income as defined under Section 31 of the NIRC of 1997, as amended,  
25 for a period of eight (8) years.

26 If the domestic “strategic” enterprise registers within the first six (6)  
27 years from the effectivity of this Act, it may opt to avail of the ITH prior to the

1 reduced income tax: *Provided*, That the ITH together with the reduced income  
2 tax shall be availed of for a period of eight (8) years.

3 (c) Net Operating Loss Carryover (NOLCO). – The net operating loss  
4 of the registered activity during the first five (5) years from start of commercial  
5 operation which had not been previously offset as deduction from gross  
6 income may be carried over as a deduction from gross income for the next  
7 eight (8) consecutive taxable years immediately following the year of such  
8 loss: *Provided*, That the NOLCO shall be the actual loss without the benefit of  
9 the incentives provided herein.

10 The BIR shall require a registered domestic “strategic” enterprise  
11 availing of the NOLCO to secure a certificate of eligibility from the  
12 appropriate IPA before filing an official copy of its ITR with the appropriate  
13 IPA for validation of the NOLCO claim.

14 Failure to secure a certification and/or to file the NOLCO availment for  
15 validation by the BOI or appropriate IPA shall cause the forfeiture of the  
16 availment for the taxable period.

17 (d) Accelerated Depreciation. – Accelerated depreciation of plant,  
18 machinery and equipment that are reasonably needed and actually used for the  
19 production and transport of goods and services may be depreciated using a rate  
20 not exceeding twice the rate which would have been used had the annual  
21 allowance been computed in accordance with the provisions of the NIRC of  
22 1997, as amended, and the rules and regulations prescribed by the Secretary of  
23 Finance.

24 (e) Double Deduction for Training Expenses. – Expenses incurred for  
25 local training given to employees and training expenses of potential employees  
26 for the development of skills identified as necessary by the appropriate  
27 government agencies, upon approval by the concerned IPA, may entitle the  
28 registered domestic “strategic” enterprise to a special deduction from the

1 taxable income equivalent to one hundred percent (100%) of the total expenses  
2 over and above the allowable ordinary and necessary business deductions for  
3 said expenses under the NIRC of 1997, as amended. The same benefit of  
4 double deduction shall likewise extend to expenses paid or incurred by the  
5 registered domestic "strategic" enterprise in its training projects in  
6 collaboration with schools and universities accredited by the Department of  
7 Education (DepEd) or the Commission on Higher Education (CHED).

8 The training expenses incurred shall be deductible from taxable income  
9 on the taxable year the said training expenses were incurred.

10 The concerned IPA shall issue the corresponding certificate of  
11 entitlement for this incentive upon filing of an application, otherwise, the  
12 training incentive shall be deemed waived.

13 (f) Double Deduction for Research and Development. – Expenses  
14 incurred for research and development conducted in the Philippines relating to  
15 the business may entitle the registered domestic "strategic" enterprise to a  
16 special deduction from taxable income equivalent to one hundred percent  
17 (100%) of the total expenses over and above the allowable ordinary and  
18 business deductions for said expenses under the NIRC of 1997, as amended.

19 The expenses for research and development shall be deductible from  
20 taxable income on the taxable year the said research and development expenses  
21 were incurred.

22 The concerned IPA shall issue the corresponding certificate of  
23 entitlement for this incentive upon filing of an application, otherwise, the  
24 research and development incentive shall be deemed waived.

25 (g) VAT and Duty Incentives on Importations of Capital Equipment  
26 and/or Raw Material. – Importations of capital equipment and/or raw materials  
27 by registered domestic "strategic" enterprises shall be subject to a VAT and  
28 customs duty refund mechanism.

1           In order to facilitate the immediate processing, clearance and release of  
2 VAT and customs duty refunds as provided in this Act, a trust liability account  
3 (TLA) is hereby authorized to be established in the Bureau of the Treasury  
4 (BTr). All VAT and customs duty payments pertaining to the importation of  
5 registered domestic "strategic" enterprises of capital equipment or raw  
6 materials shall be deposited in the TLA for the purpose of funding valid VAT  
7 and customs duty refund claims. The claims for VAT and customs duty  
8 refunds shall be made by the registered domestic "strategic" enterprise to the  
9 DOF which, in turn, shall process, approve and release the VAT and customs  
10 duty refund.

11           The VAT and customs duty paid on imported capital equipment may be  
12 refunded: *Provided*, That the capital equipment is being used by the registered  
13 domestic "strategic" enterprise pursuant to its registered activity.

14           The amount of VAT and customs duty refund on a particular shipment  
15 of raw materials shall be equivalent to the proportion of raw materials used in  
16 the production to the total raw materials imported multiplied by the amount of  
17 VAT and customs duty paid on such importation. No claim for refund shall be  
18 allowed on VAT and customs duty paid on raw materials which are not or no  
19 longer intended to be used in the registered activity.

20           The registered domestic "strategic" enterprise shall file a claim for VAT  
21 and customs duty refund within two (2) years after the payment was made. All  
22 amounts paid but no longer allowed for refund shall immediately accrue to the  
23 general fund of the national government.

24           All applications for VAT and customs duty refund shall be processed  
25 and acted upon within thirty (30) days after submission of complete  
26 documents. The refund shall be in a form of cash or manager's/cashier's check  
27 payable to the registered domestic "strategic" enterprise.



1 In case of dispute under the VAT and customs duty refund mechanism  
2 provided in this section, the pertinent provisions of the NIRC of 1997, as  
3 amended, and the Tariff and Customs Code of the Philippines, as amended,  
4 shall apply.

5 The registered domestic "strategic" enterprise availing of the above  
6 incentives shall be subject to the following: (1) that said capital equipment will  
7 be used exclusively by the registered domestic "strategic" enterprise in its  
8 registered activity; (2) that the capital equipment where the raw materials,  
9 supplies, parts and semi-finished products were used would have qualified for  
10 tax and duty-free importation; and (3) that the approval of the concerned IPA  
11 is obtained by the registered domestic "strategic" enterprise. If the registered  
12 domestic "strategic" enterprise sells, transfers or disposes of the capital  
13 equipment, the provision of subsection (h) of Section 17 of this Act shall  
14 apply.

15 (h) Employment of Foreign Nationals. – Subject to the provisions of  
16 Section 29 of Commonwealth Act No. 613, as amended, a registered domestic  
17 "strategic" enterprise may employ foreign nationals in managerial, technical or  
18 advisory positions.

19 Foreign nationals under employment contract within the purview of this  
20 incentive, their spouses and unmarried children under twenty-one (21) years of  
21 age, who are not excluded by Section 29 of Commonwealth Act No. 613, as  
22 amended, shall be permitted to enter and reside in the Philippines during the  
23 period of employment of such foreign nationals.

24 SEC. 21. *Incentives for Registered Domestic Enterprises in the Thirty*  
25 *Poorest Provinces or Less Developed Areas (LDAs).* – Registered domestic  
26 enterprises located in the thirty (30) poorest provinces as determined by the  
27 appropriate agency or in LDAs as defined hereof are entitled to a twenty  
28 (20)-year cumulative availment of the following incentives:

1           (a) Income Tax Holiday (ITH). – Activities of a registered domestic  
2 enterprise located in the thirty (30) poorest provinces or LDAs shall be entitled  
3 to six (6) years of ITH from the date of start of its commercial operations.

4           (b) Reduced Income Tax After Entitlement to ITH or NOLCO. – A  
5 registered domestic enterprise located in the 30 poorest provinces or LDAs  
6 shall be entitled to twelve (12) years of a preferential tax rate of fifteen percent  
7 (15%) of taxable income as defined under Section 31 of the NIRC of 1997, as  
8 amended.

9           (c) Net Operating Loss Carryover (NOLCO). – The net operating loss  
10 of the registered activity during the first five (5) years from start of commercial  
11 operation which had not been previously offset as deduction from gross  
12 income shall be carried over as a deduction from gross income for the next five  
13 (5) consecutive taxable years immediately following the year of such loss:  
14 *Provided, however,* That the NOLCO shall be the actual loss without the  
15 benefit of the incentives provided herein.

16           The BIR shall require a registered domestic enterprise availing of the  
17 NOLCO to secure a certificate of eligibility from the appropriate IPA before  
18 filing an official copy of its ITR with the appropriate IPA for validation of the  
19 NOLCO claim.

20           Failure to secure a certification and/or to file the NOLCO availment for  
21 validation by the BOI or appropriate IPA shall cause the forfeiture of the  
22 availment for the taxable period.

23           (d) Accelerated Depreciation. – Accelerated depreciation of plant,  
24 machinery and equipment that are reasonably needed and actually used for the  
25 production and transport of goods and services may be depreciated using a rate  
26 not exceeding twice the rate which would have been used had the annual  
27 allowance been computed in accordance with the rules and regulations

1 prescribed by the Secretary of Finance and the provisions of the NIRC of  
2 1997, as amended.

3 (e) Double Deduction for Training Expenses or Training Expenses  
4 Credit. – Expenses incurred for local training given to employees and training  
5 expenses of potential employees for the development of skills identified as  
6 necessary by the appropriate government agencies, upon approval by the  
7 concerned IPA, shall entitle the registered domestic enterprise to a special  
8 deduction from the taxable income equivalent to one hundred percent (100%)  
9 of the total expenses over and above the allowable ordinary and necessary  
10 business deductions for said expenses under the NIRC of 1997, as amended.  
11 The same benefit of double deduction shall likewise extend to expenses paid or  
12 incurred by the registered domestic enterprise in its training projects in  
13 collaboration with schools and universities accredited by the Department of  
14 Education (DepEd) or the Commission on Higher Education (CHED).

15 The training expenses incurred shall be deductible from taxable income  
16 on the taxable year the said training expenses were incurred.

17 The concerned IPA shall issue the corresponding certificate of  
18 entitlement for this incentive upon filing of an application for training expenses  
19 credit, otherwise, the training expense credit shall be deemed waived.

20 (f) Double Deduction for Research and Development or Research and  
21 Development Credit. – Expenses incurred for research and development  
22 conducted in the Philippines relating to the business shall entitle the registered  
23 domestic enterprise to a special deduction from taxable income equivalent to  
24 one hundred percent (100%) of the total expenses over and above the  
25 allowable ordinary and business deductions for said expenses under the NIRC  
26 of 1997, as amended.

1           The expenses for research and development shall be deductible from  
2 taxable income on the taxable year the said research and development expenses  
3 were incurred.

4           The concerned IPA shall issue the corresponding certificate of  
5 entitlement for this incentive upon filing of an application for research and  
6 development expenses credit; otherwise, the research and development  
7 expenses credit shall be deemed waived.

8           (g) VAT and Duty Incentives on Importations of Capital Equipment  
9 and/or Raw Material. – Importations of capital equipment and/or raw materials  
10 by registered domestic enterprises located in the thirty (30) poorest provinces  
11 or LDAs shall be subject to a VAT and customs duty refund mechanism.

12           In order to facilitate the immediate processing, clearance and release of  
13 VAT and customs duty refunds as provided in this Act, a trust liability account  
14 (TLA) is hereby authorized to be established in the Bureau of the Treasury  
15 (BTr). All VAT and customs duty payments pertaining to the importation of  
16 registered domestic enterprises located in the thirty (30) poorest provinces or  
17 LDAs of capital equipment or raw materials shall be deposited in the TLA for  
18 the purpose of funding valid VAT and customs duty refund claims. The claims  
19 for VAT and customs duty refunds shall be made by the registered domestic  
20 enterprise to the DOF which, in turn, shall process, approve and release the  
21 VAT and customs duty refund.

22           The VAT and customs duty paid on imported capital equipment may be  
23 refunded: *Provided, That* the capital equipment is being used by the registered  
24 domestic enterprise pursuant to its registered activity.

25           The amount of VAT and customs duty refund on a particular shipment  
26 of raw materials shall be equivalent to the proportion of raw materials used in  
27 the production to the total raw materials imported multiplied by the amount of  
28 VAT and customs duty paid on such importation. No claim for refund shall be

1 allowed on VAT and customs duty paid on raw materials which are not or no  
2 longer intended to be used in the registered activity.

3 Registered domestic enterprises located in the thirty (30) poorest  
4 provinces or LDAs shall file a claim for VAT and customs duty refund within  
5 two (2) years after the payment was made. All amounts paid but no longer  
6 allowed for refund shall immediately accrue to the general fund of the national  
7 government.

8 All applications for VAT and customs duty refund shall be processed  
9 and acted upon within thirty (30) days after submission of complete  
10 documents. The refund shall be in a form of cash or manager's/cashier's check  
11 payable to the registered domestic enterprise.

12 In case of dispute under the VAT and customs duty refund mechanism  
13 provided in this section, the pertinent provisions of the NIRC of 1997, as  
14 amended, and the Tariff and Customs Code of the Philippines, as amended,  
15 shall apply.

16 Registered domestic enterprises located in the thirty (30) poorest  
17 provinces or LDAs availing of the above incentives shall be subject to the  
18 following: (1) that said capital equipment will be used exclusively by the  
19 registered domestic enterprise in its registered activity; (2) that the capital  
20 equipment where the raw materials, supplies, parts and semi-finished products  
21 were used would have qualified for tax and duty-free importation; and (3) that  
22 the approval of the concerned IPA is obtained by the registered domestic  
23 enterprise. If the registered domestic enterprise sells, transfers or disposes of  
24 the capital equipment, the provision of subsection (h) of Section 17 of this Act  
25 shall apply.

26 SEC. 22. *Incentives for Private Ecozone Developers.* – Private ecozone  
27 developers may avail of the incentives provided herein as conferred by the  
28 PEZA.

1           SEC. 23. *Incentives for Registered Enterprises in Supply Chain Cities.*

2   – Registered enterprises located in the supply chain cities shall be granted  
3   incentives provided under Sections 17 and 18 hereof.

4           A registered enterprise under the supply chain city engaged in  
5   manufacturing may subcontract a portion of its manufacturing processes to its  
6   affiliated entities outside the Philippines. Moreover, a registered enterprise  
7   may book sales in the Philippines which sales include others undertaken  
8   partially outside the Philippines by its affiliated entities.

9           SEC. 24 *Phase-out of ITH Incentive.* – Upon recommendation of the  
10   NEDA Board, the granting of the ITH incentive to a registered domestic  
11   enterprise shall be terminated by a joint resolution passed by the Senate and  
12   the House of Representatives: *Provided, That* export, agriculture, infrastructure  
13   and shipping activities, projects located in the thirty (30) poorest provinces or  
14   LDAs and strategic projects as defined under Section 15 hereof, shall not be  
15   covered by the phase-out of the ITH.

16           SEC. 25. *Non-fiscal Incentives.* – Registered enterprises shall be  
17   entitled to the following non-fiscal incentives:

18           (a) *Time-bound Processing of Requirement for Doing Business.* – All  
19   application for permits, licenses, authorization and other requirements  
20   necessary for doing business including application for renewals thereof shall be  
21   acted upon by the government agency concerned within ten (10) working days  
22   from official acceptance thereof, otherwise, the same shall be considered  
23   automatically approved. For this purpose, all government agencies shall be  
24   mandated to post in their respective offices, the procedural process,  
25   documentation requirements and the imposable fees to be paid to facilitate the  
26   processing of the application.

27           (b) *Simplification of Customs and Internal Revenue Procedures.* –  
28   Customs procedures for the importation of equipment, spare parts, raw

1 materials and supplies, exports of processed products by registered enterprises  
2 shall be simplified by the BOC.

3 The BIR shall simplify internal revenue procedures for the availment of  
4 incentives provided herein for registered enterprises.

5 (c) Reduction and Harmonization of Documentary Requirements  
6 Submitted to Government Agencies. – The Board shall formulate guidelines  
7 for the reduction and harmonization of related documentary requirements  
8 submitted to government agencies.

9 SEC. 26. *Entitlement to Investor's Visa by a Foreign National.* – A  
10 foreign national who invests an amount of at least US\$150,000, either in cash  
11 and/or equipment, in a registered enterprise shall be entitled to an Investor's  
12 Visa: *Provided, That:*

13 (a) He is at least eighteen (18) years of age;

14 (b) He has not been convicted of a crime involving moral turpitude;

15 (c) He is not afflicted with any loathsome, dangerous or contagious  
16 disease; and

17 (d) He has not been institutionalized for any mental disorder or  
18 disability:

19 *Provided, further,* That as a holder of the Investor's Visa, an alien shall  
20 be entitled to reside in the Philippines while his investment subsists. For this  
21 purpose, he should submit an annual report, in the form duly prescribed for the  
22 purpose, to prove that he has maintained his investments in the country. Should  
23 said alien withdraw his investments from the Philippines, then the Investor's  
24 Visa issued to him shall automatically expire.

25 The minimum amount for investment provided for under this Code shall  
26 be made applicable to visas granted to investors by the BOI, the PEZA, the  
27 SBMA, the CDC, the JHMC, the PPMC, the BTPI, the CEZA, the ZCSEZA,  
28 the PIA, the ASEZA, and other IPAs that may be created under the law.



SEC. 27. *Governing Incentive Provision for IPAs.* – All existing and future IPAs vested with the power to confer and administer incentives shall offer incentives provided in this Code: *Provided, That* the incentives granted under this Code to a registered enterprise shall be applicable to the extent of the registered activity or project.

8           SEC. 28. *Relationship of IPAs and the BOI and Other Government*  
9   *Agencies.* – IPAs shall maintain their functions as provided for in their  
10   respective Charters except to the extent that these have been modified by the  
11   provisions of this Code.

For purposes of efficient database on investment statistics and other investment data and information, all IPAs are required to submit to the BOI all investment data and information and such other related data semi-annually or as may be required.

## 16

## 17

18 SEC. 29. *Qualifications of a Registered Enterprise.* – To qualify for  
19 registration and be entitled to avail of incentives, an applicant must satisfy the  
20 following conditions:

(a) He is a citizen of the Philippines. In case the applicant is a natural person, or in case of a corporation or partnership or any other association, regardless of nationality, it must be organized and/or registered and existing under Philippine laws and that it must comply with all the qualifications provided under this Code: *Provided, however,* That for purposes of this Code and any law to the contrary notwithstanding, a natural-born ASEAN citizen or a corporation effectively controlled by ASEAN citizens, or a corporation organized in any ASEAN country shall be considered as a Philippine investor:



1 *Provided, further,* That the investment is made in an activity where the  
2 Constitution does not specifically require Filipino participation;

3 (b) The activity it will engage in is not within the activities reserved by  
4 the Constitution to Philippine citizens or corporations owned and controlled by  
5 Philippine citizens;

6 (c) It will engage in an activity included in the IPP or in an export  
7 activity or in an activity located in supply chain cities, thirty (30) poorest  
8 provinces or LDAs or in an activity considered as "strategic project".

9 (d) It will infuse new investments. For this purpose "new investments"  
10 shall mean a new enterprise infusing new investments and undertaking new  
11 activity. However, an enterprise with an existing operation may be qualified  
12 for registration if it will undertake new activity. Further, an existing enterprise  
13 undertaking the same activity that shall infuse additional investments of at least  
14 fifty percent (50%) of its present actual investments shall be deemed to be  
15 "new investments" but only to the extent of such additional investments.  
16 Furthermore, government assets that will be privatized shall be deemed "new  
17 investments"; and

18 (e) If the applicant is engaged or proposes to engage in undertakings or  
19 activities other than the registered projects, it shall install an accounting system  
20 adequate to identify the investments, revenues, costs, and profits or losses of  
21 each registered project undertaken by the enterprise separately from the  
22 aggregate investment, revenues, costs and profits or losses of the whole  
23 enterprise, or to establish a separate corporation for each registered project if  
24 the IPAs should so require to facilitate proper implementation of this Code.

#### 25 CHAPTER IV

#### 26 BASIC RIGHTS AND GUARANTEES OF REGISTERED ENTERPRISES

27 SEC. 30. *Protection of Investments.* – All investors and registered  
28 enterprises are entitled to the basic rights and guarantees provided in the

1 Constitution. Among other rights recognized by the Government of the  
2 Philippines are the following:

3 (a) Repatriation of Investments. – In the case of foreign investments,  
4 the right to repatriate the entire proceeds of the liquidation of the investment in  
5 the currency in which the investment was originally made and at the exchange  
6 rate prevailing at the time of repatriation, subject to the provisions of Section  
7 74 of Republic Act No. 265, otherwise known as the “Central Bank Act”, as  
8 amended.

9 For investments made pursuant to Executive Order No. 32, series of  
10 1986, entitled “Directing the Establishment of a Program for the Conversion of  
11 Philippine External Debt into Equity Investments”, and its implementing rules  
12 and regulations, the repatriation of investments shall be as provided therein.

13 (b) Remittance of Earnings. – In the case of foreign investments, the  
14 right to remit earnings from the investment in the currency in which the  
15 investment was originally made and at the exchange rate prevailing at the time  
16 of remittance, subject to the provisions of Section 74 of Republic Act No. 265,  
17 as amended.

18 For investments made pursuant to Executive Order No. 32, series of  
19 1986, and its implementing rules and regulations, the remittance of earnings  
20 shall be as provided therein.

21 (c) Foreign Loans and Contracts. – The right to remit at the prevailing  
22 rate at the time of remittance such sums as may be necessary to meet the  
23 payments of interest and principal on foreign loans and foreign obligations  
24 arising from technological assistance contracts at the exchange rate prevailing  
25 at the time of remittance, subject to the provisions of Section 74 of Republic  
26 Act No. 265, as amended.

27 (d) Freedom from Expropriation. – There shall be no expropriation by  
28 the government of the property represented by investments or of the property

1 of the enterprise except for public use, public interest, lawful purpose, or in the  
2 interest of national welfare or defense and upon payment of just compensation.  
3 In such cases, foreign investors or enterprises shall have the right to remit sums  
4 received as compensation for the expropriated property in the currency in  
5 which the investment was originally made and at the exchange rate at the time  
6 of remittance, subject to the provisions of Section 74 of Republic Act No. 265,  
7 as amended.

8 (e) Requisition of Investment. – There shall be no requisition of the  
9 property represented by the investment or of the property of enterprises, except  
10 in the event of war or national emergency and only for the duration thereof.  
11 Just compensation shall be determined and paid either at the time of requisition  
12 or immediately after cessation of the state of war or national emergency.  
13 Payments received as compensation for the requisitioned property may be  
14 remitted in the currency in which the investment was originally made and at the  
15 exchange rate prevailing at the time of remittance, subject to the provisions of  
16 Section 74 of Republic Act No. 265, as amended.

## 17 CHAPTER V

### 18 ADMINISTRATION OF INCENTIVES

19 SEC. 31. *Application for Registration.* – Applications shall be filed  
20 with an IPA or any other government office authorized by the BOI to accept  
21 applications, recorded in a registration book and the date appearing therein and  
22 stamped on the application shall be considered the date of official acceptance.

23 All applications and their supporting documents filed under this Code  
24 shall be confidential and shall not be disclosed to any person except with the  
25 consent of the applicant or upon an order of a court of competent jurisdiction.

26 SEC. 32. *No Double Registration of Enterprises.* – Export or domestic  
27 enterprises shall not be allowed to register their export or domestic activity in  
28 more than one (1) IPA. In the event that an enterprise shall transfer to another

1 IPA, only the remaining unutilized incentives shall be granted to the enterprise  
2 or the transferee, vendee or assignee.

3 SEC. 33. *Criteria for Evaluation of Application.* – The following  
4 criteria shall be considered in the evaluation of applications for registration  
5 under a preferred area:

- 6 (a) Impact of the project on the overall economy;
- 7 (b) Overall viability of the project;
- 8 (c) The extent of employment generation;
- 9 (d) The extent to which technological advances are applied and  
10 adopted to local conditions; and
- 11 (e) Such other criteria as the Board may determine.

12 SEC. 34. *Environmental Protection and Corporate Social*  
13 *Responsibility.* – Every registered enterprise shall prepare a Program for  
14 Environmental Protection and Corporate Social Responsibility (CSR) covering  
15 the period for its entitlement to fiscal incentives. Such Program shall be  
16 undertaken on a per registration basis and shall be submitted as an  
17 accompanying document to the application for registration to be submitted to  
18 the appropriate IPA.

19 The environmental program shall include activities such as, but not  
20 limited to, requiring registered firms to plant trees.

21 For the CSR activities, the registered enterprise shall align such  
22 activities with the priority programs and projects of the National Anti-Poverty  
23 Commission and other special laws such as Republic Act No. 7942 or the  
24 Philippine Mining Act of 1995, as amended and DOE Energy Regulation 1-94.

25 The amount spent for the CSR activities shall be reflected in the Notes  
26 to the Audited Financial Statements.

27 SEC. 35. *Approval and Registration Procedures.* – The IPA is  
28 authorized to adopt rules and regulations to facilitate action on applications

1 filed with it; prescribe criteria for the evaluation of applications; devise  
2 standard forms for the use of applicants and delegate to the regional offices of  
3 the DTI the authority to receive and process applications for enterprises  
4 located in their respective regions.

5 Applications filed shall be considered automatically approved if not  
6 acted upon by the IPA within ten (10) working days from official acceptance  
7 thereof. Deferment by the IPA shall be considered as an official action:  
8 *Provided, however,* That the IPA may defer action to a specific application not  
9 more than twice: *Provided, finally,* That the IPA shall act upon the application  
10 within ten (10) working days from compliance with the cause of the last  
11 deferment.

12 SEC. 36. *Certificate of Registration.* – A registered enterprise under  
13 this Code shall be issued a Certificate of Registration under the seal of the IPA  
14 and the signature of its Chairman and/or such other official or officer of the  
15 IPA as it may empower and designate for the purpose. The certificate shall be  
16 in such form and style as the IPA may determine and shall state, among other  
17 matters:

- 18 (a) The name of the registered enterprise;  
19 (b) The activity in which the registered enterprise is proposing to  
20 engage; and  
21 (c) The terms and conditions to be observed by the registered  
22 enterprise by virtue of the registration.

23 SEC. 37. *Validity of Registration.* – The registration shall be valid for a  
24 period of twenty (20) years from the date of start of commercial operation  
25 except on certain industries as may be determined by the Board and those that  
26 are registered with the PEZA.

27 SEC. 38. *Extension of Period of Availment of Incentives.* – The  
28 availment period of the incentives provided herein may be extended by the

1 concerned IPA in the event that the registered enterprise has suffered  
2 operational *force majeure* or losses that have impaired the viability of the  
3 registered activity.

4 SEC. 39. *Administration, Implementation and Monitoring of*  
5 *Incentives.* -- The BOI, the PEZA and the other IPAs shall be responsible for  
6 the administration and implementation of incentives granted to their respective  
7 registered enterprises. They shall submit to the DOF their respective tax  
8 expenditures based on the computed cost in terms of revenue foregone on the  
9 tax incentives granted to their registered enterprises, and other data related to  
10 the grant of investment incentives, on a quarterly basis and to cover all their  
11 registered enterprises including those whose incentives are provided by  
12 investment incentive laws prior to the effectivity of this Act. For proper  
13 monitoring, the DOF shall create a single database of all incentives provided  
14 by all IPAs. The DOF shall monitor and review the incentives granted and  
15 submit an annual report to the President and to the Chairman of the Committee  
16 on Ways and Means of both Houses of Congress.

#### 17 TITLE IV

#### 18 FINAL PROVISIONS

19 SEC. 40. *Vested Right.* -- Any provision of law to the contrary  
20 notwithstanding, incentives granted to existing registered enterprises pursuant  
21 to contracts or agreements entered into with government  
22 instrumentalities/corporations shall continue to be legally binding in  
23 accordance with the terms and conditions stated in their respective contracts or  
24 agreements, as provided under existing laws.

25 SEC. 41. *Authority to Retain Funds.* -- Registered enterprises availing  
26 of fiscal incentives, except those located in the thirty (30) poorest provinces or  
27 LDAs, shall be assessed with a maximum fee of one percent (1%) of the  
28 amount of incentives granted. Said amount shall automatically accrue to the

1 Board of Investments to be allotted for investment promotions activities and  
2 other special projects to achieve the objectives of this Code, subject to the  
3 usual accounting and auditing rules and procedures.

4 SEC. 42. *Protection of the Environment.* – The IPAs, in coordination  
5 with the appropriate agencies, shall take appropriate steps to enact the proper  
6 measures for the protection of the environment, and shall coordinate with the  
7 Environmental Management Bureau of the Department of Environment and  
8 Natural Resources (EMB-DENR) to avoid undue delay in the issuance of the  
9 required Environmental Compliance Certificate (ECC): *Provided, however,*  
10 That applications for environmental clearances, permits, and/or licenses of  
11 registered enterprises shall be acted upon by the appropriate government  
12 agency within thirty (30) days from date of official acceptance. In the event  
13 that the appropriate government agency failed to act within the aforementioned  
14 date, the application for the said environmental requirement shall be deemed  
15 complied with for purposes of operation of the registered activity.

16 SEC. 43. *Appeals.* – All orders or decisions of the BOI or the IPA in  
17 cases involving the provisions of this Code shall immediately be executory. No  
18 appeal from the order or decision of the BOI or the IPA by the party adversely  
19 affected shall stay such order or decision, unless a *supersedeas* bond  
20 equivalent to the amount stated in the order or decision is posted by the  
21 appellant.

22 All appeals involving cases decided by the BOI or the IPA, except as  
23 provided in the next succeeding paragraph, shall be filed with the Court of  
24 Appeals within fifteen (15) days from receipt of notice of the order or decision  
25 or of the denial of the appellant's motion for new trial or reconsideration.  
26 Within the same period, the aggrieved party may file a motion for  
27 reinvestigation or reconsideration. Only one (1) motion for reconsideration  
28 shall be allowed, subject to the posting of the aforementioned *supersedeas*

1 bond which shall be limited to cash and/or surety bond from a BOI-accredited  
2 bonding company.

3 In cases involving the denial of an application for registration, the party  
4 adversely affected by such denial may appeal the same to the Office of the  
5 President within thirty (30) days from receipt of notice of the order denying the  
6 application for registration. Where an appeal has been filed, said order or  
7 decision shall be final and executory ninety (90) days after the perfection of the  
8 appeal, unless reversed.

9 SEC. 44. *Suspension and Forfeiture of Incentives of Registered*  
10 *Enterprises, Refund and Penalties.* – When there is probable cause to believe  
11 that the registered enterprise has violated its registration terms and conditions,  
12 the BOI or the IPA may suspend its availment of incentives, until proven  
13 otherwise.

14 The BOI or the IPA may impose fines and penalties and/or forfeit the  
15 incentives granted to its registered enterprises whenever there are violations of  
16 the registration terms and conditions by the latter, without prejudice to the  
17 cancellation of the registration of said enterprise.

18 In case of cancellation of the Certificate of Registration granted under  
19 this Code, the BOI or the IPA may, in appropriate cases, require the refund of  
20 incentives availed of and impose corresponding fines and penalties.

21 Any enterprise which violates any provision of this Code, its  
22 implementing rules and regulations, the terms and conditions of its registration,  
23 or of any lawful directive of the BOI or the IPA, shall be subject to a fine not  
24 to exceed One million pesos (P1,000,000.00), without prejudice to the  
25 disapproval of its application for registration or cancellation of its registration:  
26 *Provided, That* any willful commission of fraudulent misrepresentation in its  
27 application for registration or submission of reports or gross violation of this  
28 Code and its implementing rules and regulations, a fine of at least One million



1 pesos (P1,000,000.00) but not to exceed Ten million pesos (P10,000,000.00)  
2 shall be imposed, in addition to other penalties that may be imposed by the  
3 BOI or the IPA.

4 The IPAs shall prepare a schedule of fines and penalties to be imposed  
5 on erring registered enterprises depending on the violation incurred, which  
6 may be reduced in exceptional cases.

7 Responsible officers of such enterprises, including duly appointed  
8 external consultants-agents who knowingly commit, aid or abet the commission  
9 of any of the acts mentioned above, shall be subject to a fine of not less than  
10 One hundred thousand pesos (P100,000.00) but not more than Three hundred  
11 thousand pesos (P300,000.00) without prejudice to disqualification from  
12 appearing or doing business with the BOI or any IPA.

13 Government officers and employees who participate directly or  
14 indirectly in the commission of the foregoing acts shall likewise be liable to a  
15 fine of not less than One hundred thousand pesos (P100,000.00) but not more  
16 than Three hundred thousand pesos (P300,000.00), in addition to any criminal  
17 and administrative penalties imposable under the Civil Service Law, Revised  
18 Penal Code, Republic Act No. 3019, otherwise known as the "Anti-Graft And  
19 Corrupt Practices Act", Republic Act No. 6713, otherwise known as the "Code  
20 Of Conduct And Ethical Standards For Public Officials", and other applicable  
21 laws.

22 If the offender is a foreign national, in addition to the imposable fines  
23 and penalties above, the foregoing acts shall be grounds for his summary  
24 deportation.

25 SEC. 45. *Disposition of Savings from the Implementation of this Act.* –  
26 The total amount of savings to be generated from the implementation of this  
27 Act shall be allocated annually and used exclusively for the provision of  
28 scholarships under the CHED.

1       Such allocations shall be segregated as separate trust funds by the  
2 National Treasury and shall be over and above the annual appropriations for  
3 similar purposes.

4       The earmarking provided under this provision shall be observed for ten  
5 (10) years starting from the effectivity of this Act.

6       SEC. 46. *Implementing Rules and Regulations (IRR).* – The DTI, the  
7 DOF, the NEDA, the DBM, the BOI, the PEZA, other IPAs and other  
8 concerned government agencies, shall promulgate rules and regulations to  
9 implement the intent and provisions of this Code within one hundred twenty  
10 (120) days from the effectivity of this Code. Such rules and regulations shall  
11 take effect fifteen (15) days following its publication in a newspaper of general  
12 circulation in the Philippines.

13       SEC. 47. *Transitory Provision.* – The incentives under Section 17 of  
14 this Act shall be applicable to existing BOI-registered export enterprises,  
15 particularly the tax and duty-free importation of equipment and raw materials  
16 by the said BOI-registered export enterprises.

17       Until the IRR of this Act take effect, the present rules and regulations  
18 under the old investments laws shall apply to the extent that they are not  
19 inconsistent with the provisions of this Act.

20       SEC. 48. *Separability Clause.* – The provisions of this Code are hereby  
21 declared to be separable and, in the event any of such provisions is declared  
22 unconstitutional, the other provisions which are not affected thereby, shall  
23 remain in force and effect.

24       SEC. 49. *Repealing Clause.* – The following provisions are hereby  
25 repealed:

26       (a) Title I, Chapter III, Article 32(1)(B); Title III, Article 39(a), (b),  
27 (d), (e), (g), (i), (j), (k), (l), (m) and (n); Title IV, Article 40(a) and (b); Book  
28 III, Chapter II, Articles 61 and 62; Book III, Chapter III, Articles 63, 64, 65,

1 66 and 67; Book IV, Articles 69 and 70; and Book VI, Article 77 of Executive  
2 Order No. 226, series of 1987, otherwise known as "The Omnibus Investments  
3 Code of 1987";

4 (b) Section 24 of Republic Act No. 7916, otherwise known as "An Act  
5 Providing for the Legal Framework and Mechanisms for the Creation,  
6 Operation, Administration and Coordination of Special Economic Zones in the  
7 Philippines, Creating for the Purpose the Philippine Economic Zone Authority  
8 (PEZA), and for other Purposes (Special Economic Zone Act of 1995)";

9 (c) Section 17(1), (2), (3), (4), (5), (6), (7), (8) and Section 18 (a), (b)  
10 and (c) of Presidential Decree No. 66, otherwise known as "Creating the  
11 Export Processing Zone Authority and Revising Republic Act No. 5490";

12 (d) Fourth paragraph of Presidential Decree No. 529 (restored by FIRB  
13 Resolution 19-87), otherwise known as "Granting to Petroleum Exploration  
14 Concessionaires under the Petroleum Act of 1949 Exemption from Customs  
15 Duty and Compensating Tax on Importations of Machinery and Equipment,  
16 Spare Parts and Materials Required for Their Exploration Operations";

17 (e) Sections 8, 9 and the second sentence of the first paragraph and  
18 second paragraph of Section 10 of Presidential Decree No. 538, otherwise  
19 known as "Creating and Establishing the PHIVIDEC Industrial Authority and  
20 Making Its Subsidiary Agency of the Philippine Veterans Investment  
21 Development Corporation Defining Its Powers, Functions and Responsibilities,  
22 and for Other Purposes";

23 (f) Section 36(e) and (f) (1) and (2) of Presidential Decree No. 705,  
24 otherwise known as the "Revised Forestry Code";

25 (g) Section 16(a), (c), (d), (e) and Section 17 of Republic Act  
26 No. 7844, otherwise known as "An Act to Develop Exports as a Key Towards  
27 the Achievement of the National Goals Towards the Year 2000 (Export  
28 Development Act of 1994)";

1 (h) Chapter XV, Section 83; Chapter XVI, Sections 90, 91, 92, 93(a)  
2 and (b) of Republic Act No. 7492, otherwise known as the "Philippine Mining  
3 Act of 1995";

4 (i) Section 9 of Republic Act No. 8479, otherwise known as the  
5 "Downstream Oil Deregulation Act of 1998";

6 (j) Chapter II, Article II, Section 35(b), (c) and (d) of Republic Act  
7 No. 8550, otherwise known as "The Philippine Fisheries Code of 1998";

8 (k) Section 5 of Proclamation No. 216, otherwise known as "Creating  
9 and Designating the Area Covered by the Former Wallace Air Station and  
10 Contiguous Areas in Poro Point as the Poro Point Special Economic and  
11 Freeport Zone and Transferring Lands to the Bases Conversion Development  
12 Authority pursuant to Republic Act No. 7227";

13 (l) Section 6 of Proclamation No. 984, otherwise known as "Creating  
14 and Designating the Municipality of Morong, Province of Bataan, including  
15 the Area of Philippine Refugee Processing Center Complex (PRPCC) as the  
16 Morong Special Economic Zone pursuant to Republic Act No. 7227 and  
17 transferring the land comprising the PRPCC to the Bases Conversion  
18 Development Authority (BCDA)";

19 (m) Section 1 and Section 2(a) and (b) and Section 6 of Executive  
20 Order No. 528, series of 2006, Amending Executive Order No. 31, series of  
21 2004, "Reducing the Rates of Duty on Capital Equipment, Spare Parts and  
22 Accessories Imported by BOI-registered new and Expanding Enterprises";

23 (n) Section 4(e) of Republic Act No. 7903, otherwise known as  
24 "Zamboanga City Special Economic Zone Act of 1995";

25 (o) Sections 4(b) of Republic Act No. 7922 otherwise known as the  
26 "Cagayan Special Economic Zone Act of 1995";

27 (p) Section 12(b) of Republic Act No. 7227, otherwise known as the  
28 "Bases Conversion and Development Act of 1992";

1 (q) Section 1(b), Sections 5, 6 and 7 of Republic Act No. 9400,  
2 otherwise known as, "An Act Amending Republic Act No. 7227, as Amended,  
3 Otherwise Known as the Bases Conversion and Development Act of 1992, and  
4 for Other Purposes"; and

5 (r) Section 1 of Executive Order No. 619, otherwise known as  
6 "Creating and Designating Special Economic Zones Pursuant to Republic Act  
7 No. 7916, as Amended by Republic Act No. 8784, in Relation to Republic Act  
8 No. 7227, as Amended by Republic Act No. 9400, Inside the Clark Freeport  
9 Zone".

10 All other laws, acts, decrees, orders and issuances or provisions thereof  
11 inconsistent with any of the provisions of this Act are hereby repealed or  
12 modified accordingly.

13 SEC. 50. *Survivor Clause.* – (a) The provisions of this Act to the  
14 contrary notwithstanding, the following laws, decrees and orders shall continue  
15 to have full force and effect:

16 (1) Book VI, Article 78 of Executive Order No. 226, series of 1987,  
17 otherwise known as "The Omnibus Investments Code of 1987";

18 (2) Section 18(f) of Presidential Decree No. 66, otherwise known as  
19 "Creating the Export Processing Zone Authority and Revising Republic Act  
20 No. 5490";

21 (3) Section 23 of Republic Act No. 7916, otherwise known as "An Act  
22 Providing for the Legal Framework and Mechanisms for the Creation,  
23 Operation, Administration and Coordination of Special Economic Zones in the  
24 Philippines, Creating for the Purpose the Philippine Economic Zone Authority  
25 (PEZA), and for other Purposes (Special Economic Zone Act of 1995)"; and

26 (4) Section 1 of Republic Act No. 9281 entitled, "An Act to Strengthen  
27 Agriculture and Fisheries Modernization in the Philippines by Extending the

1 Effectivity of Tax Incentives and its Mandated Funding Support, Amending for  
2 this Purpose Sections 109 and 112 of Republic Act No. 8435”;

3 (b) The provisions of this Act and Republic Act No. 9337 to the  
4 contrary notwithstanding, the following laws, decrees and orders shall continue  
5 to have full force and effect:

6 (1) Section 10(1) to (6) of Republic Act No. 7156, otherwise known as  
7 “An Act Granting Incentives to Mini-Hydro Electric Power Developers and for  
8 other Purposes (Mini-Hydroelectric Incentive Act)”;

9 (2) Sections 10, 16(a), (b) and (c) and Section 17(a) to (e) of  
10 Presidential Decree No. 972, as amended by Presidential Decree No. 1174,  
11 otherwise known as “Promulgating an Act to Promote an Accelerated  
12 Exploration, Development, Exploitation, Production and Utilization of Coal”;

13 (3) Section 12 of Presidential Decree No. 87, otherwise known as “An  
14 Act to Promote the Discovery and Production of Indigenous Petroleum, and  
15 Appropriating Funds Therefor”;

16 (4) Section 4(a) and (d) of Presidential Decree No. 1442, as restored by  
17 FIRB Resolution 19-87, otherwise known as “An Act to Promote the  
18 Exploration and Development of Geothermal Resources”; and

19 (5) Chapter II, Section 4(A), (B), (C) and (D); and Chapter VIII,  
20 Section 19(A), (B) and (C) of Republic Act No. 9295, Entitled “An Act  
21 Promoting the Development of Philippine Domestic Shipping, Shipbuilding,  
22 Shiprepair and Ship Breaking, Ordaining Reforms in Government Policies  
23 Towards Shipping in the Philippines and for other Purposes”;

24 *Provided, That* grantees or operators under their respective laws,  
25 decrees and orders shall have the option to avail of the incentives provided  
26 under this Act.

- 1        SEC. 51. *Effectivity.* – This Act shall take effect fifteen (15) days
- 2        following its publication in the *Official Gazette* or in a newspaper of general
- 3        circulation, whichever is earlier.

Approved,

O