

**NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)**

24 MAY -6 P12 :29

SENATE

S. NO. 2654

RECEIVED BY: 

Introduced by **SEN. WIN GATCHALIAN**

**AN ACT
ENHANCING PHILIPPINE TAX INCENTIVES, AMENDING FOR THE
PURPOSE SECTIONS 112, 293, 294, 295, 296, 297, 300, 301, 309, 310,
AND 311 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS
AMENDED, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Republic Act No. 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act", was enacted on February 3, 2021 to help our country become more competitive with its peers in the region by lowering corporate income tax rates and rationalizing fiscal incentives granted to registered business enterprises (RBE), making the fiscal incentives regime time-bound, performance-based, targeted, and transparent. Based on the data from Department of Finance, a total of 910 projects with total investments of PhP 1.02 trillion varying across priority sectors listed in the Strategic Investment Priority Plan (SIPP) have been approved under the CREATE Act as of October 2023.¹

However, after three years from its passage, investors and industry groups noted the lack of clarity and consistency in the implementing rules and regulations of CREATE Act which leads to the vagueness on the tax liabilities of RBEs. Major concerns in the implementation of the CREATE Act include the entitlement to the VAT zero-rating on local purchases incentive which requires the taxpayer to prove that such purchases are "directly and exclusively" used in their registered activities. This gives

¹ Gonzales, A., Philippine News Agency: "CREATE law attracts more than P1-T investments", available at: <https://www.pna.gov.ph/articles/1216347> dated January 4, 2024 (Date last accessed: May 2, 2024).

the Bureau of Internal Revenue (BIR) a wide discretion on what to consider “direct” and “exclusive”, resulting to the imposition of 12% VAT on local purchases. Another major issue is the denial of the requests to allow work-from-home arrangements for RBEs in the information technology and business process management (IT-BPM) sector, which was crucial during the pandemic when the mobility of the employees was limited, and which was also seen to be helpful in terms of employee attraction and retention.² Corporations are also facing delays in receiving VAT refunds “with the situation growing so dire that some companies are considering withdrawing from the market. Even after submitting the proper paperwork, the BIR continues to deny the rebates by citing rules not clearly written in the tax laws or other laws and regulations. Many companies are giving up on the VAT rebate due to the time, labor, and costs of dealing with the BIR.”³ These issues that hound the implementation of CREATE Act “may have a crippling consequence on the parts localization initiatives of exporters and particularly affect their local suppliers who will be more at risk should they lose their market.”⁴

In order to address the foregoing issues, this bill carries the following key features:

1. Amends the applicability of duty exemption, VAT exemption on importation of capital equipment, raw materials, spare parts, or accessories and VAT zero-rating on local purchases from “directly and exclusively used” in registered project or activity to “directly attributable”;
2. Allows RBEs in the IT-BPM sector to institute a telecommuting program pursuant to the Telecommuting Act, including work-from-home arrangements

² Basilio, K., BusinessWorld: “*CREATE MORE’s WFH features seen attracting talent to IT-BPM industry*”, available at: <https://www.bworldonline.com/economy/2024/03/31/584809/create-mores-wfh-features-seen-attracting-talent-to-it-bpm-industry/> dated March 31, 2024 (Date last accessed: May 2, 2024)

³ Shiga, Y., Nikkei Asia: “Philippines risks losing foreign investment over delayed tax rebates”, available at: <https://asia.nikkei.com/Politics/Philippines-risks-losing-foreign-investment-over-delayed-tax-rebates> dated October 6, 2023 (Date last accessed: May 6, 2024)

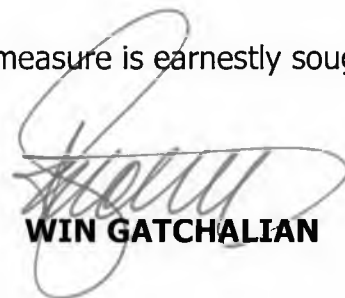
⁴ Taburada K. and Moncada, L., Colliers: “CREATE-ing MORE opportunities: Proposed amendments to the CREATE Law”, available at: <https://www.colliers.com/en-ph/news/create-more-bill-proposed-amendments-certified-urgent> dated January 17, 2024 (Date last accessed: May 2, 2024)

exclusively within the geographical boundaries of the economic zone or freeport not more than 50% of the total workforce;

3. Transfers the mandate to process VAT refund claims from the BIR to the Revenue Operations Group under the Department of Finance;
4. Imposes two percent (2%) RBE local tax (RBELT) based on gross sales in lieu of all local taxes for RBEs availing the enhanced deductions regime;
5. Allows RBEs to elect an enhanced deductions regime after the entitlement to income tax holiday;
6. Grants one hundred percent (100%) additional deduction for power cost, to make us competitive with other countries in the region with lower power rates;
7. Amends the application period of the net operating loss carryover to five (5) years after the end of the income tax holiday period; and
8. Exempts donation of capital equipment, raw materials, spare parts, or accessories by RBEs to government agencies and political subdivisions.

Once enacted, this bill will clarify the rules and policies on the administration of the fiscal incentives regimes, paving the way to a more stable investment climate and attracting new investors to come and old investors to stay in our country.

In view of the foregoing, the passage of this measure is earnestly sought.



WIN GATCHALIAN

**NINETEENTH CONGRESS OF THE
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S. No. 2654

Introduced by Senator Win Gatchalian

**AN ACT
ENHANCING PHILIPPINE TAX INCENTIVES, AMENDING FOR THE
PURPOSE SECTIONS 112, 293, 294, 295, 296, 297, 300, 301, 309, 310,
AND 311 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS
AMENDED, AND FOR OTHER PURPOSES**

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

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

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

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

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

6 "(C) *Period within which-Refund of Input Taxes shall be Made.* - In
7 proper cases, the [~~Commissioner~~] **SECRETARY OF FINANCE** shall grant
8 a refund for creditable input taxes within ninety (90) days from the date
9 of submission of the official receipts or invoices and other documents
10 **SPECIFICALLY PRESCRIBED BY THE SECRETARY, WHICH SHALL**
11 **BE DEEMED EXHAUSTIVE** in support of the application filed in
12 accordance with Subsections (A) and (B) hereof: *Provided*, That for this
13 purpose, the VAT refund claims **SHALL BE PROCESSED BY THE**
14 **REVENUE OPERATIONS GROUP UNDER THE DEPARTMENT OF**
15 **FINANCE AND THE CLAIMS** shall be classified into low-, medium-, and

1 high-risk claims, with the risk classification based on amount of VAT refund
2 claim, tax compliance history, frequency of filing VAT refund claims,
3 among others: *Provided, further,* That medium- and high-risk claims shall
4 be subject to audit or other verification processes in accordance with the
5 Bureau of Internal Revenue's national audit program for the relevant year:
6 *Provided, finally,* That should the [~~Commissioner~~] **SECRETARY** find that
7 the grant of refund is not proper, the [~~Commissioner~~] **SECRETARY** must
8 state in writing the legal and factual basis for the denial within the ninety
9 (90)-day period.

10 "In case of full or partial denial of the claim for tax refund, or the
11 failure on the part of the [~~Commissioner~~] **SECRETARY** to act on the
12 application within the period prescribed above, the taxpayer affected may,
13 within thirty (30) days from the receipt of the decision denying the claim,
14 or after the expiration of the ninety (90)-day period, appeal the decision
15 with the Court of Tax Appeals: *Provided, however,* That failure on the part
16 of any official, agent, or employee of the [~~Bureau of Internal Revenue~~]
17 **DEPARTMENT OF FINANCE** to act on the application within ninety (90)
18 days period shall be punishable under Section 269 of this Code.

19 "(D) *Manner of Giving Refund.* - Refunds shall be made upon
20 warrants drawn by the [~~Commissioner~~] **SECRETARY** or by his duly
21 authorized representative without the necessity of being countersigned by
22 the Chairperson, Commission on Audit, the provisions of the Administrative
23 Code of 1987 to the contrary notwithstanding: *Provided,* That refunds
24 under this paragraph shall be subject to post audit by the Commission on
25 Audit following the risk-based classification above-described: *Provided,*
26 *further,* That in case of disallowance by the Commission on Audit, only the
27 taxpayer shall be liable for the disallowed amount without prejudice to any
28 administrative liability on the part of any employee of the [~~Bureau of~~
29 ~~Internal Revenue~~] **DEPARTMENT OF FINANCE** who may be found to be
30 grossly negligent in the grant of refund."

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

1 "SEC. 293. *Definitions.* – When used in this Title:

2 "(A) *Capital equipment* refers to machinery, equipment, major
3 components thereof, tools, devices, applications or apparatus, which are
4 directly [~~or reasonably needed in~~] **ATTRIBUTABLE TO** the registered project
5 or activity of the registered enterprise;

6 "x x x

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

22 "x x x

23 "(H) *Investment Promotion Agencies* refer to government entities
24 created by law, executive order, decree, or other issuances, in charge of
25 promoting investments, granting and administering tax and non-tax incentives,
26 and overseeing the operations of the different economic zones and freeports
27 in accordance with their respective special laws. These include the Board of
28 Investments (BOI), [~~Regional Board of Investments—Autonomous Region in~~
29 ~~Muslim Mindanao—(RBOI—ARMM)] **BANGSAMORO BOARD OF**~~

30 **INVESTMENTS (BBOI), BANGSAMORO ECONOMIC ZONE AUTHORITY**
31 **(BEZA), Philippine Economic Zone Authority (PEZA), Bases Conversion and**
32 **Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA),**

1 Clark Development Corporation (CDC), John Hay Management Corporation
2 (JHMC), Poro Point Management Corporation (PPMC), Cagayan Special
3 Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone and
4 Freeport Authority (ZCSEZA), PHIVIDEC Industrial Authority (PIA), Aurora
5 Pacific Economic Zone Authority (APECO), Authority of the Freeport Area of
6 Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA),
7 and all other similar existing authorities or that may be created by law unless
8 otherwise specifically exempted from the coverage of this Code.”

9 “x x x

10 **“(S) TECHNICAL OBSOLESCENCE MEANS THE DESIGN OR**
11 **SPECIFICATION OF THE ASSET NO LONGER FULFILLS THE FUNCTION**
12 **FOR WHICH IT WAS ORIGINALLY DESIGNED AND/OR THE**
13 **MACHINERY, EQUIPMENT, SPARE PARTS AND/OR MATERIALS HAS**
14 **DIMINISHED IN VALUE CAUSED BY CHANGES IN TECHNOLOGY AND**
15 **NEW INVENTIONS RENDERING IT LESS DESIRABLE IN THE**
16 **INDUSTRY, INCLUDING A DECLINE IN VALUE DUE TO IMPROVED**
17 **ALTERNATIVES BECOMING AVAILABLE THAT ARE MORE COST**
18 **EFFECTIVE, AS MAY BE VERIFIED AND APPROVED BY THE**
19 **INVESTMENT PROMOTION AGENCY.”**

20 **SEC. 3.** Section 294 of the National Internal Revenue Code of 1997, as
21 amended, is hereby further amended to read as follows:

22 “SEC. 294. *Incentives.* – Subject to the conditions and period of
23 availment in Sections 295 and 296, respectively, the following types of tax
24 incentives may be granted to registered projects or activities:

25 “(A) *Income Tax Holiday (ITH)*;

26 “(B) *Special Corporate Income Tax (SCIT) Rate.* – xxx

27 “(C) *Enhanced Deductions (ED) REGIME.* – ~~[For] A [export~~
28 ~~enterprise, and domestic market enterprise,]~~ **REGISTERED BUSINESS**
29 **ENTERPRISE MAY ELECT TO BE UNDER THE ENHANCED**
30 **DEDUCTIONS REGIME, WHEREIN** the following may be allowed as
31 deductions:

1 “(1) Depreciation allowance of the assets acquired for the
2 entity's production of goods and services (qualified capital
3 expenditure) - additional ten percent (10%) for buildings; and
4 additional twenty percent (20%) for machineries and equipment;

5 “(2) Fifty percent (50%) additional deduction on the labor
6 expense incurred in the taxable year;

7 “(3) One hundred percent (100%) additional deduction on
8 research and development expense incurred in the taxable year;

9 “(4) One hundred percent (100%) additional deduction on
10 training expense incurred in the taxable year;

11 “(5) Fifty percent (50%) additional deduction on domestic
12 input expense incurred in taxable year;

13 “(6) **ONE HUNDRED PERCENT** [~~Fifty~~—percent]
14 **([5]100%)** additional deduction on power expense incurred in the
15 taxable year;

16 “(7) Deduction for reinvestment allowance to manufacturing
17 industry. – When a manufacturing registered business enterprise
18 reinvests its undistributed profit or surplus in any of the projects or
19 activities listed in the Strategic Investment Priority Plan, the
20 amount reinvested to a maximum of fifty percent (50%) shall be
21 allowed as a deduction from its taxable income within a period of
22 five (5) years from the time of such reinvestment; and

23 “(8) Enhanced Net Operating Loss Carry-Over (NOLCO). –
24 The net operating loss of the registered project or activity during
25 the first three (3) years from the start of commercial operation,
26 which had not been previously offset as deduction from gross
27 income, may be carried over as deduction from gross income within
28 the next five (5) consecutive taxable years immediately following
29 the **LAST** year of [~~such loss~~] **THE INCOME TAX HOLIDAY**
30 **ENTITLEMENT PERIOD OF THE PROJECT.**

31 “(D) Duty exemption on importation of capital equipment, raw
32 materials, spare parts, or accessories; [~~and~~]

1 “(E) Value-Added Tax (VAT) exemption on importation and VAT
2 zero-rating on local purchases[-]; **AND**

3 “(F) **REGISTERED BUSINESS ENTERPRISE LOCAL TAX. – IN**
4 **LIEU OF ALL LOCAL TAXES IMPOSED BY THE LOCAL**
5 **GOVERNMENT UNIT, THERE SHALL BE IMPOSED A REGISTERED**
6 **BUSINESS ENTERPRISE LOCAL TAX AT THE RATE NOT**
7 **EXCEEDING TWO PERCENT (2%) OF GROSS SALES FOR**
8 **REGISTERED BUSINESS ENTERPRISES AVAILING OF THE**
9 **ENHANCED DEDUCTION REGIME AS PROVIDED UNDER SECTION**
10 **294(C) OF THIS CODE.**

11 **SEC. 4.** Section 295 of the National Internal Revenue Code of 1997, as
12 amended, is hereby further amended to read as follows:

13 “SEC. 295. *Conditions of Availment.* – The tax incentives in the
14 preceding Section shall be governed by the following rules:

15 “(A) The income tax holiday shall be followed by the Special
16 Corporate Income Tax Rate or Enhanced Deductions **REGIME.**

17 “(B) At the option of the export enterprise, the Special Corporate
18 Income Tax rate or enhanced deductions shall be granted: *Provided,* That
19 in no case shall the enhanced deductions be granted simultaneously with
20 the Special Corporate Income Tax.

21 “The following conditions for the availment of each enhanced
22 deduction[s] shall be complied with:

23 “(1) xxx

24 “(2) xxx

25 “(3) xxx

26 “(4) xxx

27 “(5) xxx

28 “(6) The additional **AND** deduction**S** on power expense shall only
29 apply to power utilized for the registered project or activity.

30 “(7) xxx.

31 “(C) The duty exemption shall only apply to the importation of
32 capital equipment, raw materials, spare parts, or accessories directly [and

1 exclusively used in] **ATTRIBUTABLE TO** the registered project or activity
2 by registered business enterprises **FOR THE DURATION OF THE**
3 **PERIOD OF REGISTRATION OF SUCH PROJECT OR ACTIVITY**
4 **WITH THE INVESTMENT PROMOTION AGENCY:** *Provided,* That the
5 following conditions are complied with:

6 "(1) The capital equipment, raw materials, spare parts, or
7 accessories are directly [~~and reasonably needed and will be used~~
8 ~~exclusively in and as part of the direct cost of~~] **ATTRIBUTABLE TO** the
9 registered project or activity of the registered business enterprise, and are
10 not produced or manufactured domestically in sufficient quantity or of
11 comparable quality and at reasonable prices. Prior approval of the
12 Investment Promotion Agency may be secured for the part-time utilization
13 of said capital equipment, raw materials, spare parts, or accessories in a
14 non-registered project or activity to maximize usage thereof: *Provided,*
15 That the proportionate taxes and duties are paid on a specific capital
16 equipment, raw materials, spare parts, or accessories in proportion to the
17 utilization for non-registered projects or activities. In the event that the
18 capital equipment, raw materials, spare parts, or accessories shall be used
19 for a non-registered project or activity of the registered business
20 enterprise at any time within the first five (5) years from date of
21 importation, the registered business enterprise shall first seek prior
22 approval of the concerned Investment Promotion Agency and pay the
23 taxes and customs duties that were not paid upon the importation; and

24 "(2) The approval of the Investment Promotion Agency was
25 obtained by the registered business enterprise prior to the importation of
26 such capital equipment, raw materials, spare parts, or accessories.

27 "Within the first five (5) years from date of importation, approval
28 of the Investment Promotion Agency must be secured before the sale,
29 transfer, or disposition of the capital equipment, raw materials, spare
30 parts, or accessories, which were granted tax and customs duty
31 exemption hereunder, and shall be allowed only under the following
32 circumstances:

1 “(a) If made to another enterprise availing customs duty exemption
2 on imported capital equipment, raw materials, spare parts, or accessories;

3 “(b) If made to another enterprise not availing of duty exemption
4 on imported capital equipment, raw materials, spare parts, or accessories,
5 upon payment of any taxes and duties due on the net book value of the
6 capital equipment, raw materials, spare parts, or accessories to be sold;

7 “(c) Exportation of capital equipment, raw materials, spare parts,
8 accessories, source documents, or those required for pollution abatement
9 and control;

10 “(d) Proven technical obsolescence of the capital equipment, raw
11 materials, spare parts, or accessories **UPON PAYMENT OF ANY TAXES**
12 **AND DUTIES DUE ON THE NET BOOK VALUE OF THE CAPITAL**
13 **EQUIPMENT, RAW MATERIALS, SPARE PARTS, OR ACCESSORIES**
14 **TO BE SOLD;** or

15 “(e) If donated to the [~~TESDA, State Universities and Colleges~~
16 ~~(SUCs), or DepEd and CHED-accredited schools~~] **GOVERNMENT OF THE**
17 **PHILIPPINES OR TO ANY OF ITS AGENCIES OR POLITICAL**
18 **SUBDIVISIONS, INCLUDING FULLY-OWNED GOVERNMENT**
19 **CORPORATIONS:** *Provided,* That the donation shall be exempt from
20 import duties and taxes, including donor's tax.

21 “*Provided,* That if the registered business enterprise sells,
22 transfers, or disposes the aforementioned imported items without prior
23 approval, the registered business enterprise and the vendee, transferee,
24 or assignee shall be solidarily liable to pay twice the amount of the duty
25 exemption that should have been paid during its importation: *Provided,*
26 *further,* That the sale, transfer, or disposition of the capital equipment,
27 raw materials, spare parts, or accessories made after five (5) years from
28 date of importation shall require that prior notice be given by the
29 registered business enterprise to the Investment Promotion Agency:
30 *Provided, [finally] FURTHERMORE,* That even if the sale, transfer, or
31 disposition of the capital equipment, raw materials, spare parts or
32 accessories was made after five (5) years from date of importation with

1 notice to the Investment Promotion Agency, the registered business
2 enterprise is still liable to pay the duties based on the net book value of
3 the capital equipment, raw materials, spare parts, or accessories if it has
4 violated any of its registration terms and conditions~~[-]~~: **PROVIDED,**
5 **FINALLY, THAT NET BOOK VALUE AS USED IN THIS SECTION**
6 **SHALL REFER TO HISTORICAL COST LESS ACCUMULATED**
7 **DEPRECIATION, AS APPEARING IN THE REGISTERED BUSINESS**
8 **ENTERPRISE'S AUDITED FINANCIAL STATEMENTS, AND**
9 **APPROVED BY THE BUREAU OF INTERNAL REVENUE.**

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

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

17 "(E) xxx

18 "(F) xxx

19 "(G) xxx

20 "(H) **UNLESS EXEMPT UNDER OTHER LAWS, THE**
21 **REGISTERED BUSINESS ENTERPRISE LOCAL TAX SHALL BE**
22 **IMPOSED ON REGISTERED BUSINESS ENTERPRISES, DURING**
23 **THE PERIOD OF AVAILMENT OF THE ENHANCED DEDUCTION**
24 **REGIME.**

25 "Registered business enterprises, whose performance
26 commitments include job generation, shall maintain their employment
27 levels to the extent practicable, and in the case of reduced employment
28 or when the performance commitment for job generation is not met, the
29 registered business enterprises must submit to their respective
30 Investment Promotion Agencies and the Fiscal Incentives Review Board
31 their justification for the same."

1 **SEC. 5.** Section 296 of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 "SEC. 296. *Period of Availment.* - The period of availment of
4 incentiveS by the registered business enterprise shall be as follows:

5 "(A) For export enterprise, income tax holiday of four (4) to seven
6 (7) years, depending on location and industry priorities as specified in this
7 Section, and followed by special corporate income tax rate or enhanced
8 deductions for ten (10) years. **REGISTERED EXPORT ENTERPRISES**
9 **SHALL ENJOY NON-INCOME TAX INCENTIVES, SUCH AS DUTY**
10 **EXEMPTION ON IMPORTATION OF CAPITAL EQUIPMENT, RAW**
11 **MATERIALS, SPARE PARTS, OR ACCESSORIES, VAT EXEMPTION**
12 **ON IMPORTATION AND VAT ZERO-RATING ON LOCAL**
13 **PURCHASES, AS LONG AS THE REGISTERED EXPORT**
14 **ENTERPRISE MAINTAINS SEVENTY PERCENT (70%) OF TOTAL**
15 **ANNUAL PRODUCTION AS EXPORT SALES AND CONTINUES TO BE**
16 **REGISTERED IN GOOD STANDING WITH THE INVESTMENT**
17 **PROMOTION AGENCY.**

18 "(B) For domestic market enterprise under the Strategic Investment
19 Priority Plan, income tax holiday for four (4) to seven (7) years followed
20 by enhanced deductions for five (5) years.

21 "A qualified expansion or entirely new project or activity registered
22 under this Act may qualify to avail of incentives, subject to the
23 qualifications set forth in the Strategic Investment Priority Plan and
24 performance review by the Fiscal Incentives Review Board: *Provided,* That
25 existing registered projects or activities prior to the effectivity of this Act
26 may qualify to register and avail of the incentives granted under this Act
27 for the prescribed period, subject to the criteria and conditions set forth in
28 the Strategic Investment Priority Plan.

29 "The period of availment of the foregoing incentives shall
30 commence from the actual start of commercial operations with the
31 registered business enterprise availing of the tax incentives within three
32 (3) years from the date of registration, unless otherwise provided in the

1 Strategic Investment Priority Plan and its corresponding guidelines:
2 *Provided*, That after the expiration of the transitory period under Section
3 311(C), export enterprises registered prior to the effectivity of this Act
4 shall have the option to reapply and avail of the incentives granted under
5 Section 294(B), **(D), AND (E) ON THEIR EXISTING INVESTMENT** for
6 the same period provided under this Section, subject to the conditions and
7 qualifications set forth in the Strategic Investment Priority Plan and
8 performance review by the Fiscal Incentives Review Board.

9 "xxx."

10 **SEC. 6.** Section 297 of the National Internal Revenue Code of 1997, as
11 amended, is hereby further amended to read as follows:

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

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

20 "(1) Determine the target performance metrics as conditions to
21 avail of tax incentives;

22 "(2) Review and audit the compliance of other government
23 agencies administering tax incentives, with respect to the administration
24 and grant of tax incentives and impose sanctions such as, but not limited
25 to, withdrawal, suspension, or cancellation of their power to grant tax
26 incentives;

27 "(3) Determine the minimum contiguous land area that vertical
28 economic zones should comply with **AND RECOMMEND TO THE**
29 **PRESIDENT STANDARDS FOR PROCLAIMING ECONOMIC ZONES;**

30 "(4) Conduct regular monitoring and evaluation of investment and
31 non-investment tax incentives, such as using cost-benefit analysis (CBA)
32 to determine their impact on the economy and whether agreed

1 performance targets are met, **AND PRESCRIBE THE DATA**
2 **REQUIREMENTS FOR THE APPLICATION OF INCENTIVES TO**
3 **ALLOW FOR THE CALCULATION OF COSTS AND BENEFITS UPON**
4 **APPLICATION;** [and[

5 "(5) x x x

6 "(B) To approve or disapprove, the grant of tax incentives to the
7 extent of the registered project or activity upon the recommendation of
8 the Investment Promotion Agency: *Provided*, That the application for tax
9 incentives shall be duly accompanied by a cost-benefit analysis: *Provided*,
10 *further*, That the Fiscal Incentives Review Board shall prescribe the data
11 requirements for the application of incentives to allow for the calculation
12 of costs and benefits upon application: *Provided, further*, That the grant
13 of tax incentives to registered projects or activities with investment capital
14 of One billion pesos (P1,000,000,000.00) and below shall be delegated by
15 the Fiscal Incentives Review Board to the concerned Investment
16 Promotion Agency to the extent of the registered project or activity:
17 *Provided, furthermore*, That the Fiscal Incentives Review Board may
18 increase the threshold amount of One billion **ONE HUNDRED MILLION**
19 pesos (~~[P1,000,000,000.00]~~ **P1,100,000,000.000**);

20 "(C) To approve applications for tax subsidies to government-
21 owned or -controlled corporations, government instrumentalities,
22 government commissaries, and state universities and colleges[-.];

23 "For this purpose, the other government agencies shall ensure
24 complete submission of applications, documents, records, books, or other
25 relevant data or material;

26 "(D) To [~~formulate~~] **RECOMMEND ADDITIONAL TIME-**
27 **BOUND OR** place-specific **PROJECTS OR ACTIVITIES TO THE**
28 strategic investment **PRIORITY** plan[s] during periods of recovery from
29 calamities and post-conflict situations and where the Fiscal Incentives
30 Review Board determines that there is a need to attract many classes,
31 firms, that would accelerate the growth of a region's flagship industries,
32 in accordance with the Medium-Term Development Plan, [~~The Fiscal~~

1 ~~Incentives Review Board may formulate and approve place-specific~~
2 ~~strategic investment plans and recommend incentives to the President,]~~
3 following the same procedure in Section 297;

4 "(E) x x x

5 "(F) x x x

6 "(G) x x x

7 "(H) x x x

8 "(I) x x x

9 "(J) x x x

10 "(K) x x x

11 "(L) x x x

12 "(M) x x x

13 "(N) To adopt policies for the development and expansion of the
14 domestic supply chain in order to reduce dependence on imports; promote
15 diversification and sophistication of products produced and services
16 offered, whether exported or consumed locally; and cater to local market
17 demand; ~~{and}~~

18 **"(O) TO INQUIRE UPON AND RECOMMEND POLICIES FOR**
19 **THE PREVENTION OF THE ABUSE OF AVAILMENT OF FISCAL**
20 **INCENTIVES UNDER THIS CODE FOR TAX EVASION AND**
21 **SMUGGLING ACTIVITIES; AND**

22 ~~"[(O)]~~ **(P)** To exercise all other powers necessary or incidental to
23 attain the purposes of this Act and other laws vesting additional functions
24 on the Fiscal Incentives Review Board.

25 "xxx."

26 **SEC. 7.** Section 300 of the National Internal Revenue Code of 1997, as
27 amended, is hereby further amended to read as follows:

28 "SEC. 300. *Strategic Investment Priority Plan.* – The Board of
29 Investments, in coordination with the Fiscal Incentives Review Board,
30 Investment Promotion Agencies, other government agencies
31 administering tax incentives, and the private sector, shall formulate the
32 Strategic Investment Priority Plan to be submitted to the President for

1 approval, which may contain recommendations for types of non-fiscal
2 support needed to create high-skilled jobs to grow a local pool of
3 enterprises, particularly micro, small and medium enterprises (MSMEs),
4 that can supply to domestic and global value chains, to increase the
5 sophistication of products and services that are produced and/or sourced
6 domestically, to expand domestic supply and reduce dependence on
7 imports, and to attract significant foreign capital or investment. The
8 Strategic Investment Priority Plan shall be valid for a period of three (3)
9 years, subject to review and amendment every three (3) years thereafter
10 unless there would be a supervening event that would necessitate its
11 review.

12 "The Strategic Investment Priority Plan shall contain the following:

13 "(A) x x x

14 "(B) x x x; and

15 "(C) Terms and conditions on the grant of enhanced deductions
16 under Section 294(C), **AS DETERMINED BY THE DEPARTMENT OF**
17 **FINANCE.**

18 "xxx."

19 **SEC. 8.** Section 301 of the National Internal Revenue Code of 1997, as
20 amended, is hereby further amended to read as follows:

21 "SEC. 301. *Power of the President to Grant Incentives.* – xxx

22 "This power of the President, in as far as it commands additional public
23 sector expenditures in support of investors, is suspended during fiscal
24 years when, an [unimaginable] **UNMANAGEABLE** fiscal deficit is
25 declared by the President on the advice of the Development Budget
26 Coordination Committee with a consequence that even core budgetary
27 obligations, such as, but not limited to, mandatory revenue allotments for
28 local government units and budget for the National Economic and
29 Development Authority's core public investments program, cannot be fully
30 financed.

31 "x x x."

1 **SEC. 9.** Section 309 of the National Internal Revenue Code of 1997, as
2 amended, is hereby further amended to read as follows:

3 "SEC. 309. *Prohibition on Registered Activities.* – A qualified
4 registered project or activity under an Investment Promotion Agency
5 administering an economic zone or freeport shall be exclusively conducted
6 or operated within the geographical boundaries of the zone or freeport
7 being administered by the Investment Promotion Agency in which the
8 project or activity is registered: *Provided,* That a registered business
9 enterprise may conduct or operate more than one qualified registered
10 project or activity within the same zone or freeport under the same
11 Investment Promotion Agency: *Provided, further,* That any project or
12 activity conducted or performed outside the geographical boundaries of
13 the zone or freeport shall not be entitled to the incentives provided in this
14 Act, unless such project or activity is conducted or operated under another
15 Investment Promotion Agency: **PROVIDED, FURTHERMORE, THAT**
16 **REGISTERED BUSINESS ENTERPRISES IN THE INFORMATION**
17 **TECHNOLOGY – BUSINESS PROCESS MANAGEMENT SECTOR,**
18 **COMPLIANT WITH ON-SITE WORK REQUIREMENTS SET BY**
19 **THEIR RESPECTIVE INVESTMENT PROMOTION AGENCIES, MAY**
20 **BE ALLOWED TO INSTITUTE A "TELECOMMUTING" PROGRAM AS**
21 **DEFINED UNDER REPUBLIC ACT NO. 11165, OTHERWISE**
22 **KNOWN AS "THE TELECOMMUTING ACT," INCLUDING WORK-**
23 **FROM-HOME ARRANGEMENTS, EXCLUSIVELY WITHIN THE**
24 **GEOGRAPHICAL BOUNDARIES OF THE ECONOMIC ZONE OR**
25 **FREEPORT, WHICH SHALL NOT COVER MORE THAN FIFTY**
26 **PERCENT (50%) OF THE TOTAL WORKFORCE."**

27 **SEC. 10.** Section 310 of the National Internal Revenue Code of 1997, as
28 amended, is hereby further amended to read as follows:

29 "SEC. 310. *Establishment of One-Stop Action Center* **AND INITIAL**
30 **POINT OF CONTACT FOR FOREIGN INVESTMENT LEADS.** - All
31 Investment Promotion Agencies shall establish a one-stop shop or one-
32 stop action center that will facilitate and expedite, to the extent possible,

1 the setting up and conduct of registered projects or activities, including
2 assistance in coordinating with the local government units and other
3 government agencies to comply with Republic Act No. 11032, otherwise
4 known as the Ease of Doing Business and Efficient Government Service
5 Delivery Act of 2018: *Provided, however,* That the enterprises shall
6 continue to avail of the one-stop shop facility notwithstanding the
7 expiration of their incentives under this Code.

8 **"LOCAL GOVERNMENT UNITS MAY DELEGATE TO**
9 **INVESTMENT PROMOTION AGENCIES, THROUGH APPROPRIATE**
10 **MEMORANDA OF AGREEMENT, THE FUNCTION OF ACCEPTING,**
11 **PROCESSING, AND GRANTING BUSINESS PERMITS AND**
12 **LICENSES.**

13 **"INVESTMENT PROMOTION AGENCIES MAY ALSO ASSIST**
14 **REGISTERED BUSINESS ENTERPRISES IN OBTAINING LICENSES**
15 **AND PERMITS FROM NATIONAL GOVERNMENT AGENCIES BY**
16 **ACCEPTING DOCUMENTARY REQUIREMENTS FOR SUCH**
17 **LICENSES AND PERMITS, AND SUBMITTING THE SAME ON**
18 **BEHALF OF REGISTERED BUSINESS ENTERPRISES TO THE**
19 **APPROPRIATE NATIONAL GOVERNMENT AGENCIES.**

20 **"INVESTMENT PROMOTION AGENCIES MAY UNDERTAKE**
21 **SUCH ACTIVITIES THAT ARE NECESSARY TO PERFORM THE**
22 **FUNCTION OF THE INITIAL POINT OF CONTACT FOR FOREIGN**
23 **INVESTMENT LEADS."**

24 **SEC. 11.** Section 311 of the National Internal Revenue Code of 1997, as
25 amended, is hereby further amended to read as follows:

26 **"SEC. 311. *Investments Prior to the Effectivity of this Act.* –**
27 **Registered business enterprises with incentives granted prior to the**
28 **effectivity of this Act shall be subject to the following rules:**

29 **"(A) Registered business enterprises whose projects or activities**
30 **were granted only an income tax holiday prior to the effectivity of this Act**
31 **shall be allowed to continue with the availment of the income tax holiday**
32 **for the remaining period of the income tax holiday as specified in the**

1 terms and conditions of their registration: *Provided*, That for those that
2 have been granted the income tax holiday but have not yet availed of the
3 incentive upon the effectivity of this Act, they may use the income tax
4 holiday for the period specified in the terms and conditions of their
5 registration;

6 "(B) Registered business enterprises, whose projects or activities
7 were granted an income tax holiday prior to the effectivity of this Act and
8 that are entitled to the five percent (5%) tax on gross income earned
9 incentive after the income tax holiday, shall be allowed to avail of the five
10 percent (5%) tax on gross income earned incentive based on Subsection
11 **(C), INCLUDING ALL CORRESPONDING EXEMPTIONS FROM**
12 **LOCAL AND NATIONAL TAXES, FOR THE DURATION OF THE**
13 **PERIOD OF REGISTRATION OF THE PROJECTS OR ACTIVITIES**
14 **WITH THE INVESTMENT PROMOTION AGENCY; [and]**

15 "(C) Registered business enterprises currently availing of the five
16 percent (5%) tax on gross income earned granted prior to the effectivity
17 of this Act shall be allowed to continue availing the said tax incentive at
18 the rate of five percent (5%), **INCLUDING ALL CORRESPONDING**
19 **EXEMPTIONS FROM LOCAL AND NATIONAL TAXES**, for ten (10)
20 years[-];

21 **"(D) ALL EXISTING REGISTERED BUSINESS ENTERPRISES,**
22 **WHICH ARE IN GOOD STANDING WITH THEIR RESPECTIVE**
23 **INVESTMENT PROMOTION AGENCY, MAY CONTINUE TO ENJOY**
24 **THE FOLLOWING INCENTIVES AS PROVIDED IN THEIR**
25 **REGISTRATION DURING THE TRANSITORY PERIOD:**

26 **"(1) FOR REGISTERED BUSINESS ENTERPRISES,**
27 **WHETHER DOMESTIC OR EXPORT, INSIDE THE ECONOMIC**
28 **AND FREEPORT ZONES – DUTY EXEMPTION ON**
29 **IMPORTATION OF CAPITAL EQUIPMENT, RAW**
30 **MATERIALS, SPARE PARTS, OR ACCESSORIES, VAT**
31 **EXEMPTION ON IMPORTATION, AND VAT ZERO-RATING**
32 **ON LOCAL PURCHASES; AND**

1 **“(2) FOR REGISTERED EXPORT ENTERPRISES**
2 **OUTSIDE THE ECONOMIC AND FREEPORT ZONES – DUTY**
3 **EXEMPTION ON IMPORTATION OF CAPITAL EQUIPMENT,**
4 **RAW MATERIALS, SPARE PARTS, OR ACCESSORIES AND**
5 **VAT ZERO-RATING ON LOCAL PURCHASES.**

6 **“(E) REGISTERED BUSINESS ENTERPRISES WITH**
7 **INCENTIVES GRANTED PRIOR TO THE EFFECTIVITY OF THIS ACT**
8 **MAY CONTINUE TO ENJOY THE VAT EXEMPTION ON**
9 **IMPORTATION, AND VAT ZERO-RATING ON LOCAL PURCHASES,**
10 **FOR TWELVE (12) YEARS: PROVIDED, THAT NO TAX REFUND OR**
11 **CREDIT SHALL BE GRANTED TO QUALIFIED REGISTERED**
12 **BUSINESS ENTERPRISES.”**

13 **SEC. 12. *Transitory Provisions.*** – The exemption from local and national taxes
14 under Section 8 of this Act shall have retroactive application: *Provided*, That no tax
15 refund or credit shall be granted to registered business enterprises covered by Section
16 311 of the National Internal Revenue Code of 1997, as amended, as a result of the
17 exemption from local and national taxes.

18 **SEC. 13. *Implementing Rules and Regulations.*** – Within ninety (90) days from
19 the effectivity of this Act, the Secretary of Finance, upon the recommendation of the
20 Commissioner of Internal Revenue, shall promulgate the necessary rules and
21 regulations for its effective implementation: *Provided*, That for the provisions under
22 Title XIII of the National Internal Revenue Code of 1997, as amended, the Secretary
23 of Finance and the Secretary of Trade and Industry shall jointly promulgate the
24 necessary rules and regulations thereof within the same period, after due
25 consultations with the Commissioner of Internal Revenue, the Board of Investments,
26 and other Investment Promotion Agencies, for their effective implementation. Failure
27 to promulgate the rules and regulations shall not prevent the implementation of this
28 Act upon its effectivity.

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

1 **SEC. 15. *Repealing Clause.*** – All law, decrees, executive orders, implementing
2 rules and regulations, issuances, or any part thereof inconsistent with the provisions
3 of this Act are deemed repealed, amended or modified accordingly.

4 **SEC. 16. *Effectivity.*** – This Act shall take effect after fifteen (15) days from its
5 publication in the *Official Gazette* or in a newspaper of general circulation.

6
7 *Approved,*