

Corporate Recovery and Tax Incentives for Enterprises Act (CREATE)

Republic Act No. 11534



Corporate Recovery and Tax Incentives for Enterprises Act – Package 2

In brief

On 26 March 2021, the President signed into law **Republic Act (RA) No. 11534** or the **Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act**. The law contains amendments to several provisions of the National Internal Revenue Code of 1997 (“Tax Code”), primarily on the reduction of the corporate income tax rate and the introduction of a new title on tax incentives.

The President, however, has vetoed certain items in the CREATE bill, to wit:

- Increasing the Value-Added Tax (VAT)-exempt threshold on sale of real property and the adjustment in the threshold amount every three (3) years;
- Ninety (90) day period for processing of general tax refunds, requirements in case of denial by the Commissioner and remedy of taxpayer in case of denial
- Definition of investment capital;
- Domestic market enterprises’ entitlement to special corporate income tax (SCIT) rate;
- Specific share of the national government and local government units in the gross income earned using the SCIT rate;
- Availment of a new set of incentives and its corresponding period of availment for qualified expansions or entirely new project or activity;
- Allowing export enterprises registered prior to CREATE to avail of further extension of new incentives for the same activity;
- Exercise of power by the Fiscal Incentives Review Board (FIRB) in granting incentives to registered projects or activities with a total investment capital of more than PHP1bn;
- Specific industries mentioned under activity tiers;
- Provision granting the President the power to exempt any investment promotion agencies (IPA) from the coverage of Title XIII of CREATE;
- Automatic approval of applications for incentives in case of inaction.

CREATE shall take effect fifteen (15) days from its complete publication in the Official Gazette or in a newspaper of general circulation.

CREATE was published in the Business Mirror on 27 March 2021.

The salient provisions of CREATE are as follows:

- Corporate income tax (“CIT”) rate shall be reduced to 25% beginning 1 July 2020 for domestic corporations and resident foreign corporations (“RFCs”) while 1 January 2021 for non-resident foreign corporations (“NRFCs”). Domestic corporations with net taxable income not exceeding PHP5m and with total assets not exceeding PHP100m, excluding land on which the particular business entity's office, plant, and equipment are situated, are subject to 20% income tax;
- Repeal of the optional CIT of 15% of gross income for domestic corporations and RFCs;
- Exemption from income tax of foreign sourced dividends subject to certain conditions;
- Repeal of the 10% special income tax rate of offshore banking units (“OBUs”);
- Beginning 1 January 2022, ROHQs shall be subject to regular CIT at 25%;
- Beginning 1 July 2020 until June 2023:
 - Temporary reduction on the income tax rate of proprietary educational institutions and hospitals to 1%.
 - Temporary reduction of the minimum corporate income tax rate to 1% for domestic corporations and RFCs.
 - Temporary reduction of the percentage tax rate on persons exempt from VAT to 1%.
- Final income tax rate on interest income of RFCs derived from a depository bank under the expanded foreign currency deposit system is increased from 7.5% to 15%;
- Capital gains tax from sale of shares of stock not traded in the stock exchange of RFCs and NRFCs is increased from 5%/10% to 15%;
- Repeal of the improperly accumulated earnings tax (“IAET”);
- On the tax sparing rule, effective 1 July 2020, the credit against the tax due shall be equivalent to the difference between the regular income tax and the 15% tax on dividends;
- Additional deduction on labor training expenses of ½ of the value of labor training expenses incurred for skills development of enterprise-based trainees enrolled in public senior high schools, public higher education institutions, and public technical and vocational institutions;
- The deductible interest expense shall be reduced by 20% instead of 33% of the interest income subjected to final tax;
- Coverage of tax free exchange under Section 40(C)(2) has been expanded and prior Bureau of Internal Revenue (“BIR”) confirmation or tax ruling shall no longer be required for purposes of availing the tax exemption;
- Periodic review by the Department of Finance of the regulations on creditable withholding tax;
- Effectivity of the VAT exemption on the sale or importation of medicines for cancer, mental illness, tuberculosis and kidney diseases is moved to 1 January 2021 from 1 January 2023;
- VAT exemption of COVID-19 health related materials and drugs effective 1 January 2021 until 31 December 2023.

Rationalization of Tax Incentives

A. Income Tax

- Income Tax Holiday (“ITH”) shall be granted for a period of four (4) to (7) years, followed by the Special Corporate Income Tax (“SCIT”) rate of 5% on the gross income earned, in lieu of all taxes, both national and local, or enhanced deductions (“ED”) for five (5) or ten (10) years. The incentive period varies depending on which area the registered project or activity will be located.
- The Strategic Investment Priority Plan (“SIPP”) shall define the coverage of the tiers and provide the conditions for qualifying activities:
 - For export enterprise:

Location / Industry Tiers	Tier I	Tier II	Tier III
National Capital Region (“NCR”)	4 ITH + 10 ED/SCIT	5 ITH + 10 ED/SCIT	6 ITH + 10 ED/SCIT
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 10 ED/SCIT	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT
All other areas	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT

- For domestic market enterprise under SIPP:

Location/Industry Tiers	Tier I	Tier II	Tier III
NCR	4 ITH + 5 ED	5 ITH + 5 ED	6 ITH + 5 ED
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 5 ED	6 ITH + 5 ED	7 ITH + 5 ED
All other areas	6 ITH + 5 ED	7 ITH + 5 ED	7 ITH + 5 ED

- The period of availment shall commence from the actual start of commercial operations with the registered business enterprise availing of the tax incentives within three (3) years from the date of registration, *unless* otherwise provided in the SIPP.
- After expiration of the transitory period, export enterprises registered prior to the effectivity of CREATE shall have the option to reapply and avail of the incentives for the prescribed period subject to the conditions and qualifications set forth in the SIPP but shall not be allowed to further extend thereafter for the same activity.
- Additional two (2) years ITH shall be granted to projects or activities of registered enterprises located in areas recovering from armed conflict or a major disaster.
- Additional three (3) years ITH shall be granted to projects or activities of registered prior to the effectivity of this Act, or under the incentive system when such entities relocated from the NCR. The ITH period shall only commence at the completion of the relocation of operations.
- The President may, in the interest of national economic development and upon recommendation of the FIRB, modify the mix, period or manner of availment of incentives or craft the appropriate financial support package for highly desirable projects not in SIPP
 - The grant of ITH shall not exceed eight (8) years
 - And thereafter, SCIT rate of 5% may be granted
 - Total period of incentive availment must not exceed 40 years

B. Customs Duty Incentives

- 5-year maximum period to avail of exemption from customs duty on importation of capital equipment, raw materials, spare parts, or accessories directly and exclusively used in the registered activity.

C. VAT incentives

- VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity by registered business enterprise.

Compliance with Ease of Doing Business

- All Investment Promotion Agencies (“IPAs”) shall establish a one-stop shop or one-stop action center to facilitate and expedite the setting up and conduct of registered projects or activities, including coordinating with Local Government Units (“LGUs”) and other government agencies to comply with RA No. 11032 (Ease of Doing Business and Efficient Government Service Delivery Act of 2018). The enterprises shall continue to avail of the one-stop shop facility notwithstanding the expiration of their incentives

Transitory Provisions for Existing Registered Activities

- Those granted only an ITH prior the effectivity of this Act shall be allowed to continue with its availment for the remaining period.
- Those that have been granted the ITH but have not yet availed of the incentive upon the effectivity of this Act, they may use the ITH for the period specified in the terms and condition of their registration.
- Those granted an ITH prior to effectivity of this Act and are entitled to 5% tax on gross income earned (“GIE”), shall be allowed to continue to avail of the 5% GIE incentive for 10 years.
- Those availing of the 5% tax on GIE prior the effectivity of this Act shall be allowed to continue availing the said incentive for 10 years.

Submission of report and information by the Commissioner, and definition of corporation**Submission of Report and Pertinent Information by the Commissioner**

Section 20 The Commissioner is required to submit pertinent information to Congress, notwithstanding Section 270 of the Tax Code, including but not limited to industry audits, collection performance data, status reports in criminal actions initiated against persons and taxpayer's returns, in aid of legislation. Further, the Commissioner shall submit to the Oversight Committee through the Committee of Ways and Means, a report on the exercise of his power and authority to compromise, abate and refund or credit taxes.

Additional provision:

The Commissioner shall, upon the order of the Secretary of Finance, submit tax-related information to the Department of Finance in relation to the grant of incentives under Title XIII of the Tax Code.

Definition of corporation

Section 22 The term 'corporation' shall include partnerships, no matter how created or organized, joint-stock companies, joint accounts (*cuentas en participacion*), association, or insurance companies, but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal and other energy operations pursuant to an operating consortium agreement under a service contract with the Government. 'General professional partnerships' are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.

Inclusion of "one person corporations" in the definition of corporations under the Tax Code.

Adjustment on passive income of non-resident individual**Tax exemption of winnings from Philippine Charity Sweepstakes Office (PCSO)**

Section 25 Philippine Charity Sweepstakes and Lotto winnings are tax-exempt.

Only winnings amounting to ten thousand pesos (PH₱10,000) or less from PCSO Games are exempt from tax.

Adjustment on income tax rate of domestic corporations

Income tax rate on domestic corporations	Section 27 (A) Domestic corporations are subject to 30% income tax on their net taxable income for income within and without the Philippines..	Effective 1 July 2020, domestic corporations are subject to 25% income tax on their taxable income. Additional provision: Domestic corporations with net taxable income not exceeding PHP5m and with total assets not exceeding PHP100m, excluding land on which the particular business entity's office, plant, and equipment are situated, are subject to 20% income tax.
Option to be taxed at 15% of gross income	Section 27 (A) The President may allow corporations the option to be taxed at 15% of gross income after the following conditions are satisfied: 1. Tax effort ratio of 20% of gross national product (GNP); 2. Ratio of 40% of income tax collection to total revenues; 3. VAT tax effort of 4% of GNP; and 4. 0.9% ratio of the consolidated public sector financial position. The option shall be available only to firms whose ratio of cost of sales to gross sales or receipts does not exceed 55%.	Repealed
Income tax rate on proprietary educational institutions and hospitals	Section 27 (B) Proprietary educational institutions and hospitals which are nonprofit shall pay a tax of 10% on their taxable income if the gross income from <i>'unrelated trade, business or other activity'</i> does not exceed 50% of the total gross income derived by such educational institutions or hospitals from all sources.	Beginning 1 July 2020 until 30 June 2023, the tax rate imposed under Section 27(B) shall be 1%.
Taxability of Government-owned or -Controlled Corporations, Agencies or Instrumentalities	Section 27 (C) Government Service Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC) and the local water districts (LWDs) shall be exempt from tax.	Inclusion of Home Development Mutual Fund (HDMF) in the exempt GOCCs, agency or instrumentality of the government.

Tax Particulars	National Internal Revenue Code of 1997	CREATE (RA No. 11534)
Adjustment on tax on certain passive income		
Intercorporate dividends	Section 27(D)(4) Dividends received by a domestic corporation from another domestic corporation shall not be subject to tax.	<p>In general, dividends received by a domestic corporation shall not be subject to tax.</p> <p>Additional provision: For foreign-sourced dividends to be exempt, the following conditions shall be met:</p> <ol style="list-style-type: none"> 1. The funds from such dividends actually received or remitted into the Philippines are reinvested in the business operations of the domestic corporation in the Philippines within the next taxable year from the time the foreign-sourced dividends were received, and shall be limited to funding the working capital requirements, capital expenditures, dividend payments, investment in domestic subsidiaries, and infrastructure projects; and 2. The domestic corporation holds directly at least 20% of the outstanding shares of the foreign corporation and has held the shareholdings for a minimum of two (2) years at the time of the dividend distribution.
Minimum corporate income tax (MCIT)		
Temporary reduction of MCIT rate	Section 27(E)(1) A MCIT of two percent (2%) of the gross income is imposed beginning on the fourth taxable year immediately following the year in which a corporation commenced its business operations, when the minimum income tax is greater than the regular corporate income tax.	Effective 1 July 2020 until 30 June 2023, the MCIT rate shall be one percent (1%).

Tax Particulars	National Internal Revenue Code of 1997	CREATE (RA No. 11534)
Adjustment on income tax rate of resident foreign corporations (RFC)		
Income tax rate on RFCs	Section 28 (A)(1) RFCs are subject to 30% income tax on their net taxable income from Philippine-sourced income.	Effective 1 July 2020, RFCs are subject to 25% income tax on their taxable income.
Option to be taxed at 15% of gross income	Section 28 (A)(1) RFCs shall be granted the option to be taxed at 15% on gross income under the same conditions, as provided in Section 27(A)	Repealed
Temporary reduction of MCIT rate	Section 28 (A)(2) A MCIT of two percent (2%) of the gross income is imposed beginning on the fourth taxable year immediately following the year in which a corporation commenced its business operations, when the minimum income tax is greater than the regular corporate income tax.	Effective 1 July 2020 until 30 June 2023, the MCIT rate shall be one percent (1%).
Offshore banking units (OBU)	Section 28 (A)(4) Income derived by OBUs from foreign currency transactions with non-residents, other than OBUs, local commercial banks, shall be exempt from all taxes. Any interest income derived from foreign currency loans granted to residents shall be subject to 10% final tax. Any income of non-residents from transactions with OBUs shall be exempt from income tax.	Repealed
Regional operating headquarters (ROHQ)	Section 28 (A)(5)(b) ROHQs are subject to 10% income tax on their taxable income.	Effective, 1 January 2022, ROHQs shall be subject to regular corporate income tax at 25%.

Adjustment on passive income of RFCs

Interest income derived from a depository bank under the expanded foreign currency deposit system	Section 28 (A)(7)(a) Interest income of an RFC from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax rate of 7 ½%.	The tax rate is increased from 7 ½% to 15%.
Capital gains tax from sale of shares of stock not traded in the stock exchange	Section 28 (A)(7)(c) Capital gains from sale of shares of stock not traded in the stock exchange of an RFC shall be taxed as follows: • 5% of the capital gain not exceeding PHP100,000; and • 10% on any amount in excess thereof.	The capital gains tax is increased from 5%/10% to 15%.

Adjustment on income tax rate of non-resident foreign corporations (NRFC)

Income tax rate on NRFCs	Section 28 (B)(1) NRFCs are subject to income tax on their Philippine-sourced gross income at the rate of 30%.	Effective 1 January 2021, NRFCs are subject to 25% tax on their Philippine-sourced gross income.
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Adjustment on passive income of NRFCs

Intercorporate dividends (Tax sparing rule)	Section 28 (B)(5)(b) A final withholding tax of 15% shall be imposed on cash and/or property dividends received from a domestic corporation provided that the country of domicile of the NRFC shall allow a credit against the tax due from the taxes deemed to have been paid in the Philippines equivalent to 20%, which is the difference between the 15% and 35% RCIT.	Effective 1 July 2020, the credit against the tax due shall be equivalent to the difference between the regular income tax (<i>i.e.</i> , 25%) and the 15% tax on dividends.
Capital gains tax from sale of shares of stock not traded in the stock exchange	Section 28 (B)(5)(c) Capital gains from sale of shares of stock not traded in the stock exchange of an NRFC shall be taxed as follows: • 5% of the capital gain not exceeding PHP100,000; and • 10% on any amount in excess thereof.	The capital gains tax is increased from 5%/10% to 15%

Imposition of Improperly Accumulated Earnings Tax (IAET)		
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Repeal of IAET	Section 29 The IAET shall apply to every corporation formed or availed for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of being divided or distributed.	Repealed
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Allowable deductions for income tax purposes		
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Additional deduction on labor training expenses	No existing provision	<p>Section 34 (V) Additional deduction from taxable income of one-half (½) of the value of labor training expenses incurred for skills development of enterprise-based trainees enrolled in:</p> <ul style="list-style-type: none"> • Public senior high schools • Public higher education institution • Public technical and vocational institutions <p>and duly covered by an apprenticeship agreement under the Labor Code of the Philippines.</p> <p>For the additional deduction, the enterprise shall secure proper certification from the DepEd, TESDA, or CHED.</p> <p>Such deduction shall not exceed ten percent (10%) of direct labor wage.</p>
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On interest expense limitation	Section 34 (B)(1) The deductible interest expense shall be reduced by 33% of the interest income subjected to final tax.	<p>The deductible interest expense shall be reduced by twenty percent (20%) of the interest income subjected to final tax.</p> <p>If the interest income tax is adjusted in the future, the interest expense reduction rate shall be adjusted accordingly based on the prescribed standard formula.</p>
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Clarifications on tax free exchanges

Tax free exchanges

Section 40 (C)(2) No gain or loss shall be recognized if in pursuance of a plan of merger or consolidation —

- a. A corporation, which is a party to a merger or consolidation, exchanges property solely for stock in a corporation, which is a party to the merger or consolidation; or
- b. A shareholder exchanges stock in a corporation, which is a party to the merger or consolidation, solely for the stock of another corporation also a party to the merger or consolidation; or
- c. A security holder of a corporation, which is a party to the merger or consolidation, exchanges his securities in such corporation, solely for stock or securities in such corporation, a party to the merger or consolidation.

No gain or loss shall also be recognized if property is transferred to a corporation by a person in exchange for stock or unit of participation in such a corporation of which as a result of such exchange, said person, alone or together with others not exceeding four (4) persons, gains control of said corporation: Provided, that stocks issued for services shall not be considered as issued in return for property.

No gain or loss shall be recognized on a corporation or on its stock or securities if such corporation is a party to a reorganization and exchanges property in pursuance of a plan of reorganization solely for stock or securities in another corporation that is a party to the reorganization. A reorganization is defined as:

- a. A corporation, which is a party to a merger or consolidation, exchanges property solely for stock in a corporation, which is a party to the merger or consolidation; or
- b. The acquisition by one (1) corporation, in exchange solely for all or a part of its voting stock, or in exchange solely for all or part of the voting stock of a corporation which is in control of the acquiring corporation, of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation whether or not such acquiring corporation had control immediately before the acquisition
- c. The acquisition by one (1) corporation, in exchange solely for all or part of of its voting stock or in exchange solely for all or part of the voting stock of a corporation which is in control of the acquiring corporation, of substantially all of the properties of another corporation. In determining whether the exchange is solely for stock, the assumption by the acquiring corporation of a liability of the others shall be disregarded.
- d. A recapitalization, which shall mean an arrangement whereby the stock and bonds of a corporation are readjusted as to amount, income, or priority or an agreement of all stockholders and creditors to change and increase or decrease the capitalization or debts of the corporation or both
- e. A reincorporation, which shall mean the formation of the same corporate business with the same assets and the same stockholders surviving under a new charter.

Clarifications on tax free exchanges *(continued)*

Tax free exchanges

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No gain or loss shall also be recognized if property is transferred to a corporation by a person, alone or together with others, not exceeding four (4) persons, in exchange for stock or unit of participation in such a corporation of which as a result of such exchange, the transferor or transferors, collectively, gains or maintains control of said corporation: Provided, that stocks issued for services shall not be considered as issued in return for property.

Sale or exchanges of property used for business for shares of stocks covered under this Subsection shall not be subject to value-added tax (VAT).

In all of the foregoing instances of exchange of property, prior Bureau of Internal Revenue (BIR) confirmation or tax ruling shall not be required for purposes of availing the tax exemption.

On the definition of control

Section 40 (C)(6)(c) The term “control”, when used in this Section shall mean ownership of stocks in a corporation possessing at least fifty one percent (51%) of the total voting power of all classes of stocks entitled to vote.

The definition applies to control after the transfer of property.

The collective and not the individual ownership of all classes of stocks entitled to vote of the transferor or transferors shall be used in determining the presence of control.

Withholding Tax at Source**Review by the DoF of the regulations and processes for withholding of creditable tax**

No existing provision

Section 57 is amended requiring the DOF to review, at least once every three (3) years, regulations and processes for withholding of creditable tax and direct the BIR to amend the rules and regulations if found that the same adversely and materially impact the taxpayer.

Tax Particulars	National Internal Revenue Code of 1997	CREATE (RA No. 11534)
Value-added tax (VAT) provisions		
VAT exemption of sale of real properties	<p>Section 109 (1)(P) Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, or real property utilized for low-cost and socialized housing as defined by Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, and other related laws, residential lot valued at One million five hundred thousand pesos (PH₱1.5m) and below, house and lot, and other residential dwellings valued at Two million five hundred thousand pesos (PH₱2.5m) and below.</p> <p>Provided, That beginning January 1, 2021, the VAT exemption shall only apply to sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, sale of real property utilized for socialized housing as defined by RA 7279, sale of house and lot, and other residential dwellings with selling price of not more than Two million pesos (PH₱2m)</p> <p>Provided, further, that every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the Philippine Statistics Authority (PSA).</p>	<p>Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, or real property utilized for low-cost and socialized housing, and other lot's value is increased to PH₱2.5m.</p> <p>Sale of house and lot, and other residential dwellings' value is increased to PH₱4.2m.</p> <p>Beginning 1 January 2024, and every three (3) years thereafter, the amount herein stated shall be adjusted to its present value.</p> <p>[ITEM VETOED] VAT exemption on the sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of business, or real property utilized for low-cost and socialized housing shall remain at PH₱1.5m and below, house and lot, and other residential dwellings shall remain at PH₱2.5m and below. Further, the adjustment in the threshold amount beginning January 2024 and every 3 years thereafter was also vetoed.</p>
VAT exemption of sale, importation, printing or publications of literary works.	<p>Section 109 (R) Sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements.</p>	<p>Modified to include journals and any educational reading material covered by the UNESCO Agreement on the importation of educational, scientific, and cultural materials, including the digital or electronic format. Provided, that the materials enumerated are not devoted principally to the publication of paid advertisements.</p>
VAT exemption on the sale or importation of medicines for cancer, mental illness, tuberculosis, and kidney diseases	<p>Section 109 (AA) Sale or importation of prescription drugs and medicines for cancer, mental illness, tuberculosis, and kidney diseases shall be exempt from VAT beginning 1 January 2023.</p>	<p>Effectivity of the VAT exemption is moved to 1 January 2021.</p>

Value-added tax provisions

On the exemption of health related materials and drugs. No existing provision

Section 109 (BB) Effective 1 January 2021 until 31 December 2023, the following are exempt from Value-added tax (VAT):

1. Capital equipment, its spare parts and raw materials, necessary for the production of personal protective equipment components for COVID-19 prevention.
2. All drugs, vaccines and medical devices specifically prescribed and directly used for the treatment of COVID-19
 - Within sixty (60) days of effectivity of this Act, and every three (3) months thereafter, the Department of Health (DOH) shall issue a list of prescription drugs and medical devices covered.
3. Drugs for the treatment of COVID-19 approved by the Food and Drug Administration (FDA) for use in clinical trials, including raw materials directly necessary for the production of such drugs
 - The Department of Trade and Industry (DTI) shall certify that such are not locally available or insufficient in quantity or not in accordance with the quality or specification required.

Above exemptions are subject to post audit by the BIR or Bureau of Customs as may be applicable.

Tax Particulars	National Internal Revenue Code of 1997	CREATE (RA No. 11534)
Value-added tax provisions		
Tax on persons exempt from VAT	Section 116 Any person whose sales or receipts are exempt under Section 109 (V) of this Code from the payment of value-added tax and who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) of his gross quarterly sales or receipts.	Effective 1 July 2020 until 30 June 2023, the rate shall be one percent (1%).
Authority of the Commissioner to Compromise, Abate, and Refund or Credit taxes		
Period to grant refund of taxes erroneously or illegally received or penalties imposed without authority	Section 204 (C) No period provided for the Commissioner within which to act on the claim for refund.	<p>The Commissioner shall grant refund for taxes or penalties within ninety (90) days from date of complete submission of the documents. In case of denial, the Commissioner shall state in writing the factual and legal basis for such denial.</p> <p>In case of full or partial denial of the claim, the taxpayer affected may, within thirty (30) days from receipt of the denial, appeal the decision with the Court of Tax Appeals (CTA).</p> <p>[ITEM VETOED] The period for processing of general tax refunds (90 days), requirements in case of denial by the Commissioner and remedy of taxpayer in case of denial.</p>
Functions of the Congressional Oversight Committee		
Congressional oversight committee	Section 290 Enumerates four (4) functions of the committee, as follows: <ol style="list-style-type: none"> 1. Monitoring and ensuring the proper implementation of RA No. 8240; 2. Determination of that the power of the CIR to compromise and abate is reasonably exercised; 3. Review of the collection performance of the BIR; and 4. Review of the implementation of the programs of the BIR 	Additional provision: <ol style="list-style-type: none"> 5. Review the performance of the Fiscal Incentives Review Board (FIRB)

General provisions**Scope and coverage**

Section 291 Title XIII shall cover all existing investment promotion agencies (IPA), unless specifically exempted under the Tax Code.

IPAs shall maintain their functions and powers as provided under their respective special laws except to the extent modified by the provisions of the Tax Code.

Extent of authority to grant tax incentives

Section 292 The Fiscal Incentives Review Board (FIRB), or the IPAs, under a delegated authority from the FIRB, shall grant the tax incentives to registered business enterprises (RBE) only to the extent of the approved registered project or activity under the Strategic Investment Priority Plan (SIPP).

Definition of terms

Section 293 Certain terms used under Title XIII are specifically defined under the law.

[ITEM VETOED] The term “investment capital” shall be excluded from the list. The current measures used by the IPA in determining the scale of an investment shall be used instead.

Menu of tax incentives

Tax incentives

Section 294 Subject to the conditions and period of availment in Section 295 and Section 296, the following types of tax incentives may be granted to registered projects or activities:

- A. Income Tax Holiday (ITH)
- B. Special Corporate Income Tax Rate (SCIT) of 5% on the gross income earned, in lieu of all taxes, both national and local, effective 1 July 2020
 - For export enterprise, ~~domestic market enterprise with minimum investment capital of PHP500m and domestic market enterprise under the SIPP engaged in activities that are classified as “critical” (those belonging to industries identified by the National Economic and Development Authority to be crucial to national development.)~~
 - **[ITEM VETOED] Domestic market enterprises with minimum investment capital of PHP500m and those engaged in activities that are classified as “critical” shall not be entitled to SCIT.**
- C. Enhanced Deductions
 - For export enterprises, domestic market enterprise and critical domestic market enterprise, the following may be allowed as deductions:
 - Depreciation Allowance of Qualified Capital Expenditures:
 - 10% tax allowance for buildings
 - 20% tax allowance for machineries and equipment
 - Labor Expense: 50% additional deduction on labor expense
 - Research and Development (“R&D”): 100% additional deduction on R&D expense
 - Training Expense: 100% additional deduction for training expense
 - Domestic Input Expense: 50% additional deduction on domestic input expense
 - Power Expense: 50% additional deduction on power expense
 - Reinvestment allowance to manufacturing industry: maximum of 50% deduction on the amount of undistributed profit or surplus that is reinvested by a manufacturing registered business enterprise as determined in the SIPP. The deduction shall be allowed for a period of 5 years from the time of reinvestment.
 - Enhanced Net Operating Loss Carry-over: net operating loss during the first three (3) years from the start of commercial operation which had not been previously offset as deduction from gross income shall be allowed as a deduction. The deduction may be claimed within the next five (5) consecutive taxable years immediately following the year of such loss.
- D. Duty exemption on importation of capital equipment, raw materials, spare parts, or accessories
- E. VAT exemption on importation and VAT zero-rating on local purchases.

[ITEM VETOED] The specific share of the national government and the local government unit which has jurisdiction over the place of the registered business activity of the registered business enterprise outside ecozones and freeports in the gross income earned has been removed.

Conditions of availment of tax incentives

Conditions for income tax incentives Section 295 The tax incentives in the preceding section shall be governed by the following rules:

- A. The ITH shall be followed by the SCIT rate or enhanced deductions
- B. The SCIT rate or enhanced deductions shall be granted
 - at the option of the export enterprise, ~~domestic market enterprise with a minimum investment capital of PHP500m, and the critical domestic market enterprise~~
 - **[ITEM VETOED] Domestic market enterprises with a minimum investment capital of PHP500m, and critical domestic market enterprises shall have no option to use SCIT.**
 - in no case shall the enhanced deductions be granted simultaneously with the SCIT rate.

The following conditions for the availment of each enhanced deductions shall be complied with:

- Depreciation Allowance of Qualified Capital Expenditures:
 - allowed for assets that are directly related to the registered enterprise's production of goods and services other than administrative and other support services
- Labor expense
 - shall not include salaries, wages, benefits, and other personnel costs incurred for managerial, administrative, indirect labor, and support services
- Research and development expense
 - shall only apply to R&D directly related to the registered project or activity of the entity
 - shall be limited to local expenditure incurred for salaries of Filipino employees and consumables and payments to local R&D organizations
- Training expense
 - shall only apply to trainings, as approved by the IPAs based on the SIPP, given to the Filipino employees engaged directly in the registered business enterprise's production of goods and services
- Domestic input expense
 - shall only apply to those directly related to and actually used in the registered export project or activity of the registered business enterprise
- Power expense
 - shall only apply to power utilized for the registered project or activity
- Reinvestment allowance to manufacturing industry
 - shall be determined in the SIPP

Conditions of availment of tax incentives

Conditions for customs duty and VAT exemption Section 295 (continued)

Customs duty exemption on capital equipment: Registered enterprises may be exempted to the extent of 100% of the customs duty subject to the following conditions:

1. The capital equipment, raw materials, spare parts, or accessories are **directly and reasonably needed** and will be used exclusively in and as part of the direct costs, are not produced or manufactured domestically in sufficient quantity, or of comparable quality, and at reasonable prices.
 2. **Approval of the IPA** shall be obtained prior to importation.
- Part-time utilization of the equipment in a non-registered activity shall be allowed subject to the **payment of the proportionate taxes and duties in proportion to its utilization.**
 - Use of the equipment for non-registered activities at any time **within 5 years** from the date of importation shall be subject to prior approval of the concerned IPA, and payment of the taxes and customs duties that were not paid upon its importation.
 - Subsequent sale, transfer or disposition of the capital equipment and/or spare parts which was granted tax and customs duty exemption shall be subject to the approval of the IPA and shall be allowed only under the following circumstances:
 1. If made to another enterprise availing customs duty exemption on imported capital equipment, raw materials, spare parts and/or accessories;
 2. If made to another enterprise not availing of customs duty exemption on imported capital equipment, raw materials, spare parts and/or accessories, upon payment of any taxes and duties due on the net book value of the capital equipment, raw materials, spare parts, and/or accessories to be sold;
 3. Exportation of capital equipment, raw materials, spare parts, accessories or source documents, or those required for pollution abatement and control;
 4. For reasons of proven technical obsolescence; or
 5. If donated to TESDA, SUCs, or DepEd and CHED-accredited schools provided that the donation shall be exempt from import duties and tax, including donor's tax.
 - The registered enterprise and the vendee, transferee, or assignee shall be **solidarily liable to pay twice the amount of duty exemption** that should have been paid during its importation for sales, transfers and dispositions without prior approval.
 - The sale, transfer, or disposition of the capital equipment, raw materials, spare parts, or accessories made after five (5) years from date of importation shall require that prior notice be given by the registered business enterprise to the IPA.
 - Even if the sale, transfer or disposition of the capital equipment was made after five (5) years from the date of importation with notice to the IPA, the registered enterprise is still liable to pay the duties based on the net book value of the capital equipment if it has violated any of its registration terms and conditions

VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity by registered business enterprise. Sales receipts and other income derived from non-registered project or activity shall be subject to appropriate taxes.

Conditions of availment of tax incentives**Conditions for customs duty and VAT exemption** Section 295 *(continued)*

The importation of COVID-19 vaccine shall be exempt from import duties, taxes and other fees, subject to the approval or licenses issued by the DOH or the FDA.

Persons who directly import petroleum products for resale in the Philippine customs territory and/or free zones shall not be entitled to the foregoing tax and duty incentives, and shall be subject to appropriate taxes upon importation.

- The importer can file for claims for the refund of duties and taxes applicable, for direct or indirect export of petroleum products, and/or other tax exempt sales.
- The importers who subsequently export fuel, subject to the appropriate rules of the fuel making program, may apply for a refund of duties and taxes.

Crude oil that is intended to be refined at a local refinery, including the volumes that are lost and not converted to petroleum products when it actually undergoes the refining process, shall be exempt from payment of applicable duties and taxes upon importation.

- Applicable duties and taxes on petroleum products shall be payable only upon lifting of the petroleum products produced from the imported crude oil subject to the rules and regulations of the Bureau of Customs and the Bureau of Internal Revenue.

Registered business enterprises whose performance commitments include job generation shall maintain their employment levels to the extent practicable, and in the case of reduced employment or when the performance commitment for the job generation is not met, the RBEs must submit to their respective IPAs and the FIRB their justification.

Period of availment of tax incentives

Period of availment

Section 296 The period for the availment of incentive shall be as follows:

- (A) For export enterprise ~~and for domestic market enterprise under the SIPP engaged in activities that are classified as critical~~
- ITH period of 4-7 years depending on location and industry priorities
 - Followed by SCIT rate or enhanced deductions for 10 years
 - **[ITEM VETOED] Domestic market enterprises engaged in activities that are classified as critical shall not be entitled to SCIT.**
- (B) For domestic market enterprise under SIPP
- ITH period of 4-7 years
 - Followed ~~by SCIT rate or enhanced deductions for 5 years. Only domestic market enterprise with an investment capital of not less than PHP500m shall be eligible to SCIT rate.~~
 - **[ITEM VETOED] Domestic market enterprises under SIPP and domestic market enterprise with an investment of not less than PH P500m shall not be entitled to SCIT after the ITH period.**

A qualified expansion or entirely new project or activity registered may qualify to avail ~~of a new set of incentives and its period of availment~~, subject to the qualifications set forth in the SIPP and performance review by the FIRB.

[ITEM VETOED] A qualified expansion or entirely new project or activity shall not be qualified to avail of a new set of incentives and its corresponding period of availment.

Existing registered projects or activities prior to the effectivity may qualify to register and avail of the incentives granted for the prescribed period subject to the criteria and conditions set forth in the SIPP.

The period of availment shall commence from the actual start of commercial operations with the registered business enterprise availing of the tax incentives within three (3) years from the date of registration, *unless* otherwise provided in the SIPP.

Upon expiration of the transitory period, export enterprises registered prior to the effectivity of this Act shall have the option to reapply and avail of the incentives, ~~and may still be extended for a certain period not exceeding ten (10) years at any one time~~ subject to the conditions and qualifications set forth in the SIPP and performance review by the FIRB.

[ITEM VETOED] Export enterprises registered prior to the effectivity of CREATE shall not be allowed to extend the period of availment of their incentives, in case of reapplication and availment of new incentives.

The location of the registered activity shall be prioritized according to the economic level of development as follows:

1. National Capital Region (“NCR”)
2. Metropolitan areas (as determined by the National Economic and Development Authority (“NEDA”) or areas contiguous or adjacent to the NCR)
3. All other areas

General provisions

Period of Availment

Section 296 (continued)

The SIPP shall define the coverage of the tiers and provide the conditions for qualifying activities:

- **Tier I** activities shall include activities that:
 1. have high potential for job creation;
 2. take place in sectors with market failures resulting in underprovision of basic goods and services;
 3. generate value creation through innovation, upgrading or moving up the value chain;
 4. provide essential support for sectors that are critical to industrial development; or
 5. are emerging owing to potential comparative advantage.

[ITEM VETOED] The industries mentioned (e.g. agriculture, fishing, forestry, and agribusiness activities, including handicrafts intended for export, and energy, etc.) in the enumeration under Section 296(B)(1) are vetoed in order to make CREATE more flexible to keep up with the changing times.

- **Tier II** activities shall include activities that produce supplies, parts and components, and intermediate services that are not locally produced but are critical to industrial development and import-substituting activities, including crude oil refining.
- **Tier III** activities shall include:
 1. research and development resulting in demonstrably significant value-added, higher productivity, improved efficiency, breakthroughs in science and health, and high paying jobs;
 2. generation of new knowledge and intellectual property registered and/or licensed in the Philippines,
 3. commercialization of patents, industrial designs, copyrights and utility models owned or co-owned by a registered business enterprise,
 4. highly technical manufacturing; or
 5. are critical to the structural transformation of the economy and require substantial catch-up efforts.

[ITEM VETOED] The industries mentioned (e.g. agriculture, fishing, forestry, agribusiness, and other activities and services that indispensably require the employment of knowledge processing, etc.) in the enumeration under Section 296(B)(3) are vetoed in order to make CREATE more flexible to keep up with the changing times.

General provisions

Period of Availment

Section 296 (continued)

The period of availment of incentives based on the combination of both location and industry priorities, as determined in the SIPP shall be as follows:

- For exporters and critical domestic market activities that are classified as critical **[ITEM VETOED]**

Location/Industry Tiers	Tier I	Tier II	Tier III
NCR	4 ITH + 10 ED/SCIT	5 ITH + 10 ED/SCIT	6 ITH + 10 ED/SCIT
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 10 ED/SCIT	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT
All other areas	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT

- For domestic market activities

Location/Industry Tiers	Tier I	Tier II	Tier III
NCR	4 ITH + 5 ED/ SCIT	5 ITH + 5 ED/ SCIT	6 ITH + 5 ED/ SCIT
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 5 ED/ SCIT	6 ITH + 5 ED/ SCIT	7 ITH + 5 ED/ SCIT
All other areas	6 ITH + 5 ED/ SCIT	7 ITH + 5 ED/ SCIT	7 ITH + 5 ED/ SCIT

[ITEM VETOED] Domestic market activities shall not be entitled to SCIT.

General provisions**Period of Availment****Section 296** *(continued)*

Additional two (2) years ITH shall be granted to projects or activities of registered enterprises located in areas recovering from armed conflict or a major disaster.

Additional three (3) years ITH shall be granted to projects or activities of registered prior to the effectivity of this Act, or under the incentive system when such entities relocated from the NCR. The ITH period shall only commence at the completion of the relocation of operations.

The industry and locational prioritization shall be subject to review and revision every three (3) years in accordance with the SIPP.)

The Fiscal Incentives Review Board (FIRB)**Expanded Functions of the FIRB**

Section 297 The functions and powers of the FIRB are expanded under the law.

[ITEMS VETOED]

- The functions of the FIRB under Sections 297 (A)(1) and (5)(E)(G)(H)(J)(K) need not be exercised in relation to the grant of tax incentives to registered projects or activities with the total investment capital of more than PHP1bn as provided herein.
- The application for tax incentives shall not be deemed approved even if it is not acted upon within 20 days from the date of complete submission to the FIRB or IPA as the case may be.

Composition of the FIRB**Section 298**

The fiscal incentives review board shall be reconstituted as follows:

- **Board**
 - Chairperson: Secretary of Finance
 - Co-Chairperson: Secretary of Trade and Industry
 - Members:
 - Executive Secretary of the Office of the President
 - Secretary of Budget and Management
 - Director General of the National Economic and Development Authority (“NEDA”)
- **Secretariat**
 - Head: Assistant Secretary of Finance
 - Staff: National Tax Research Center (NTRC)
- **Technical Committee**
 - Chairperson: Undersecretary of Finance
 - Members:
 - Undersecretary or Assistant Secretary of the Office of the Executive Secretary
 - Undersecretary of Trade and Industry and BOI Managing Head or Assistant Secretary of Trade and Industry
 - Undersecretary or Assistant Secretary of Budget and Management
 - Deputy or Assistant Director General of NEDA
 - Commissioner or Deputy Commissioner of Internal Revenue
 - Commissioner or Deputy Commissioner of Customs
 - Commissioner of the Philippine Competition Commission (PCC)
 - Director General or Chairperson or Administrator of the IPAs

Structure and Staffing Pattern

Section 299 FIRB Secretariat shall determine its organizational structure and staffing pattern, and create such services, divisions, and units, as may be required or deemed necessary, subject to the approval by the Department of Budget and Management.

Qualified projects or activities for tax incentives**Strategic Investment Priority Plan (SIPP)**

Section 300 The BOI, in coordination with the FIRB, IPAs, other government agencies administering tax incentives, and the private sector, shall formulate the SIPP to be submitted to the President for approval. The SIPP shall be valid for a period of three (3) years subject to review and amendment every three (3) years thereafter unless there would be a supervening event that would necessitate its review.

All sectors or industries that may be included in the SIPP shall undergo an evaluation process to determine the suitability and potential of the industry or the sector in promoting long-term growth and development, and the national interest. In no case shall a sector or industry be included in the SIPP unless it is supported by a formal evaluation process or report

The SIPP shall contain the following:

- Priority projects or activities that are included in the Philippine Development Plan or its equivalent, or other government programs, taking into account the following:
 1. Substantial amount of investments;
 2. Considerable generation of employment, especially towards less developed areas;
 3. Considerable amount of net exports;
 4. Use of modern, advanced, or new technology;
 5. Processes and innovations that will lead towards the attainment of the sustainable development goals which shall include, but not limited to, adoption of adequate environmental protection systems and sustainability strategies;
 6. Addressing missing gaps in the supply or value chain or otherwise moving up the value chain or product ladder;
 7. Promotion of market competitiveness;
 8. Enhancement of the capabilities of Filipino enterprises and professionals to produce and offer increasingly sophisticated products and services;
 9. Contribution to Philippine food security and increased incomes in the agriculture and fisheries sector; or
 10. Services and activities that can promote regional and global operations in the country.

- Scope and coverage of location and industry tiers in Section 296 of Title XIII;

- Terms and conditions of the grant of enhanced deductions under Section 294(C); and

The projects or activities must comply with the specific qualification requirements or conditions for a particular sector or industry and other limitations as set and determined by the BOI, and in coordination with FIRB.

In no case shall the IPAs accept applications unless the project or activity is listed in the SIPP. Projects or activities not listed in the SIPP shall be automatically disapproved.

Qualified projects or activities for tax incentives**Power of the President to grant incentives**

Section 301 Highly-desirable projects not in SIPP: Notwithstanding the provisions of Sections 295 and 296, the President may, in the interest of national economic development and upon recommendation of the FIRB, modify the mix, period or manner of availment of incentives or craft the appropriate financial support package.

- The grant of ITH shall not exceed eight (8) years
- And thereafter, SCIT rate of 5% may be granted
- Total period of incentive availment must not exceed 40 years

Criteria in recommending the modified period or manner of availment of incentives are as follows:

- the project has a comprehensive sustainable development plan with clear inclusive business approaches and high level of sophistication and innovation; and
- minimum investment capital of PHP50bn or its equivalent in US dollars or a minimum direct local employment generation of at least 10,000 within three (3) years from the issuance of the certificate of entitlement

The threshold shall be subject to a periodic review every three (3) years taking into consideration international standards and other indicators.

If the projected impact on the economy and agreed performance targets are not met by the project, the FIRB shall recommend to the President the cancellation of the the tax incentive or financial support package or the modified period or manner of availment of incentives after due hearing and adequate opportunity to substantially comply with the agreed performance targets and outputs.

This power is suspended during fiscal years when an unimaginable fiscal deficit is declared by the President.

[ITEM VETOED] The President shall no longer have the power to exempt IPAs from the review and approval of the FIRB.

Amendments to the SIPP

Section 302 Subject to certain requirements, the BOI may: (1) include additional areas in the SIPP, (2) alter any of the terms of the declaration of an investment area, and (3) temporarily suspend activities on the SIPP if it considers that such activity is no longer a priority within the effectivity of the SIPP.

Publication

Section 303 The SIPP or its amendment, upon approval, shall be published in at least one (1) newspaper of general circulation or the Official Gazette. All such areas in the existing SIPP shall be open for application until publication of an amendment or deletion thereof.

Qualifications of a registered business enterprise for tax incentives

Section 304 A registered enterprise must:

- A. be engaged in a project or activity included in the SIPP;
- B. meet the target performance metrics after the agreed time period;
- C. install an adequate accounting system that shall identify the investments, revenues, costs and profits or losses of each registered project undertaken by the enterprise separately from the aggregate investments, revenues, costs and profits or losses of the whole enterprise; or establish a separate corporation for each registered project, if the IPA should so require;
- D. comply with the e-receipting and e-sales requirement in accordance with Sections 237 and 237-A of this Code; and
- E. submit annual reports of beneficial ownership of the organization and related parties.

Tax incentives management and transparency**Filing of Tax Returns and submission of Tax Incentives Reports**

Section 305 Registered enterprises are required to:

- file all their tax returns and pay their tax liabilities on or before the deadline using the electronic facilities of the BIR, or through RDOs for those without access to such electronic facilities;
- file a complete annual tax incentives report with their respective IPAs or other government agencies administering tax incentives;
- file a complete annual benefits report with their respective IPAs or other government agencies administering tax incentives;
- submit to FIRB the soft copies of the complete annual tax incentives report and complete annual benefits report.

Within 60 calendar days from the statutory deadline for filing of the relevant tax returns, IPAs and other government agencies administering tax incentives shall submit to the BIR their respective annual tax incentives reports based on the list of registered business enterprises and other registered enterprises which have filed their tax incentives report.

Monitoring, evaluation, and reporting of tax incentives

Section 306 The BIR and BOC shall submit to the DOF:

1. all tax and duty incentives of registered business enterprises and other registered enterprises, as reflected in their filed tax returns and import entries; and
2. actual tax and duty incentives as evaluated and determined by the BIR and the BOC.

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

The FIRB is mandated:

1. to collect and store all tax incentives and benefit data from the DOF, IPAs, other government agencies administering tax incentives, registered business enterprises, and other registered enterprises;
2. to evaluate and assess the process, outcomes, and impact of incentives granted to firms to determine whether agreed performance targets and intended results and outcomes are met; the method of evaluation may include conduct of cost benefit analysis or other process and impact evaluation methods.

For monitoring and transparency, the DOF shall submit to the DBM a per firm and per registered project and activity data arranged on a sectoral and per industry basis:

1. the amount of tax incentives availed of by registered business enterprises and other registered enterprises;
2. the estimate claims of tax incentives immediately preceding the current year;
3. the programmed incentives for the current year; and
4. the projected tax incentives for the following year.

The data shall be reflected by the DBM in the annual budget of expenditures and sources of financing (BESF), which shall be known as the tax incentives information (TII).

Tax incentives management and transparency**Monitoring, evaluation, and reporting of tax incentives****Section 306** *(continued)*

The TII shall include a per firm data related to incentives availed of by registered business enterprises and other registered enterprises based on the submissions of the DOF, and the concerned IPA and other government agencies administering tax incentives, categorized by sector, IPA, or other government agency administering tax incentives, and by type of tax incentives.

The results of the cost-benefit analysis shall be published at the per firm level by the FIRB and shall be given to the President and Congress annually.

Conduct of impact evaluation on tax incentives

Section 307 The FIRB is mandated to conduct impact evaluation such as a cost-benefit analysis on the investment and non-investment incentives to determine impact of tax incentives on the Philippine economy and relevant sector.

All heads of the IPAs and other government agencies administering tax incentives shall submit to the FIRB, firm and per registered project or activity level in a machine-readable format:

- data on tax incentives based on the submissions of registered business enterprises and other registered enterprises; and
- other investment and non-investment related data.

A third party government institution may conduct on its own or upon request of the FIRB:

- a peer review of the impact evaluation of the board; or
- a parallel impact evaluation on the investment and non-investment incentives to determine the impact of the tax incentives on the Philippine economy and on the relevant sector.

For this purpose, the FIRB may provide anonymized firm-level data to the third party government institution subject to a data sharing agreement.

Penalties for noncompliance with filing and repertorial requirements

Section 308 Appropriate IPA may impose penalties for failure to comply with the filing and repertorial requirements:

1st Violation	Payment of a fine amounting to PH₱ 100,000.00
2nd Violation	Payment of a fine amounting to PH₱ 500,000.00.
3rd Violation	Cancellation by FIRB of the registration of the business enterprise with the IPA or other government agency administering tax incentives. If not due to the fault of the registered business, the same shall not be the ground for the suspension of the ITH and/or other tax incentives availment.

After due process, the FIRB or the concerned IPA may cancel the registration, suspend the enjoyment of incentive benefits and/or require refund of incentives enjoyed by a registered business enterprise for any material misrepresentation of information for the purpose of availing more incentives that what it is entitled to.

Other provisions

Prohibition on registered activities	Section 309 A qualified registered project or activity under an IPA shall be exclusively conducted or operated within the geographical boundaries of the zone or freeport. Any project or activity conducted outside the boundaries shall not be entitled to the incentives unless such project or activity is conducted or operated under another IPA.
Establishment of one-stop action center	Section 310 All IPAs shall establish a one-stop shop or one-stop action center that will facilitate and expedite the setting up and conduct of registered projects or activities, including assistance in coordinating with LGUs and other government agencies to comply with RA No. 11032 (Ease of Doing Business and Efficient Government Service Delivery Act of 2018). The enterprises shall continue to avail of the one-stop shop facility notwithstanding the expiration of their incentives.
Investments prior to the effectivity of this Act (sunset provision)	Section 311 Registered business enterprises with incentives granted prior to the effectivity of this act shall be allowed to the following: <ul style="list-style-type: none">A. Those granted only an ITH prior the effectivity of this Act shall be allowed to continue with its availment for the remaining period, as specified in the terms and conditions of their registration. For those that have been granted the ITH but have not yet availed of the incentive upon the effectivity of this Act, they may use the ITH for the period specified in the terms and condition of their registration.B. Those granted an ITH prior to effectivity of this Act and are entitled to five percent (5%) tax on gross income earned (GIE), shall be allowed to avail of the 5% GIE incentive based on the subsection (C); andC. Those availing of the 5% tax on GIE prior the effectivity of this Act shall be allowed to continue availing the said incentive for ten (10) years.

Other provisions

Repealing clause

- **The following provisions are repealed to transfer to the FIRB the power of the IPA Board to review, approve, or disapprove fiscal incentives and to mandate the IPA Board to recommend to the FIRB after a thorough review of the application, the approval or disapproval of the same:**
 - Article 7(14) of EO No. 226, series of 1987 (Omnibus Investments Code of 1987, as amended)
 - Section 1(G) of EO No. 458, series of 1991
 - Section 8 of RA No. 9400 (BCDA)
 - Section 85(a) of Subchapter IV-B of RA No. 9593, as amended by RA No. 11262
 - Sections 7 and 8 of RA No. 9490, as amended by RA 10083

- **The provisions of the following laws, including the tax incentives, that are inconsistent with this Act are repealed:**
 - Articles 39 (A), (B), (C), (D), (H), (I), (J), (L) AND (M); 40, 41, 42, 61, 62, 63, 64, 65, end 67 of EO No. 226 (Omnibus Investments Code of 1987, as amended)
 - EO No. 85, series of 2019
 - PD No. 66
 - Section 4(e) of RA No. 7903
 - Section 7 of RA No. 9400 (BCDA)
 - Section 4(b) of RA No. 7922
 - Sections 23 and 42 of RA No. 7916
 - Sections 4(f), 5(a), (b), (d), (e), (f), (g), (h), (j), (l), and (m), and 9 of RA No. 9490, as amended by RA No.10083
 - Sections 5, 9, and 10 of RA No. 9728
 - Section 16 of RA No. 7844
 - Sections 86(a), (c), (d), (e), (f), and 88 of RA 9593
 - Section 1(a) and (e) of PD No. 1955

- **The following provisions that are inconsistent with this Act are repealed to expand the powers and functions of the FIRB and enhance its membership**
 - Sections 1(6) and 2 of PD No. 776
 - Section 2 of PD No. 1931, series of 1984
 - Section 1(c) and (d) of EO No. 93, series of 1986
 - Memorandum Order No. 23, series of 1986

- **The provisions of the following laws on the IPP that are inconsistent with this Act are repealed**
 - Articles 7(1), 22, 26, 27, 28, 29, 30, 31 and 32 of EO No. 226, series of 1987 (Omnibus Investments Code, as amended)
 - Sections 2 and 3 of EO No. 458, series of 1991

- Sections 4, 5, 6 and 7 of RA No. 10708
- Article 7(11) of EO No. 226, series of 1987 (Omnibus Investments Code, as amended)

Other provisions

Amendatory clause

- **The following provisions are amended to transfer to the FIRB the power of the IPA Board to review, approve, or disapprove fiscal incentives and to mandate the IPA Board to recommend to the FIRB after a thorough review of the application, the approval or disapproval of the same:**
 - Article 7(3) and (8), 34, 35, and 36 of EO No. 226, series of 1987 (Omnibus Investments Code of 1987, as amended)
 - Section 1(A), (B), (D), and (E) of EO No. 458, series of 1991
 - Section 7(a) and (c) of RA No. 7903
 - Sections 4(f), 8 and 13(c), (d), (r), (w) and (x) of RA No. 9728
 - Sections 5(l), 12(b), and 13(b)(11) of RA No. 7227, as amended by RA No. 9400
 - Section 69(n) of Subchapter IV-B of RA No. 9593, as amended by RA No. 11262
 - Section 12(a), (b) and (u) of RA No. 9490, as amended by RA No. 10083
 - Section 6(c) and (l) of RA No. 7922
 - Sections 4(a) and (q), and 6 of PD No. 538
 - Sections 12(a) and (b), and 13(a), (b) and (i), and 15 of RA No. 7916
- **The provisions of the following laws, including tax incentives, that are inconsistent with this Act**
 - Articles 69, 77, and 78 of EO No. 226, series of 1987 (Omnibus Investments Code of 1987, as amended)
 - Sections 24 and 35 of RA No. 7916
 - Sections 12(c), 15, 15-A, 15-B, 15-C of RA No. 7227, as amended
 - Section 6 of RA No. 9400, as amended (BCDA)
 - Section 5(c) of RA No. 9490, as amended by RA No. 10083
 - Section 4(f) of RA No. 7903
 - Section 4(c) of RA No. 7922
 - Section 6 of RA No. 9728
 - Sections 6(k), 14(e), 39, 76, 85(c) and 86(b) of RA No. 9593
 - Section 8 of PD No. 538, as amended by PD No. 1491
 - Section 1(1.1) of EO No. 97-A, series of 1993
- **The following provisions are amended to expand the powers and functions of the FIRB**
 - Section 13 of RA No. 7903
 - Section 10 of RA No. 7922
 - Section 17 of RA No. 9490
 - Section 22 of RA No. 9728

Other provisions**Amendatory clause**

- **The provisions of the following laws on the IPP, including other laws, decrees, EOs, rules and regulations or parts thereof that are inconsistent with this Act are amended:**
 - Sections 4(d) and 13(i) of RA 9728, as amended by RA No. 11453
 - Section 12(f) of RA No. 9490, as amended
 - Section 6(f) of RA No. 7922
 - Section 21 of RA No. 7916, as amended
 - Section 5 of EO No. 80, series of 1993
 - Sections 4(b) and 13(b)(7) of RA No. 7227
 - Section 1(F) of EO No. 458, series of 1991
-

Let's talk

To help you understand and appreciate the CREATE provisions, you may contact:



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Thank you.

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