

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**SEVENTEENTH CONGRESS**  
*First Regular Session*

**HOUSE BILL NO. 3359**

<b>HOUSE OF REPRESENTATIVES</b>	
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Introduced by Representative Sharon S. Garin

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#### **EXPLANATORY NOTE**

Investment incentives is the primary factor that attracts businesses to invest and expand in the country. In a study, there are five (5) factors that affect firms' decision to invest in the Philippines, namely: investment incentives, transparent government policy, low tax rates and liability, low incidence of labor strife and legal framework for dispute resolution.

Foreign direct investment (FDI) was one of the major external sources of financing the growing economy of the Philippines. For the first quarter of 2016, the foreign direct investment (FDI) in the Philippines was increased by 26005.13 Php Million. From the year 2000 until 2016, the average FDI is 40896.97 reaching an all time high of 230215 Php Million in the fourth quarter of 2012 and a record low of 3959 Php Million in the first quarter of 2009. Many factors may have contributed to the FDI increase, such as a renewed confidence in governance, a positive outlook on the economy, and improving infrastructure.

We have to consistently increase the FDIs, create and strengthen a proper environment for industries that will enhance healthy competition and promote industries and enterprises.

Under EO No. 226 otherwise known as the Omnibus Investment Code of 1987, investors are given corporate income tax holidays (ITH) for a period of up to 8 years. It is imperative to discontinue tax breaks for other sectors to avoid redundancy, and at the same time provide more support for exporting industries, micro, small and medium enterprises, and research and development.

This bill seeks to re-evaluate fiscal incentives currently given to businesses. It identifies those incentives that will remain and those that need to be done away with. It rationalizes incentives provided to the business for them be clear and accountable.

This bill intends to have a robust and stable investment climate in the Philippines. A good investment climate encourages domestic and foreign firms to invest productively, create jobs and expand. Businesses are the main source of tax revenues which contribute to public funding for better infrastructure, health, education and other services. If enacted, this measure will hopefully balance the tension between creating attractive fiscal incentives for domestic and foreign investors and achieving social and economic goals.

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



SHARON S. GARIN  
*Party-list, AAMBIS OWA*

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
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**AN ACT RATIONALIZING THE GRANT AND ADMINISTRATION OF FISCAL INCENTIVES AND FOR OTHER PURPOSES**

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

**SECTION 1. Title.** This Act shall be known as the "Rationalization of Fiscal Incentives Act."

**SEC. 2. Declaration of Policy.** The national economy shall be developed to enhance its global competitiveness through the rational grant and administration of incentives to investments and qualified industrial development activities geared towards employment generation and countrywide development. The following are the declared policies of the State:

- a. The State shall pursue a market-responsive investment regime;
- b. The State shall grant investment incentives encouraging long-term and recurrent investment which are simple to administer, time-bound and whose performance and outcomes are easily verifiable;
- c. The State shall ensure that the grant of incentives promotes substantial social and economic spillovers and equitable development across income classes and across provinces and that these are fiscally sustainable, financially and economically justifiable and is consistent with international treaties.
- d. The State shall ensure that investments granted tax incentives shall be conducted in a manner that respects the laws of the land, including the protection of the environment and natural resources, labor and good corporate governance principles.

**SEC. 3. Definition of Terms.** – As used herein,

- a. "Investment Promotion Agencies (IPAs)" shall include the Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), Bases Conversion

Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), Poro Point Management Corporation (PPMC), the John Hay Management Corporation (JHMC), Bataan Technology Park, Inc. (BTPI), Zamboanga City Special Economic Zone Authority (ZCSEZA), Phividec Industrial Authority (PIA), Authority of the Freeport Area of Bataan (AFAB), Cagayan Economic Zone Authority (CEZA), the Aurora Pacific Economic Zone and Freeport Authority (APECO), the Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and all other IPAs that may be created by law.

- b. "*Capital Equipment*" refers to machinery, equipment, major components thereof, spare parts, accessories, tools, devices, apparatus, fixtures, fittings and accompaniments which form part of the direct cost and are directly and reasonably needed in the registered activity of the registered enterprise and those required for pollution abatement and control, cleaner production and water reduction/conservation of said enterprises.
- c. "*Export Enterprise*" shall mean a registered enterprise which is a manufacturer, processor or service provider and whose export sale of its products or services is at least seventy percent (70%) of its total annual production of the preceding taxable year. *Provided, however,* it shall not include any of the following enterprises such as, but not limited to, those engaged in customs brokerage, trucking/forwarding services, parcel services, janitorial services, security services, insurance or banking and other financial services, consumers cooperatives, credit unions, consultancy services, retail business, restaurants or such other services, within the Freeport or Special Economic Zone, as may be determined by the Board of the concerned Authority, duly accredited or licensed by any of the Authorities and whose income derived within the economic zones shall be subject to taxes under the National Internal Revenue Code of 1997, as amended.

*Provided,* that an existing enterprise that meets the export requirement provided herein may be registered as an export enterprise under this Act, provided that it has not been in operation for more than ten (10) years.

- d. "*Export Sales of Goods*" shall mean the sales revenues of an export enterprise paid for in freely convertible foreign currency, determined from invoices, bills of lading, inward letters of credit, landing certificates, or other commercial documents, of the following:
  - (1) the sale and actual shipment of goods from the Philippines to a foreign country by an export enterprise;
  - (2) sales by an export enterprise to another export enterprise of capital equipment, raw materials, production supplies, packaging materials, and other production requirements forming part of the direct cost of the registered activity of the export enterprise registered under this Act;

- (3) sales to diplomatic missions and to agencies or institutions allowed to import said goods tax and duty-free;
  - (4) sales of an export enterprise to international sea or air transport operations of goods, equipment, spare parts and supplies, except fuel, forming part of direct costs and to be used in the aircraft or sea craft and capital equipment needed for the shipping or air transport operations;
  - (5) sales to a nonresident buyer for delivery to a resident local export enterprise of Capital equipment, raw materials, production supplies, packaging materials and other production requirements forming part of the direct cost and are needed for the registered activity of the said export enterprise.
- e. "*Export Sales of Services*" shall mean the sales revenues or gross receipts of an export enterprise, determined from contracts, invoices, vouchers, official receipts, or other commercial documents paid for in freely convertible foreign currency, of the following:
- (1) services rendered to non-resident foreign clients by export enterprises;
  - (2) services rendered by an export enterprise to another export enterprise as subcontractors or contractors in the manufacture or processing of goods; other services forming part of the direct cost of the registered activity of an export enterprise;
  - (3) services rendered to diplomatic missions and to other agencies or institutions with tax and duty-free privileges;
  - (4) services for the overhaul, repair, and maintenance for international shipping or air transport operations, and foreign military aircraft or sea craft rendered by an export enterprise even if rendered locally.
- f. "*Freeport*" is an isolated and policed area adjacent to a port of entry as defined by Section 3519 of the Tariff and Customs Code, which shall be operated and managed as a separate customs territory to ensure free flow or movement of goods, except those expressly prohibited by law, within, into and exported out in the freeport zone where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated without being subject to import duties. However, movement of these imported goods from the free-trade area to a non-free trade area in the country shall be subject to import duties and taxes.
- g. "*Gross Income Earned (GIE)*" refers to gross sales or gross receipts derived from the registered activity less sales returns, discounts and allowances, and cost of goods sold or cost of services rendered, as defined under Section 27(E) (4) of the

NIRC of 1997, as amended, and does not include indirect cost, such as but not limited to administrative, management, financial and other miscellaneous cost.

- h.* "Registered Enterprise" shall mean any individual, partnership, corporation, Philippine branch of a foreign corporation or other entity incorporated and/or organized and existing under Philippine laws and registered with an IPA, in accordance with this Act: *Provided, however,* That the term "Registered Enterprise" shall not include any of the following service enterprises such as, but not limited to, those engaged in customs brokerage, trucking or forwarding services, janitorial services, security services, insurance or banking and other financial services, consumers cooperatives, credit unions, consultancy services, retail business, restaurants or such other similar services, as may be determined by the IPA Board, irrespective of location, whether inside or outside the zones, duly accredited or licensed by any of the IPAs and whose income delivered within the economic zones shall be subject to taxes under the National Internal Revenue Code of 1997, as amended.

*i.* "Special Economic Zone" or "Ecozone" shall refer to a selected area with highly developed or which has the potential to be developed into agro-industrial, industrial, information technology, tourist/recreational, whose metes and bounds are fixed or delimited by Presidential Proclamations. An ecozone may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), ICT parks and centers, free trade zones and tourism estates.

*j.* "Strategic Investments" shall refer to the list of industries, services and other economic activities eligible for incentives under this Act, prepared and determined as priority or preferred activities in accordance with Chapter IV of this Act.

**SEC. 4. Scope and Coverage.** This Act shall cover all existing IPAs and other IPAs that may be created by law. The existing IPAs are the Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), the Bases Conversion Development Authority (BCDA), the Subic Bay Metropolitan Authority (SBMA), the Clark Development Corporation (CDC), the John Hay Management Corporation (JHMC), the Poro Point Management Corporation (PPMC), the Bataan Technology Park Inc. (BTPI), the Cagayan Economic Zone Authority (CEZA), the Zamboanga City Special Economic Zone Authority (ZCSEZA), the PHIVIDEC Industrial Authority (PIA), the Aurora Pacific Economic Zone and Freeport Authority (APECO), the Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and the Authority of the Freeport Area of Bataan (AFAB).

All existing and future IPAs vested with the power to confer and administer incentives shall offer only the incentives provided for in this Act.

IPAs shall maintain their functions as provided for in their respective Charters except to the extent modified by the provisions of this Act.

**SEC. 5. Strategic Investments Plan (Plan).** – The BOI Board, in coordination with the Office of the President, the concerned IPAs, and other appropriate government agencies and the private sector, shall formulate the Plan to be submitted to the President for his approval not later than December of the third year set for periodic review. The Plan shall be valid for a period of three (3) years.

In the listing of the activity in the Plan, the following shall be complied with:

- (a) The activity shall be covered by the Philippine Development Plan (PDP) or its equivalent and other government programs;
- (b) The activity shall satisfy the following conditions:
  - (1) Substantial amount of investments;
  - (2) Considerable generation of employment;
  - (3) Use of modern or new technology; or
  - (4) Installation of adequate environmental protection systems;

The threshold amount of investments and employment generation required for a specific activity shall be subject to a periodic review every three (3) years taking into consideration international standards and other indicators.

- (c) The activity 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 Board.

Subject to publication requirements and the criteria for investment priority determination, the BOI may, at any time, include additional areas in the Plan, alter any of the terms of the declaration of an investment area, and temporarily or permanently suspend activities on the Plan if it considers that such activity is no longer a priority. In no case, however, shall any amendment of the Plan impair the incentives conferred on a registered enterprise. The IPAs shall not accept applications in an area of investment prior to the approval of the same as a preferred area or after approval of its deletion as a preferred area of investment in the Plan.

Upon approval of the Plan, in whole or in part, or upon approval of an amendment thereof, the Plan or the amendment, specifying and declaring the areas of investment shall be published in at least one (1) newspaper of general circulation and all such areas shall be open for application until publication of an amendment or deletion thereof.

All existing and future export enterprises in ecozones and freeports, and export enterprise and strategic enterprises outside ecozones may only be granted fiscal incentives under this Act: *Provided*, That the incentives granted under this Act to

aforementioned enterprises shall be applicable to the extent of the registered activity or project only. Income derived from non-registered activity or project shall, thus, be subject to appropriate taxes under the National Internal Revenue Code, as amended. Provided further, that the period of availment of incentives shall be reckoned from the start of commercial operations of the registered enterprise.

Registered activities for which fiscal incentives have been granted and are fully utilized shall no longer be eligible for the incentives under this Act for the same activities: *Provided*, that in the case of existing registered enterprises presently enjoying Income Tax Holiday (ITH), the same shall continue to enjoy the said incentives until its expiration, *Provided further*, the same shall not be extended. However, the said registered enterprise, provided, it qualifies as an export enterprise hereunder, may be granted the incentives under Section (14), or in the case of strategic investments, under Section (15), provided the total period of incentives shall not exceed fifteen (15) years for export enterprise, inclusive of the period of ITH availment, or fifteen (15) years for strategic investments.

**SEC. 6. *Incentives to Export Enterprises.*** – The export enterprises, may be qualified to certain incentives depending on whether they are located inside or outside an ecozone or freeport.

#### **A. *Located Inside an Ecozone or Freeport***

Registered enterprises located inside an ecozone or freeport shall choose among several packages of income tax-based incentives, depending on whether these are registered under PEZA or not.

1. PEZA-registered enterprises may choose among the three packages of income tax-based incentives, as provided below:
  - (a) ITH for a period not exceeding four (4) years; then,
    - (i) 5% tax on GIE, in lieu of all national and local taxes, except Value Added Tax (VAT) and Real Property Tax (RPT), for a period not exceeding eleven (11) years; or
    - (ii) 15% reduced tax on corporate income, in lieu of all national and local taxes, except VAT and RPT, for a period not exceeding eleven (11) years; or
  - (b) Five percent (5%) tax on GIE, in lieu of all national and local taxes, except VAT and RPT, for a period not exceeding fifteen (15) years; or
  - (c) Fifteen percent (15%) reduced tax rate on corporate income, in lieu of all national and local taxes, except VAT and RPT for a period not exceeding fifteen (15) years.

Except for the ITH, the reduced rates on income tax enjoyed by the export enterprise may be extended for another period not to exceed fifteen (15) years subject to compliance of performance indicators that shall be adopted by PEZA. *Provided*, that the ITH may only be granted before any of the reduced rate is granted. *Provided, further*, that ITH may be granted for a non-renewal, non-extendible period of four (4) years.

2. Non-PEZA registered enterprises may choose among the two packages of income tax-based incentives, as provided below:
  - (a) Five percent (5%) tax on GIE, in lieu of all national and local taxes, except VAT and RPT, for a period not exceeding fifteen (15) years; or
  - (b) Fifteen percent (15%) reduced tax rate on corporate income, for a period not exceeding fifteen (15) years.

The VAT and customs duty treatment of imported capital equipment and raw materials of registered enterprises located inside an ecozone or freeport shall be as follows:

1. 100% exemption from VAT and customs duties on importation of capital equipment, including consignment thereof.
2. 100% exemption from VAT and customs duties on importation of raw materials, supplies, and semi-finished products, provided the same form parts of the goods exported as a product of the registered activity of the export enterprise.

#### ***B. Located Outside an Ecozone or Freeport***

Registered enterprises outside an ecozone or freeport shall choose among the following income tax-based incentive options:

1. ITH for a period not exceeding four (4) years, then, fifteen percent (15%) reduced tax on corporate income for a period not exceeding eleven (11) years; or
2. Fifteen percent (15%) reduced tax rate on corporate income, for a period not exceeding fifteen (15) years.

The 15% reduced tax rate on corporate income may be granted after availment of the ITH, as may be determined by the IPAs; *Provided*, that the total period of income tax-based incentives shall not exceed fifteen (15) years.

*Provided, further that ITH may be granted for a non-renewal, non-extendible period of four (4) years.*

The VAT and customs duty treatment of imported capital equipment and raw materials of registered enterprises located outside an ecozone or freeport shall be as follows:

1. 100% exemption on customs duty on importation of capital equipment
2. Refund of VAT and customs duty paid on the importation of raw materials, supplies, and semi-finished products, provided, the same forms parts of the goods exported resulting from the registered activity.

### ***C. VAT Treatment on Local Sales to Registered Export Enterprises***

1. The sale of capital equipment, and raw materials and packaging materials directly used in and form part of the direct cost of the registered activity and forming part of the goods being exported, by a VAT – registered enterprise to a registered Export Enterprise shall be subject to zero percent (0%) VAT.
2. The sale of services performed by subcontractors or contractors in processing, converting or manufacturing goods forming part of the direct cost of an export enterprise and forming parts of the goods being exported shall be subject to zero percent (0%) VAT, in accordance with the provisions of the NIRC of 1977, as amended.

**SEC. 7. Incentives to Registered Enterprises under the Strategic Investment Plan.** Registered Enterprises may be qualified to the following incentives for a period not exceeding fifteen (15) years:

- (a) Fifteen percent (15%) reduced tax rate on corporate income; and
- (b) 100% exemption from customs duties on importation of capital equipment.

**SEC. 8. Income Tax-based Incentives.** – All registered enterprises are required to file their tax returns using the electronic facilities of the Bureau of Internal Revenue (BIR). On availing the income tax-based incentives, the registered enterprise shall be required to secure a Certificate of Entitlement from the appropriate IPA and attach the same to its Income Tax Return (ITR) or Annual Information Return (AIR), whichever is applicable.

Pursuant to RA 10708, or the Tax Incentives Management and Transparency Act (TIMTA), the registered enterprise shall file a complete annual tax incentives report of their income-based incentives, VAT and duty exemptions, deductions, credits or exclusions from the tax base with their respective IPAs within thirty (30) days of filing their tax returns. The IPAs shall, within sixty (60) days from the end of the statutory deadline for filing of the relevant tax returns, submit to the BIR their respective annual tax

incentives reports. Failure of the respective IPA to submit these reports shall cause the forfeiture of the income tax incentive of the registered enterprise for the taxable period.

**SEC. 9. Five percent (5%) tax on Gross Income Earned (GIE)and Fifteen percent (15%)reduced tax on Corporate Income.** The 5% tax on GIE shall be paid and remitted by the registered enterprise located inside an ecozone or freeport as follows:

- (a) 3% to the national government
- (b) 2% to the local government unit/s

While the 15% tax rate on corporate income shall be paid and remitted by the registered enterprises located inside an ecozone or freeport as follows:

- (a) 10% to the national government
- (b) 5% to the local government unit/s

Within six (6) months from the effectivity of this Act, the BIR, in consultation with the IPAs, shall review its regulations on the computation of GIE to ensure that only direct costs, or cost of goods sold or services rendered, shall be deductible from gross revenues, and recommend stricter rules to the Secretary of Finance, if warranted.

**SEC. 10. Fifteen percent (15%) reduced tax rate on Corporate Income.** The 15% tax rate shall be based on the net taxable income with allowable deductions under the NIRC of 1997, as amended.

**SEC. 11. VAT and Customs Duties Exemption on Capital Equipment.** Importation of capital equipment or spare parts by registered enterprises may be exempted to the extent of one hundred percent (100%) of the VAT or customs duties provided that the following conditions are complied with:

- (a) The capital equipment or spare part is directly and reasonably needed and will be used exclusively in and as part of the direct cost of the registered activity of the Registered Enterprise, and are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices. Prior approval of the IPA may be secured for the part time utilization of said equipment in a non-registered activity to maximize usage thereof, provided the proportionate taxes and duties are paid on a specific equipment and machinery in proportion to its utilization for non-registered activities. If it shall be used for non-registered activity of the registered enterprise at anytime within the first five (5) years from date of importation, the registered enterprise shall first seek prior approval of the Authority, and pay the taxes and customs duties that were not paid upon its importation; and
- (b) The approval of the IPA was obtained by the registered enterprise prior to the importation of such capital equipment or spare parts.

The approval of the IPA must be secured before any sale, transfer, or disposition of the capital equipment or spare parts which was granted tax and duty exemption hereunder is made, and it shall be allowed only under the following circumstances:

- (a) If made to another enterprise enjoying tax or duty exemption on imported capital equipment or spare parts;
- (b) If made to another enterprise not enjoying tax and duty exemption on imported capital equipment or spare parts, upon payment of any taxes and duties due on the net book value of the capital equipment or spare parts to be sold;
- (c) Exportation of capital equipment, machinery, spare parts or source documents or those required for pollution abatement and control; or
- (d) For reasons of proven technical obsolescence.

*Provided*, that if the registered enterprise sells, transfers or disposes the aforementioned imported items without prior approval, the registered enterprise and the vendee, transferee, or assignee shall be liable to pay twice the amount of the tax or duty exemption that should have been paid during its importation: *Provided further*, that even if the sale, transfer, or disposition of the capital equipment was made after five (5) years from date of importation with the approval of the IPA, the registered enterprise is still liable to pay the taxes and duties based on the net book value of the capital equipment if it has violated any of its registration terms and conditions.

**SEC. 12. VAT and Customs Duty Exemption on Raw Materials.** Importation of raw materials, supplies, and semi-finished products by export enterprises inside an ecozone or freeport may be exempted to the extent of one hundred percent (100%) of the VAT and customs duties, provided that the raw materials, supplies, and semi-finished products imported are exclusively used by an export enterprise in the manufacture, processing, or production of the export products covered by its registered activity and it actually forms part of the product exported. Provided, further, that the exemption herein may be granted only to that portion of raw materials, supplies and semi-finished products forming part of the product actually exported.

**SEC. 13. VAT Refund Mechanism on Importation of Capital Equipment and VAT and Customs Duty Refund on Importation of Raw Materials.**

Registered export enterprises located outside an ecozone or freeport shall be subject to a VAT and Customs Duty Refund Mechanism as provided in this Act.

The VAT paid on imported capital equipment may be refunded provided that the capital equipment is being used exclusively in and forms part of the direct cost of the registered activity of the registered export enterprise.

The VAT and customs duty paid on a particular shipment of raw materials may be refunded to an amount equivalent to the proportion of raw materials used in the production of the exported goods to the total raw materials imported multiplied by the amount of VAT and customs duty paid on such importation. No claim for refund shall be allowed on VAT and customs duty paid on raw materials which are not or no longer intended to be used in the registered export activity and do not form part of the goods exported under its registered export activity.

In order to facilitate the immediate processing, clearance, and release of VAT and customs duty refunds as provided in this Act, a Trust Liability Account (TLA) is hereby authorized to be established in the Bureau of Treasury (BTr). All VAT and customs duty payments pertaining to the importation of registered export enterprises of capital equipment, raw materials, or source documents in the case of IT export enterprise shall be deposited in the TLA for the purpose of funding valid VAT and customs duty refund claims. The claims for VAT and customs duty refunds shall be made by the registered export enterprise with the Bureau of Customs (BOC). However, the VAT refund shall only be granted upon obtaining a favorable endorsement from the BIR.

All claims for VAT and customs duty refunds shall be covered by the procedures and rules and regulations existing under the National Internal Revenue Code, as amended, and the Customs Modernization and Tariff Act. All amounts deposited in the TLA but no longer allowed for refund shall immediately accrue to the general fund of the National Government.

**SEC. 14. General Rules and Procedures for Registration.** The IPA shall adopt rules and regulations to facilitate action on applications filed with it; impose the terms and conditions for such registration; prescribe criteria for the evaluation of applications; devise standard forms for the use of applicants and, in the case of BOI, delegate to the regional offices of the DTI the authority to receive and process applications for enterprises located in their respective regions. Said rules and regulations shall be guided by the following general provisions:

- (a) Applications shall be filed with the concerned IPA and recorded in a registration book and the date appearing therein and stamped on the application shall be considered the date of official acceptance. All applications and their supporting documents shall be confidential and shall not be disclosed to any person except with the consent of the applicant or upon an order of a court of competent jurisdiction.
- (b) Registered Enterprises shall not be allowed to register their activity in more than one (1) IPA. In the event that an enterprise shall transfer to another IPA, only the remaining unutilized incentives may be granted to the enterprise or the transferee, vendee or assignee.

- (c) Every registered enterprise shall prepare a program for environmental protection and Corporate Social Responsibility (CSR) covering the period of its entitlement to fiscal incentives. Such Program shall be undertaken on a per registration basis and shall be submitted as an accompanying document to the application for registration to be submitted to the appropriate IPA.
- (d) The following criteria shall be considered in the evaluation of applications for registration under a preferred area:
  - i. Impact of the project on the overall economy;
  - ii. Overall viability of the project;
  - iii. The extent of employment generation;
  - iv. The extent to which technological advances are applied and adopted to local conditions; and
  - v. Such other criteria as the Board may determine.
- (e) The IPA may defer action on any application, and the same shall be considered an official action. *Provided, however,* that the IPA may defer action to a specific application not more than twice. A third deferment shall automatically disapprove the said application.
- (f) Upon approval, a registered enterprise under this Act shall be issued a Certificate of Registration under the seal of the IPA and the signature of its Chairperson or such other official or officer of the IPA as it may empower and designate for the purpose. The certificate shall be in such form and style as the IPA may determine and shall state, among other matters:
  - i. The name of the registered enterprise;
  - ii. The activity in which the registered enterprise is proposing to engage; and
  - iii. The terms and conditions to be observed by the registered enterprise by virtue of the registration.

**SEC. 15. *Vested Right.*** Any provision of law to the contrary notwithstanding, incentives granted to existing registered enterprises pursuant to their certificates of registration, contracts or agreements entered into with government instrumentalities or corporations shall continue to be legally binding in accordance with the terms and conditions stated therein for a period not to exceed five (5) years from the effectiveness of this Act; Provided, however that the registered enterprise may opt to be governed by the provisions of this Act; Provided that such registered activity is qualified under this Act; Provided, finally, that only the remaining unutilized incentives shall be

granted to the said enterprise. In such case, the said enterprise shall be required to surrender its Certificate of Registration, which shall be deemed as an express waiver of their privilege to apply for and avail of incentives provided in the incentives law, under which they were previously registered.

**SEC. 16. Suspension and Forfeiture of Incentives of Registered Enterprises, Refund and Penalties; Waiver and Condonation.** When there is probable cause to believe that the registered enterprise has violated its registration terms and conditions, the IPA may suspend its availment of incentives, until proven otherwise.

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

In case of cancellation of the Certificate of Registration granted under this Act, the IPA may, in appropriate cases, require the refund of incentives availed of and impose corresponding fines and penalties.

Any enterprise which violates any provision of this Act, its implementing rules and regulations, the terms and conditions of its registration, or of any lawful directive of the IPA, shall be subject to a fine not to exceed One Million Pesos (Php1,000,000.00), without prejudice to the disapproval of its application for registration or cancellation of its registration: *Provided*, That any commission of fraudulent misrepresentation in its application for registration or submission of reports or gross violation of this Act and its implementing rules and regulations, a fine of at least One Million Pesos (P1,000,000.00) but not to exceed Ten Million Pesos (Php10,000,000.00) shall be imposed, in addition to other penalties that may be imposed by the IPA

The IPA shall prepare a schedule of fines and penalties to be imposed on erring registered enterprises based on the violation. In meritorious cases, the IPA may waive, condone or reduce fines or penalties imposed on registered enterprises, provided that the minimum compromise rate, in case of reduction, shall not be less than 40 % of the basic assessed fines or penalties.

Responsible officers of such enterprises, including duly appointed external consultants-agents who commit, aid or abet the commission of any of the acts mentioned above, shall be subject to a fine of not less than One Hundred Thousand Pesos (Php100,000.00) but not more than Three Hundred Thousand Pesos (Php300,000.00) without prejudice to disqualification from appearing or doing business.

Government officers and employees who participate directly or indirectly in the commission of the foregoing acts shall likewise be liable to a fine of not less than One Hundred Thousand Pesos (Php100,000.00) but not more than Three Hundred Thousand Pesos (Php300,000.00), in addition to any criminal and administrative penalties imposable under the Civil Service Law, Revised Penal Act, Republic Act No. 3019,

otherwise known as the "Anti-Graft And Corrupt Practices Act", Republic Act No. 6713, otherwise known as the "Act Of Conduct And Ethical Standards For Public Officials", and other applicable laws.

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

**SEC. 17. *Implementing Rules and Regulations (IRR).*** The DTI, DOF and NEDA, in consultation with the IPAs, the BIR, and BOC and other concerned government agencies, shall promulgate rules and regulations to implement the intent and provisions of this Act within one hundred twenty (120) days from the effectivity of this Act. Such rules and regulations shall take effect fifteen (15) days following its publication in a newspaper of general circulation in the Philippines.

**SEC. 18. *Separability Clause.*** The provisions of this Act are hereby declared to be separable and, in the event any of such provisions is declared unconstitutional, the other provisions which are not affected thereby, shall remain in force and effect.

**SEC. 19. *Repealing Clause.*** – The following provisions providing for incentives are hereby repealed accordingly:

- (a) Title I, Articles 26, 27, 28, 29, 30 and 31, Title III, Article 39 (a), (b), (c), (d), (e), (g), (i), (j), (k), (m) and (n); Title IV, and Book VI, Articles 77 and 78 and Article 81 of Executive Order No. 226, Series of 1987 titled "The Omnibus Investments Code of 1987;"
- (b) Sections 23 and 24 of RA No. 7916 titled "An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, And Coordination of Special Economic Zones in The Philippines, Creating for the Purpose the Philippine Economic Zone Authority (PEZA), and for other Purposes (The Special Economic Zone Act of 1995);"
- (c) Section 4 of RA No. 8748, titled "An Act Amending Republic Act No. 7916, otherwise Known as the Special Economic Zone Act of 1995;"
- (d) Section 17 (1) to (8) and Section 18 (a), (b), (c) and (f) of PD No. 66, titled "Creating the Export Processing Zone Authority and Revising Republic Act No. 5490;"
- (e) PD No. 529 (Restored by FIRB Resolution 19-87), titled "Granting to Petroleum Exploration Concessionaires under the Petroleum Act of 1949 Exemption from Customs Duty and Compensating Tax on Importations of Machinery and Equipment, Spare Parts and Materials Required for their Exploration Operations;"
- (f) Sections 8, 9, and 2<sup>nd</sup> Sentence of the 1<sup>st</sup> Paragraph and 2<sup>nd</sup> Paragraph of Section 10 of PD No. 538, titled "Creating and Establishing the Phividec Industrial Authority and Making it a Subsidiary Agency of the Philippine Veterans Development

Corporation, Defining its Powers, Functions and Responsibilities, and for other Purposes;"

- (g) Sections 36 (e) and (f) of PD No. 705, titled "Revising PD No. 389, otherwise known as The Forestry Reform Code of the Philippines (Revised Forestry Code of the Philippines);"
- (h) Section 16 (a), (b) and (c) and Section 17 (a) to (e) of PD 972 titled "Promulgating an Act to Promote an Accelerated Exploration, Development, Exploitation, Production and Utilization of Coal (The Coal Development Act of 1976);"
- (i) Section 4 (a) and (d) of Presidential Decree No. 1442 - restored by FIRB Resolution 19-87, titled, "An Act to Promote the Exploration and Development of Geothermal Resources;"
- (j) Section 10 (1) to (6) of RA No. 7156, titled "An Act Granting Incentives to Mini-Hydro Electric Power Developers and for Other Purposes" (Mini-Hydroelectric Incentive Act);"
- (k) Sections 16 and 17 of RA No. 7844, titled "An Act to Develop Exports as a Key towards the Achievement of the National Goals towards the Year 2000 (Export Development Act of 1994);"
- (l) Chapter XV, Section 83; Chapter XVI, Sections 90, 91, 92, 93 of RA No. 7942, titled, "An Act Instituting a New System of Mineral Resources Exploration, Development, Utilization and Conservation (Philippine Mining Act of 1995);"
- (m)Section 9 of RA No. 8479 titled "An Act Deregulating the Downstream Oil Industry, and for other Purposes (Downstream Oil Industry Deregulation Act of 1998);"
- (n) Section 3 (a) to (d) and (h) of RA No. 8502, titled, "An Act to Promote the Development of the Jewelry Manufacturing Industry, Providing Incentives Therefor and for other Purposes (Jewelry Industry Development Act of 1998);"
- (o) Chapter II, Article II, Sec. 35 (b), (c) and (d) of RA No. 8550, titled "An Act Providing for the Development, Management, and Conservation of the Fisheries and Aquatic Resources, Integrating All Laws Pertinent Thereto, and for other Purposes (The Philippine Fisheries Code of 1998);"
- (p) Executive Order No. 70 Series of 2012 amending EO No. 528, Series of 2006 and 313, Series of 2004 – "Reducing the Rates of Duty on Capital Equipment, Spare Parts and Accessories Imported by BOI-registered new and expanding Enterprises;"
- (q) Section 4 (e) and (f) of RA No. 7903, titled "An Act Creating Special Economic Zone and Free Port in the City Of Zamboanga and Establishing for this Purpose

the Zamboanga City Special Economic Zone Authority, Appropriating Funds Therefor, and for other Purposes (Zamboanga City Special Economic Zone Act of 1995);”

- (r) Section 1 and Sections 2, 3, 4, 5 and 7 of RA No. 9400, titled “An Act Amending RA 7227, as Amended, otherwise known as the Bases Conversion and Development Act of 1982, and for other Purposes;”
- (s) Section 1 of EO No. 619, titled “Creating and Designating Special Economic Zones Pursuant to RA No. 7916, as Amended by RA No. 8784, in Relation to RA No. 7227, as Amended by RA No. 9400, Inside The Clark Freeport Zone;”
- (t) Chapter II, Section 4 and Chapter VIII, Section 19 of RA No. 9295, titled, “An Act Promoting the Development of Philippine Domestic Shipping, Shipbuilding, Ship Repair and Ship Breaking, Ordaining Reforms in Government Policies Towards Shipping in The Philippines and for Other Purposes (Domestic Shipping Development Act of 2004);”
- (u) Sections 5, 6, and 10 of RA No. 9728, titled “An Act Converting the Bataan Economic Zone Located in the Municipality of Mariveles, Province of Bataan, Into the Freeport Area of Bataan (FAB), Creating for this Purpose the Authority of the Freeport Area of Bataan (AFAB), Appropriating Funds Therefor and for other Purposes (Freeport Area of Bataan (FAB) Act of 2009);”
- (v) Subchapter V-A, Section 86 and Section 88 of RA No. 9593, titled “An Act Declaring a National Policy for Tourism as an Engine of Investment, Employment, Growth and National Development, and Strengthening the Department of Tourism and Its Attached Agencies to Effectively and Efficiently Implement that Policy, and Appropriating Funds Therefor (The Tourism Act of 2009);”
- (w) Chapter VII, Sections 15, 19, 21, 22 and 23 of RA No. 9513, titled “An Act Promoting the Development, Utilization, and Commercialization of Renewable Energy Resources and for other Purposes (Renewable Energy Act of 2008);”
- (x) Chapter V, Art. 60 and 61 of RA No. 9520, titled, “An Act Amending the Cooperative Code of the Philippines to be Known as the Philippine Cooperative Code of 2008;”
- (y) Sections 5, 6, 7(last paragraph), 8 and 9 of R. A. 9490, titled, An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes; Sections 3 (e) (f) (h) and 4 of R.A. No. 10083, titled, An Act Amending Republic Act No. 9490;
- (z) Section 4 (b) (c) of R.A. No. 7922, titled, An Act Establishing a Special Economic Zone and Free Port in the Municipality of Santa Ana and the Neighboring Islands

in the Municipality of Aparri, Province of Cagayan Providing Funds Therefor, and for other Purposes; and

(aa) Section 6 of R.A. No. 7459, titled, "Inventors and Invention Incentives Act of the Philippines"

(bb) All other laws, acts, decrees orders and issuances or provisions thereof inconsistent with any of the provisions of this act are hereby repealed or modified accordingly

**SEC. 20. *Effectivity.*** This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a newspaper of general circulation, whichever is earlier.

Approved.