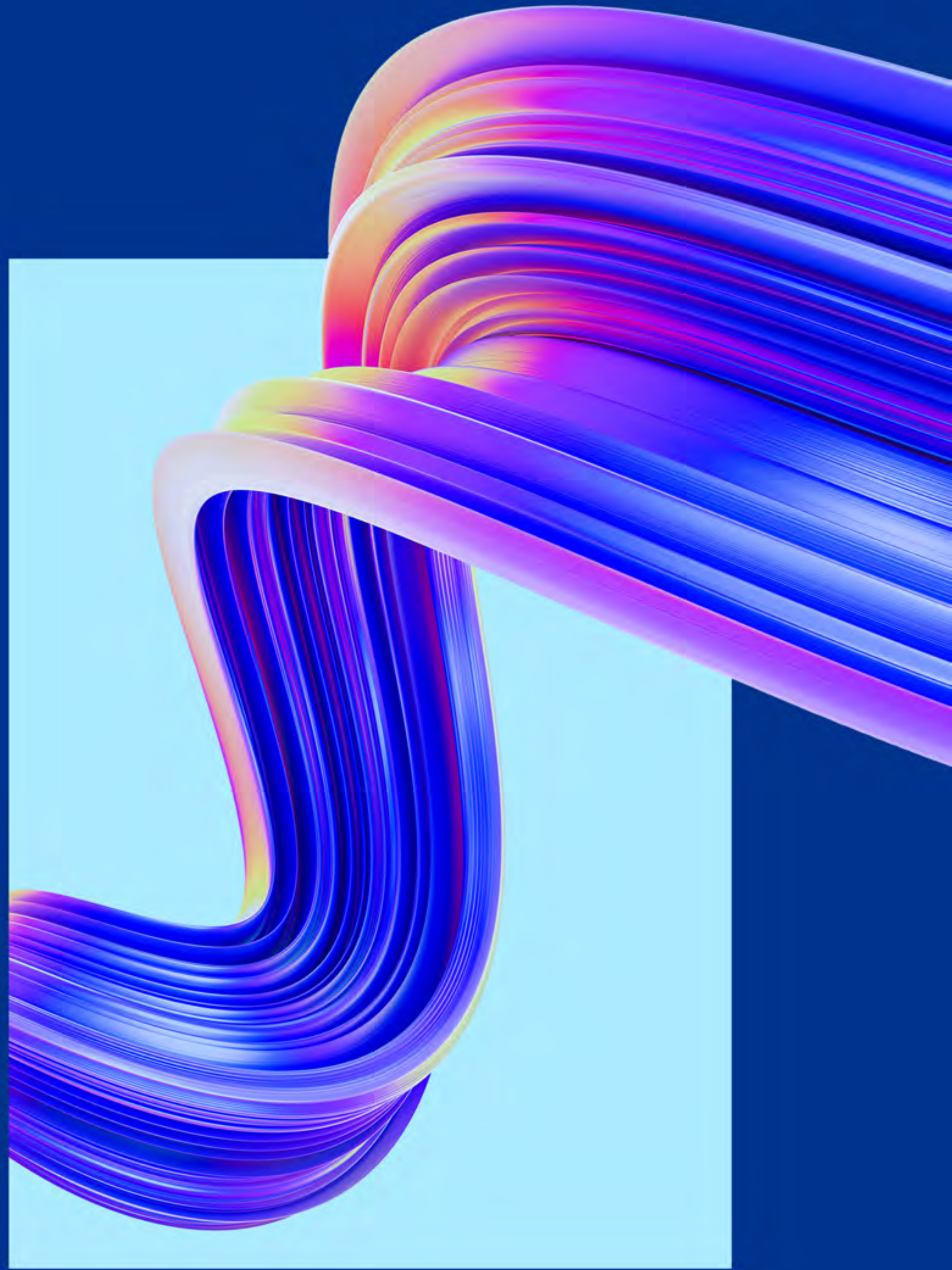
R.G. Manabat & Co.

Ease of Doing Business in the Philippines



Introduction

In maintaining its role as one of the key players in the global economic landscape, the Philippines has proven its resilience against a backdrop of challenging economic conditions and rising geopolitical tensions.

Aside from its rich natural resources, the Philippines' deep pool of highly trained and educated talent attracts investors across a variety of industries. This is most evident in the Philippines' Information Technology and Business Process Management (IT-BPM) sector which continues to be one of the best-performing and employment generating area of the Philippine economy.

Key Facts about the Philippines

The Philippines is an archipelago rich in natural resources. Proficient in English language skills and holistically maintains cultural ties from more than 10 million Filipinos living overseas, the country is a popular choice for international businesses and investors. It is considered as one of the most competitive economies in the East Asia Pacific region, boasting increased urbanization, a growing middle class and a young population that thrives in economic dynamics rooted in strong consumer demand in a progressive labor market and dynamic remittances.

The country's economy and citizens are geared for expanding their economic global leadership techniques and solutions, led by a growing population that is technology-savvy, utilizes innovative ICTs (Information and Communications Technology) and holistically driven to promote and maintain local and international relationships. Technology becomes a strategic building block for organizations to contribute into creating vast infrastructures to promote national digital transformation.

In the previous years, resiliency in the country has evolved from rising against national and economic tragedies to rebuilding better foundations for thriving amidst a global pandemic.

The 2020 World Bank Doing Business report stated that the Philippines ranked 95th out of 190 economies with a score of 62.8, jumping 29 notches from no. 124 and a score of 57.68 in 2019. The total approved foreign investments reached

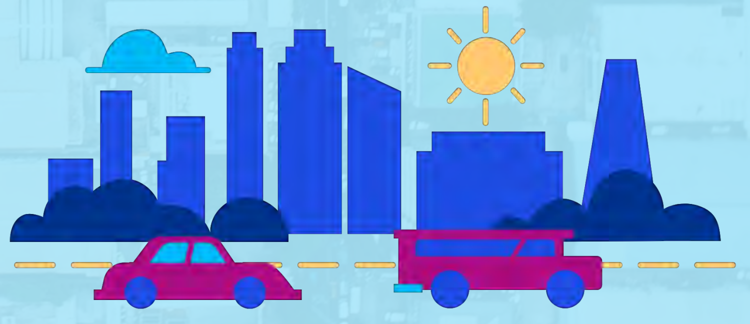
PHP 13.05 billion

in the third quarter of 2022, these were driven by investments from Japan (34.5%) followed by South Korea (15.5%) and Singapore (12.6%).

Moreover, the Marcos Administration continued the previous Duterte administration's digital transformation program, specifically including cloud-based centers, software development for improving business processes and procedures, and conversion of government units to smart cities, among other things.

The ICT industry is the biggest prospect industry in the country for the proliferation of IT (Information Technology) demand, specifically the prevalence of cybersecurity, software services, smart cities, and the need for improved telecommunications.

Despite the Covid-19 pandemic, the country has achieved significant growth and continues to adapt quickly to various economic disruptions it brings. Ever since, the Philippines continues to innovate solutions and strengthen networks to reestablish its growing presence in the global economic landscape, particularly the information and communications technology industry.



Setting up your Business in the Philippines

Authored by KPMG R.G. Manabat & Co. and originally published in the European Chamber of Commerce of the Philippines' Doing Business in the Philippines 2022

Any person, partnership, association or foreign corporation, singly or jointly with others but not more than 15 in number may organize a corporation for any lawful purpose/s. A corporation shall have perpetual existence unless its Articles of Incorporation (duly signed by incorporators and treasurer and acknowledged or authenticated—may be allowed and filed with the Philippine Securities and Commission (SEC) together with other documentary requirements.

Establishing branches requires applications with the SEC for licenses to transact business in the Philippines. The capital requirements for local and foreign entities looking to set up business in the country vary depending on the types of business activities and the percentage of foreign ownership secured for their enterprise. Although foreign entities are allowed to conduct business in the country, they are restricted to participate in areas of investment that are wholly or partially reserved to Filipino citizens, this is regulate under Republic Act No. 7042. Enterprises are required to pay in full amount of at least 25% of the subscribed capital stock with a total capital stock that must also be at least 25% of the authorized capital stock of the corporation.

In setting-up, corporations must register to the following:

Local government unit (LGU) with jurisdiction over the entity to secure a business permit or license and other related permits from the assigned mayor.

The Bureau of Internal Revenue (BIR)'s jurisdiction over said entity.

The entity will also register with the BIR its manual books of accounts and secure an Authority to Print (ATP) for its manual invoices/ official receipts. However, if the new entity wishes to use a computerized accounting system (CAS) or computerized books of account (CBA) and/or its components, the entity shall inform the BIR office where it is registered of its intention to use the same. The entity should submit the required documents referred to in Revenue Memorandum Order No. 9-2021. The BIR office will issue an Acknowledgement Certificate within three working days from receipt of the complete documentary requirements.

Social security agencies in order to comply with the social security laws imposing mandatory contributions for employees.

If the entity will engage in a project or activity that may qualify for tax incentives, an application for the registration of the project or activity should be filed with the relevant Investment Promotion Agency (IPA) for purposes of availing of the tax incentives. The foreign investment should be registered with the Bangko Sentral Ng Pilipinas (the Philippine Central Bank) if the foreign currency will be purchased from the Philippine banking system to repatriate/remit capita/ profits/dividends.

In the case of a branch, within 60 days after the issuance of the license to transact business in the Philippines, it shall deposit with the SEC for the benefit of present and future creditors in the Philippines securities satisfactory to the SEC with an actual market value of at least Php500,000.00 or such other amount that may be set by the SEC. This requirement shall not apply to foreign banking or insurance corporations.

Taxation

The Philippines has two levels of taxation – national and local. At the national level, the government agencies that exercise taxing authority are the BIR and Bureau of Customs (BOC). The BIR administers the imposition and collection of internal revenue taxes such as the income tax and value-added tax (VAT). The BOC handles the assessment and collection of customs revenues from imported goods.

Having taken effect on 11 April 2021, Republic Act (RA) No. 11534, otherwise known as the “Corporate Recovery and Tax Incentives for Enterprises Act” or the CREATE Law, introduced amendments to the National Internal Revenue Code (NIRC). The regular corporate income tax (RCIT) rate has been reduced from 30% to 25%, effective 01 July 2020.

Domestic and resident foreign corporations are liable for the minimum corporate income tax (MCIT) on their gross income, starting on the 4th year following the year in which such corporations commenced business operations, and when such MCIT is greater than the RCIT. Any excess of the MCIT over the RCIT shall be carried forward and credited against the RCIT for the three immediately succeeding taxable years.

The corporation or the branch will be considered withholding agents required to withhold the applicable withholding tax on income payments to suppliers/ vendors. In case of failure to withhold and remit to the BIR the taxes withheld, the income payments may not be claimed as deductions for income tax purposes.

The CREATE Law has introduced a new tax incentive regime. For the availment of tax incentives, a business enterprise should register with the concerned IPA to engage in a project or activity included in the Strategic Investment Priority Plan (“SIPP”). The qualifications set forth in the SIPP must be satisfied.

The annual income tax return of an individual shall be filed on or before the 15th day of April of each year covering income for the preceding calendar year. Taxpayers should be mindful of other filing deadlines for other types of tax returns such as documentary stamp tax, fringe benefits tax, percentage tax, or excise tax. The local taxes shall accrue on the first day of January each year.

Summary of Reportorial Requirements

In essence, corporations with gross annual sales, earnings receipts, or outputs exceeding Php 3 million shall have their books of accounts audited and examined yearly by an independent Certified Public Accountant (CPA) with their income tax returns accompanied by a duly accomplished Account Information Form (AIF). These must submit annual financial statements audited by an independent CPA and a general information sheet; those vested with public interest must submit a director compensation report and director appraisal or performance report along with the criteria to assess each director (must be submitted annually and within such a period as may be prescribed by the SEC).

LGUs require mayor's permit/business licenses that must be renewed annually on or before the 20th of January every year. RBEs availing of tax incentives shall submit to their respective IPAs a complete annual tax incentives report and annual benefits (data such as actual investment amounts, employment level, and job creation (including job quality information and hiring of foreign and local workers, exports and imports, domestic purchases, profits and dividend payout, and paid taxes (withheld and foregone). Lastly, other government agencies may impose other reporting requirements aside from those stated above.

KPMG in the Philippines

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The firm provides tax, audit and assurance, and advisory services. It provides insights and assessments to help organizations and companies start, invest, and/or expand their growth and profitability in the Philippines. It utilizes a global approach spanning professional disciplines, industry sectors and national borders. The diverse public and private sector backgrounds the firm's partners and principals, coupled with extensive training, and backed up by the wide knowledge resources and network of KPMG professionals, allow the firm to give real-world solutions to increasingly complex business and regulatory issues.