



**IMPLEMENTING RULES AND REGULATIONS OF TITLE XIII OF REPUBLIC ACT NO. 8424  
OTHERWISE KNOWN AS THE "NATIONAL INTERNAL REVENUE CODE OF 1997", AS  
AMENDED BY REPUBLIC ACT NO. 12066**

Pursuant to Section 32 of Republic Act (RA) No. 12066, entitled, "An Act Amending Sections 27, 28, 32, 34, 57, 106, 108, 109, 112, 135, 237, 237-A, 269, 292, 293, 294, 295, 296, 297, 300, 301, 308, 309, 310, and 311, and Adding New Sections 135-A, 295-A, 296-A, and 297-A of the National Internal Revenue Code of 1997, as amended, and for Other Purposes," the Secretary of Finance and the Secretary of Trade and Industry, after consultations with the Commissioner of Internal Revenue, Commissioner of Customs, the Board of Investments, and other Investment Promotion Agencies hereby promulgate the following Implementing Rules and Regulations (IRR).

**PART I  
GENERAL PROVISIONS**

**RULE 1. Scope and Definition of Terms**

**SECTION 1. Title.** – This IRR shall be referred to as the "Implementing Rules and Regulations of Title XIII of the National Internal Revenue Code of 1997, as amended by RA No. 12066".

**SECTION 2. Scope and coverage.** – This IRR shall apply to:

- a. All existing Investment Promotion Agencies (IPAs) as defined in the Act or related laws with respect to the administration and grant of tax incentives unless otherwise specifically exempted from the coverage thereof;
- b. All newly registered projects or activities, including qualified expansion projects or activities of export enterprises and domestic market enterprises under the Strategic Investment Priority Plan (SIPP);
- c. Registered enterprises, projects, or activities currently registered with IPAs and enjoying incentives prior to the effectivity of RA No. 11534 or the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act and RA No. 12066;
- d. Other government agencies administering tax incentives with respect to the administration and grant of tax incentives and other registered enterprises availing of tax incentives; and
- e. Government-owned and/or controlled corporations (GOCCs), government instrumentalities (GIs), government commissaries, and state universities and colleges (SUCs) that were granted tax subsidies under the Tax Expenditure Fund of the annual General Appropriations Act (GAA).

**SECTION 3. Extent of authority to grant tax incentives.** – The Fiscal Incentives Review Board (FIRB) or the concerned IPAs, in accordance with the investment capital threshold as provided under Section 297(B) of the Tax Code, shall grant the appropriate tax incentives provided under Title XIII of the Tax Code, as amended, to Registered Business Enterprises (RBEs) only to the extent of their approved registered project or activity under the SIPP.

**SECTION 4. Definition of terms.** – For purposes of this IRR:

- a. **"Act"** or **"Tax Code"** refers to RA No. 8424, otherwise known as the "National Internal Revenue Code of 1997," as amended by RA No. 12066;
- b. **"Annual Benefits Report (ABR)"** refers to the detailed report on benefits, which shall include data such as, but not limited to, the approved and actual amount of investments, approved and actual employment level and job creation, including information on quality

of jobs and hiring of foreign and local workers, approved and actual exports and imports, domestic purchases, profits and dividend payout, all taxes paid, withheld and foregone;

- c. ***“Annual Tax Incentives Report (ATIR)”*** refers to the detailed report on tax incentives availed in a taxable year. The report shall contain activity or project-level data, such as but not limited to, income tax-based incentives, Value-Added Tax (VAT) exemptions and zero-rating, customs duty exemptions, deductions, credits or exclusions from the income tax base, and exemptions from local taxes, fees, and charges;
- d. ***“Board”*** refers to the Board Proper of the FIRB;
- e. ***“Capital equipment”*** refers to machinery, equipment, major components thereof, tools, devices, applications or apparatus which are directly attributable to the registered project or activity of the RBE;
- f. ***“Certificate of Authority to Import (CAI)”*** refers to the document issued by the concerned IPA as proof of entitlement to the VAT and/or duty exemption on importation which shall contain a list of capital equipment, raw materials, spare parts or accessories to be imported that are directly attributable to the production of goods and performance of services, including goods used for administrative purposes;
- g. ***“Certificate of Entitlement to Tax Incentives (CETI)”*** refers to the document issued by the concerned IPA in a form prescribed by the FIRB, upon application by an RBE, as proof of entitlement to income tax-based incentives;
- h. ***“Certificate of Entitlement to Subsidy (CES)”*** refers to the document issued by the FIRB certifying the amount of tax subsidy that is granted in favor of national government agencies, GOCCs, GIs, SUCs, and other government entities as may be provided under the annual GAA;
- i. ***“Certificate of Registration (COR)”*** refers to the document evidencing registration for each separate registered project or activity of an RBE with the concerned IPA and its entitlement to tax incentives;
- j. ***“Cost-benefit analysis (CBA)”*** refers to the systematic evaluation of the total costs and benefits of granting fiscal incentives as prescribed by the FIRB. The analysis shall cover direct, indirect, and opportunity costs and benefits;
- k. ***“Directly attributable”*** refers to goods and services that are incidental to and reasonably necessary for the registered project or activity of the RBE, including janitorial, security, financial, consultancy services, marketing and promotion, and services rendered for administrative operations such as human resources, legal, and accounting: *Provided*, That the determination of what shall be considered as ‘directly attributable’ to the registered project or activity of the RBE shall be with the concerned IPA;
- l. ***“Direct local employment”*** refers to the full and decent employment of Filipinos by RBEs under an employer-employee relationship to perform functions that are directly related to the production of goods or performance of services of the registered project or activity;
- m. ***“Domestic market enterprise (DME)”*** refers to any RBE other than a registered export enterprise. This shall also include High-value DMEs as defined under Subsection (q) hereof;
- n. ***“Registered export enterprise (REE)”*** refers to any RBE engaged in manufacturing, assembling or processing activity, and services such as information technology (IT)

activities and business process outsourcing (BPO), and resulting in the direct exportation, and/or sale of its manufactured, assembled or processed product or IT/BPO services to another REE that will form part of the final export product or export service of the latter, of at least seventy percent (70%) of its total production or output;

- o. ***“Domestic input”*** refers to purchases of locally manufactured goods, locally produced raw materials, or domestically outsourced services known as services embedded in manufacturing and materials or supplies for the delivery of services that are used directly in the production of goods and the performance of services under the registered project or activity. In the case of locally manufactured goods, fifty percent (50%) of the value-added of the said goods should likewise be locally produced or manufactured;
- p. ***“Freeport zone”*** refers to isolated and policed areas adjacent to a port of entry, which shall be operated and managed as a separate customs territory for purposes of ensuring free flow or movement of goods between RBEs, except those expressly prohibited by law, within, into, and exported out of the freeport zone where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated subject to Sections 294(D) and (E), and 295(C) and (D) of the Tax Code, as amended: *Provided*, That a freeport shall have a permanent customs control or customs office at its perimeter;
- q. ***“High-value DMEs”*** refer to registered DMEs with investment capital exceeding Fifteen Billion Pesos (P15,000,000,000) and are engaged in sectors considered import-substituting, or with export sales in the immediately preceding year of at least One Hundred Million US Dollars (\$100,000,000), or its equivalent in an acceptable foreign currency: *Provided*, That the threshold specified herein may be increased by the FIRB. For this purpose, the term “import-substituting” shall refer to the ability of the country’s domestic production of goods and services to locally supply such goods and services that are normally being imported by the Philippines: *Provided*, That the determination of the eligibility of what constitutes import substituting per sector shall be determined through the SIPP;
- r. ***“Investment capital”*** refers to the value of investment indicated in Philippine currency that shall be used to carry out a registered project or activity, such as pre-operating expenses, cost of land and land improvements, buildings, leasehold improvements, working capital, and machinery and equipment, inventory and other current and non-current assets;
- s. ***“Investment promotion agencies (IPAs)”*** refer to government entities created by law, executive order, decree, or other issuance, in charge of promoting investments, granting and administering tax and non-tax incentives, and overseeing the operations of the different economic zones and freeports in accordance with their respective special laws. These include the Board of Investments (BOI), Bangsamoro Board of Investments, Bangsamoro Economic Zone Authority, Philippine Economic Zone Authority, Bases Conversion and Development Authority, Subic Bay Metropolitan Authority, Clark Development Corporation, John Hay Management Corporation, Poro Point Management Corporation, Cagayan Economic Zone Authority, Zamboanga City Special Economic Zone Authority, PHIVIDEC Industrial Authority, Aurora Pacific Economic Zone and Freeport Authority, Authority of the Freeport Area of Bataan, Tourism Infrastructure and Enterprise Zone Authority, Bulacan Special Economic Zone and Freeport Authority, and all other similar existing authorities or that may be created by law unless otherwise specifically exempted from the coverage of the Tax Code;
- t. ***“Metropolitan areas”*** refer to Metro Cebu and Metro Davao or those local government

units (LGUs) which are later qualified or grouped as such by the National Economic and Development Authority (NEDA) or through laws or executive issuances;

- u. "**Net book value**" refers to historical cost less accumulated depreciation, as appearing in the books of accounts or financial statements of the RBE, and determined in accordance with accepted accounting standards;
- v. "**Other government agencies (OGAs) administering tax incentives**" refer to government agencies or instrumentalities other than IPAs which register or administer tax incentives of any kind to any specific entities or class of persons pursuant to any law;
- w. "**Other registered entities (OREs)**" refer to any individual, partnership, organization, corporation, Philippine branch of a foreign corporation, or other entity incorporated or organized and existing under Philippine laws, and registered with OGAs administering tax incentives;
- x. "**Qualified capital expenditure**" refers to purchases of capital goods with a useful life of more than one (1) year acquired for the entity's production of goods and performance of services to be directly used in the registered project or activity of the RBE;
- y. "**Qualified Expansion Project**" refers to a project of an existing enterprise that would involve the installation of additional facilities or equipment, or infusion of additional investment that will result in an increase in capacity of the same or similar activity within the same existing plant or facilities of the enterprise, and additional benefits to the economy. It shall include modernization and rehabilitation resulting in the upgrade of the registered product or service. The resulting increase in capacity or upgrade of the registered product or service shall be determined in the SIPP;
- z. "**Raw materials**" refer to direct materials or component parts that go directly into a manufactured product, produced, or performance of services by the registered project or activity;
- aa. "**Registered business enterprise (RBE)**" refers to any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an IPA, excluding service enterprises such as those engaged in customs brokerage, trucking or forwarding services, janitorial services, security services, insurance, banking, and other financial services, consumers' cooperatives, credit unions, consultancy services, retail enterprises, restaurants, or such other similar services, as may be determined by the FIRB;
- bb. "**Research and development**" refer to experimental or other related projects or activities:
  - i. Whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, but can only be determined by applying a systematic progression of work:
    1. Based on principles of established science; and
    2. Proceeds from hypothesis to experiment, observation and evaluation, and leads to logical conclusions; and
  - ii. That are conducted for the purpose of generating new knowledge, including new knowledge in the form of new or improved materials, products, devices, processes, or services;

- cc. "**Revenue collecting agency (RCA)**" refers to the Bureau of Internal Revenue (BIR) or the Bureau of Customs (BOC);
- dd. "**Sophisticated**" refers to the state when a product or service requires a high level of technology, human capital, competencies or know-how, and infrastructure to be produced or offered;
- ee. "**Sophistication**" refers to the level of technology, human capital, competencies or know-how, and infrastructure required for a product or service to be offered;
- ff. "**Source document**" refers to input materials and documents reasonably needed by IT and IT-enabled industries, such as books, directories, magazines, newspapers, brochures, pamphlets, medical records or files, legal records or files, instruction materials, and drawings, blueprints, or outlines;
- gg. "**Special economic zone**" or "**Ecozone**" refers to a selected area, 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, that is highly developed or has the potential to be developed into an agro-industrial, industrial, IT, or tourist/recreational area, whose metes and bounds are fixed or delimited by presidential proclamations, in the case of the Bangsamoro Autonomous Region in Muslim Mindanao, by the proclamation of the Chief Minister, in line with Section 28, Article XIII of RA No. 11054 otherwise known as the "Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao" and within a specific geographical area which includes industrial estates (IES), export processing zones (EPZS), ICT parks and centers, and free trade zones: *Provided*, That for the ecozone to qualify as a separate customs territory, an ecozone shall have a permanent customs control or customs office at its perimeter: *Provided, however*, That areas where mining extraction is undertaken shall not be declared as an ecozone: *Provided, further*, That vertical economic zones, such as, but not limited to, buildings, selected floors within buildings, and selected areas on a floor, need to comply with the minimum contiguous land area as determined by the FIRB;
- hh. "**Strategic Investment Priority Plan (SIPP)**" refers to the plan prepared by the BOI, in consultation with the FIRB, IPAs, and OGAs administering tax incentives, and the private sector, and approved by the President, which contains the priority projects or activities, scope and coverage of location and industry tiers, recommendations for non-fiscal support and corresponding specific activities wherein investments are to be encouraged, and other information, analyses, data, guidelines, or criteria as the BOI may deem appropriate;
- ii. "**Tax subsidy**" refers to the subsidy given to national government agencies, GOCCs and GIs, SUCs, and other government entities as may be provided under the general provisions of the annual GAA, in lieu of payment of taxes and customs duties, chargeable against the Tax Expenditure Fund;
- jj. "**Technical Obsolescence**" refers to the state of an asset when its design or specification no longer fulfills the function for which it was originally designed; and/or the machinery, equipment, spare parts and/or materials that has diminished in value as caused by changes in technology and new inventions, rendering it less desirable in the industry, including a decline in value due to improved alternatives becoming available that are more cost effective, or due to the availability of more advanced technology that allows for more efficiency such as earlier replacement of IT assets, as may be verified and approved by the IPA; and
- kk. "**Training**" refers to courses, curricula, certifications, or modules provided to Filipino

employees that are directly related to the production of goods or performance of services under the registered project or activity and that are of a technical nature, which shall develop or improve the specific skills or practical knowledge of the employee, especially in the mechanical, industrial art, scientific field or practical science of a particular position or job function in the registered project or activity, or in preparation for enhancing the value chain.

## **PART II** **TAX AND DUTY INCENTIVES**

### **RULE 2. Tax and Duty Incentives**

**SECTION 1. *Income tax-based incentives.*** – The following types of income tax-based incentives may be granted to registered projects or activities:

- a. ***Income Tax Holiday (ITH).*** – For all RBEs, exemption from regular income tax of registered project or activity imposed under the Tax Code: *Provided*, That, without the need for a BIR ruling, creditable withholding tax shall not be imposed on income payments to RBEs related to their registered project or activity during the ITH availment period.
- b. ***Special Corporate Income Tax (SCIT).*** – For an REE, a tax rate equivalent to five percent (5%) based on the gross income earned, in lieu of all national and local taxes, and local fees and charges: *Provided, further*, That private ecozone developers shall be subject to real property tax on land owned by them under Section 24 of RA No. 7916, as amended.

Existing rules on the allocation of the five percent (5%) SCIT among the national government, LGUs, and the IPAs under special laws governing the latter shall be observed.

For export enterprises governed by special laws that do not provide for allocation, the five percent (5%) SCIT based on the gross income shall be paid and remitted as follows:

- i. Three percent (3%) to the National Government; and
- ii. Two percent (2%) directly remitted by the RBEs to the treasurer's office of the municipality or city where the enterprise is located.

For this purpose, "gross income earned" refers to gross sales or gross revenues derived from the registered project or activity, net of sales discounts, sales returns and allowances and minus costs of sales or direct costs, but before any deduction is made for administrative expenses or incidental losses during a given taxable period.

Only the following shall be considered as direct costs for purposes of computing the gross income earned to be imposed the five percent (5%) SCIT rate:

- i. Direct salaries, wages, or labor expenses;
- ii. Production supervision salaries;
- iii. Raw materials used in the manufacture of products;
- iv. Goods in process (intermediate goods);
- v. Finished goods;
- vi. Supplies and fuels used in production;
- vii. Depreciation of machinery, equipment, and building directly and exclusively used in the performance/production of registered activity, and of that portion of the building owned or constructed that is directly and exclusively related in the performance/production of the registered activity;
- viii. Rent and utility charges associated with building, equipment, and warehouses, or

- handling of goods used directly and exclusively in the rendition/production of registered activity;
- ix. Financing charges associated with fixed assets used directly and exclusively in the registered activity the amount of which were not previously capitalized;
- x. Service supervision salaries; and
- xi. Direct materials and supplies used.

c. ***Enhanced Deductions Regime (EDR).*** – For DMEs and High-value DMEs, deductions in addition to the allowable ordinary and necessary deductions under Section 34 of the Tax Code.

REEs may, at their option, avail of the EDR. In no case, however, shall EDR be granted simultaneously with the SCIT.

The following may be allowed as enhanced deductions:

- i. **Additional depreciation allowance of assets acquired for the production of goods and services (qualified capital expenditure).** From the total depreciable cost of the assets that are directly related to the RBE's production of goods and performance of services (qualified capital expenditure), RBEs may be allowed to claim an additional depreciation allowance of:
  1. Ten percent (10%) for buildings; and
  2. Twenty percent (20%) for machinery and equipment.
- ii. **Additional deduction on labor expenses.** RBEs shall be entitled to an additional deduction of fifty percent (50%) of their total labor expense for direct local employment in the taxable year. The additional deduction shall not include salaries, wages, benefits, and other personnel costs incurred for managerial, administrative, indirect labor, and support services.
- iii. **Additional deduction on research and development expenses.** RBEs shall be allowed to claim an additional deduction of one hundred percent (100%) on their research and development expenses that are directly related to the registered project or activity of the RBE: *Provided*, That the additional deduction shall be limited to local expenditure incurred for salaries of Filipino employees, and consumables and payments to local research and development organizations.
- iv. **Additional deduction on training expenses.** RBEs shall be entitled to an additional deduction of one hundred percent (100%) of their total expense on trainings conducted, as approved by the concerned IPA based on the SIPP, given to the Filipino employees engaged directly in the RBE's production of goods and performance of services.

To ensure that only technical trainings required by the registered project or activity are covered, the following shall not be eligible for an additional training expense deduction:

1. Onboarding workshops for newly-hired employees, unless the trainings are proven to be technical in nature as determined by the concerned IPA;
2. Team building activities, field trips, and tours;
3. Executive education and leadership programs for senior management and C-suite;
4. Professional and legal training such as seminars on anti-sexual harassment, anti-discrimination, and fraud;

- 5. Safety training such as evacuation plans, fire drills, workplace violence, and first aid. Other safety trainings that are directly related to the performance of core job functions may be covered by the incentives as long as they are part of a technical training program; and
- 6. Quality training such as ISO processes and standards that are not related to the performance of an employee's core job functions.

- v. **Additional deduction on domestic input expense.** RBEs shall be allowed to claim an additional deduction of fifty percent (50%) on domestic inputs that are directly related to and actually used in the registered project or activity.
- vi. **Additional deduction on power expenses.** From the total power costs incurred in the production of the registered project or activity, RBEs shall be allowed to claim an additional deduction equal to one hundred percent (100%) of power expense incurred in the taxable year.
- vii. **Deduction for reinvestment allowance to manufacturing and tourism industries.** RBEs in the manufacturing and tourism industries that reinvest their undistributed profit or surplus in another manufacturing or tourism project or activity, respectively, that are listed in the SIPP, shall be allowed to avail until 31 December 2034 an additional deduction of no more than fifty percent (50%) of the amount reinvested within a period of five (5) years from the time of such reinvestment.
- viii. **Additional deductions on expenses relating to exhibitions, trade missions, or trade fairs.** RBEs shall be allowed to claim an additional deduction of fifty percent (50%) on expenses relating to exhibitions, trade missions, or trade fairs, including expenses incurred in promoting the export of goods or the provision of services to foreign markets approved by the concerned IPA.
- ix. **Enhanced Net Operating Loss Carry Over (NOLCO).** The net operating loss of the registered project or activity during the first three (3) years from the start of commercial operation, which had not been previously offset as a deduction from gross income, may be carried over as a deduction from gross income within the next five (5) consecutive taxable years immediately following the last year of the ITH entitlement period of the project or immediately following the year of loss for RBEs electing EDR at the onset.

The Department of Finance (DOF), in coordination with the BOI, BIR, FIRB, and other IPAs, shall prescribe the terms and conditions on the grant of the EDR. The eligibility of a registered project or activity for any enhanced deductions under the Tax Code shall be as provided in the SIPP.

**SECTION 2. Customs duty exemption on importation of capital equipment, raw materials, spare parts, or accessories.** – REEs and DMEs shall enjoy exemption from customs duties on their importation of capital equipment, raw materials, spare parts, and accessories for their registered project or activity, including goods used for administrative purposes.

The following conditions must be complied with:

- a. The duty exemption shall only apply to the importation of capital equipment, raw materials, spare parts, or accessories directly attributable to the registered project or activity of RBEs, including goods used for administrative purposes; and
- b. The capital equipment, raw materials, spare parts, or accessories are not produced or

manufactured domestically in sufficient quantity or of comparable quality and at reasonable prices.

**SECTION 3. VAT zero-rating and exemption.** – The VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly attributable to the registered project or activity of an REE or a registered High-value DME, including incidental expenses thereto, subject to the following rules:

- a. Sale of goods or services by a VAT-registered seller to an REE or High-value DME, regardless of location, shall be subject to zero percent (0%) VAT;
- b. Sale, transfer, or disposal of previously VAT-exempt imported capital equipment, raw materials, spare parts, and accessories shall be subject to the following rules:
  - i. If the purchaser is an REE or High-value DME, regardless of location, the transaction shall be subject to zero percent (0%) VAT; or
  - ii. If the purchaser is a DME, regardless of location, the transaction shall be subject to twelve percent (12%) VAT based on the net book value of the capital equipment, raw materials, spare parts, or accessories.

Local sales of goods and/or services by an RBE, regardless of the income tax incentives regime and location, shall be subject to twelve percent (12%) VAT, unless otherwise exempt or zero-rated under:

- a. Section 106 (Value-Added Tax on Sale of Goods or Properties), Section 108 (Value-Added Tax on Sale of Services and Use or Lease of Properties, and Section 109 (Exempt Transactions) of Title IV of the Tax Code; and
- b. Sections 294(D) and 295(E), Title XIII of the Tax Code.

For this purpose, “local sales” shall cover sales of goods and services to domestic market enterprises or non-RBE, regardless of whether the sales occur within the freeport or economic zones: *Provided*, That the liability to pay and remit the VAT to the government rests with the buyer of the said goods or services.

**SECTION 4. Other incentives on importation of petroleum products.** – Persons who directly import petroleum products defined under RA No. 8479, otherwise known as the “Downstream Oil Industry Deregulation Act of 1998”, for resale in the Philippine Customs Territory and/or in free zones as defined under RA No. 10863, otherwise known as the “Customs Modernization and Tariff Act (CMTA)”, shall not be entitled to the foregoing tax and duty incentives, and shall be subject to appropriate taxes imposed under the Tax Code: *Provided*, That the importation of petroleum products used in international shipping or air transport operation shall be covered by the provisions of Sections 109(U) and 135(A) of the Tax Code.

The exemption from VAT and excise tax of petroleum products shall refer to those sold to international carriers of Philippine or foreign registry directly importing petroleum products and which are for their use or consumption outside the Philippines. The suppliers of petroleum products to international carriers shall be allowed to file a claim for refund of excise tax paid on such products, upon presenting proof that the petroleum products were sold to international carriers of the Philippine or foreign registry, for their use or consumption outside the Philippines, following the procedure under Section 135-A of the Tax Code: *Provided*, That the BIR and the BOC shall provide rules and regulations to facilitate the refund or credit of the VAT and excise taxes.

“Petroleum products” refers to products formed in the course of refining crude petroleum

through distillation, cracking, solvent refining, and chemical treatment coming out as primary stocks from the refinery such as, but not limited to: liquefied petroleum gas, naphtha, gasolines, solvent, kerosenes, aviation fuels, diesel oils, fuel oils, waxes and petrolatums, asphalt, bitumens, coke and refinery sludges, or such refinery petroleum fractions which have not undergone any process or treatment as to produce separate chemically-defined compounds in a pure or commercially pure state and to which various substances may have been added to render them suitable for particular uses: *Provided*, That the resultant product contains not less than fifty percent (50%) by weight of such petroleum products.

Importers who subsequently export fuel, subject to the appropriate rules of the fuel making program, may apply for a refund of duties and taxes, as applicable under the CMTA.

Refund claims of VAT and excise tax referred to in this Section shall be filed at the BIR for verification and evaluation. Once approved, the claim shall be forwarded to the BOC for cash payment or issuance of a tax credit certificate, as applicable.

In cases where there is payment of duties, the provisions on duty drawback under the CMTA shall apply.

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 the crude oil actually undergoes the refining process, shall be exempt from payment of applicable duties and taxes upon importation: *Provided*, That 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 rules and regulations that may be prescribed by the BOC and the BIR, to ensure that crude oil shall not be lifted from the refinery without payment of appropriate duties and taxes: *Provided, further*, That in case of withdrawal of petroleum products produced from the imported crude oil, for introduction into the customs territory, all applicable duties, taxes, and other charges shall be paid to the Bureau before release from custody subject to the prior requirement of Authority To Release Imported Goods (ATRIG).

**SECTION 5. Registered Business Enterprise Local Tax (RBELT).** – The concerned local government, through an ordinance issued by the concerned Sanggunian, may impose an RBELT at the rate of not more than two percent (2%) based on gross income, as defined under Section 27(E)(4) of the Tax Code, during the ITH and EDR, as provided under Sections 294 (A) and (C) of the same code, respectively, which shall be in lieu of all local taxes, fees, and charges imposed by the LGU under the LGC, as amended: *Provided*, That RBELT shall not be imposed on RBEs under SCIT: *Provided, further*, That RBEs certified by the BOI as pioneer or non-pioneer shall be exempt from the local business tax for a period of six (6) or four (4) years, respectively, from the date of registration pursuant to Section 133(g) of the LGC: *Provided finally*, That IPAs with regulatory powers as provided in their charters or by special laws shall continue to exercise such authority in relation to the imposition of fees and charges within their respective territorial areas or jurisdictions.

The RBELT shall be imposed on an RBE for as long as it meets the conditions for its registration, during the period of availment of the ITH and EDR: *Provided*, That the determination of compliance by the RBE with its terms and conditions shall be with the concerned IPA: *Provided, further*, That upon the expiration of the income tax-based incentives of the RBE, the LGU may continue to impose RBELT or local business tax exemption pursuant to its authority under the LGC.

The RBELT shall be directly remitted by the RBE to the treasurer's office of the municipality or city where the enterprise is located.

Where two (2) or more LGUs cover the same enterprise, the total RBELT to be imposed shall not exceed 2% of the gross income of the project or activity, and the sharing of the RBELT imposed among such LGUs shall be as follows:

- a. Fifty percent (50%) of revenues shall be shared equally among the LGUs; and
- b. Fifty percent (50%) of revenues shall be apportioned based on the population of the LGUs.

Fifty percent (50%) of the share of the municipality based on the foregoing allocation shall be remitted to the province where the said municipality is located: *Provided*, That for cities, it shall retain one hundred percent (100%) of its share.

LGUs may reduce the rate of tax or waive their share thereof in the case of two (2) or more LGUs covering the same enterprise.

An LGU imposing the RBELT under this Section shall transmit a copy of the enacted ordinance to the FIRB and the concerned IPAs within fifteen (15) days upon its approval.

The RBELT shall not be construed as a new imposition of local tax.

The FIRB, in consultation with the BOI, the Bureau of Local Government Finance, the Department of Interior and Local Government, and IPAs, shall prepare a model local tax ordinance imposing the RBELT.

**SECTION 6. *Compliance with performance commitment for job generation.*** – RBEs whose performance commitments include job generation shall maintain their employment levels to the extent practicable. In case of reduced employment or when the performance commitment for job generation is not met, the RBEs must submit to the concerned IPA or to the FIRB their justifications and plans to address the same in the succeeding year.

**SECTION 7. *Registered Business Enterprises Taxpayer Service.*** – A separate service within the BIR is hereby created to support the end-to-end tax compliance of RBEs in relation to the manner and place of filing of returns and payments of taxes by RBEs through the said service, as prescribed by the Commissioner of Internal Revenue. For ease of compliance with tax rules and regulations, simplified filing and payment processes shall be implemented for RBEs.

Notwithstanding the foregoing, the authority to cancel, suspend, or withdraw the tax incentives granted shall remain with the concerned IPA or the FIRB pursuant to Sections 297(E) and 308 of the Tax Code.

**SECTION 8. *Taxation after the expiration of the period of availment of incentives.*** – All RBEs shall pay all applicable taxes at regular rates under the Tax Code and other laws after the expiration of the period of incentives of their registered project or activity.

Nonetheless, an REE may avail of the VAT-zero rating on local purchases and VAT-exemption on importation under Sections 106, 108, and 109 of the Tax Code: *Provided*, That they comply with the requirements set forth therein.

**SECTION 9. *Taxation of non-registered projects or activities.*** – Notwithstanding the provisions in the preceding Sections, sales receipts and other income derived from non-registered projects or activities shall be subject to appropriate taxes imposed under the Tax Code.

### **RULE 3. Period of Availment of Incentives**

**SECTION 1. *Prioritization and tiering.*** – The period of availment shall be based on both location

### **RULE 3. Period of Availment of Incentives**

**SECTION 1. Prioritization and tiering.** – The period of availment shall be based on both location and industry of the registered project or activity.

The location of the registered project or activity shall be prioritized according to the level of development as follows: (a) National Capital Region (NCR); (b) metropolitan areas or areas contiguous and adjacent to the NCR; and (c) all other areas. The metropolitan areas shall be determined by the National Economic and Development Authority (NEDA).

The industry of the registered project or activity shall be prioritized according to the national industrial strategy specified in the SIPP. The SIPP shall define the coverage of the tiers and provide the conditions for qualifying the activities.

**SECTION 2. Period of availment of incentives based on location and industry tiers.** –

- a. For REEs approved by an IPA:

<b>Income Tax-Based Incentives</b>			
<b>Location and Industry Tier</b>	<b>Tier I</b>	<b>Tier II</b>	<b>Tier III</b>
NCR	4 years ITH + 10 years SCIT/EDR; or 14 years SCIT/EDR	5 years ITH + 10 years SCIT/EDR; or 15 years SCIT/EDR	6 years ITH + 10 years SCIT/EDR; or 16 years SCIT/EDR
Metropolitan Areas or Areas Contiguous and Adjacent to the NCR	5 years ITH + 10 years SCIT/EDR; or 15 years SCIT/EDR	6 years ITH + 10 years SCIT/EDR; or 16 years SCIT/EDR	7 years ITH + 10 years SCIT/EDR; or 17 years SCIT/EDR
All Other Areas	6 years ITH + 10 years SCIT/EDR; or 16 years SCIT/EDR	7 years ITH + 10 years SCIT/EDR; or 17 years SCIT/EDR	7 years ITH + 10 years SCIT/EDR; or 17 years SCIT/EDR

- b. For DMEs approved by an IPA:

<b>Income Tax-Based Incentives</b>			
<b>Location and Industry Tier</b>	<b>Tier I</b>	<b>Tier II</b>	<b>Tier III</b>
NCR	4 years ITH + 10 years EDR; or 14 years EDR	5 years ITH + 10 years EDR; or 15 years EDR	6 years ITH + 10 years EDR; or 16 years EDR
Metropolitan Areas or Areas Contiguous and Adjacent to the NCR	5 years ITH + 10 years EDR; or 15 years EDR	6 years ITH + 10 years EDR; or 16 years EDR	7 years ITH + 10 years EDR; or 17 years EDR
All Other Areas	6 years ITH + 10 years EDR; or 16 years EDR	7 years ITH + 10 years EDR; or 17 years EDR	7 years ITH + 10 years EDR; or 17 years EDR

For REEs approved by the FIRB:

Income Tax-Based Incentives			
Location and Industry Tier	Tier I	Tier II	Tier III
NCR	4 years ITH + 20 years SCIT/EDR; or  24 years SCIT/EDR	5 years ITH + 20 years SCIT/EDR; or  25 years SCIT/EDR	6 years ITH + 20 years SCIT/EDR; or  26 years SCIT/EDR
Metropolitan Areas or Areas Contiguous and Adjacent to the NCR	5 years ITH + 20 Years SCIT/EDR; or  25 years SCIT/EDR	6 years ITH + 20 Years SCIT/EDR; or  26 years SCIT/EDR	7 years ITH + 20 years SCIT/EDR; or  27 years SCIT/EDR
All Other Areas	6 years ITH + 20 years SCIT/EDR; or  26 years SCIT/EDR	7 years ITH + 20 years SCIT/EDR; or  27 years SCIT/EDR	7 years ITH + 20 years SCIT/EDR; or  27 years SCIT/EDR

c. For DMEs approved by the FIRB:

Income Tax-Based Incentives			
Location and Industry Tier	Tier I	Tier II	Tier III
NCR	4 years ITH + 20 years EDR; or  24 years EDR	5 years ITH + 20 years EDR; or  25 years EDR	6 years ITH + 20 years EDR; or  26 years EDR
Metropolitan Areas or Areas Contiguous and Adjacent to the NCR	5 years ITH + 20 years EDR; or  25 Years EDR	6 years ITH + 20 years EDR; or  26 years EDR	7 years ITH + 20 years EDR; or  27 years EDR
All Other Areas	6 years ITH + 20 years EDR; or  26 years EDR	7 years ITH + 20 years EDR; or  27 years EDR	7 years ITH + 20 years EDR; or  27 years EDR

**SECTION 3. Election of income tax-based incentive package.** – RBEs shall be allowed to elect the types of income tax-based incentives package, to wit:

a. For REEs:

- ITH followed by the 5% SCIT or EDR; or
- 5% SCIT, which shall be in lieu of all national and local taxes, fees, and charges, granted immediately at the start of commercial operation; or
- EDR granted immediately at the start of commercial operation;

b. For DMEs:

- ITH followed by EDR; or
- EDR granted immediately at the start of commercial operation.

The elected incentive package shall be irrevocable for the entire duration of entitlement to such incentives under Sections 296 and 296-A of the Tax Code.

**SECTION 4. Qualified expansion project or activity.** – Subject to the provisions of Sections 294(B) and (C) of the Tax Code, qualifications set forth in the SIPP, and performance review by the IPA or the FIRB, as the case may be, qualified expansion projects or activities may register and avail of the incentives as follows:

Duration of Income Tax-Based Incentives for Qualified Expansion Projects				
Tax Incentives	IPA-approved RBE		FIRB-approved RBE	
	REE	DME	REE	DME
SCIT	8	N/A	13	N/A
EDR		8		13

Expansion projects or activities shall be entitled to the above incentives only to the extent of their actual increase in production or sales or increase in capital investments relative to the existing project or activity.

The qualified expansion project or activity may also be entitled to VAT exemption on importation and VAT zero-rating on local purchases under Section 294(E) and duty exemption on importation under Section 294(D) of the Tax Code as applicable and subject to the provisions of Section 295(C) and (D) thereof.

**SECTION 5. Start of period of availment.** – The period of availment of the foregoing income tax-based incentives shall commence from the actual start of commercial operations: *Provided*, That an RBE must start its commercial operations within three (3) years from the date of its registration, unless otherwise provided in the SIPP and its corresponding guidelines.

**SECTION 6. Extension of the period to avail of incentives.** – The extension of availment of incentives for the same project or activity shall only be allowed subject to the following conditions:

- a. The extension of availment of incentives shall not exceed five (5) years for IPA-approved projects or activities and ten (10) years for FIRB-approved projects or activities, subject to the performance review by the concerned IPA or FIRB;
- b. The registered project or activity employs at least ten thousand (10,000) direct local employees and shall be maintained during its registration, even if the registered project or activity no longer complies with the conditions and qualifications set forth in the SIPP. The required 10,000 direct local employment shall be complied within the year immediately succeeding the last year of the project or activity's income tax-based incentives availment period;
- c. No ITH shall be granted to RBEs that have applied for extension of availment of incentives for the same project or activity; and
- d. Application for extension shall be filed with the concerned IPA or FIRB within one (1) year prior to the expiration of income tax-based incentives. If approved, the extended income tax-based incentives shall commence immediately upon the expiration of the original term. Any application for extension filed after the expiration of the income tax-based incentives shall be automatically denied.

**SECTION 7. Projects or activities located in areas recovering from armed conflict or a major disaster.** – In addition to the incentives provided in the preceding Sections, projects or activities of RBEs located in areas recovering from armed conflict or a major disaster shall be entitled to two (2) additional years of income tax-based incentives, subject to the following:

analogous circumstances; or

- b. The issuance of a Presidential directive for the implementation of recovery programs of the affected area or areas.

**SECTION 8. Projects or activities relocating from the NCR.** – A project or activity registered prior to the effectivity of RA No. 12066, or under the incentive system provided herein that shall, in the duration of their incentives, completely relocate from the NCR, shall be entitled to three (3) additional years of the income tax-based incentives currently being enjoyed to commence at the completion of the relocation of operations: *Provided*, That for an existing project or activity under the transition period provided in Section 311 of the Tax Code, the additional three (3) years of income tax-based incentives shall commence after the expiration of the transition period.

The concerned IPA shall issue an amended COR and corresponding CETI to the concerned RBE as proof of the RBE's entitlement to the additional three (3) years of income tax-based incentives.

Complete relocation shall mean the total physical relocation of the facilities outside of NCR, including the transfer of the full operations of the registered project or activity to the new area of operation.

**SECTION 9. Period of non-income tax-based incentives.** – The period of availment of VAT zero-rating on local purchases and VAT and duty exemption on importation shall be as follows:

- a. **RBEs granted incentives by an IPA** may avail of the VAT zero-rating on local purchases and VAT exemption on importation under Section 294(E), and duty exemption on importation under Section 294(D) of the Tax Code, for the entire registration period as an RBE, reckoned from the date of registration, if the RBEs continue to meet the terms and conditions of registration by their respective IPAs and if the RBEs maintain at least seventy percent (70%) of total annual production or output as export sales for the immediately preceding year.
- b. **RBEs granted incentives by the FIRB** may avail of the VAT zero-rating on local purchases and VAT exemption on importation under Section 294(E) and duty exemption on importation under Section 294(D) of the Tax Code, for the entire registration period as an RBE, reckoned from the date of registration, if the RBEs continuously meet the terms and conditions of registration with their respective IPAs and if the following requirements are met in the immediately preceding year:
  - i. REEs maintain at least seventy percent (70%) of total annual production or output as export sales.
  - ii. High-value DMEs satisfy the investment capital or export requirement under Section 293(J) of the Tax Code. Qualified High-value DMEs may avail of the said incentives from the date of registration until the expiration of the income tax-based incentives granted under Section 296-A of the Tax Code.

DMEs may avail of duty exemption on importation from the date of registration until the expiration of the income tax-based incentives granted.

After the expiration of the entitlement to VAT zero-rating on local purchases and VAT exemption on importation under Title XIII of the Tax Code, REEs may avail of the VAT-zero rating on local purchases and VAT exemption on importation under Sections 106, 108, and 109 of the Tax Code: *Provided*, That they comply with the requirements as set forth therein.

#### **RULE 4. Strategic Investment Priority Plan**

**SECTION 1. General principles.** – The SIPP shall provide for the types of fiscal and non-fiscal support needed to:

- a. Create high-skilled jobs to grow a local pool of enterprises, particularly micro, small and medium enterprises (MSMEs), that can supply to domestic and global value chains;
- b. Increase the sophistication of products and services that are produced and/or sourced domestically;
- c. Expand domestic supply and reduce dependence on imports;
- d. Attract significant foreign capital or investment;
- e. Promote export diversification and accelerate countryside development (as these are consistent with the tier and locational criteria of the SIPP); and
- f. Develop new industries or support emerging sectors.

The SIPP may include areas of investment that are specific to an area or region, taking into consideration the project or activity that the IPAs in those areas or regions deem fit to promote, in order to foster regional growth and attract investments: *Provided*, That the project or activity identified by the IPAs shall be consistent with the Philippine Development Plan and RA No. 11962, otherwise known as the “Trabaho Para Sa Bayan Act”.

**SECTION 2. Formulation.** – The BOI, in consultation with the FIRB, other IPAs, and OGAs administering tax incentives, shall formulate and recommend the SIPP for the approval of the President.

For this purpose, the BOI shall undertake consultations with the above-named agencies and all other relevant agencies on the proposed SIPP. Thereafter, it shall submit a report to the Steering Committee referred to in Section 7 of this Rule.

**SECTION 3. Contents.** – The SIPP shall contain the following:

- a. Priority projects or activities eligible for tax incentives under Title XIII of the Tax Code;
- b. Scope and coverage of location and industry tiers;

The locational tier shall take into consideration the level of development of the area.

On the other hand, the industry tiers shall be composed of the following:

- i. Tier I shall include activities that (1) have high potential for job creation; (2) take place in sectors with market failures resulting in under-provision 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;
- ii. Tier II 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; and
- iii. 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 an RBE; (4) highly technical manufacturing; or (5) are critical to the structural transformation of the economy and require substantial catch-up efforts, including but not limited to cyber-security, artificial intelligence, and data-center facilities.

**SECTION 4. Criteria for investment priority determination.** – All sectors or industries, projects, or activities 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 sustainable development, and the national interest. In no case shall a sector, industry, project, or activity be included in the SIPP unless it is supported by a formal evaluation process or report.

The following shall be considered in the evaluation of a sector, industry, project, or activity:

- a. Priority projects or activities that are covered by the Philippine Development Plan or its equivalent, as published by the NEDA and other priority government programs, taking into account any of the following:
  - i. Substantial amount of investments;
  - ii. Considerable generation of employment, especially towards less developed areas;
  - iii. Considerable amount of net exports;
  - iv. Use of modern, advanced, or new technology or existing technology but not yet applied in the Philippines;
  - v. Processes and innovations, including urban planning and development methods, that will lead towards the attainment of the sustainable development goals, shall include, but not be limited to, the adoption of adequate environmental protection systems and sustainability strategies;
  - vi. Address missing links and other gaps in the supply or value chain or otherwise moving up the value chain or product ladder;
  - vii. Promotion of market competitiveness or enhancement of the country's competitiveness as an investment destination;
  - viii. Enhancement of the capabilities of Filipino enterprises and professionals to produce and offer increasingly sophisticated products and services;
  - ix. Contribute to Philippine food security and increase of incomes in the agriculture and fisheries sector; or
  - x. Promote regional and global operations in the country.

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: *Provided*, That all such areas in the existing SIPP shall be open for application until publication of an amendment or deletion thereof.

**SECTION 5. Validity.** – The SIPP shall be submitted to the President for approval and shall be valid for three (3) years from its issuance: *Provided*, That the BOI shall formulate and submit a new SIPP to the President not later than 1 October of the third year of its effectivity, unless otherwise extended by the BOI Board.

**SECTION 6. Mandatory laws.** – The SIPP shall include sectors or industries that are mandated by special laws to be listed in the Investment Priority Plan and/or granted incentives.

**SECTION 7. Steering Committee.** – The Steering Committee shall be composed of the BOI

Managing Head, as the Chairperson, the authorized representatives of the Office of the President and the IPAs, and the Chairperson of the Technical Committee of the FIRB.

The Steering Committee shall review the report referred to in the second paragraph of Section 2 of this Rule and submit its recommendations to the BOI. After receipt of the recommendations of the Steering Committee, the BOI shall, upon review, recommend the SIPP to the President for approval.

**SECTION 8. Amendments to the SIPP.** – Subject to publication requirements and the criteria for investment priority determination, the BOI may, at any time, include additional areas in the SIPP, alter any of the terms of the declaration of an investment area, and temporarily suspend projects or activities therein if it considers that such project or activity is no longer a priority within the effectiveness of the SIPP: *Provided*, That any amendment or suspension of the SIPP shall not prejudice the availment of fiscal incentives already granted to RBEs.

The BOI shall review the current SIPP and shall consider recent developments in the industry using the criteria for investment priority determination and adopt reasonable and justifiable positions of the private sector and other related government agencies.

**SECTION 9. Rules and Regulations of the SIPP; Publication.** – 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 preferred areas of investments, the BOI shall cause the publication of the rules and regulations implementing the SIPP, including any amendments thereof, in the Official Gazette or newspaper of general circulation, and on its official website, to be effective.

### **PART III REGISTRATION AND AVAILMENT OF INCENTIVES**

#### **RULE 5. Scope**

**SECTION 1. Authority of the FIRB to grant tax incentives.** – The FIRB, upon the recommendation of the concerned IPA, shall approve or disapprove the grant of tax incentives to registered projects or activities with investment capital of more than Fifteen Billion Pesos (P15,000,000,000). The FIRB, in consultation with the IPAs, may increase the threshold amount of Fifteen Billion Pesos (P15,000,000,000).

**SECTION 2. Authority of the IPAs.** – The concerned IPA shall have the exclusive jurisdiction to register all projects or activities, regardless of the amount of investment capital, subject to compliance with the minimum standards under Part III, Rule 6, Section 2 (Qualifications for registration).

The concerned IPA has the authority to approve or disapprove the grant of tax incentives to registered projects or activities with investment capital of Fifteen Billion Pesos (P15,000,000,000) and below, subject to compliance with Title XIII of the Tax Code and the minimum standards prescribed by this IRR.

The registration of projects and grant of incentives covered by special laws not repealed or amended by RA Nos. 11534 and 12066, shall continue to be administered by the IPA vested with such authority: *Provided*, That those laws with specific incentives provisions thereto shall continue to be granted with the incentives therein: *Provided, further*, That where such law grants entitlement of incentives under Executive Order No. 226, otherwise known as the “Omnibus Investments Code of 1987”, as amended, the incentives regime and the conditions for the grant under the Tax Code shall apply.

## RULE 6. Registration of Business Enterprise

**SECTION 1. Qualified business enterprises.** – A project or activity listed in the SIPP may register under the Act.

**SECTION 2. Qualifications for registration.** – Every applicant must comply with the following:

- a. Every qualified project or activity must satisfy the qualifications set forth in the SIPP;
- b. If the project or activity in which it is engaged or proposes to engage is nationalized by the Constitution or by law, the ownership requirement of the Constitution and/or such law has been complied with;
- c. If there is a law requiring a minimum percentage of its directors to be Philippine citizens, the same has been complied with. To determine compliance with the citizenship requirement for members of the Board of Directors, the basis shall be the positions actually filled, exclusive of vacancies, unless there is a specific rule to the contrary; and
- d. That the project or activity in which the applicant is engaged is within its corporate powers and is not otherwise prohibited by law.

**SECTION 3. Method of filing; Fees.** – Applications for registration shall be filed electronically through the Fiscal Incentives Registration and Monitoring System (FIRMS) or through the system of the IPA: *Provided*, That the IPA system is interoperable with and can be linked to the FIRB system: *Provided, further*, That in the event that the FIRMS is unavailable, applications may be filed manually, accomplished in two (2) copies and sworn to before a notary public, or in any manner prescribed by the concerned IPA. The applicable fees shall be determined by the IPA concerned.

**SECTION 4. Basic documentary requirements.** – The application shall be supported by the following requirements:

- a. Enterprise-level information
  - i. Department of Trade and Industry (DTI) or Securities and Exchange Commission (SEC) registration, whichever is applicable;
  - ii. BIR Certificate of Registration or BIR Form No. 2303;
  - iii. SEC General Information Sheet (GIS);
  - iv. Secretary's Certificate on the authorized business representative and its details;
  - v. Notarized integrity pledge;
  - vi. Latest Audited Financial Statements (AFS) and related Notes to AFS, if applicable;
  - vii. Details of related party transactions, if any; and
  - viii. Tax relief, if any.
- b. Project or activity-level information
  - i. Locational address;
  - ii. Description, SIPP classification, tier classification and type of activity;
  - iii. Business model and product specifications;
  - iv. Project or activity set-up timetable from registration to start of commercial operations;
  - v. Committed investment capital, breakdown, and projected inflow for the incentivized period;
  - vi. Facility or utility requirements;
  - vii. Details on equity funding (e.g., source) or debt funding (e.g., source, interest rate, etc.), if applicable;

- viii. Projected financial statements without incentives for the incentivized period (i.e., income statement, balance sheet, statement of cashflows, including breakdown of each account);
- ix. Projected sales and count of exported goods in Philippine peso and in US dollars for the incentivized period, if applicable;
- x. Projected purchase value of raw materials, capital equipment, and spare parts for the incentivized period;
- xi. Projected importation value of capital equipment, spare parts, and raw materials, and country of source for the incentivized period;
- xii. Projected tax payments for the incentivized period, including local business tax and real property tax;
- xiii. Projected number of employees and their compensation for the incentivized period, segregated between function (i.e., direct labor, selling, or administrative) and terms of contract (i.e., employer-employee relationship or subcontracted); and
- xiv. If availing of EDR, type of enhanced deductions to be claimed.

c. Such other documents or information as may be required under the SIPP, the IPA, or the FIRB.

**SECTION 5. *Incomplete application.*** – The concerned IPA shall notify the applicant of all pertinent requirements not complied with within three (3) working days from receipt of such application. The application shall be considered withdrawn upon failure to submit complete documents or information within seven (7) working days from receipt of the notification, without prejudice to reapplication. Upon completion of the documentary requirements, the application shall be officially accepted immediately and the corresponding notice shall be issued to the applicant.

**SECTION 6. *IPA evaluation process.*** – The evaluation procedure shall be as follows:

- a. The concerned IPA shall conduct a pre-evaluation of the applicant's eligibility for incentives and completeness of documents.
- b. The concerned IPA shall conduct an initial impact evaluation to determine the *ex-ante* impact of tax incentives on the investment project or activity applied for. The projected cost to the government, represented by the amount of incentives that the RBE will enjoy, will be compared to the projected benefits to the government, which will be represented by the taxes, duties, and fees to be paid for by the RBE to the government (national and local). As far as practicable, the period of comparison shall cover the entire period of incentives entitlement. A preliminary negative fiscal cost-benefit ratio shall not, by itself, disqualify the applicant for registration.
- c. The benefits to the government shall be complemented with other economic and non-fiscal benefits to be derived by the government from the project (e.g., multiplier effects, linkages, social, technological, and environmental contributions).
- d. The concerned IPA shall issue the Order of Payment for the filing fee and stamp the Date of Official Filing and the Application Number on the application.
- e. The concerned IPA shall notify the applicant of any issues encountered during the evaluation process. The applicant shall be given a reasonable period to address the issue encountered or comply with the additional requirements, if any.
- f. The concerned IPA shall endorse the application for incentives and its corresponding recommendation thereto to the FIRB if a project or activity has an investment capital of more than Fifteen Billion Pesos (P15,000,000,000), unless the investment capital threshold

is increased by the FIRB.

**SECTION 7. FIRB evaluation process.** – Unless otherwise modified by the Board, the FIRB shall evaluate the IPA recommendation for tax incentives for projects or activities referred to in Rule 5, Section 1 (Authority of the FIRB to grant tax incentives), following these procedural steps:

- a. Upon completion of all documentary requirements, the FIRB Secretariat shall review the evaluation and recommendations of the IPA and prepare an evaluation report, which shall be submitted to the Technical Committee.
- b. The Technical Committee may adopt, modify, or reject the IPA's evaluation and shall submit its recommendations to the Board.
- c. The Board shall have the exclusive authority to decide on all applications for tax incentives. The Board may adopt, revise, or reverse the recommendations of the Technical Committee through a Board resolution issued for each application and signed by at least a majority of the members of the Board.
- d. The FIRB Secretariat shall provide the concerned IPA, copy furnished the concerned RBE, with a copy of the Board resolution on the approved tax incentives to be provided in the terms and conditions for registration of the RBE.

**SECTION 8. Impact Evaluation Report.** – Applications for tax incentives shall undergo an initial evaluation to determine the *ex-ante* impact of tax incentives on the investment project or activity applied for using the FIRB-prescribed data requirements, reporting standards, processes, and procedures.

**SECTION 9. Burden of proof.** – In every case, the applicant shall have the burden of proving that every project or activity is qualified for the tax incentives applied for.

**SECTION 10. Decision on an application for tax incentives.** – The decision of the concerned IPA or the FIRB on the application for tax incentives of the RBE shall be final: *Provided*, That the RBE may file for a reconsideration subject to the applicable guidelines as may be issued by the IPA or the FIRB.

**SECTION 11. Returning and archiving of applications for grant of incentives.** – Applications for the grant of incentives under Rule 5, Section 1 of this IRR (Authority of the FIRB to grant tax incentives), with incomplete documentary requirements endorsed by the concerned IPA, shall be subject to FIRB Resolution No. 008-24, unless otherwise amended or revoked.

#### **RULE 7. Action on the Registration**

**SECTION 1. IPA action; Notice to applicant.** – The concerned IPA shall decide on the application upon evaluation of complete documentary requirements and other requirements prescribed in Part III of this IRR. The IPA shall notify the business enterprise of the decision on the application. In the event of denial of the application, the IPA shall issue a Notice of Denial to the business enterprise that clearly and distinctly states the facts, law, or rule on which the denial is based without prejudice to reapplication, provided that the grounds for the denial are addressed.

**SECTION 2. COR.** – The COR shall be issued by the concerned IPA. The COR shall state, among others:

- a. Name and business address of the RBE;
- b. Taxpayer Identification Number of the RBE;

- c. Unique control number;
- d. Registered project or activity;
- e. Tax incentives entitlement under agreed terms and conditions; and
- f. Period of entitlement to tax incentives.

**SECTION 3. *Conditions precedent for the issuance of a COR.*** – Before the issuance of the COR, the following requirements shall be submitted and complied with:

- a. Payment of registration fee, if applicable;
- b. Letter, or if a corporation, resolution of the applicant's board of directors formally accepting the proposed terms and conditions of registration;
- c. Sworn statement authorized by the board of directors/partners or by the individual adopting or affirming all representations and commitments made by the applicant to the concerned IPA, and stating that with the exception of those which the concerned IPA has been duly advised in writing, all information and data heretofore submitted by it are still correct; and
- d. All pre-registration requirements, if any, imposed by the concerned IPA.

**SECTION 4. *Issuance of a COR.*** – Upon fulfillment of the foregoing conditions precedent, a COR shall be issued and will entitle the business enterprise to the tax incentives granted by the FIRB or the concerned IPA, subject to the terms and conditions imposed therein.

**SECTION 5. *Processing period of application for registration for the grant of tax incentives.*** – The FIRB or the concerned IPA, as the case may be, shall issue a decision on applications for tax incentives within twenty (20) working days from the receipt of all required documents, in accordance with Section 9 (Accessing Government Services) of RA No. 11032, otherwise known as the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018". An extension of the processing period may be permitted only once and shall in no case exceed an additional twenty (20) working days.

#### **RULE 8. Application for Income Tax-Based Incentives**

**SECTION 1. *Filing of an application for income tax-based incentives.*** – All RBEs granted with incentives shall annually file for CETI with the concerned IPA to be able to avail of income tax-based incentives.

**SECTION 2. *Form.*** – All applications shall be filed annually on a per-project basis and made upon the prescribed forms under this IRR: *Provided*, That simplified forms shall be prescribed for Micro and Small Enterprises.

**SECTION 3. *Period and manner of application for a CETI.*** – After the close of the taxable year and prior to the filing of the annual income tax return (ITR), the RBE shall apply for a CETI, which shall be filed electronically, together with the documentary requirements under this Rule, through the FIRMS or through the system of the IPA: *Provided*, That the IPA system is interoperable with and can be linked to the FIRB system: *Provided, further*, That in the event that the FIRMS or the IPA system is unavailable, such application may be filed manually, accomplished in two (2) copies and sworn to before a notary public, or in any manner prescribed by the concerned IPA. The applicable fees shall be determined by the concerned IPA.

**SECTION 4. *Issuance of a CETI.*** – Upon verification of the compliance with the terms and

conditions of its registration and payment of corresponding fee by the RBE, the concerned IPA shall issue the CETI in the prescribed form. This certificate, which shall be attached to the annual ITR, shall be issued by the IPA upon application by the RBE prior to the statutory deadline for the filing of the annual ITR with the BIR. The CETI shall state, among others:

- a. Name and business address of the RBE;
- b. Taxpayer Identification Number of the RBE;
- c. Unique control number;
- d. Registered project or activity;
- e. Name of IPA having jurisdiction over the registered enterprise;
- f. Types of tax incentives granted for the taxable year, as applicable; and
- g. Covered taxable year.

The IPA may submit a master list of RBEs entitled to income tax-based incentives to the BIR, in lieu of the individual CETI prescribed above, until such time that the FIRB mandates the use of the FIRMS by all IPAs.

The issuance of the CETI or the inclusion in the master list of RBEs entitled to income tax-based incentives shall be without prejudice to the RBE's full compliance with its terms and conditions prior to tax incentives availment for a particular taxable year.

**Section 5. Submission of list of registered projects entitled to income tax-based incentives.** – Within sixty (60) days after the close of taxable year, the concerned IPA shall provide the BIR, copy furnished the FIRB Secretariat, with the master list of RBEs entitled to income tax-based incentives pursuant to the terms and conditions of their project registration. The master list with the name of the IPA having jurisdiction over the registered enterprises shall reflect the following information:

- a. Name and business address of the RBE;
- b. Taxpayer Identification Number of the RBE;
- c. Registered project or activity and location;
- d. Types of income tax-based incentives specified in the terms and conditions of the project registration; and
- e. Entitlement period of the incentives granted for the year reckoned from the actual start of commercial operation or date of registration, whichever is applicable.

The concerned IPA shall submit an updated master list to the BIR, copy furnished the FIRB Secretariat, when necessary.

**Section 6. IPA endorsement to the BIR on the actual entitlement to income tax-based incentives.** – Within one (1) year from the official acceptance of the application for income tax-based incentives, the concerned IPA shall issue on a per-project basis an endorsement letter to the BIR indicating the rate of exemption on such incentive, and the complete docket on the evaluation. The report on the compliance of RBEs with the terms and conditions imposed upon such registered project shall also be included in the said docket.

**SECTION 7. Conditions for the grant of tax incentives.** – The grant of tax incentives shall adhere to the Implementing Rules and Regulations of RA No. 12066  
Page 23 of 48

to the following:

- a. The grant of incentives shall be subject to the requirements and conditions set forth in the SIPP and performance review by concerned IPA;
- b. Compliance with the target performance metrics specified under the terms and conditions of the registration of a registered project or activity: *Provided*, That when any of the agreed performance commitments are not met, justification shall be submitted to the concerned IPA within fifteen (15) calendar days from the receipt of a notice or show cause order issued by either the IPA or the FIRB. The enjoyment of tax incentives may be canceled, suspended, or withdrawn upon due notice;
- c. Compliance with the e-invoicing and e-sales reporting in accordance with Sections 237 and 237-A of the Tax Code: *Provided*, That this condition is contingent upon the operationalization of the BIR's e-invoicing system;
- d. Installation of an adequate accounting system that shall identify the investments, revenues, costs, and profits or losses of each registered project or activity 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 or activity if the IPA should so require; and
- e. Submission of annual reports of beneficial ownership of the organization and related parties.

**SECTION 8. *Monitoring report.*** – Within ninety (90) days after the statutory deadline for filing the annual ITR for registered entities with investment capital of more than Fifteen Billion Pesos (P15,000,000,000) and, within one hundred eighty (180) days after the statutory deadline for filing the annual ITR for registered entities with investment capital of Fifteen Billion Pesos (P15,000,000,000) and below, the concerned IPA shall submit to the FIRB a report on the compliance of RBEs with the terms and conditions imposed for registration and availment of tax incentives.

#### **RULE 9. Application for a VAT Zero-Rating Certificate**

**SECTION 1. *Application for a VAT zero-rating certificate.*** – All REEs or High-value DMEs shall annually apply for VAT zero-rating certificate with their concerned IPA to be able to avail of VAT-zero rating incentives on local purchases.

**SECTION 2. *Form.*** – All applications shall be filed on a per-project basis and made upon the prescribed forms under this IRR.

**SECTION 3. *Period and manner of application for a VAT zero-rating certificate.*** – Prior to the purchase, the REE or High-value DME shall apply for a VAT zero-rating certificate, which shall be filed electronically, together with the documentary requirements under this rule, through the FIRMS or through the system of the IPA: *Provided*, That the IPA system is interoperable with and can be linked to the FIRB system: *Provided, further*, That in the event that the FIRMS or the IPA system is unavailable, such application may be filed manually with the concerned IPA. The applicable fees shall be determined by the concerned IPA.

**SECTION 4. *Issuance of a VAT zero-rating certificate.*** – Upon verification of compliance with the condition for the issuance of VAT zero-rating certificate, the concerned IPA shall issue the said certificate. The VAT zero-rating certificate shall state, among others:

- a. Name and business address of the REE or High-value DME;

- b. Taxpayer Identification Number of the REE or High-value DME;
- c. Unique control number;
- d. Registered project or activity;
- e. Name of IPA having jurisdiction over the registered enterprise;
- f. Covered taxable year; and
- g. Export rate.

Any REE that fails to meet the seventy percent (70%) export sales in the immediately preceding calendar/fiscal year or High-value DME that fails to meet the export sale or investment capital requirement shall be disqualified from availing of duty exemption on importation under Section 294(D) of the Tax Code, and VAT exemption on importation and VAT zero-rating on local purchases under Section 294(E) of the same Code in the immediately succeeding year. The VAT-zero rating certification shall be valid for one calendar/fiscal year.

Beginning the fourth quarter of the current taxable period until the first quarter of the next taxable period, an REE or High-value DME should apply with the concerned IPA for a VAT zero-rating certificate that will cover the next taxable period of the REE or High-value DME. Upon application thereof, the IPA shall determine the compliance of an REE with the seventy percent (70%) export sales requirement or of a High-value DME with the export sale or investment capital requirement. Upon determination of the REE or High-value DME compliance, the IPA may issue the corresponding VAT zero-rating certificate, which will cover the immediately succeeding taxable period of the qualified REE or High-value DME. The compliance of the requirements shall be based on the performance of the REE or High-value DME either: (a) during the current taxable period, if the determination will be during the fourth quarter of the current taxable year; or (b) during the previous taxable period, if the determination will be during the first quarter of the succeeding year.

In the event of non-compliance by the RBE of the export or investment capital requirement in the immediately preceding year, as applicable, the IPA shall notify the BIR of the cancellation of the VAT zero-rating certification: *Provided*, That the non-compliance with the export or investment capital requirement will not adversely affect non-income tax-based incentives availed during the prior year.

**SECTION 5. Presentation of a VAT zero-rating certificate.** – The VAT zero-rating on local purchases of goods shall be availed of on the basis of the VAT zero-rating certification issued by the concerned IPA. The certificate shall be presented to the supplier for the availment of VAT-zero rating.

No refund or credit of input VAT shall be allowed on the part of the REE or High-value DME in case the local suppliers passed-on VAT on the local purchases of goods and services directly attributable to the registered project or activity of the REE or High-value DME. In such cases, the REE or High-value DME may contest the same and/or resolve with the local supplier for the reimbursement of VAT paid, if any. The previously issued Sales Invoice (SI) to the REE or High-value DME having VAT imposed must be surrendered or returned to the local supplier for cancellation and replacement.

**SECTION 6. Reporting to the BIR.** – The concerned IPA shall furnish the BIR, through the Assessment Service and its Audit Information, Tax Exemption and Incentives Division (AITEID), a list of REEs issued with VAT zero-rating certification within twenty (20) days following the close of each taxable quarter. In order to obtain relevant information for audit purposes, the

Commissioner of Internal Revenue may prescribe a report template in a separate revenue issuance.

**RULE 10. Customs Duty Exemption on Importation of Capital Equipment, Raw Materials, Spare Parts, and Accessories**

**SECTION 1. *Certificate of Authority to Import (CAI)*.** – The CAI shall be issued by the concerned IPA in a form prescribed by the FIRB, through the FIRB Secretariat. One separate CAI shall be issued for each registered project or activity of an RBE.

The CAI shall not replace the import permit/admission entry and/or other equivalent documents used by the concerned IPA to allow the actual entry of exempt importations into the economic zones or freeport zones.

**SECTION 2. *Application for CAI*.** – The IPAs may integrate the application and issuance of the CAI into their existing electronic import permit system, electronic transit admission permit system, or its equivalent, as may be applicable, which shall be known as the electronic CAI (e-CAI). The FIRB, through the FIRB Secretariat, in consultation with the IPAs and the BOC, shall promulgate the separate guidelines for the implementation of the e-CAI.

For IPAs with no electronic system, or pending the development of such electronic system, the application and issuance of the CAI may be done manually following the procedures for the application for import permit, admission permit, tax exemption indorsement, or its equivalent, as may be applicable.

In its original application for the CAI, the RBE shall submit to the concerned IPA a specific listing of items of capital equipment, raw materials, spare parts, and accessories that it plans to import for the particular year, together with supporting pro-forma invoices, quotations, and other relevant documents: *Provided*, That the list of importables shall be on a “per registered project or activity” basis: *Provided, further*, That the RBE may apply for a supplementary CAI at any time during the year to include additional importables not included in the original application: *Provided, finally*, That a unique control ID shall be generated for every original issuance of the CAI, and for every update thereof to include the supplemental items.

**SECTION 3. *Importation Pending the Issuance of the COR*.** – Pending issuance of the COR, an IPA may authorize the importation of capital equipment, raw materials, spare parts, or accessories for projects or activities approved by the respective IPA boards or the FIRB, subject to the posting of bond or bank guarantee equivalent to duties and taxes waived on such importations and other conditions as may be determined by the concerned IPA and the BOC.

In order for the project or activity to avail of the customs duty exemption and VAT exemption on importation, the concerned IPA shall issue a special CAI for importations pending the issuance of the COR. Once the COR has been issued, the special CAI is deemed revoked, and the registered project or activity shall be required to apply for the regular CAI pursuant to Section 2 of this Rule.

**SECTION 4. *IPA approval prior to importation*.** – The approval of the IPA through the CAI must be obtained by the RBE prior to the importation of the goods.

In approving the application for original and/or supplementary CAI, the concerned IPA shall ensure that the capital equipment, raw materials, spare parts, or accessories listed therein shall comply with the requirements for customs duty exemption and VAT exemption on importation in Sections 2 and 3 of Rule 2 of this IRR.

The action of the concerned IPA, whether it be for approval or disapproval, shall be communicated

in writing to the applicant.

The concerned IPA may issue separate documents such as import permits, transit admission permits, or other equivalent documents to allow the entry of the imported items into the zone, freeport, or premises of the RBE, subject to the IPA's existing rules and regulations.

The BOC shall also check that the specific items of importables reflected in the actual import permit, transit admission permit, tax exemption indorsement, or other equivalent document are likewise listed on the approved CAI; otherwise, it shall assess the applicable duties and taxes on such importation.

**SECTION 5. *Sale, transfer, or disposition of imported articles.*** – The following rules shall govern the subsequent sale, transfer, or disposition of the capital equipment, raw materials, spare parts, or accessories, including goods used for administrative purposes, which were granted tax and customs duty exemption upon importation:

- a. In case of sale, transfer, or disposition within five (5) years from the date of importation, prior approval of the concerned IPA must be secured by the RBE. Otherwise, the provisions on solidary liability under Section 6 of this Rule shall apply.
  - i. No taxes and duties shall be imposed on any of the following subsequent sale, transfer, or disposition:
    1. If made to another enterprise availing of customs duty exemption on imported capital equipment, raw materials, spare parts, or accessories;
    2. Exportation of capital equipment, raw materials, spare parts, accessories, source documents, or goods required for pollution abatement and control; or
    3. If donated to the Government of the Philippines or to any of its agencies or political subdivisions, including fully-owned government corporations, Technical Education and Skills Development Authority (TESDA), SUCs, or the Department of Education (DepEd) and Commission on Higher Education (CHED)-accredited schools: *Provided*, That the donation shall be exempt from import duties and taxes, including donor's tax.
  - ii. There shall be taxes and duties assessed based on the net book value of the capital equipment, raw materials, spare parts, or accessories in case of the following subsequent sale, transfer, or disposition of tax- and duty-free imported items:
    1. Made to another enterprise not availing of duty exemption on imported capital equipment, raw materials, spare parts, or accessories; or
    2. There is proven technical obsolescence of the capital equipment, raw materials, spare parts, or accessories.
- b. In case of sale, transfer, or disposition after five (5) years from the date of importation, prior notice shall be given by the RBE to the concerned IPA.

However, when the RBE has violated any of the terms and conditions of its registration, the RBE remains to be liable for the payment of duties based on the net book value of the imported items as well as the applicable taxes under the Tax Code on such sale, transfer, or disposition, regardless if notice is made to the concerned IPA.

**SECTION 6. *Solidary liability.*** – If the RBE sells, transfers, or disposes the capital equipment, raw

materials, spare parts, or accessories without prior approval of the concerned IPA, the RBE and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of the duty exemption that should have been paid during its importation.

**SECTION 7. *Utilization in non-registered project or activity.*** – In the event that the capital equipment, raw materials, spare parts, or accessories will be used for a non-registered project or activity of the RBE at any time within the first five (5) years from date of importation, the RBE shall secure prior approval of the concerned IPA and pay the amount corresponding to the exempt duties on importation thereof.

For part-time utilization in a non-registered project or activity, the amount corresponding to the duties exempt on a specific capital equipment, raw materials, spare parts, or accessories shall be paid in proportion to its utilization for the non-registered project or activity: *Provided*, That the RBE shall adopt a method to best allocate the same at the time of application for a CAI or its equivalent.

A report on the amount corresponding to the customs duty exemption on the specific capital equipment, raw materials, spare parts, or accessories utilized in a non-registered project or activity shall be submitted by the RBE to the BIR and the BOC.

**SECTION 8. *Validity of the CAI.*** – All CAIs, whether issued manually or electronically, shall be non-transferable, and shall be valid for one (1) year from the date when it was issued, unless a different period is set by the IPA, or unless earlier invalidated or revoked under this IRR.

To promote the ease of doing business, an IPA may allow the automatic renewal of the CAI upon its expiration, particularly for specific list of importables included on the previous year's CAI but expected to be utilized/imported in the succeeding year: *Provided*, That the concerned project or activity of an RBE is still entitled to VAT and/or duty incentives on its importations: *Provided, further*, That the required CAI renewal fee has been paid to the IPA, as applicable.

**SECTION 9. *Monitoring of the imported capital equipment, raw materials, spare parts, and accessories.*** –

- a. The IPA shall provide the FIRB, through the FIRB Secretariat, periodic monitoring reports on the details of regular and special CAIs issued on a per-project or activity basis using the monitoring templates to be prescribed by the FIRB Secretariat. Nonetheless, IPAs that have implemented the e-CAI shall not be required to submit monitoring reports. Instead, the FIRB, through the FIRB Secretariat, shall be granted viewing access to their electronic systems to allow the electronic extraction of monitoring reports, as well as copies of issued e-CAIs.
- b. The tax- and duty-free importations shall, at any reasonable time, be subjected to inspection by the concerned IPA, BOC, and/or the FIRB, through the FIRB Secretariat, to verify whether these have actually been installed, are being used by the qualified RBE in its registered project or activity, and are not locally available in sufficient quality or of comparable quality and at reasonable prices.
- c. In the event of a contrary finding discovered during post-audit or inspection of the tax- and duty-free importations, the IPA reserves the right to delete the specific listing from the CAI. Further, the concerned IPA may recommend to the RCAs the assessment and collection of the corresponding duties and/or taxes of the covered importations, without prejudice to the IPA's power to cancel, suspend, or withdraw the grant of incentives.

**SECTION 10. *Certificate of Non-Local Availability (CNLA).*** – Upon the implementation of the CAI under this Rule, a separate CNLA will no longer be required for the availment of the customs duty

exemption on the importation of capital equipment, raw materials, spare parts, or accessories by RBEs: *Provided*, That the concerned IPA shall, pursuant to DOF-DTI Joint Memorandum Circular 001-2023, determine the non-local availability of the said importations at the time of filing by the RBE with the concerned IPA of its application for CAI: *Provided, further*, That the concerned IPA shall indicate in the CAI that the capital equipment, raw materials, spare parts, or accessories to be imported are not produced or manufactured domestically in sufficient quantity or of comparable quality and at reasonable prices: *Provided, finally*, That the CNLA for said importation is deemed integrated into the CAI; as such, in the processing of the tax exemption indorsement, the DOF-Revenue Office and BOC shall no longer require from RBEs a separate CNLA.

#### **Rule 11. Power of the President to Grant Incentives**

**SECTION 1. Power of the President to grant incentives.** – Notwithstanding the provisions of Sections 295, 296, and 296-A of the Tax Code, the President may, in the interest of national economic development, modify the mix, period, or manner of availment of tax incentives, or craft the appropriate fiscal and non-fiscal support package for a highly desirable project or a specific industrial activity.

The President may require the conduct of impact evaluation by the FIRB or other relevant agencies in calibrating either or both the magnitude of the incentives to be granted and the agreed performance target corresponding to the grant.

**SECTION 2. Power of the President to grant incentives to projects recommended by the FIRB.** – The President may also grant the incentives upon the recommendation of the FIRB based on defined development strategies for creating high-value jobs, building new industries to diversify economic activities, and attracting significant foreign and domestic capital or investment, and the fiscal requirements of the activity or project.

**SECTION 3. Impact evaluation.** – The FIRB shall determine whether the benefits that the government may derive from such investment are clear and convincing and far outweigh the cost of incentives that will be granted in determining whether a project or activity is highly desirable. After its determination that the applicant qualifies for the grant of incentives under this Rule, the FIRB shall transmit a Memorandum for the President recommending the support package to be granted to the applicant.

**SECTION 4. Fiscal incentives.** – The President may grant an ITH not exceeding ten (10) years followed by 5% SCIT or EDR, or 5% SCIT or EDR, immediately at the start of commercial operations: *Provided*, That the total period of income tax-based incentive availment that may be granted by the President shall not exceed forty (40) years.

**SECTION 5. Non-fiscal support and budgetary support.** – Non-fiscal support is limited to the utilization of government resources, such as use of land; and budgetary support under the annual GAA.

The required budgetary support shall be included by the Department of Budget and Management (DBM) in the concerned IPA or other relevant government agency's annual budget as requested, subject to pertinent budgeting and accounting laws, rules, and regulations.

**SECTION 6. Presidential action on applications for incentives.** – The President's action on the tax incentive application shall be made through a Memorandum addressed to the FIRB containing the following:

- a. The tax incentives granted, including the period thereof;
- b. Fiscal or budgetary support under the annual GAA, if any, which shall include a directive to

relevant agency/ies to implement the said support;

- c. The non-fiscal support, if any, limited to the utilization of government resources, such as use of land; and
- d. Terms and conditions for the grant of the fiscal and non-fiscal support package.

**SECTION 7. *Conditions for the grant.*** – The President may exercise the powers under Section 301 of the Tax Code: *Provided*, That the following conditions are satisfied:

- a. The project has a comprehensive sustainable development plan with clear inclusive business approaches, and high level of sophistication and innovation; and
- b. Minimum investment capital of Fifty Billion Pesos (P50,000,000,000) or its equivalent in US dollars, or a minimum direct local employment generation of at least ten thousand (10,000) within three (3) years from the issuance of the COR. The threshold shall be subject to a periodic review by the FIRB every three (3) years, taking into consideration international standards or other economic indicators.

**Section 8. *Approval of a highly desirable project or activity.*** – Upon approval of the President through a Memorandum to the FIRB, the concerned IPA shall register the highly desirable project pursuant to Rules 6 and 7 of this IRR. The concerned IPA shall administer the incentives under Title XIII of the Tax Code: *Provided*, That the compliance with the performance commitments shall be monitored by the concerned IPA and the FIRB.

The applicable process and requirements under this IRR in relation to incentives availment and compliance with performance commitments and all other rules relating to the registered project or activity shall apply to the registered highly desirable project.

**SECTION 9. *Cancellation of incentives.*** – If the project fails to substantially meet the projected impact on the economy and agreed performance targets, the FIRB shall recommend to the President the cancellation of the tax incentive or financial support package or the modified period or manner of availment of incentives, after due hearing and an adequate opportunity to substantially comply with the agreed performance targets and outputs. The final decision rests with the President.

**SECTION 10. *Suspension of the power of the President to grant incentives.*** – This power of the President, in as far as it commands additional public sector expenditure in support of investors, is suspended during fiscal years when an unmanageable fiscal deficit is declared by the President on the advice of the Development Budget Coordination Committee (DBCC), mandatory revenue allotments for LGUs and budget for the NEDA's core public investments program, cannot be fully financed.

Notwithstanding the provisions in the preceding Sections, tax and duty incentives granted through legislative franchises shall be exempted from the foregoing powers of the President to review, withdraw, suspend, or cancel tax incentives and subsidies.

## **PART IV** **TAX INCENTIVES MANAGEMENT AND TRANSPARENCY**

### **RULE 12. Filing and Submission of the Annual Tax Incentives Report**

**SECTION 1. *Filing of tax returns and payment of tax liabilities.*** – All RBEs and OREs, whether taxable or exempt, are required to file their tax returns and pay their tax liabilities, on or before the deadline as provided under the Tax Code, using the electronic system for filing and payment

of taxes with the BIR: *Provided*, That for purposes of complying with their tax obligations, registered entities that do not have access to the electronic facilities shall file with their respective revenue district offices.

The IPAs and OGAs administering tax incentives shall consider only electronically filed returns for purposes of availing income tax-based incentives, except when the electronic services of the BIR are unavailable, as evidenced by written advice issued by the BIR. In such cases, the RBEs and OREs shall file and/or pay the taxes due on or before the statutory deadline manually. In which case, the BIR duly stamped tax returns shall be accepted by the IPAs and the OGAs.

**SECTION 2. *Submission of the ATIR and ABR.*** – All RBEs and OREs availing of tax incentives shall, within thirty (30) calendar days from the statutory deadline for filing of tax returns and payment of taxes, submit through the FIRMS the following:

- a. Complete ATIR of their income tax-based incentives, VAT exemptions and zero-rating, customs duty exemptions, deductions, credits or exclusions from the income tax base, and exemptions from local taxes, fees and charges accompanied with a statement of management responsibility; and
- b. Complete ABR, which shall include data such as, but not limited to, the approved and actual amount of investments, approved and actual exports and imports, domestic purchases, profits, and dividend payout, all taxes paid, withheld and foregone, accompanied with a statement of management responsibility: *Provided, however*, That the approved and actual employment level and job creation, including compensation data and hours worked, shall be submitted on or before 15 May of the immediately succeeding calendar year.

Submission of the ATIR and ABR through FIRMS shall be considered a submission to both the concerned IPA and the FIRB.

**SECTION 3. *Contents of the ATIR and ABR.*** – The ATIR and ABR shall contain an entity and project or activity level tax expenditure and benefits data for a given year. The report shall also contain, but not be limited to, the following data where applicable to the relevant incentive regime:

- a. Cost data:
  - i. Income tax-based incentives;
  - ii. VAT exemption;
  - iii. Value of VAT zero-rated;
  - iv. Customs duty exemptions;
  - v. Itemized deductions;
  - vi. Depreciation allowance of the assets acquired for the entity's production of goods and performance of services (qualified capital expenditure);
  - vii. Domestic input expense;
  - viii. Power expense;
  - ix. Reinvestment allowance for manufacturing and tourism industry;
  - x. Expenses relating to exhibitions, trade missions, or trade fairs;
  - xi. Training expenses;
  - xii. Research and development expenses;
  - xiii. Enhanced NOLCO;
  - xiv. Credits or exclusions from the income tax base;
  - xv. Exemptions from local taxes, fees and charges;
  - xvi. Net sales;
  - xvii. Export sales;
  - xviii. Domestic sales;
  - xix. Cost of sales;

- xx. Gross income;
- xxi. Value of sales to domestic market;
- xxii. Retained earnings;
- xxiii. Revenues or sales;
- xxiv. Income before and after tax;
- xxv. Dividends declared (cash dividends); and
- xxvi. Royalties, management fees, and payments for technical know-how, cost recharges, and headquarter costs.

b. Benefits data:

- i. Total number of Filipino employees;
- ii. Total direct employment for the year (as of year-end);
- iii. Direct employees hired for the year;
- iv. Total indirect employment for the year (as of year-end);
- v. Indirect employees hired for the year;
- vi. Compensation and benefits;
- vii. Services rendered by non-residents;
- viii. Taxes paid per type of tax; local business taxes and fees paid;
- ix. Domestic purchases of raw materials;
- x. Total domestic purchases on capital goods;
- xi. Total domestic purchases on goods other than capital goods;
- xii. Total domestic purchases on service;
- xiii. Domestic capital input;
- xiv. Other domestic inputs;
- xv. Volume and value of imports on capital goods;
- xvi. Volume and value of imports on goods other than capital goods;
- xvii. Description of importation;
- xviii. Imported raw materials;
- xix. Imported capital input;
- xx. Infrastructure spending;
- xxi. Total approved investment; and
- xxii. Total actual investment.

**SECTION 4. Role of the IPAs and OGAs administering tax incentives.** – The heads of the IPAs and OGAs shall:

- a. Submit to the FIRB per firm and per registered project or activity-level in a machine-readable format: the (i) consolidated data on tax incentives and benefits based on the ATIR and ABR submissions of RBEs and OREs and other investment; and (ii) non-investment-related data, for purposes of conducting an impact evaluation method, as may be required: *Provided, That the FIRB shall generate the aforementioned reports upon the establishment and mandatory implementation of a data entry reporting system in the FIRMS;*
- b. Submit to the FIRB a master list (FIRB Form No. 1000AS) of all RBEs and OREs availing of tax incentives. The submission of the master list shall be required while the FIRB is developing the online portal for monitoring. Once the database becomes available, the FIRB shall generate the said master list from the online portal. The master list shall be updated within thirty (30) days after the close of each calendar year;
- c. Submit to the BIR the master list in the immediately preceding paragraph, within sixty (60) days after the close of each calendar year;
- d. Submit to the BIR and the FIRB the consolidated ATIR on (i) income tax-based incentives and (ii) VAT incentives and duty exemptions within sixty (60) days from the statutory

deadline for filing of Final Adjustment Return and payment of taxes due thereon, if any, of those employing the calendar year accounting period.

- e. The IPAs and OGAs administering tax incentives shall include in the said report the ATIRs on income tax, and ATIRs on VAT incentives and duty exemptions of RBEs and OREs employing the fiscal year accounting period with fiscal years ending within the subject year. Thus:

Accounting Period	Year Ending On	IPAs shall submit on:
Calendar Year	31 December	14 June of the following year
Fiscal Year	Other than 31 December	14 June of the following year

- f. Submit to the BIR and the FIRB a list of RBEs whose incentives have been suspended or withdrawn or whose CORs have been cancelled, within fifteen (15) days from the date the said penalty has been imposed;
- g. Submit to the BIR and the FIRB a list of RBEs that were issued CETI, VAT-zero rating, and Import Permit in the previous covered taxable period, within thirty (30) days after the close of each calendar year; and
- h. Within ten (10) days after the end of each month, the IPA shall submit to the FIRB a list of projects or activities with investment capital of Fifteen Billion Pesos (P15,000,000,000) and below that were granted tax incentives. The list shall include the names of the firms, registered projects or activities, location of the registered projects or activities, COR numbers, amounts of investment capital, and types of tax incentives granted.

**SECTION 5. *Role of the BIR and the BOC.*** – Notwithstanding any law to the contrary, the BIR and the BOC shall submit, on or before 15 August of every year, to the DOF: (a) all tax and duty incentives of RBEs and OREs, as reflected in filed tax returns and import entries; and (b) actual tax and duty incentives as evaluated and determined by the BIR and the BOC.

**SECTION 6. *Role of the FIRB.*** – The FIRB shall:

- a. Submit to the BIR, BOC, and DOF the master list of all RBEs and OREs availing of tax incentives within sixty (60) days after the close of each calendar year. The master list shall contain the following basic information: RBE name, Tax Identification Number, PSIC division (2-digit code), and Revenue District Office (RDO), and other details as may be requested by the BIR, BOC, and DOF that are necessary in identifying the RBE, etc., as applicable;
- b. Systematically collect and store all tax incentives and benefit data from the DOF, IPAs, OGAs administering tax incentives, RBEs, and OREs;
- c. 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;
- d. Conduct periodic performance review of all IPAs and OGAs administering incentives in accordance with Section 297(A) of the Tax Code;
- e. Maintain a master list of registered products and services for export or domestic consumption that are entitled to incentives;

- f. Publish annually, at the per firm level, the data pertaining to the amount of tax incentives, tax payments, and other related information, including benefits data and the result of the CBA in the website of the FIRB not later than 15 December of the current year; and
- g. Submit the result of the CBA and other impact evaluation to the Office of the President and Congress on an annual basis.

**SECTION 7. *Role of the DOF.*** – The DOF shall:

- a. Maintain a single database for monitoring and analysis of tax incentives granted;
- b. Submit to the FIRB per firm and per registered project or activity-level in a machine-readable format: (i) data on tax incentives based on the submissions of RBEs and OREs; and (ii) other investment and non-investment-related data, for purposes of conducting an impact evaluation method;
- c. Submit to the DBM a per firm and per registered project and activity data arranged on a sectoral and per industry basis: (i) the amount of tax incentives availed of by RBEs and OREs; (ii) the estimated claims of tax incentives immediately preceding the current year; (iii) the programmed tax incentives for the current year; and (iv) the projected tax incentives for the following year; and
- d. Submit to the Joint Congressional Oversight Committee created under Section 9 of RA No. 10708, otherwise known as “The Tax Incentives Management and Transparency Act (TIMTA)”, the aggregate data categorized by sector, by IPA and by type of tax incentive.

**SECTION 8. *Role of the DBM.*** – The DBM shall reflect the data submitted by the DOF under Section 3(B) of this Rule in the annual Budget of Expenditures and Sources of Financing (BESF), which shall be known as the Tax Incentives Information (TII) Section. The TII shall include a per firm data related to incentives availed of by RBEs and other registered enterprises based on the submissions of the DOF and the concerned IPAs and OGAs administering tax incentives, categorized as follows:

- a. By sector;
- b. By IPA or OGA administering tax incentives; and
- c. By type of tax incentive.

**RULE 13. Conduct of Impact Evaluation on Tax Incentives**

**SECTION 1. *Impact evaluation on tax incentives.*** – The FIRB Secretariat shall, within six (6) months from the acceptance of the required submissions from all IPAs, OGAs administering tax incentives, RBEs, and OREs, annually conduct an impact evaluation such as CBA on the investment and non-investment incentives to determine the impact of tax incentives on the Philippine economy.

The FIRB shall, in the conduct of impact evaluation on tax incentives, utilize the following information:

- a. The ATIRs submitted by the RBEs and OREs pursuant to Rule 12 of this IRR;
- b. Per firm and per registered project and activity data submitted by the DOF, IPAs, and OGAs administering incentives pursuant to Section 307 of the Tax Code;
- c. Other information and reports, as endorsed by DOF and DTI; and

- d. All other information to be identified by the FIRB Secretariat.

The results of the CBA or other impact evaluation methods used by the FIRB, as peer reviewed by a third party when available, shall be considered as an input in the review of the SIPP by the Steering Committee.

**SECTION 2. *Third-party peer review.*** – 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. The FIRB may provide anonymized firm-level data to the third-party government institution subject to a data sharing agreement.

**SECTION 3. *Penalties for non-compliance with filing and reportorial requirements.*** – Any RBE or ORE which fails to comply with filing and reportorial requirements, such as, but not limited to, ATIR/ABR, with the appropriate IPA or OGA administering tax incentives and/or which fails to show proof of filing of tax returns using the electronic system for filing and payment of taxes of the BIR, shall be imposed the following penalties by the appropriate IPA or OGA administering tax incentives:

- a. **First (1st) violation** – payment of a fine amounting to One Hundred Thousand Pesos (P100,000);
- b. **Second (2nd) violation** – payment of a fine amounting to Five Hundred Thousand Pesos (P500,000); and
- c. **Third (3rd) violation** – cancellation by the IPA of the registration of the RBE or registered entity with the IPA or OGA administering tax incentives.

If the failure to show such proof is not due to the fault of the RBE or OREs, the same shall not be a ground for the suspension of the ITH and/or other tax incentives availment. Any and all collections from the penalties shall accrue to the general fund.

After due process, the concerned IPA may cancel the registration, suspend the enjoyment of incentive benefits of any registered enterprise, and/or require refund of incentives enjoyed by such enterprise, including interests and monetary penalties, for any willful and material misrepresentation of information or submission of falsified or misleading information or documents for the purpose of availing of more incentives than what it is entitled to under the Tax Code. For this purpose, the FIRB, in consultation with IPAs and OGAs administering tax incentives, shall promulgate the specific guidelines to implement this provision.

In case of cancellation of the COR, the project or activity of the RBE shall cease to be registered and the RBE shall be required to pay all appropriate taxes and duties from the date the cancellation order becomes final and executory.

The IPA, with the recommendation of the Commissioner, may revoke or suspend incentives granted, and/or order a business closure of the RBE, that violates Title VI (Excise Taxes on Certain Goods) and Title X (Statutory Offenses and Penalties) of the Tax Code and other related revenue regulations, orders, or issuances of the government, such authority shall cover the acts of the RBE committed even in the first year of availment of incentives.

Notwithstanding the provisions of this section, the DOF, the BIR, and the BOC shall retain their respective mandates, powers, and functions, as provided for under the Tax Code and related laws.

Any government official or employee who fails without justifiable reason to provide or furnish the required tax incentives report or other data or information, as required under Sections 306 and 307 of the Tax Code shall be penalized, after due process, by a fine equivalent to the official's or employee's basic salary for a period of one (1) month to six (6) months or by suspension from government service for not more than one (1) year, or both, in addition to any criminal and administrative penalties imposable under existing laws.

## **PART V** **FISCAL INCENTIVES REVIEW BOARD**

### **RULE 14. Expanded Functions of the FIRB**

**SECTION 1. *Policy making, regulatory, and quasi-judicial functions, in general.*** – The FIRB shall exercise policy-making, regulatory, and quasi-judicial functions on the administration and grant of tax incentives by the IPAs and OGAs administering tax incentives. In particular, the FIRB shall:

- a. Determine the target performance metrics as conditions to avail of tax incentives;
- b. Review the compliance of IPAs and OGAs administering tax incentives with respect to the administration and grant of tax incentives and impose sanctions such as, but not limited to, withdrawal, suspension, or cancellation of their authority to grant tax incentives under this Title, without prejudice to the conduct of inquiry, investigation, and filing of appropriate criminal and administrative cases against erring officials and employees in accordance with the procedures prescribed under existing laws. For this purpose, the FIRB, in consultation with IPAs and OGAs administering tax incentives, shall promulgate the specific guidelines to implement this provision;
- c. If necessary, inquire into, investigate, and file appropriate criminal and administrative cases against erring officials and employees of IPAs and OGAs administering tax incentives in accordance with the procedures prescribed under existing laws;
- d. Conduct regular monitoring and evaluation of investment and non-investment tax incentives, such as using CBA to determine their impact on the economy and whether agreed performance targets are met and prescribe the data requirements and reporting standards, processes, and procedures for the application of incentives to allow for the calculation of costs and benefits upon application;
- e. Check and verify, as necessary, the compliance of RBEs, through IPAs, with the terms and conditions of their availment, in particular the agreed target performance metrics, rules and regulations of this Act, and other relevant laws or issuances; and
- f. Provide capacity-building activities to IPAs to ensure that they are equipped to comply with reportorial requirements.

The exercise of FIRB's policy-making powers shall be guided by the following standards:

- a. Develop a more responsive and globally-competitive tax incentives regime that is performance-based, targeted, time-bound, and transparent;
- b. Provide assistance to attract preferred investments, sustain economic growth, and competitiveness;
- c. Create more jobs, transfer technology, and develop skills for the local labor force;

- d. Promote fiscal responsibility in the administration of tax incentives;
- e. Provide assistance to promote exports of products and services;
- f. Promote the use of domestic inputs, and development of rural areas; and
- g. Enable parallel development for rural areas and areas recovering from armed conflict and calamities.

For this purpose, all IPAs and OGAs administering tax incentives shall, within thirty (30) days after the close of each calendar year, furnish the FIRB copies of all its issuances related to the grant and administration of incentives under Title XIII of the Tax Code, as amended. Notwithstanding the foregoing, IPAs and OGAs, may electronically submit to the FIRB the electronic copies or the links of said issuances on the IPA websites upon its effectivity.

**SECTION 2. FIRB oversight functions over other government agencies administering tax incentives under Section 297(A) of the Tax Code.** – All OGAs administering tax incentives are mandated to monitor the compliance of all registered entities within their jurisdiction and submit a report to the FIRB within one hundred eighty (180) days after the statutory deadline for filing the annual income tax return on their compliance with the terms and conditions imposed for registration and grant of tax incentives and the reportorial requirements imposed under the Tax Code and this IRR. In case violations or non-compliance are found, the OGAs shall, within fifteen (15) days from the discovery of such violations, report the same to the FIRB and shall recommend the imposition of appropriate disciplinary action or penalty. Failure of the OGAs administering tax incentives to comply with this requirement shall subject the concerned personnel of the said OGA to appropriate administrative penalties and sanctions under existing laws, rules, and regulations.

**SECTION 3. FIRB oversight functions over registered business enterprises with tax incentives.** – The FIRB, through the IPAs, shall check and verify the compliance of registered business enterprises with the terms and conditions on the grant of tax incentives and the provisions of the Tax Code and this IRR. The FIRB, upon prior notification to the registered business enterprise, and in coordination with the IPA having jurisdiction over the said registered enterprise, shall have the power to verify the documents by conducting an inspection, check, or inventory count for the verification and reconciliation of the records, at any time during office hours at the registered place of business.

**SECTION 4. Power to approve or disapprove the grant of tax incentives.** – The FIRB, upon the recommendation of the IPA, shall approve or disapprove the grant of tax incentives to the extent of the registered project or activity listed in the SIPP with investment capital exceeding Fifteen Billion Pesos (P15,000,000,000). The IPA shall grant tax incentives to registered projects or activities listed in the SIPP with investment capital of Fifteen Billion Pesos (P15,000,000,000) and below. The FIRB, in consultation with the IPAs, may increase the threshold amount of Fifteen Billion Pesos (P15,000,000,000).

**SECTION 5. Power to formulate additional time-bound or place-specific projects or activities for inclusion in the SIPP.** – The FIRB shall formulate additional time-bound or place-specific projects or activities for inclusion in the SIPP during period of recovery from calamities and post-conflict situation and where the FIRB determines that there is a need to attract many classes, firms, and other investors that would accelerate the growth of a region's flagship industries, in accordance with the medium-term development plan.

**SECTION 6. Power to decide on issues concerning tax incentives, including the approval, disapproval, cancellation, suspension, withdrawal, or forfeiture of tax incentives.** – The FIRB, on

its own initiative or upon the recommendation of an IPA, shall, after due process, decide on issues concerning the approval, disapproval, cancellation, suspension, or withdrawal of tax incentives, in accordance with Title XIII of the Tax Code. The following instances, among others, may warrant suspension, cancellation, and withdrawal of incentives by the FIRB:

- a. Non-compliance with the agreed performance targets or flagrant and material violation of any of the conditions imposed in the grant of fiscal incentives;
- b. Willful and material misrepresentation of information for the purpose of availing more incentives than what it is entitled to under the Tax Code;
- c. Non-compliance of the RBE with the reportorial requirement under Rule 12, Section 2 of this IRR; or
- d. Submission of falsified or misleading information or documents.

The FIRB shall decide on the matter within ninety (90) days from the date when the Board declares the issues submitted for resolution. A business enterprise adversely affected by the decision of the FIRB may, within thirty (30) days from receipt of the adverse decision, appeal the same to the Court of Tax Appeals, in accordance with FIRB Memorandum Circular 001-2022, unless otherwise amended or revoked.

**SECTION 7. Power to require submission of incentives and benefits data.** – To require IPAs and OGAs administering tax incentives to submit, regularly or when requested, summaries of approved investment and incentives granted, and firm or entity-level tax incentives and benefits data as input to the FIRB's review and audit function, and evaluation of performance of recipients of tax incentives pursuant to Section 305 of the Tax Code. For this purpose, the FIRB shall maintain a master list of registered products and services for export or domestic consumption that are entitled to incentives. To facilitate compliance with the foregoing, the DTI, in coordination with relevant regulatory bodies, shall cause the registration and reporting by RBEs of the types of services rendered whether domestically or to foreign clients; types of products manufactured domestically, products imported and sold locally, and products exported.

**SECTION 8. Authority to publish incentives and benefits data.** – To publish regularly, per firm, the data pertaining to the amount of tax incentives, tax payments, and other related information, including benefits data subject to the provisions of Chapter V of Title XIII of the Tax Code.

**SECTION 9. Power to recommend the grant of fiscal and non-fiscal incentives for highly desirable projects.** – To recommend to the President the grant of appropriate non-fiscal incentives in accordance with the SIPP for highly desirable projects or very specific industrial activities and based on: (a) CBA approved by the FIRB; and (b) containing a schedule of budget of expenditures and sources of financing with magnitudes provisionally approved via resolution for inclusion in the upcoming national expenditure plans by the DBCC.

**SECTION 10. Power to adopt policies for supply chain development and expansion.** – To adopt policies for the development and expansion of the domestic supply chain in order to reduce dependence on imports; promote diversification and sophistication of products produced and services offered, whether exported or consumed locally; and cater to local market demand.

**SECTION 11. Power to approve applications for tax subsidies.** – To approve applications for tax subsidies to GOCCs, GIs, government commissaries, and SUCs pursuant to the general provisions of the annual GAA. For this purpose, other government agencies shall ensure the complete submission of applications, documents, records, books, or other data relevant or material.

**SECTION 12. Power to cancel, suspend, or withdraw the enjoyment of tax subsidies.** – The FIRB may cancel, suspend, or withdraw, on its own initiative or upon the recommendation of the BIR, BOC, and DBM, after due process, the enjoyment of tax subsidy of concerned GOCCs, GIs, government commissaries, and SUCs in the following instances:

- a. Misrepresentation or any fraudulent transaction or importation concerning the tax subsidy application;
- b. Any attempt to transfer or manipulate the issued CES;
- c. Use of the tax subsidy for purposes other than the mandated function/s of the applicant agency or the specific project or transaction as stated in the justification for tax subsidy application; and
- d. Non-compliance with the conditions and reportorial requirements under the Tax Code or this IRR in the grant of tax subsidy.

**SECTION 13. Determination of minimum contiguous land area for vertical economic zones.** – Vertical economic zones, such as information technology centers or buildings and information technology parks, shall have a compact, contiguous, and adjacent land area. To be considered “contiguous” or “adjacent”, the land area of the vertical economic zone shall be adjoining, nearby, abutting, having a common border, connected, or touching along boundaries for considerable distances.

A vertical economic zone need not necessarily constitute a single structure. It may consist of multiple buildings that do not share an indivisible actual, physical connection: *Provided*, That the said buildings are all located together in the minimum contiguous land area and common areas do not exceed twenty percent (20%) of the minimum contiguous land area.

The minimum contiguous land area for vertical economic zones shall be:

Location	Minimum contiguous land area
NCR and other metropolitan areas	5,000 square meters
Outside NCR and other metropolitan areas	10,000 square meters

The minimum contiguous land area shall be subject to periodic review by the FIRB every three (3) years. To qualify as a separate customs territory, the vertical economic zone shall have a permanent customs control or customs office at its perimeter.

**SECTION 14. Submission of annual report to the President.** – To submit annual reports to the Office of the President, as part of the budget process, covering its policy and activities in the administration of the Tax Code, including recommendations on tax incentive policies and approval of tax incentives.

**SECTION 15. Evaluation of tax incentives granted to registered entities.** – The FIRB is mandated to conduct an annual evaluation of tax incentives granted to registered entities using CBA, or any other impact evaluation methods deemed appropriate, to determine the impact of fiscal incentives to the economy and to determine whether agreed performance targets are met.

The FIRB shall prepare a standard data-entry template or develop a system that will be used to facilitate the submission of the information required. It shall also establish a single database for monitoring and analysis of fiscal incentives granted.

**SECTION 16. Recommend policies for abuse and tax evasion.** – The FIRB may recommend policies

for the prevention of fiscal incentives availment abuse, tax evasion under the Tax Code, and smuggling activities.

**SECTION 17. *Exercise all necessary powers and incidental powers in accordance with its expanded functions.*** – The FIRB may exercise all other powers necessary and incidental to the accomplishment of its expanded functions pursuant to the Tax Code, including but not limited to the promulgation of rules and regulations implementing the provisions pertinent to such additional functions. The FIRB may make use of any electronic means of publication in the official gazette or its official website.

#### **RULE 15. Fiscal Incentives Review Board Proper**

**SECTION 1. *Composition.*** – The Board shall be composed of the Secretary of Finance as Chairperson, the Secretary of Trade and Industry as Co-Chairperson, and three (3) members consisting of: (a) the Executive Secretary of the Office of the President; (b) the Secretary of Budget and Management; and (c) the NEDA Director General.

**SECTION 2. *Powers and functions of the Chairperson.*** – The Chairperson of the Board shall have the following powers and functions:

- a. Provide leadership and ensure the effective functioning of the Board;
- b. Call meetings, approve and set the agenda, and preside over Board meetings where all Board members are enabled and encouraged to actively participate in all discussions and resolutions on matters taken up by the Board;
- c. Exercise control over quality, quantity, and timeliness of the flow of information among the Secretariat, Technical Committee, and the Board;
- d. Assist in ensuring compliance with guidelines on good governance;
- e. Ensure that the Board makes an informed decision through a sound process that incorporates relevant facts and data; and
- f. Exercise such other powers and duties as may be vested by the Board pursuant to its functions and mandate.

The Chairperson, in his or her absence, may delegate in writing to the co-Chairperson the exercise of the powers and duties vested in the Chairperson, subject to such limitations and restrictions as the Chairperson may impose.

**SECTION 3. *Meetings and quorum.*** – The Board shall meet on such a day and time as it may fix. The Chairperson may *motu proprio* call for a meeting, or at the instance of the majority of the Board. The presence of at least three (3) members shall constitute a quorum and a majority vote of all the members present shall be necessary to render a decision. The Board shall adopt rules and procedures for the conduct of meetings.

For exigent reasons, the Board and the Technical Committee may meet jointly on such a day and time as they may deem necessary. For a joint meeting to be valid, the requirement of a separate quorum should be met.

#### **RULE 16. Fiscal Incentives Review Board Technical Committee**

**SECTION 1. *Composition.*** – The Technical Committee shall be composed of the following:

- a. Undersecretary of Finance, as Chairperson;
- b. Undersecretary or Assistant Secretary of the Office of the Executive Secretary;
- c. Undersecretary of Trade and Industry and Board of Investment Managing Head, or Assistant Secretary of Trade and Industry;
- d. Undersecretary or Assistant Secretary of Budget and Management;
- e. NEDA Deputy or Assistant Director General;
- f. Commissioner or Deputy Commissioner of Internal Revenue;
- g. Commissioner or Deputy Commissioner of Customs;
- h. Commissioner of the Philippine Competition Commission (PCC); and
- i. Director General, or Chairperson, or Administrator of the IPAs.

The participation of the IPA representative in the meetings shall be limited to the agenda item concerning their respective IPAs: *Provided*, That the IPA representative shall not be allowed to vote on applications evaluated and endorsed by them to the FIRB. The IPA representatives shall in no way be allowed to be present in the deliberation or decision-making process of matters that do not concern their IPAs.

**SECTION 2. Roles and responsibilities of the Technical Committee.** – The Technical Committee shall serve as the Board Proper's main support unit and shall perform functions as may be assigned. The Technical Committee shall have the following roles and responsibilities:

- a. To review the Secretariat's evaluation report on applications for tax incentives or tax subsidies and other pertinent matters submitted to it by the Secretariat;
- b. To recommend to the Board the approval, disapproval, suspension, or withdrawal of tax incentives or tax subsidies and pertinent matters relative thereto;
- c. To perform functions as may be assigned or delegated to it by the Board, which may include delegating the functions of the Board under Sections 4 and 6 of Rule 14 subject to approved threshold: *Provided*, That the decisions of the Technical Committee shall be for notation of the Board: *Provided, further*, That any action of the Technical Committee may be elevated to the Board; and
- d. To assist the Board in the effective discharge of its functions and recommend other policies and measures deemed necessary to carry out the objectives of the Tax Code.

**SECTION 3. Meetings and quorum.** – The Technical Committee shall meet on such a day and time as it may deem necessary. The presence of at least five (5) members shall constitute a quorum and a majority vote of all the members present shall be necessary to render a decision: *Provided*, That when the presence of all members, including all heads/representatives of the IPAs, is required, at least twelve (12) members shall constitute a quorum.

The Technical Committee may adopt rules and procedures for the conduct of its meetings.

## RULE 17. Fiscal Incentives Review Board Secretariat

**SECTION 1. Composition and responsibilities of the Secretariat.** – The Secretariat shall be headed by an Assistant Secretary of Finance and shall be staffed by the National Tax Research Center (NTRC). Subject to its authority to assess its organizational structure and propose to the DBM changes to such structure, the NTRC, as Secretariat of the FIRB, shall be composed of and perform the following responsibilities:

- a. **Fiscal Incentives Management Group (FIMG).** – The FIMG provides technical support for the Board's exercise of its policy-making, oversight, and regulatory functions on the grant of tax incentives and tax subsidies, including processing and evaluating applications for tax incentives and tax subsidies endorsed to the FIRB. The FIMG also provides legislative and technical support on matters related to the grant and administration of incentives.
  - i. **Tax Incentives Division (TID)** – (1) Processes applications for tax incentives for projects or activities within the jurisdiction of the FIRB and those requiring Presidential approval, and monitors tax incentives approvals of IPAs; (2) prescribes data requirements or processes for tax incentive applications; and (3) provides technical support and inputs to the Board's policy-making functions related to the grant of tax incentives, such as recommending proposals in the SIPP, streamlining tax incentives application, and COR issuance, among others.
  - ii. **Tax Subsidies and Legislative Division (TSLD)** – (1) Processes applications for tax subsidies of GOCCs, SUCs, government commissaries, and government instrumentalities under the annual GAA; (2) monitors and evaluates compliance on utilization of tax subsidies granted; and (3) provides legislative and technical support on matters in relation to tax incentives and tax subsidies.
- b. **Monitoring and Evaluation Group (MEG).** – The MEG provides technical assistance in the FIRB's exercise of policy-making, oversight, and regulatory functions on the compliance of IPAs and OGAs with respect to the administration and grant of tax incentives and the compliance of RBEs with their respective performance commitments. The Group also evaluates the net benefits or costs associated with the grant of tax incentives and determines the overall impact of tax incentives on the economy.
  - i. **Compliance and Performance Monitoring Division (CPMD)** – (1) Assists the FIRB in the formulation of policies and guidelines for the IPAs to effectively monitor compliance of RBEs to agreed performance metrics; (2) assists in the review and audit of the compliance of IPAs and OGAs with respect to the administration and grant of tax incentives, including, but not limited to, the conduct of periodic performance reviews; (3) checks and verifies the compliance of IPAs and RBEs, through the IPAs, with the terms and conditions on the grant of tax incentives and the agreed performance metrics, with Title XIII of the Tax Code and relevant FIRB issuances; and (4) provides guidelines to determine the target performance metrics as conditions to avail of tax incentives.
  - ii. **Incentive Evaluation Division (IED)** – (1) Systematically collects and stores tax incentives and benefits data from the DOF, IPAs, OGAs administering tax incentives, RBEs, and OREs; (2) conducts impact evaluation, such as CBA on the investment and non-investment incentives to determine the impact of tax incentives on the Philippine economy; (3) publishes, at the per firm level, the data pertaining to the amount of tax incentives, tax payments, and other related information, including the corresponding benefits data; and (4) provides legislative support on matters related to incentive administration and recommends policies

to prevent abuse and tax leakage in the grant of incentives by the IPAs.

- c. **Legal Group (LG).** – The Legal Group assists the FIRB and the NTRC on all legal issues arising from the approval and disapproval of tax incentives and tax subsidies, and the suspension, withdrawal or cancellation of tax incentives and tax subsidies. The Group also provides legal opinions and/or technical papers on any legal issues as may be required by the FIRB and NTRC.
  - i. **Legal Research and Board Support Division** – (1) Prepares studies and/or position papers on the legal aspect of taxation, tax incentives and tax subsidies, fees and charges, and other legal issues that may be required by the FIRB and NTRC; (2) compiles all legal documents, records, laws, resolutions, and circulars pertaining to the FIRB; and (3) provides legal assistance in reviewing policies on tax incentives submitted to the Board for approval.
  - ii. **Legal Management Division** – (1) Provides legal support, drafts legal opinions, and assists the FIRB on the resolution of legal issues arising from the approval and disapproval of tax incentives and tax subsidy, and the suspension, withdrawal or cancellation of tax incentives and tax subsidy; and (2) provides legal support on the performance of the Board of its regulatory and quasi-judicial functions, such as but not limited to conduct of inquiry or clarificatory hearings, and drafting of decisions, among others; and
  - iii. **Information Management and Communication Division** – (1) Oversees all stakeholder, media, and public communication efforts to ensure the accurate dissemination of information and alignment with Title XIII of the Tax Code, as amended, and its IRR; (2) leads the development, management, and execution of all information-sharing efforts of the agency, particularly in stakeholder engagement, media relations, public information, and crisis communication; and (3) facilitates the conduct of capacity building of IPAs and RBEs and content creation to raise the level of tax consciousness to enhance compliance.

In addition to the foregoing, the Board, the Technical Committee, or the Head of the FIRB Secretariat may assign other duties and responsibilities to the Secretariat.

**SECTION 2. Powers and functions of the Head of the Secretariat.** – The Head of the Secretariat shall have the following powers and functions:

- a. To execute and administer the policies and measures approved by the Board and take responsibility for the efficient and effective discharge of Secretariat functions;
- b. To direct and supervise the operation and internal administration of the FIRB;
- c. To cause the preparation of an annual report to the President on the activities and achievement of the FIRB;
- d. To represent the FIRB in all dealings and transactions with other offices, agencies, and instrumentalities of the national government and with persons and other entities, private or public, domestic or foreign, as may be authorized by the Board; and
- e. To exercise such other powers and duties as may be vested by the Board pursuant to its functions and mandate.

In the exigency of service, the Head of the FIRB Secretariat may delegate the above functions to

the Executive Director of the NTRC.

## PART VI OTHER PROVISIONS

### RULE 18. Transitory and Miscellaneous Provisions

#### **SECTION 1. Prospective application to projects or activities granted incentives under RA No. 11534.**

— The following provisions shall apply prospectively to projects or activities granted with tax incentives under RA No. 11534 upon the effectivity of RA No. 12066:

- a. The exemption from national and local taxes, including local fees and charges for projects or activities availing of SCIT pursuant to Section 294(B) of Title XIII of the Tax Code;
- b. The availment of additional enhanced deductions provided under Sections 294(C)(6), (7), (8), and (9) of Title XIII of the Tax Code;
- c. The imposition of twenty percent (20%) income tax rate specified in Sections 27 and 28 of the Tax Code upon the taxable income of RBEs availing EDR;
- d. The imposition of up to two percent (2%) RBE local tax under Section 294(F) of Title XIII of the Tax Code to RBEs availing of ITH or EDR; and
- e. The conditions for the availment of the duty and VAT exemption on importation and VAT zero-rating on local purchases under Sections 295(C) and (D) of Title XIII of the Tax Code.

**SECTION 2. Prohibition on tax refund or credit.** — No refund or credit of taxes previously paid, which are otherwise exempt or zero-rated under RA No. 12066, shall be granted to RBEs covered by this rule.

**SECTION 3. Non-income tax-based incentives under Section 31 of RA No. 12066.** — RBEs granted VAT zero-rating on local purchases, VAT exemption on importation, and/or duty exemption on importation may continue to enjoy the said tax incentives until the expiration of such in accordance with Sections 295(C) and (D) of the Tax Code.

### RULE 19. Investments Prior to the Effectivity of RA No. 11534

**SECTION 1. Investments prior to the effectivity of RA No. 11534.** — RBEs with incentives granted prior to the effectivity of RA No. 11534 shall be subject to incentives granted in their Certificate of Registration and Tax Exemption and Sections 2, 3, 4, and 6 of this Rule.

**SECTION 2. Projects or activities granted only an ITH.** — RBEs whose projects or activities were granted only an ITH prior to the effectivity of RA No. 11534 shall be allowed to continue with the availment thereof for the remaining period of the ITH as specified in the terms and conditions of their registration: *Provided*, That for those that have been granted the ITH but have not yet availed of the incentive upon the effectivity of RA No. 11534, they may use the ITH for the period in the terms and conditions of their registration.

**SECTION 3. Projects or activities granted an ITH and are entitled to the five percent (5%) tax on gross income earned.** — RBEs whose projects or activities were granted an ITH prior to the effectivity of RA No. 11534 and that are entitled to the five percent (5%) tax on gross income earned incentive after the ITH shall be allowed to use the ITH for the period specified in the terms and conditions of their registration and thereafter, avail of the five percent (5%) tax on gross income earned incentive, including all corresponding exemptions from national taxes and local

taxes, fees, and charges until 31 December 2034.

**SECTION 4. Registered business enterprises currently availing of the five percent (5%) tax on gross income earned.** – RBEs currently availing of the five percent (5%) tax on gross income earned granted prior to the effectivity of RA No. 11534 shall be allowed to continue availing the said tax incentives at the rate of five percent (5%), including all corresponding exemptions from national taxes and local taxes, fees, and charges until 31 December 2034.

**SECTION 5. Allocation of gross income earned.** – If applicable, the allocation of shares for LGUs and IPAs as specified in the latter's governing laws shall be observed and shall not result in the diminution of their respective shares.

**SECTION 6. Non-income tax-based incentives under Section 311 of the Tax Code.** – RBEs availing duty exemption on importation under Section 294(D) and VAT exemption on importation and VAT zero-rating on local purchases under Section 294(E) prior to the effectivity of RA No. 11534, regardless of market orientation, shall be allowed to continue availing the said tax incentives until 31 December 2034, as provided under Section 311(D) of the Tax Code: *Provided*, That REEs shall continue to avail of the said incentives thereafter, in accordance with Title IV of the Tax Code, the provisions of the CMTA, as amended, and other applicable laws.

For this purpose, the respective IPA shall amend the existing COR or its equivalent, and/or issue the VAT Zero-Rating Certificate or CAI, as the case may be.

#### **RULE 20. Prohibition on Registered Activities**

**SECTION 1. General rule.** – Except as allowed under this provision, a qualified registered project or activity under an IPA administering an economic zone or freeport shall be exclusively conducted or operated within the geographical boundaries of the zone or freeport being administered by the IPA in which the project or activity is registered: *Provided*, That an RBE may conduct or operate more than one qualified registered project or activity within the same zone or freeport under the same IPA: *Provided, further*, That any project or activity conducted or performed outside the geographical boundaries of the zone or freeport shall not be entitled to the incentives provided in Title XIII of the Tax Code: *Provided, furthermore*, That an RBE may institute a “telecommuting” program as defined under RA No. 11165, otherwise known as “The Telecommuting Act,” including work-from-home (WFH) arrangements, which shall not cover more than fifty percent (50%) of the total workforce at any given time, subject to the rules and regulations which shall be formulated by the concerned IPA, and without any adverse effect on the incentives as provided in the RBE’s COR: *Provided, finally*, That an RBE that fails to meet the 50% workforce requirement in cases of force majeure or fortuitous events as provided in the business continuity plan approved by the concerned IPA shall not be subject to the penalty provided under this Rule.

For this purpose, “total workforce” shall refer to employees engaged in the registered project or activity of an RBE.

**SECTION 2. Non-applicability of the locational limitation.** – The fifty percent (50%) maximum threshold for the “telecommuting program” or WFH arrangements under this Rule shall not apply to IPAs not administering an economic zone or freeport. Further, RBEs with BOI registration pursuant to FIRB Resolution No. 026-22 dated 14 September 2022 and FIRB Resolution No. 033-22 dated 23 December 2022, may continue to adopt up to 100% WFH arrangement for the duration of their remaining incentives pursuant to Rule 18 of this IRR.

**SECTION 3. Non-compliance with the 50% threshold.** – In the event that the RBE fails to comply with the fifty percent (50%) threshold provided under Section 1 of this Rule, the RBE shall pay, as penalty, regular income tax multiplied by the excess of the 50% threshold under WFH

arrangements: *Provided*, That the excess shall be computed by averaging all excesses made by the RBE in the month of non-compliance.

**SECTION 4. Submission of the alternative work arrangement report to the BIR.** – The concerned IPA shall annually furnish alternative work arrangement report to the BIR within thirty (30) days following the close of the calendar year. In order to obtain relevant information, for audit purposes, the Commissioner may prescribe a report template in a separate revenue issuance: *Provided, however*, That the IPA administering the economic zone or freeport zones where the RBE is located shall prescribe the guidelines for the movement of capital equipment and other assets within and outside the economic zones and/or freeport zones, in consultation with the BOC.

**SECTION 5. Prohibition on double registration.** – The availment of fiscal incentives under Title XIII of the Tax Code by RBEs shall preclude the availment of fiscal incentives under other special laws.

#### **RULE 21. One-Stop Action Center**

**SECTION 1. Establishment of a one-stop action center and initial point of contact for foreign investment leads.** – All IPAs shall establish a one-stop shop or one-stop action center to be composed of representatives from all concerned government agencies and supported by additional manpower and equipment, to facilitate and expedite, to the extent possible, the setting up and conduct of registered projects or activities, and other pre-investment concerns to comply with the “Ease of Doing Business and Efficient Government Service Delivery Act of 2018”: *Provided, however*, That the enterprises may continue to avail of the one-stop shop facility for aftercare-post-investment services notwithstanding the expiration of their incentive years under the Tax Code. To the extent possible, a virtual one-stop shop or one-stop action center may be established.

Unless otherwise provided under special laws, LGUs may delegate to the concerned IPA, through appropriate memoranda of agreement, the functions of accepting, processing, and granting business permits and licenses. The IPA may also assist RBEs in obtaining licenses and permits from national government agencies by accepting and submitting documentary requirements for such licenses and permits on behalf of the RBEs to the appropriate national government agencies. The IPA may undertake activities necessary to perform the function as the initial point of contact for foreign investment leads. Such activities shall include assisting potential foreign investors in establishing their business enterprises in the concerned IPA or in the economic zone best suited to their specific needs.

**SECTION 2. Export certification.** – An RBE may avail of the VAT zero-rating on local purchases of goods and services under Sections 106 and 108 of the Tax Code, respectively, and VAT exemption on importation under Section 109 of the Tax Code, upon the expiration of the period of income tax-based incentives, or withdrawal or cancellation of incentives granted to an RBE, subject to the issuance of an export certification by the Export Marketing Bureau (EMB). The determination of compliance with the seventy percent (70%) export threshold requirement as provided in the aforementioned sections shall be with the EMB of the DTI. Nonetheless, the EMB shall not be precluded from crafting an instrument with an IPA to authorize the latter to determine the seventy percent (70%) export threshold requirement in the aforementioned sections.

#### **RULE 22. Forms and Certificates**

**SECTION 1. Forms.** – All forms and certificates under this IRR shall be prescribed by the FIRB in coordination with the DTI.

## **RULE 23. Misrepresentation and Violation of Other Provisions of the Tax Code**

**SECTION 1. *Misrepresentation of information for the purpose of availing incentives.*** – After due notice and hearing, the FIRB or the concerned IPA, as the case may be, may cancel the registration, suspend the enjoyment of incentive benefits of any registered enterprise, and/or require refund of incentives enjoyed by such enterprise, including interests and monetary penalties, for any misrepresentation of information for the purpose of availing more incentives than what it is entitled to under the Tax Code.

**SECTION 2. *Violation of other provisions of the Tax Code.*** – The IPA, with the recommendation of the Commissioner, may revoke or suspend incentives granted by an IPA and/or order a business closure of an RBE that violates Title VI (Excise Taxes on Certain Goods) and Title X (Statutory Offenses and Penalties) of the Tax Code and other related revenue regulations, orders, or issuances of the government: *Provided, further,* That such authority shall cover the acts of the RBE committed even in the first year of availment of incentives. Notwithstanding the provisions of this Section, the DOF, BIR, and BOC shall retain all their respective mandates, powers, and functions, as provided for under the Tax Code and related laws.

**SECTION 3. *Observance of due process.*** – No adverse action shall be taken by the FIRB against the IPAs, OGAs, RBEs, OREs, or any responsible officer for failure to comply with the requirements under the RA Nos. 11534 and 12066 or this IRR, unless the latter was informed in writing of such violation. The FIRB shall issue the necessary guidelines to implement this Section.

**SECTION 4. *Effect of cancellation, suspension, or withdrawal of fiscal incentives or tax subsidies.*** – In case of cancellation, suspension, or withdrawal of the CETI or CES, the FIRB or IPA shall require the payment of taxes, customs duties, and any applicable penalties thereon to the appropriate RCA.

## **RULE 24. Temporary Measures for Exceptional Circumstances**

**SECTION 1. *Exceptional circumstances.*** – Exceptional circumstances include pandemic, epidemic, war, armed conflict, state of national emergency, outbreak of diseases, international or regional financial crisis, major disaster such as volcanic eruption, earthquake and super typhoon, or analogous circumstances.

**SECTION 2. *Implementation of the temporary measures.*** – Upon the approval of the FIRB, the concerned IPA shall implement temporary measures to support the RBE's recovery from the exceptional circumstance and strengthen the nation's capability for similar circumstances in the future: *Provided,* That the temporary measures shall cover a specific time period and only be limited to the incentives duly approved by the concerned IPA or the FIRB, as the case may be, under the RBE's terms and conditions.

**SECTION 3. *Temporary measures.*** – The temporary measures shall, without diminution of incentives, cover all RBEs that are affected by such exceptional circumstances and may include any of the following:

- a. Suspension of the export requirement;
- b. Deferment of the income tax incentive availment period;
- c. Movement of the start of commercial operations with full entitlement to incentives under the terms and conditions of the registered project or activity; or
- d. Adoption of any other measure as may be reasonable to recover from such circumstances,

subject to FIRB approval upon the recommendation of the IPA.

**SECTION 4. Period.** – Upon the approval of the FIRB, the temporary measure shall be effective from the time of the declaration of such exceptional circumstance by the President, the relevant government agency, or the World Health Organization, as the case may be, until the same has ended or has ceased to exist, or corresponding to the duration that the RBE operation has been affected or disrupted, as applicable.

**SECTION 5. Effect on the incentives of the affected RBEs.** – The affected RBEs' incentives or its period of availment shall be maintained consistent with its terms and conditions during the implementation of the temporary measure.

**SECTION 6. Availment of temporary measure.** – The affected RBE shall submit to the concerned IPA its application, together with the relevant documents, showing the adverse effects of such exceptional circumstance to avail of the temporary measure. The IPA shall provide the FIRB with its recommendation for the Board's approval.

#### **RULE 25. Final Provisions**

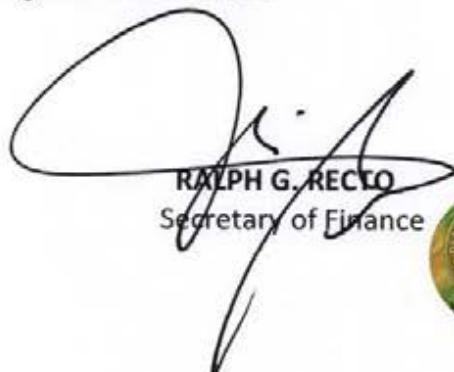
**SECTION 1. Web-based tax incentives and subsidies applications and monitoring system.** – Pending the establishment of a portal for the electronic filing of application and submission of reports, all applications, reports, and communications under the jurisdiction of the FIRB will be coursed through the official email of the FIRB Secretariat. Likewise, all resolutions, decisions, and communications of the FIRB will be sent by email to the concerned parties.

The FIRB will issue separate rules for the adoption and utilization of a web-based system for tax incentives and subsidies applications and monitoring, once established. Access to the submitted data and information relevant to the IPA concerned through the web-based tax incentives and subsidies applications and monitoring system shall be provided and made available to the said concerned IPA.

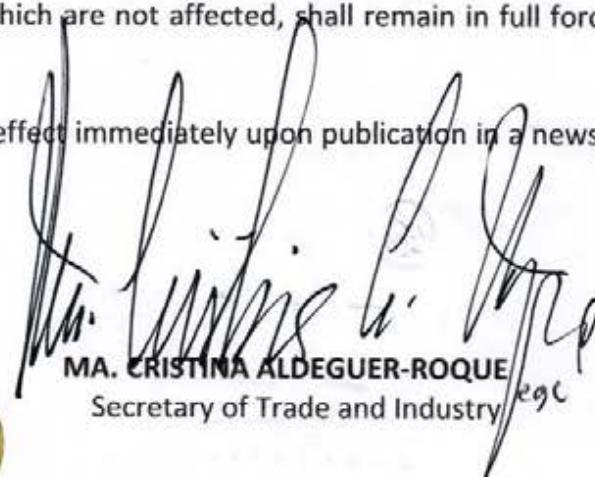
**SECTION 2. Review of Rules and Regulations.** – The FIRB shall conduct a general review of its rules, policies, and programs in relation to this IRR, as may be necessary.

**SECTION 3. Separability Clause.** – If any provision of this IRR is subsequently declared invalid or unconstitutional, other provisions hereof, which are not affected, shall remain in full force and effect.

**SECTION 4. Effectivity.** – This IRR shall take effect immediately upon publication in a newspaper of general circulation.



RALPH G. RECTO  
Secretary of Finance



MA. CRISTINA ALDEGUER-ROQUE  
Secretary of Trade and Industry