



REPUBLIC OF THE PHILIPPINES
Department of Finance
Department of Trade and Industry



JOINT ADMINISTRATIVE ORDER NO. 1-2016

RULES AND REGULATIONS TO IMPLEMENT REPUBLIC ACT NO. 10708

Pursuant to Section 10 of Republic Act No. 10708, entitled "*An Act Enhancing Transparency in the Management and Accounting of Tax Incentives Administered by Investment Promotion Agencies, otherwise known as the Tax Incentives Management and Transparency Act (TIMTA)*", the Secretaries of the Department of Finance and Department of Trade and Industry, in coordination with the Director-General of the National Economic Development Authority, Commissioners of the Bureau of Internal Revenue and Bureau of Customs, and Heads of concerned Investment Promotions Agencies, hereby promulgate the following Implementing Rules and Regulations (IRR):

RULE I

GENERAL PROVISIONS

SECTION 1. Declaration of Policy. — It is hereby declared the policy of the State to promote fiscal accountability and transparency in the grant and management of tax incentives by developing means to promptly measure the government's fiscal exposure on these grants and to enable the government to monitor, review and analyze the economic impact thereof and thereby optimize the social benefit of such incentives.

SECTION 2. Definition of Terms. — As used in this IRR, the following definitions shall apply:

- a. "**Investment Promotion Agencies (IPAs)**" shall refer to government entities created by law, executive order, decree or other issuance, in charge of promoting investments, administering tax and non-tax incentives, and/or overseeing the operations of the different economic zones and freeports in accordance with their respective charters. These include the Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Bataan Technology Park, Inc. (BTPI), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCSEZA), Phividec Industrial Authority (PIA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area

of Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA) and all other similar authorities that may be created by law in the future;

- b. **"Registered Business Entity (RBE)"** shall refer to any individual, partnership, corporation, Philippine branch of a foreign corporation or other entity incorporated and/or organized and existing under Philippine laws and registered with an IPA;
- c. **"Tax incentives"** shall refer to fiscal incentives such as those which come in the form of income tax holidays (ITH), exemptions, deductions, credits or exclusions from the tax base, as provided by law, to RBEs;
- d. **"Annual Tax Incentives Report of Registered Business Entity"** shall refer to the report to be submitted by RBEs to its respective IPA containing complete information on income-based tax incentives, value-added tax (VAT) incentives, duty exemptions, deductions, credits, exclusions from the tax base and other information required under these rules.

The report shall be in matrix format as presented in **"Annex A.1"** for ITH and other income-based tax incentives and **"Annex A.2"** for VAT incentives and duty exemptions.

- e. **"Consolidated Annual Tax Incentives Report"** shall refer to the report to be submitted by the IPAs to the Bureau of Internal Revenue (BIR) based on the Annual Tax Incentives Report of RBEs.

The reports shall be in matrix format as presented in **"Annex B.1"** for ITH and other income-based tax incentives and **"Annex B.2"** for VAT incentives and duty exemptions; and

- f. **"Aggregate Annual Tax Incentives Report"** shall refer to the tax incentives report to be submitted by the IPAs to the National Economic Development Authority (NEDA) Secretariat containing the aggregate tax incentives and investment-related data, on a sectoral or per industry basis using the Philippine Standard for Industrial Classification (PSIC), including, but not limited to, investment projects, investment cost, actual employment, export earnings and all other benefits derived from the registered projects. In cases wherein the sector or industry is not classified under the PSIC, the NEDA Secretariat shall refer such matters to the Philippine Statistics Authority (PSA); and, in the interim, adopt a proxy classification for the purpose of completing the Cost-Benefit Analysis (CBA) on investment incentives within the period provided in this IRR.

The NEDA Secretariat shall provide the definition of investment projects, investment cost, actual employment and export earnings.

RULE II

COMPLIANCE REQUIREMENTS FOR REGISTERED BUSINESS ENTITIES

Section 1. Filing of Tax Returns and Payment of Tax Liabilities. – All RBEs shall file their tax returns and pay their tax liabilities, on or before the deadline as provided under the National Internal Revenue Code (NIRC), as amended, using the electronic system for filing and payment of taxes of the BIR.

The IPAs, where required under applicable laws, rules and guidelines, shall consider only electronically filed tax returns for purposes of availing income-based tax incentives.

In the event the electronic system for filing and payment of taxes of BIR is unavailable, as evidenced by a written advice issued by the BIR, the RBEs 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. However, upon written advice of the availability of the electronic system for filing issued by the BIR, the RBEs shall within fifteen (15) days from the date of said written advice, electronically file their tax returns which was initially filed manually.

SECTION. 2. Submission of Annual Tax Incentives Report. – RBEs, availing of incentives administered by the IPAs, shall file with their respective IPAs an Annual Tax Incentives Report within thirty (30) days from the statutory deadline for filing of the Final Adjustment Return for Income Tax and payment of tax due thereon, if any.

RULE III

INCENTIVES MONITORING MECHANISM

SECTION 1. Role of Incentives Promotion Agencies. – The heads of the IPAs shall:

- a. Submit to the BIR a master list ("Annex C") of all RBEs, whether granted incentives or not, within thirty (30) days after the approval of this IRR. The master list shall be updated within thirty (30) days after the close of each calendar year.
- b. Submit to the BIR the Consolidated Annual Tax Incentives Report on income-based tax incentives (Annex B.1) and the Consolidated Annual Tax Incentives Report on VAT incentives and duty exemptions (Annex B.2) 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. The IPAs shall include in the said report the Annual Tax Incentives Report on income tax and Annual Tax Incentive Report on VAT incentives and duty exemptions of RBEs 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 | December 31 | June 14 of the following |

| | | |
|-------------|--------------------|-------------------------------|
| | | year |
| Fiscal Year | January – November | June 14 of the following year |

- c. Submit to the NEDA Secretariat an Aggregate Annual Tax Incentives Report within four (4) months 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. The IPAs shall include in the said report the Aggregate Annual Tax Incentives Report of RBEs 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 | December 31 | August 14 of the following year |
| Fiscal Year | January – November | August 14 of the following year |

- d. Submit to the NEDA Secretariat other relevant data or information, such as, but not limited to, aggregate incentives claimed as validated by the IPAs, where required under applicable laws, rules and guidelines, within nine (9) months after the statutory deadline for filing of tax returns and payment of taxes due thereon, for the conduct of a CBA.
- e. Disseminate information for the RBEs to provide proper information in their reports.

SECTION 2. Role of the Bureau of Internal Revenue. – The BIR shall:

- a. On or before September 15 of every year, submit to the Department of Finance (DOF), notwithstanding any law to the contrary, the tax incentives of RBEs as reflected in their filed annual tax returns: Provided, That, pursuant to Section 270 of the NIRC, as amended, such submission of BIR to the DOF shall not contain specific names of the RBEs or other identifiers.
- b. Within ninety (90) days after the lapse of the said period to assess provided under the NIRC, as amended, update the foregoing report with income-based tax incentives, deductions, credits or exclusions from the gross income as assessed under the NIRC, and submit the same to the DOF and NEDA Secretariat.

SECTION 3. Role of the Bureau of Customs (BOC). – The BOC shall, on or before September 15 of every year, submit to the DOF, notwithstanding any law to the contrary, the VAT and duty incentives availed by RBEs as reflected in their filed import entries.

SECTION 4. Role of the Department of Finance. – For purposes of monitoring and transparency, the DOF shall have the following responsibilities:

- a. Maintain a single database for monitoring and analysis of tax incentives granted; and

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- b. On or before June 30 of the subsequent year, submit to the Department of Budget and Management (DBM) and the Joint Congressional Oversight Committee created under Section 9 of RA 10708, and upon request, to the NEDA Secretariat the aggregate data categorized by sector, by IPA and by type of tax:

- (1) the amount of tax incentives availed by RBEs;
- (2) the estimated claims of tax incentives immediately preceding the current year;
- (3) the programmed tax incentives for the current year; and
- (4) the projected tax incentives for the following year.

SECTION 5. Role of Department of Budget and Management. – The aforesaid data shall be reflected by the DBM in the annual Budget of Expenditures and Sources of Financing (BESF), which shall be known as the Tax Incentives Information (TII) section: *Provided*, That the TII shall be limited to the aggregate data related to incentives availed of by RBEs based on the submissions of the DOF and the concerned IPAs, categorized by sector, by IPA and type of incentive.

RULE IV

CONDUCT OF COST-BENEFIT ANALYSIS ON INVESTMENT INCENTIVES

SECTION 1. Role of the National Economic and Development Authority Secretariat. – The NEDA Secretariat shall:

- a. Conduct a CBA on the investment incentives to determine the impact of tax incentives on the Philippine economy.
- b. Conduct a CBA of the Aggregate Annual Tax Incentives Report yearly, within six (6) months from the acceptance of the required submissions from all IPAs as specified in Rule III Section 1 (c) and (d). In the event that IPAs are unable to submit the required submission as specified in Rule III, the NEDA Secretariat shall conduct a CBA and indicate in the CBA report the limitations, as necessary.
- c. Provide to the DOF, DTI, IPAs, DBM and Joint Congressional Oversight Committee the results of the CBA.

SECTION 2. Inputs to the Cost-Benefit Analysis. – The NEDA Secretariat shall utilize the following information:

- a. Aggregate Annual Tax Incentives Report as submitted by the IPAs pursuant to Rule III Section 1 (c) and (d) and the aggregate incentives claimed as validated by the relevant IPAs, where applicable;

- b. Information from the DOF database for monitoring and analysis tax incentives granted pursuant to Rule III Section 4 (b);
- c. Other information and reports, as endorsed by DOF and DTI; and
- d. All other material information to be identified by the NEDA Secretariat.

All reports submitted must be accepted by the NEDA Secretariat and should be in electronic and hard copy.

RULE V

PROMOTION AND REGULATION OF INVESTMENTS AND ADMINISTRATION OF INCENTIVES BY THE IPAs

SECTION 1. Non-diminution of Incentives. — Nothing in this IRR shall be construed to diminish or limit, in whatever manner, the amount of incentives that IPAs may grant pursuant to their charters and existing laws; or to prevent, deter, or delay the promotion and regulation of investments, processing of applications for registrations, and evaluation of entitlement of incentives by IPAs. RBEs availing of incentives shall comply with the incentives validation requirements of their respective IPAs.

For avoidance of doubt, the IPAs shall not be precluded from exercising their authority to evaluate or validate any application for availment of ITH and/or other income-based tax incentives and from endorsing the result of the same to other agencies: Provided, That, such evaluation or validation by the concerned IPA is required under its applicable laws, rules and guidelines.

RULE VI

NON-COMPLIANCE WITH FILING AND REPORTORIAL REQUIREMENTS

SECTION 1. Penalty for Non-compliance with Filing and Reportorial Requirements. — Any RBE which fails to comply with the filing and reportorial requirements with the appropriate IPAs and/or fails to show proof of filing of tax returns to IPAs using the electronic system for filing and payment of taxes of the BIR shall be imposed with the following penalties:

- a. First (1st) violation — payment of a fine amounting to one hundred thousand pesos (P100,000.00);
- b. Second (2nd) violation — payment of a fine amounting to five hundred thousand pesos (P500,000.00); and
- c. Third (3rd) violation — cancellation of the registration of the registered business entity.

Provided, That, the failure to show such proof shall not be a ground for the suspension of the ITH and/or other income-based tax incentives availment where such failure is not due to the fault of the RBE.

SECTION 2. Penalty for Government Official or Employee. — 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 this IRR 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.

RULE VII

FUNDING

Such amount necessary to carry out the implementation of these Rules shall be sourced from the current General Appropriations Act.

For this purpose, the DOF, the NEDA Secretariat and IPAs shall be granted supplemental budget, subject to DBM Rules and Regulations, for the development and/or enhancement of systems and database with a view to generating data and reports electronically.

The IPAs, NEDA Secretariat, BIR, BOC and DOF shall endeavor within a period of three (3) years to automate their systems with a view to generating data and reports electronically. For this purpose, the said agencies shall be granted their budgetary requirements to meet the objectives of these Rules.

RULE VIII

REVIEW

The DOF, DTI, and NEDA Secretariat in coordination with the IPAs shall, if necessary, conduct a general review of their rules, policies and programs in relation with this IRR within five (5) years from the effectivity thereof.

RULE IX

FINAL PROVISIONS

SECTION 1. Transitory Provisions. — The first submission of all the reports required under this IRR shall be as follows:

- a. For income-based tax incentives covering taxable year 2015:

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|-----------------------------|---|-----------------------------|--|
| Submission by RBE to IPA | Submission by IPA to BIR of Consolidated Annual Tax Incentives Report and to NEDA Secretariat of Aggregate Annual Tax Incentives Report | Submission of BIR to DOF | Submission by IPA to NEDA Secretariat of other relevant data or information |
| September 15, 2016 | November 15, 2016 | January 15, 2017 | March 15, 2017 |

b. For VAT and duty exemptions covering calendar year 2015:

| | | | |
|-----------------------------|---|-----------------------------|--|
| Submission by RBE to IPA | Submission by IPA to BIR of Consolidated Annual Tax Incentives Report and to NEDA Secretariat of Aggregate Annual Tax Incentives Report | Submission of BOC to DOF | Submission by IPA to NEDA Secretariat of other relevant data or information |
| September 15, 2016 | November 15, 2016 | January 15, 2017 | March 15, 2017 |

SECTION 2. Separability Clause. – If any provision of this IRR is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.


SECTION 3. Repealing Clause. – All other rules and regulations or parts thereof, inconsistent with the foregoing rules and regulations are repealed, amended, or modified accordingly.

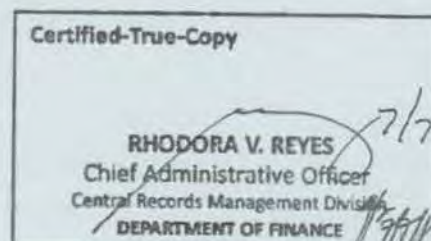
SECTION 4. Effectivity. – This IRR shall take effect fifteen (15) days following its publication in a newspaper of general circulation and filing of three (3) copies hereof with the Office of the National Administrative Register (ONAR) University of the Philippines (UP) Law Center, Diliman, Quezon City pursuant to Presidential Memorandum Circular No. 11 dated 09 October 1992.

APPROVED, this 23 June 2016.


CESAR V. PURISIMA
 Secretary
 Department of Finance

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ADRIAN S. CRISTOBAL JR.
 Secretary
 Department of Trade and Industry



Registered Address: _____
Taxpayer Identification No. _____
Revenue District Office No. _____

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|---------------|--|--|--|--|--|--|--|
| Certified By: | | | | | | | |
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Note: For BOI RBEs: Columns I and N are not applicable. Value in Column O is the same as the Value in Column M.

[NAME OF REGISTERED BUSINESS ENTITY]
ANNUAL TAX INCENTIVES REPORT-VAT, EXCISE TAX and DUTY-BASED INCENTIVES FOR CALENDAR YEAR

Registered Address: _____
Taxpayer Identification No. _____
Revenue District Office No. _____

[illegible]

NOTES

Volume of Imports - refers to the volume of cargo in kgs reflected in Box 38 of Transshipment Single Administrative Documents (SAD)
 Value of Imports in US\$ - refers to the FOB (Free on Board) value in dollars, commonly used in shipping documents or arrived at by deducting other factors such as freight and/or insurance reflected in Box 22 of TSAD
 Value of Imports in Php - refers to the Total Dutiable Value in Peso which is the basis for the computation of Duties and Taxes reflected in Box 46 of TSAD
 Direct Import - Directly sourced from foreign suppliers
 Customs Bonded Warehouse-sourced from bonded warehouse duly licensed by the Commissioner of Customs
 Interzone Transfer-sourced from another lotators or registered business entity
 Tax and Duty Waived Amount of Duties and Taxes that should have been collected

RRFs located inside Ecotones/Treeport Zones

a) For the Years 2015 and 2016, the Tax and Duty Waived will be estimated based on the Peso Value of Importation multiplied with equivalent tariff rates

RBEs under B01

a) Duty Waived is the Amount of Duty on Capital Equipments that should have been collected reflected in the Consumption Entry VAT and DUTY (REF) is applicable to RBEs under BOI pursuant to Article 21 and 39(k) of PO 226

| | | | | | | | |
|---------------|--|--|--|--|--|--|--|
| Certified By: | | | | | | | |
| | | | | | | | |

[NAME OF INCENTIVES PROMOTION AGENCY]
CONSOLIDATED ANNUAL TAX INCENTIVES REPORT- INCOME-BASED TAX INCENTIVES FOR CALENDAR/FISCAL YEAR _____

[illegible]

Note: Expense location and/or registered address applicable to FEZA, THEZA and BOI [registered address only] only
For BOI Columns E, R and T are not applicable

Certified by:

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[NAME OF INCENTIVES PROMOTION AGENCY]

Volume of imports: refers to the volume of cargo in kg reflected in box 38 of Transshipment Single Administrative Document (SAD)

Value of imports in US\$ - refers to the FOB (free on board) value in dollars, customarily used in shipping documents or arrived at by deducting other factors such as freight and/or insurance reflected in Box 23 of ISAD

Value of imports in Ptas. refers to the Total Dutiable Value in Ptas., which is the basis for the computation of Duties and Taxes reflected in Box 46 of ISAD

Direct of exports in 1990-1995 to the total (20000) value in 1990, which is the basis for the computation of values and cases reported in our 99 or 1000.

Customs Border Warehouse sourced from foreign suppliers, warehouse fully licensed by the Commissioner of Customs.

Customers: Banded Warehouse sourced from bonded warehouse duty assessed by the Commissioner of Customs.
Interstate Transfer: sourced from customer locations or registered business entities

WWF is located inside Ecozones/Viewout Zamen

a) For the years 2015 and 2016, the Tax and Duty Waiver will be estimated based on the Peso Value of Importation multiplied with equivalent tariff rates.

41 For the years 2013 and 2016, the tax and duty waiver will be calculated based on the fixed value of importations multiplied with equivalent tariff rate. As for the year 2015 onwards, the tax and duty waiver is the amount of duties and taxes that should have been collected reflected in tax 47 of Tadi.

at Duty Waiver is the Amount of Duty on Capital Equipments that should have been collected reflected in the Consumption Entry

VAI and DUFFY CREDIT is applicable to REEs under BCI pursuant to Article 21 and 38(a) of EO 226

Y-W and DUFFY LNE011: 0. approposito to rules under purchase in Article 23 and 33(a) of the 22b

b) ADDITIONAL COLUMNS ARE (A), (D), (E), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), (R), (S), (T), (U), (V), (W), (X), (Y), (Z).

Notes:

Certified By:

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