

Q&A

Republic Act No. 10708

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)

1. When was the law passed and took effect?

ANS: The law was signed by President Benigno S. Aquino III last 09 December 2015 and took effect last December 29, 2015, fifteen (15) days after its publication on December 14, 2015 in the Manila Bulletin.

2. When was the IRR approved and took effect?

ANS: The IRR (DOF-DTI Joint Administrative Order No. 01-2016) was approved last June 23, 2016 and took effect July 21, 2016, fifteen (15) days after its publication on July 6, 2016 in the Manila Standard.

3. What is the requirement for RBEs under TIMTA on filing of tax returns and payment of tax liabilities?

ANS: All RBEs shall file their tax returns and pay their tax liabilities using the electronic system for filing and payment of taxes of the BIR on or before the deadline as provided under the National Internal Revenue Code (NIRC), as amended.

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.

4. When must RBEs submit Annual Tax Incentives Report?

ANS: 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.

5. What is an Annual Tax Incentives Report?

ANS: Annual Tax Incentives Report refers 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 the IRR.

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.

6. What is the role of IPAs?

ANS: IPAs must submit to the BIR a master list (Annex C) of all RBEs, 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). IPAs must also submit to the NEDA Secretariat an Aggregate Annual Tax Incentives Report and other relevant data or information, and disseminate information for the RBEs to provide proper information in their reports.

7. When must IPAs submit the master list to BIR?

ANS: IPAs must have already submitted to the BIR a master list (“Annex C”) of all RBEs, whether granted incentives or not, by July 23, 2016, thirty (30) days after the approval of the IRR last June 23, 2016.

The master list shall be updated within thirty (30) days after the close of each calendar year.

8. When must IPAs submit the Consolidated Annual Tax Incentives Reports?

ANS: IPAs must submit the Consolidated Annual Tax Incentives Reports 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

9. When must IPAs submit to the NEDA Secretariat an Aggregate Annual Tax Incentives Report?

ANS: IPAs must 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

10. What is an Aggregate Annual Tax Incentives Report?

ANS: Aggregate Annual Tax Incentives Report refers 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.

11. When must IPAs submit to the NEDA Secretariat other relevant data and information?

ANS: IPAs must submit to the NEDA Secretariat other relevant data or information 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.

12. What is the role of the Bureau of Internal Revenue?

ANS: The BIR must submit to the Department of Finance (DOF), On or before September 15 of every year, the tax incentives of RBEs as reflected in their filed annual tax returns not containing specific names of the RBEs or other identifiers.

The BIR must also update the report, within ninety (90) days after the lapse of the said period to assess provided under the NIRC, as amended, 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.

13. What is the role of the Bureau of Customs?

ANS: The BOC shall, on or before September 15 of every year, submit to the DOF the VAT and duty incentives availed by RBEs as reflected in their filed import entries.

14. What is the role of the Department of Finance?

ANS: The DOF shall maintain a single database for monitoring and analysis of tax incentives granted. It must also submit, on or before June 30 of the subsequent year 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.

15. What is the role of the Department of Budget and Management?

ANS: The data submitted by the DOF 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. 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.

16. What is the role of the National Economic and Development Authority Secretariat?

ANS: The NDA Secretariat shall conduct a CBA on the investment incentives to determine the impact of tax incentives on the Philippine economy within six (6) months from the acceptance of the required submissions from all IPAs. NEDA Secretariat shall provide to the DOF, DTI, IPAs, DBM and Joint Congressional Oversight Committee the results of the CBA.

17. What are the inputs to be used by the NEDA Secretariat for the Cost-Benefit Analysis?

ANS: 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.

18. What are the penalties for RBEs for Non-compliance with Filing and Reportorial Requirements?

ANS: 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.

19. What are the penalties for 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 the IRR?

ANS: 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.

20. When must the initial reports covering taxable year 2015 be submitted?

The first submission of all the reports required under this IRR are as follows:

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