INCENTIVES FOR INVESTORS

The government has come up with a liberal program of fiscal and non-fiscal incentives to attract foreign capital and technology that complements local resources.

Different incentives schemes are available relative to the location and registration of the proposed business activity. Thus, there are several options for an enterprise to choose from :

A. Projects Registered at the Board of Investments (BOI)E.O. 226

The BOI, an agency under the Department of Trade and Industry, is the lead investments promotion agency of the country. As such, it is at the forefront of government's efforts to attract direct investments into the country to contribute to economic growth and jobs creation, to help uplift the general economic welfare of the Filipinos.

The agency is designed to promote inward investments and assist local and foreign investors in their venture of the desirable areas of business, defined in the annually-prepared Investment Priorities Plan(IPP).

The BOI is mandated through the Omnibus Investments Code (or Executive Order 226) to encourage investments through tax exemption and other benefits in preferred areas of economic activity specified by the BOI in IPP.

The IPP, formulated annually by the BOI, through an inter-agency committee, and approved by the President, lists the priority activities for investments. It contains a listing of specific activities that can qualify for incentives under Book 1 of this Code.

<u>Qualification</u>

A Filipino enterprise can register their activity with the BOI if their project is listed as a preferred project in the current IPP. Said enterprise may engage in domestic –oriented activities listed in the IPP whether classified as pioneer or non-pioneer.

However, an activity which is not listed, may also be entitled to incentives if the following conditions are met :

- At least 50% of the production is for export (for 60% Filipino-40% Foreign-owned enterprises); or
- *At least 70% of production is for export (for more than 40% foreign–owned enterprises)*

For foreign-owned firms or those whose foreign participation exceeds 40% of the outstanding capital stock who intend to engage in domestic-oriented activities, they can only be registered with BOI if they propose to engage in an activity listed or classified in the IPP as pioneer. However, if it fails to meet the pioneer classification, it can likewise opt to be an export-oriented firm to qualify for BOI registration. However, this time, the export requirement is at least 70% of actual production.

Fiscal Incentives

A. Income Tax Holiday (ITH)

1. BOI-registered enterprise shall be exempt from payment of the income taxes reckoned from the scheduled start of commercial operations, as follows:
   a. New projects with a pioneer status for six (6) years;
   b. New projects with a non-pioneer status for four (4) years;
   c. Expansion projects for three (3) years. As a general rule, exemption is limited to incremental sales revenue/volume;
   d. New or expansion projects in less developed areas for six (6) years, regardless of status; and
   e. Modernization projects for three (3) years. As a general rule, exemption is limited to incremental sales revenue/volume.
2. New registered pioneer and non-pioneer enterprises and those located in the less developed areas (LDAs) may avail of a bonus year in each of the following cases:
   a. The indigenous raw materials used in the manufacture of the registered product must at least be fifty percent (50%)of the total cost of raw materials for the preceding years prior to the extension unless the Board prescribes a higher percentage; or
   b. The ratio of total imported and domestic capital equipment to the number of workers for the project does not exceed US$10,000 to one (1) worker; or
   c. The net foreign exchange savings or earnings amount to at least US$500,000 annually during the first three (3) years of operation.

In no case shall a registered pioneer firm avail of this incentive for a period exceeding eight (8) years.

B. Exemption from taxes and duties on imported spare parts

A registered enterprise with a bonded manufacturing warehouse shall be exempt from customs duties and national internal revenue taxes on its importation of required supplies/spare parts for consigned equipment or those imported with incentives.

C. Exemption from wharfage dues and export tax, duty, impost and fees

All enterprises registered under the IPP will be given a ten (10) year period from date of registration to avail of the exemption from wharfage dues and any export tax, impost and fees on its non-traditional export products.

D. Reduction of the Rates of Duty on Capital Equipment, Spareparts and Accessories by virtue by Virtue of EO 528

Effective June 17, 2006, BOI-registered enterprises of good standing with project registered as new or expanding under Executive Order 226, otherwise known as the Omnibus Investments Code of 1987, may import machinery, equipment, spare parts and accessories subject to zero percent (0%) duty for BOI-registered enterprises, classified under AHTN Chapters 40, 59,68,69, 70, 73, 76,82,83,84,85,87,89,90,91 and 96 of the Tariff and Customs Code of the Philippines.

The capital equipment incentive provided under the E.O 528 shall be availed of by the registered enterprise for a period of five (5) years from its effectivity or until 17 June 2011.

E. Tax exemption on breeding stocks and genetic materials

Agricultural producers will be exempt from the payment of all taxes and duties on their importation of breeding stocks and genetic materials within ten (10) years from the date of registration or commercial operation.

F. Tax Credits

1. Tax credit on tax and duty portion of domestic breeding stocks and genetic materials. A tax credit equivalent to one hundred percent (100%) of the value of national internal revenue taxes and customs duties on local breeding stocks within ten (10) years from date of registration or commercial operation for agricultural producers.
2. Tax credit on raw materials and supplies. A tax credit equivalent to the national internal revenue taxes and duties paid on raw materials, supplies and semi-manufacture of export products and forming part thereof shall be granted to a registered enterprise.

F. Additional Deductions from Taxable Income.

1. Additional deduction for labor expense (ADLE). For the first five (5) years from registration, a registered enterprise shall be allowed an additional deduction from taxable income equivalent to fifty percent (50%) of the wages of additional skilled and unskilled workers in the direct labor force. The incentive shall be granted only if the enterprise meets a prescribed capital to labor ratio and shall not be availed of simultaneously with the ITH. This additional deduction shall be doubled if the activity is located in an LDA.
2. Additional deduction for necessary and major infrastructure works. Registered enterprises locating in LDAs or in areas deficient in infrastructure, public utilities and other facilities may deduct from their taxable income an amount equivalent to the expenses incurred in the development of necessary and major infrastructure works. The privilege, however, is not granted to mining and forestry-related projects, as they would naturally be located in certain areas to be near their sources of raw materials.

Non-fiscal Incentives

A. Employment Of Foreign Nationals

A registered enterprise may be allowed to employ foreign nationals in supervisory, technical or advisory positions for five (5) years from date of registration, extendible for limited periods at the discretion of the Board. The positions of President, General Manager and Treasurer of foreign-owned registered enterprises (more than 40%) or their equivalent shall, however, not be subject to the foregoing limitations.

B. ***Simplification of customs procedures*** for the importation of equipment, spare parts, raw materials and supplies and exports of processed products.

C. ***Importation of consigned equipment*** for a period of 10 years from date of registration, subject to posting of a re-export bond equivalent to 100% of the estimated taxes and duties.

D**. The privilege to operate a bonded manufacturing/ trading warehouse** ***subject to customs rules and regulations***

B. Projects Registered at the Regional Board of Investments – Autonomous Region in Muslim Mindanao (RBOI-ARMM)

The Regional Board of Investments (RBOI) of the Autonomous Region in Muslim Mindanao (ARMM) was created by virtue of Executive Order No. 458 which devolves the powers and functions of BOI National over investments in the Autonomous Region in Muslim Mindanao to the Autonomous Regional Government.

The Board is mandated to regulate and exercise authority over investments within its jurisdiction in accordance with its goal and objectives, subject, however, to the Constitution and National policies.

Qualification

- Products or activities must be listed in the Investment Priorities Plan (IPP).
- Organized under Philippine laws; at least 60% of capital stocks outstanding is owned and controlled by a Filipino citizen.
- Pioneer projects and projects targeting 70-100% of their production for export are, however, exempted from the minimum Filipino requirement. But, in the case of garments, production to be exported should be one hundred percent (100%).

Fiscal Incentives

- Income Tax Holiday – 6 years for both pioneer and non-pioneer enterprises
- Reduced duty on Importation of Capital Equipment
- Exemption from Taxes and Duties on Imported Spare Parts
- Exemption from Wharfage Dues and Export Tax, Duty, Impost and Fees
- Tax Exemption on Breeding Stocks and Genetic Materials

- Additional Deduction from Taxable Income
- Tax Credit on Domestic Capital Equipment
- Tax Credit on Duty Portion of Domestic Breeding Stocks and Genetic Materials
- Tax Credit for Taxes and Duties on Raw Materials
- Incentives for Necessary and Major Infrastructure and Public Utilities

Non-Fiscal Incentives:

- Employment of Foreign Nationals
- Simplification of Customs Procedures
- Importation of Consigned Equipment
- The privilege to Operate a Bonded Manufacturing Warehouse

C. Projects Registered at the Economic Zones & Freeport Authorities

1. Philippine Economic Zone Authority (PEZA) RA 7916

PEZA, an attached to the Department of Trade and Industry, is the Philippine government agency tasked to promote investments, extend assistance, register, grant incentives to and facilitate the business operations of investors in export-oriented manufacturing and service facilities inside selected areas throughout the country proclaimed by the President of the Philippines as PEZA Special Economic Zones.

It oversees and administers incentives to developers/operators of and locators in world-class, ready-to-occupy, environment-friendly, secured and competitively priced Special Economic Zones.

PEZA's dynamic, responsive and client-oriented ethics have earned the trust and confidence of investors in its Special Economic Zones, the local business sector, and the foreign chambers of commerce in the Philippines. PEZA is ISO 9001:2000 certified.

All Industrial Economic Zones are manned by a PEZA officer and staff to immediately attend to stakeholders' needs and concerns. Information Technology companies are attended to by Head Office.

The creation of PEZA, the development of Special Economic Zones throughout the country, and the very competitive incentives available to investments inside PEZA Special Economic Zones are embodied in the Special Economic Zone Act of 1995 (Republic Act No. 7916), a law passed by the Philippine Congress.

As provided in the Special Economic Zone Act, the PEZA Board is chaired by the Secretary of the Department of Trade and Industry. Vice-Chair is the Director General (Chief Executive Officer) of PEZA. Members of the Board are Undersecretaries representing nine (9) key government Departments, to ensure efficient coordination between PEZA and their respective Departments on matters pertaining to investors' operations inside the Special Economic Zones.

<u>Qualification</u>

Export-oriented enterprises that locate in any of PEZA economic zone.

<u>Fiscal Incentives</u>

1. Economic Zone Export Manufacturing Enterprise

- Income Tax Holiday (ITH) – 100% exemption from corporate income tax
    - 4 years ITH for Non-pioneer Project
    - 6 years ITH for Pioneer Project

      ITH Extension years may be granted if Project complies with the following criteria, (one criterion is equivalent to one ITH extension year), provided that the total ITH entitlement period shall not exceed eight (8) years:

        - *The average net foreign exchange earnings of the project for the first three (3) years of operations is at least US$500,000.00 and,*
        - *The capital equipment to labor ratio of the project does not exceed US$10,000.00 to 1 for the year immediately preceding the ITH extension year being applied for.*
        - *The average cost of indigenous raw materials used in the manufacture of the registered product is at least fifty per cent (50%) of the total cost of raw materials for the preceding years prior to the ITH extension year.*

    - 3 years ITH for Expansion project (ITH applies to incremental sales)

- Upon expiry of the Income Tax Holiday - 5% Special Tax on Gross Income and excemption from all national and local taxes ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- Tax and duty free importation of raw materials, capital equipment, machineries and spare parts.
- Exemption from wharfage dues and export tax, impost or fees
- VAT zero-rating of local purchases subject to compliance with BIR and PEZA requirements
- Exemption from payment of any and all local government imposts, fees, licenses or taxes. However, while under Income Tax Holiday, no exemption from real estate tax, but machineries installed and operated in the economic zone for manufacturing, processing or for

industrial purposes shall be exempt from real estate taxes for the first three (3) years of operation of such machineries. Production equipment not attached to real estate shall be exempt from real property taxes

- Exemption from expanded withholding tax

2. Information Technology Enterprise:

- Income Tax Holiday (ITH) – 100% exemption from corporate income tax:
    - 4 years ITH for Non-pioneer project
    - 6 years ITH for Pioneer project

      ITH Extension year may be granted if Project complies with the following criteria (one criterion is equivalent to one ITH extension year,), provided that the total ITH entitlement period shall not exceed eight (8) years:

        - *The average net foreign exchange earnings of the project for the first three (3) years of operations is at least US$500,000.00 and,*
        - *The capital equipment to labor ratio of the project does not exceed US$10,000.00 to 1 for the year immediately preceding the ITH extension year being applied for.*

    - 3 years ITH for Expansion project (ITH applies to incremental sales)

- Upon expiry of the Income Tax Holiday - 5% Special Tax on Gross Income and excemption from all national and local taxes. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- Tax and duty free importation of equipment and parts.
- Exemption from wharfage dues on import shipments of equipment.
- VAT zero-rating of local purchases of goods and services, including land-based telecommunications, electrical power, water bills, and lease on the building, subject to compliance with Bureau of Internal Revenues and PEZA requirements
- Exemption from payment of any and all local government imposts, fees, licenses or taxes. However, while under Income Tax Holiday, no exemption from real estate tax, but machineries installed and operated in the economic zone for manufacturing, processing or for industrial purposes shall not be subject to payment of real estate taxes for the first three (3) years of operation of such machineries. Production equipment not attached to the real estate shall be exempt from real property taxes.
- Exemption from expanded withholding tax.

3. Tourism Economic Zone Locator Enterprise

- Four (4) years of Income Tax Holiday ITH (as qualified under the National Investment Priorities Plan)
- Upon expiry of the Income Tax Holiday - 5% Special Tax on Gross Income and exemption from all national and local taxes ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- Tax and duty-free importation of capital equipment
- VAT Zero Rating on local purchases of goods and services, including land-based telecommunications, electric power, and water bills
- Exemption from expanded withholding tax

4. Medical Tourism Enterprise

- Four (4) years of Income Tax Holiday on income solely from servicing foreign patients
- Upon expiry of the Income Tax Holiday - 5% Special tax on Gross Income upon in lieu of all national and local taxes. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- Tax and duty-free importation of medical equipment, including spare parts and equipment supplies, required for the technical viability and operation of the registered activity/ies of the enterprise.
- VAT Zero Rating on local purchases of goods and services, including land-based telecommunications, electric power, and water bills
- Exemption from expanded withholding tax

5. Agro-Industrial Economic Zone Enterprise

- Four (4) years of Income Tax Holiday
- Upon expiry of the Income Tax Holiday - 5% Special tax on Gross Income and exemption from all national and local taxes . ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- Tax and duty free importation of production equipment and machineries, breeding stocks, farm implements including spare parts and supplies of the equipment and machineries
- Exemption from export taxes, wharfage dues, impost and fees
- VAT Zero Rating on local purchases of goods and services, including land-based telecommunications, electric power, and water bills
- Exemption from payment of local government fees such as Mayor's Permit, Business Permit, permit on the Exercise of profession/Occupation/Calling, Health Certificate Fee, Sanitary Inspection Fee, and Garbage Fee

6. Economic Zone Logistics Services Enterprise

- Exemption from duties and taxes on raw materials, semi-finished goods for re-sale to - or for packing/covering, cutting, altering for subsequent sale to PEZA-registered Export Manufacturing Enterprises, for direct export or for consignment to PEZA-registered export enterprise.
- VAT Zero Rating on raw materials for checking, packing, visual inspection, storage and shipping to be sourced locally

7. Economic Zone Developer / Operator

7.a. Manufacturing Economic Zone Developer / Operator

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by the Econimic Zone Developer. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

7.b. IT Park Developer / Operator

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by the IT Park Developer. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)

- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

7.c. Tourism Economic Zone Developer / Operator

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by the Tourism Economic Zone Developer. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

7.d. Medical Tourism Economic Zone Developer / Operator

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by Medical Tourism Zone Developer. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

7.e. Agro-Industrial Economic Zone Developer / Operator

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by the Agro-Industrial Economic Zone Developer. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

7.f. Retirement Economic Zone Developer / Operator

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by the Retirement Economic Zone Developer. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

8. Facilities Enterprises

8.a. Economic Zone Facilities Enterprise

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by developers. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

8.b. IT Park Facilities Enterprise

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by developers. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

8.c. Retirement Economic Zone Facilities Enterprise

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by developers. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)

- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

9. Economic Zone Utilities Enterprise

- Special 5% Tax on Gross Income and exemption from all national and local taxes, except real property tax on land owned by developers. ("Gross Income" refers to gross sales or gross revenues derived from the registered activity , net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period)
- VAT Zero rating of local purchases
- Exemption from expanded withholding tax

Non-Fiscal Incentives

- Simplified Import – Export Procedures (Electronic Import Permit System and Automated Export Documentation System).
- Non-resident Foreign Nationals may be employed by PEZA-registered Economic Zone Enterprises in supervisory, technical or advisory positions.
- Special Non-Immigrant Visa with Multiple Entry Privileges for the following non-resident Foreign Nationals in a PEZA-registered Economic Zone Enterprise : Investor/s, officers, and employees in supervisory, technical or advisory position, and their spouses and unmarried children under twenty-one years of age. PEZA extends *Visa Facilitation Assistance* to foreign nationals their spouses and dependents.

2. Subic Bay Metropolitan Authority and Clark Development Corporation (RA 7227, as amended by RA 9400)

Republic Act no. 7227 created the Bases Conversion Development Authority (BCDA) and while carrying out its primary mission, went a step further by accelerating the conversion and development of baselands as well as promoting the social and economic development of Central Luzon via the Subic Bay Metropolitan Authority (SBMA) and the Clark Development Corporation (CDC) These sites were former US military facilities.

In April 2007, RA 9400 was signed amending RA 7227, otherwise known as the Bases Conversion Act of 1992. The amendment declared the 4,400-hectare Clark Air Base Proper as a Freeport Zone. This places Clark on equal legal footing with the Subic Freeport Area, especially in the areas of tax and other fiscal incentives which can be offered to current and potential locators.

Both SBMA and CDC grant essentially the same sets of incentives to registered Subic Bay Freeport (SBF) and Clark Freeport Zone (CFZ) enterprises. They are managed as separate custom territories, ensuring free flow of articles within the zones.

Qualification

One hundred percent (100%) foreign equity is allowed for many types of industries including manufacturing, tourism and service-oriented businesses.

Fiscal Incentives

- Preferential tax rate of five percent (5%) based on Gross Income Earned provided that seventy percent (70%) of products are to be exported.
- Income Tax Holiday (ITH) for six (6) years extendible up to a total of eight (8) years may be availed through the Board of Investments (BOI).
- Zero Value Added Tax (VAT) rating on local purchases.
- Exemptions from Real Property Tax

Non-fiscal Incentives

- Duty Free importation of capital equipment, raw materials and even finished goods subject to seventy percent (70%) minimum export requirement.
- Free movement of finished goods within the Customs Territory
- Special Visas for Investors
- Unlimited purchase and consumption of tax and duty free goods within the Freeport Zone
- Research and Development (R&D) is allowable as deduction for Manufacturing, Trading and Service Enterprises under RR 16-99

REGIONAL ENTERPRISES LOCATING IN THE ECONOMIC AND FREEPORT ZONES

Revenue Regulations No. 16-99 issued September 27, 1999 amends Revenue Regulations No. 1-95 and other related rules and regulations relative to the tax incentives granted to enterprises registered in the Subic Special Economic and Freeport Zone. Specifically, any multinational company whose purpose is to engage in regional and/or international trade/services and business activities may establish in the Subic/Clark Special Economic and Freeport Zone its seat of management and the situs of its business transactions, including the recording of its income, from some or all countries in the Asia-Pacific region and or other parts of the world, including the Philippines.

Incentives for Regional Enterprises

- May generate revenues locally up to 50% of its total revenues with only 5% tax based on gross income earned
- Allowable Deductions by Industry
  - For Trading and Infrastructure Development Enterprises
  - For Service Enterprises

  - For Financial Enterprises
- Additional Deductions
  - For trading and Infrastructure Development Enterprises
  - For Service Enterprises
  - Financial Enterprises

3. Cagayan Economic Zone Authority (CEZA) RA 7922

The **CEZA** is mandated to supervise and manage the development of the Cagayan Special Economic Zone and Freeport (Cagayan Freeport) into a self-sustaining industrial, commercial, financial, and tourism/recreational center and Freeport with suitable retirement/ residential areas. This move is aimed at creating employment opportunities in and around the Cagayan Freeport, and to effectively encourage and attract legitimate and productive local and foreign investments.

The Cagayan Freeport was established by virtue of Republic Act No. 7922, otherwise known as the Cagayan Economic Zone Act of 1995.

<u>Qualification</u>

The applicant must meet the following conditions for registration:

(a) The applicant must infuse capital within the Cagayan Freeport, either in the form of a lease agreement, joint venture or Build-Operate-Transfer arrangements, or other methods of investment;

(b) A Cagayan Freeport enterprise shall be a duly constituted business enterprise organized or domiciled in the Philippines or any foreign country;

(c) The enterprise must name a representative or agent who is a legal resident of the Philippines;

(d) If affiliated with an existing enterprise in the Philippines outside the Cagayan Freeport, the enterprise must establish a separate business organization to conduct business exclusively within the freeport which shall be a separate taxable entity; and

(e) In meritorious cases, the CEZA may allow the non-establishment of a separate business entity subject to such terms and conditions as prescribed.

<u>Incentives</u>

- Four to six-year income tax holiday for qualifying industries (four years for non-pioneer firms & six years for pioneers)
- Tax and duty free importation of articles, raw materials, capital goods, equipment & consumer items.
- A special tax rate of 5% of gross income in lieu of all local and national taxes;

- Tax credits for foreign corporations;
- Permanent resident status for foreign investors and their immediate family, provided that the investor maintains a capital investment not less thatn One Hundred Fifty Thousand US Dollars (US$150,000.00)
- All applicable incentives under Omnibus Investment Code of 1987, such as:
    - Foreign nationals employed by the enterprise shall be issued a multiple entry visa, valid for a period of three years
    - Tax treatment of merchandise in the Zone
    - Tax and duty-free importation of articles, raw materials, capital goods
    - Tax credits
    -

4. Zamboanga City Special Economic Zone Authority (ZEZA) RA 7903

Zamboanga City Special Economic Zone Authority, created by virtue of Republic Act 7903, is dubbed as an economic haven in this part of the region.

By nature of its operation, Zamboanga Freeport Authority is unique being both an Economic Zone and Freeport and the only freeport in Visayas and Mindanao.

With the issuance by the Bureau of Customs of a special administrative order classifying the Zamboanga Freeport Authority as a separate Customs territory, the free flow, entry and movement of machinery and other goods sans the imposition of local and national tariffs are guaranteed.

Qualification

Both foreign and local investors with export and/or domestic market can apply for registration and availment of incentives.

Incentives

- Income Tax Holiday (ITH)-6 years for pioneer projects, 4 years for non-pioneer projects and 3 years expansion projects.
- Tax- and duty-free importation of raw materials, equipment and other articles;
- 5% flat tax rate from gross income earned after the ITH
- Exemption from all local and national taxes
- Permanent resident visas for foreign investors and immediate family members with investment of at least US$150,000
- Other incentives under the Presidential Decree No. 66 or those provided under Book VI of the Omnibus Investment Code of 1987.

5. PHIVIDEC Industrial Authority (PD 538)

The PHIVIDEC Industrial Authority (PIA), is a government-owned and controlled corporation, was established through Presidential Decree no. 538, as amended by PD 1491. It was mandated by its Charter to manage and supervise the 3,000-hectare Phividec Industrial Estate in Misamis Oriental.

<u>Qualification</u>

Both foreign and local investors with export and/or domestic market can apply for registration and availment of incentives.

Incentives

- Exemption from tariff, customs, duties and internal revenue taxes for raw materials, supplies, articles, equipment, machinery, spare parts and wares brought into the estate and utilized in the production, storing , packing and shipment of goods meant for the foreign market
- Exemption from local taxes and licenses, except Real Property Taxes
- Continued availment of BOI's privileges if Industry is BOI- registered
- Exemption from wharfage dues if pier is constructed by investors
- Employment of foreign nationals on technical and management levels
- Availment of inexpensive electrical power rates
- Availment of the lowest land lease rates in the country

6. AURORA SPECIAL ECONOMIC ZONE AUTHORITY (ASEZA) RA 9490

The ASEZA, also known as Aurora Pacific Economic Zone (APECO), was created by virtue of Republic Act 9490 in 2007. It is designed to be the Philippines' gateway to the Pacific housing an airport and seaport - driven economic center.

APECO is in the municipality of Casiguran, Province of Aurora, at the northeastern quadrangle of Luzon. It is bounded by the provinces of Isabela, Quirino and Nueva Ecija.

Qualification

Both foreign and local investors with export and/or domestic market can apply for registration and availment of incentives.

Incentives

- Income Tax Holiday
- Net Operating Loss Carryover (NOLCO) – Net operating loss of the business or enterprise during the first three years from the start of commercial operations which have not been previously offset as deduction from gross income shall be carried over as a deduction from gross income for the next five consecutive years immediately following the year of such loss
- Imposition of a tax rate of five percent (5%) on Gross Income Earned (GIE)
- Accelerated Depreciation. - Accelerated depreciation of plant, machinery and equipment that are reasonably needed and actually used for the production and transport of goods and services
- Capital Equipment Incentives
- The importation of source documents by information technology-registered enterprises shall be eligible for tax and duty free importation.

- Raw Materials Incentives.
- Incentives on Breeding Stocks and Genetic Materials.
- Exemption from Wharfage Dues.
- Deferred Imposition of the Minimum Corporate Income Tax.

- Other Incentives :
  - Employment of Foreign Nationals.
  - Investment amount of US$ 150,000.00 in there in cash and/or equipment, in a registered enterprise shall be entitled to an investor's Visa.

Note : For purposes of implementing the 5% tax on Gross Income Earned, in lieu of national and local taxes, granted to PEZA Ecozone Enterprises in CSEZ, CFZ, MSEZ and JHSEZ, the relevant provisions of R.A. 7916, its implementing Rules and Regulations, Circulars, Memoranda of Agreement with other government agencies, and all other relevant issuances of PEZA and of other government agencies relative to the implementation of the tax incentives under R.A. 7916, shall apply.

A. Bases Conversion and Development Authority (RA 7227 and its amendatory law, RA 9400)

The Bases Conversion and Development Authority (BCDA) was created under Republic Act (RA) 7227 or "An Act Accelerating the Conversion of Military Reservations into other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefore and for Other Purposes". It is also known as "The Bases Conversion and Development Act of 1992" as amended by RA 9400.

BCDA's mandate is three-fold (1) Accelerate the sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extensions; (2) Raise funds by the sale of portions of Metro Manila camps and apply said funds for the development and conversion to productive civilian use of the lands covered under the 1947 MBA between the Philippines and the United States of America, as amended; and (3)To promote the economic and social development of Central Luzon in particular and the country in general.

BCDA has implementing arms over its subsidiaries such as John Hay Management Corporation (JHMC) for John Hay Special Economic Zone (JHSEZ) and Poro Point Management Corporation (PPMC) for Poro Point Freeport Zone (PPFZ).

INCENTIVES

Poro Point Freeport Zone (PPFZ) managed by PPMC

- Tax and duty free importation of raw materials and capital equipment.
- PPFZ shall be managed as a separate customs territory, ensuring free flow of articles within the Freeport
- Unlimited purchase and consumption of tax and duty free consumer goods within the PPFZ
- No local and national taxes. In lieu of taxes, PPFZ enterprise shall five percent (5%) of gross income earned.

John Hay Special Economic Zone (JHSEZ) managed by JHMC

- Exemption from taxes under the National Revenue Code (NRC)
- Exemption from local taxes except real property taxes
- Transactions are zero-rated
- Fiscal Incentives provided under PD 66
- Fiscal Incentives provided under EO 266 (Omnibus Investment Code of 1987)
- Preferential Income Tax treatment on gross income earned within the economic zone which is five percent (5%) of the gross income earned in the following percentages: National Government (3%) and Local Government Unit (2%)

E. Projects Registered as Regional Headquarters and Regional Operating Headquarters (RHQs/ROHQs)

Republic Act 8756 provides the terms and conditions and licensing requirements of the RHQ and ROHQ.

Qualification

RHQ

- It does not derive income from sources within the Philippines and does not participate in any manner in the management of any subsidiary or branch office it might have in the Philippines.
- Required capital: US$50,000.00 annually to cover operating expenses.

ROHQ

- May derive income in the Philippines

- Required capital: US$200,000.00 one time remittance.

Incentives

There are two sets of incentives given to:

a. *Expatriates ; and*
b. *RHQs/ROHQs*

i. Incentives to Expatriate (of both RHQs and ROHQs)

- Multiple Entry Visa (Art.60)
  - Expatriates, including spouse and unmarried children below 21 years old are entitled to this type of visa
  - Valid for 3 years extendible for another 3 years
  - Exempt from payment of fees except reasonable administrative costs
  - Non-immigrant visa will be processed within 72 hours from submission of documents to the Bureau of Immigration
  - Exempt from securing Alien Certificate of Registration
- Withholding tax of 15% on compensation income applicable to both foreign and Filipino executives holding managerial and technical positions
- Tax and duty free importation of used household goods and personal effects
- Travel tax exemption for Personnel and their dependents

ii. RHQs

- *Exemption from Corporate Income Tax but shall file an Annual Information Return*
- Exemption from Value Added Tax and Sale or lease of goods and property, and rendition of services to RHQ shall also be exempted
- Exemption from all kinds of local taxes, fees or charges

- Tax and duty-free importation of equipment and materials for training and conferences
  -Equipment and training materials not locally available
  -Equipment disposed within 2 years after importation subject to payment of taxes and duties
- Importation of Brand New Motor Vehicles subject to payment of taxes and duties

iii. ROHQs

- *Subject to 10% taxable income (Corporate Income Tax)*
- *Subject to 10% Value Added Tax*
- *Exemption from all kinds of local taxes, fees or charges*
- Tax and duty-free importation of equipment and materials for training and conferences
- Equipment and training materials not locally available
- Equipment disposed within 2 years after importation subject to payment of taxes and duties
- Importation of Brand New Motor Vehicles subject to payment of taxes and duties