

H. No. 5831
S. No. 2669

Republic of the Philippines
Congress of the Philippines
Metro Manila

Sixteenth Congress

Third Regular Session

— ■ —

Begun and held in Metro Manila, on Monday, the twenty-seventh day of July, two thousand fifteen.

[REPUBLIC ACT NO. 10708]

AN ACT ENHANCING TRANSPARENCY IN THE
MANAGEMENT AND ACCOUNTING OF TAX
INCENTIVES ADMINISTERED BY INVESTMENT
PROMOTION AGENCIES

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

SECTION 1. This Act shall be known as "The Tax
Incentives Management and Transparency Act (TIMTA)".

SEC. 2. *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.

SEC. 3. *Definition of Terms.* – As used in this Act:

(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) *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 registered business entities; and

(c) *Registered business entity* 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.

SEC. 4. *Filing of Tax Returns and Submission of Tax Incentives Reports.* – All registered business entities are required to 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 Bureau of Internal Revenue (BIR).

For registered business entities availing of incentives administered by the IPAs, they shall file with their respective IPAs a complete annual tax incentives report of their income-based tax incentives, value-added tax and duty exemptions, deductions, credits

or exclusions from the tax base as provided in the charter of the IPA concerned, within thirty (30) days from the statutory deadline for filing of tax returns and payment of taxes.

The IPAs shall, within sixty (60) days from the end of the statutory deadline for filing of the relevant tax returns, submit to the BIR their respective annual tax incentives reports based on the list of the registered business entities who have filed said tax incentives report.

The details of the tax incentives reports, as provided in the preceding paragraphs, shall be provided in the implementing rules and regulations (IRR) of this Act.

The foregoing provisions shall be without prejudice to the right of the BIR and the Bureau of Customs (BOC) to conduct assessment within the prescribed period provided in the NIRC, as amended, and the Tariff and Customs Code of the Philippines (TCCP), as amended, respectively.

SEC. 5. *Monitoring of Tax Incentives.* – The BIR and the BOC shall submit to the Department of Finance (DOF), notwithstanding any law to the contrary: (a) the tax and duty incentives of registered business entities as reflected in their filed tax returns and import entries; and (b) actual tax and duty incentives as evaluated and determined by the BIR and the BOC.

The DOF shall maintain a single database for monitoring and analysis of tax incentives granted.

For purposes of monitoring and transparency, the DOF shall submit to the Department of Budget and Management (DBM) the aggregate data on a sectoral and per industry basis of: (1) the amount of tax incentives availed by registered business entities; (2) the estimate 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. Such information shall be given to the Oversight Committee created under Section 9 of this Act.

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 registered business entities based on the submissions of the DOF and the concerned IPAs, categorized by sector, by IPA and type of incentive.

Nothing in this Act 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.

SEC. 6. *Conduct of Cost-Benefit Analysis on Investment Incentives.* – The National Economic and Development Authority (NEDA) is mandated to conduct cost-benefit analysis on the investment incentives to determine the impact of tax incentives on the Philippine economy.

For this purpose, all heads of the IPAs shall submit to the NEDA the aggregate tax incentives, based on the submissions of registered business entities as provided in Section 4 of this Act, and aggregate investment-related data, both on a sectoral or per industry basis, which may include, but not limited to, investment projects, investment cost, actual employment and export earnings.

SEC. 7. *Penalties for Noncompliance with Filing and Reportorial Requirements.* – Any registered business entity which fails to comply with filing and reportorial requirements with the appropriate IPAs 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:

- (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 if the failure to show such proof is not due to the fault of the registered business entity, the same shall not be a ground for the suspension of the ITH and/or other income-based tax incentives availment.

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 Act 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.

SEC. 8. *Funding.* – Such amount necessary to carry out the implementation of this Act shall be sourced from the current General Appropriations Act (GAA).

SEC. 9. *Joint Congressional Oversight Committee.* – A Joint Congressional Oversight Committee, herein referred to as the Oversight Committee, shall be constituted in accordance with the provisions of this Act. The Oversight Committee shall be composed of the respective Chairpersons of the Committees on Ways and Means of the Senate and of the House of Representatives and four (4) additional members from each House, one of whom shall be the Chairperson of the Senate Committee on Trade, Commerce and Entrepreneurship and the Chairperson of the House Committee on Trade and Industry to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall monitor and ensure the proper implementation of this Act.

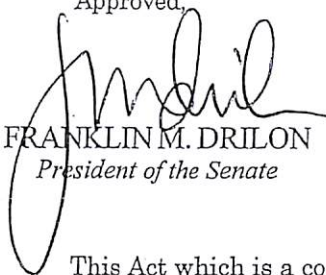
SEC. 10. *Implementing Rules and Regulations.* – The Secretaries of the DOF and the Department of Trade and Industry (DTI), in coordination with the NEDA Director-General, Commissioners of the BIR and BOC, and heads of concerned IPAs, shall, within sixty (60) days from the effectivity of this Act, promulgate rules and regulations to faithfully implement the intent and provisions of this Act: *Provided*, That the failure of the Secretaries of the DOF and DTI to promulgate the rules and regulations shall not prevent the implementation of this Act upon its effectivity.

SEC. 11. *Separability Clause.* – If any provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 12. *Repealing Clause.* – All other laws, acts, presidential decrees, executive orders, issuances, presidential proclamations, rules and regulations or parts thereof which are contrary to and inconsistent with any provision of this Act are hereby repealed, amended or modified accordingly.


SEC. 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication either in the *Official Gazette* or in at least one (1) newspaper of general circulation.

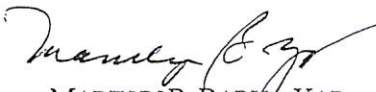
Approved,


FRANKLIN M. DRILON
President of the Senate

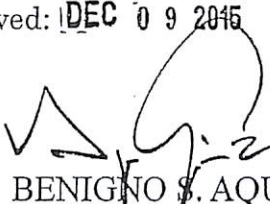

FELICIANO BELMONTE JR.
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 5831 and Senate Bill No. 2669 was finally passed by the House of Representatives and the Senate on October 7, 2015.


OSCAR G. YABES
Secretary of the Senate


MARILYN B. BARUA-YAP
Secretary General House of Representatives

Approved: DEC 09 2015


BENIGNO S. AQUINO III
President of the Philippines



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MARIANITO M. DIMAANDAL
DIRECTOR IV
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