

## Laws that Provide Fiscal Incentives to Investors

### ✓ Income Tax Holiday

First, for six (6) years from commercial operation for pioneer firms and four (4) years for non pioneer firms, new registered firms shall be fully exempt from income taxes levied by the national government. Subject to such guidelines as may be prescribed by the Board, the income tax exemption will be extended for another year in each of the following cases:

The project meets the prescribed ratio of capital equipment --- to number of workers set by the board;

Utilization of indigenous raw materials at rates set by the Board; and

- \* The net foreign exchange savings or earnings amount to at least US\$500,000 annually during the first three (3) years of operation. Withstanding no registered pioneer firm may avail of this incentive for a period exceeding eight (8) years. Second, for a period of three (3) years from commercial operation, registered expanding firms shall be entitled to an exemption from income taxes levied by the national government proportionate to their expansion under such terms and conditions as the Board may determine as during that period within which this incentive is availed of by the expanding firm it shall be entitled to additional deduction for incremental labor expense.

### ✓ Additional Deduction for Labor Expenses

For the first five (5) years from registration a registered enterprise shall be allowed an additional deduction from the taxable income of fifty (50) percent of the wages corresponding to the increment in the number of direct labor for skilled and unskilled workers if the project meets the prescribed ratio of capital equipment to number of workers set by the Board provided that this additional deduction shall be doubled if the activity is located in less developed areas as defined in Article 40.

### ✓ Tax and Duty Exemption on Imported Capital Equipment and Its Accompanying Spare Parts

New expanding/modernizing enterprise which have been registered with the Board of Investments on or before December 31, 1994 shall be exempt to the extent of one hundred percent (100%) of national internal revenue taxes and customs duties on importations of machinery, equipment and accompanying spare parts within the prescribe period under its law of registration or until December 31, 1997 whichever comes first provided that the enterprise which shall register after December 31, 1994 shall be subject to the provisions of Republic Act No. 7716, and the three percent (3%) customs duties up to December 31, 1997 provided finally that the importation of machinery, equipment and accompanying spare parts shall comply with the following conditions:

- ❖ they are not manufactured domestically in sufficient quantity, or comparable quality, and at reasonable prices;

- they are reasonably needed and will be used exclusively by the registered enterprise in its registered activity, unless prior approval of the Board is secured for the part time utilization of said equipment in a non registered activity to maximize usage thereof or the proportionate taxes and duties are paid on specific equipment and machinery being permanently used for non-registered activities; and, the approval of the Board was obtained by the registered enterprise for the importation of such machinery, equipment and accompanying spare parts.

✓ Tax Credit on Domestic Capital Equipment

A tax credit equivalent to one hundred percent (100%) of the value of the national internal revenue taxes and customs duties that would have been waived on the machinery, equipment and spare parts, had these items been imported shall be given to the new and expanding enterprise registered with the Board of Investments as of December 31, 1994 which purchases machinery, equipment and spare parts from a domestic manufacturer provided that the said equipment, machinery and spare parts are reasonably need and exclusively by the registered enterprise in its registered activity, unless prior approval of the Board is secured for the part time utilization of said equipment in a non-registered activity to maximize usage thereof; that the equipment would have qualified for tax and duty exemption under paragraph (c) thereof; that the approval of the Board was obtained by the registered enterprise; and that the purchase is made on or before December 31, 1997 or December 31, 1999 as the case may be. If the registered enterprise sells, transfers, or dispose of these machinery, equipment and spare parts, the provision in the preceding paragraph for such disposition shall apply.

✓ Simplification of Customs Procedures

Customs procedures for the importation of equipment, spare parts, raw materials and supplies, exports of processed products by registered enterprises shall be simplified by the Bureau of Customs.

✓ Unrestricted Use of Consigned Equipment

Provisions of existing laws notwithstanding, machinery, equipment and spare parts consigned to any enterprise shall not be subject to restrictions as to period of use of such machinery, equipment and spare parts: provided that the appropriate re-export bond is posted unless importation is otherwise covered under subsections (c) and (1) of this Article: provided, further, that such consigned equipment shall be for the exclusive use of the registered enterprise.

✓ Employment of Foreign Nationals

Subject to the provisions of Section 29 of Commonwealth Act No. 613, as amended, a registered enterprise may employ foreign nationals in supervisory, technical or advisory positions for a period not exceeding five (5) years from its registration, extendible for limited periods at the discretion of the Board provided however that when the majority of the capital stock of a registered enterprise is owned by foreign investors, the positions of the president, treasurer, and general manager or their equivalents may be retained by foreign nationals beyond the period set forth within.

✓ Exemption on Breeding Stocks and Genetic Materials

The importation of breeding stocks and genetic materials within ten (10) years from the date of registration of commercial operation of the enterprise shall be exempt from all taxes and duties provided that such breeding stocks and genetic materials are: (1) not locally available and/or obtainable locally in comparable quality and at reasonable prices; (2) reasonably needed in the registered activity; and (3) approved by the Board.

- ✓ Tax Credit on 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 that would have been waived on the breeding stocks and genetic materials had these items been imported shall be given to the registered enterprise which purchases breeding stocks and genetic materials from a domestic producer provided (1) that said breeding stocks and genetic materials would have qualified for tax and duty-free importation under the preceding paragraph; (2) that the breeding stocks and genetic materials are reasonably needed in the registered activity; (3) that approval of the Board has been obtained by the registered enterprise; and (4) that the purchase is made within ten (10) years from the date of registration of commercial operation of the registered enterprise.

- ✓ Tax Credit for Taxes and Duties on Raw Materials

Every registered enterprise shall enjoy a tax credit equivalent to the national internal revenue taxes and customs duties paid on the supplies, raw materials and semi-manufactured products used in the manufacture, processing or production of its export products and forming part thereof provided however that the taxes on the supplies, raw materials and semi-manufactured products domestically purchased are indicated as a separate item in the sales invoice.

- ✓ Access to Bonded Manufacturing/Trading System

Registered export-oriented enterprises shall have access to the utilization of the bonded warehousing system in all areas required by the project subject to such guidelines as may be issued by the Board upon prior consultation with the Bureau of Customs.

- ✓ Exemption from Taxes and Duties on Imported Spare Parts

Importation of required supplies and spare parts for consigned equipment or those imported tax and duty-free by a registered enterprise with a bonded manufacturing warehouse shall be exempt from customs duties and national internal revenue taxes payable thereon provided however, that such spare parts and supplies are not locally available at reasonable prices, sufficiently quantity and comparable quality and that all such spare parts and supplies shall be used on in the bonded manufacturing warehouse of the registered enterprise under such requirements as the Bureau of Customs may impose.

- ✓ Exemption from Wharfage Dues and Export Tax, Duty, Imposts and Fee

The provision of law to the contrary notwithstanding, exports by a registered enterprise, of its non-traditional export products shall be exempted from any wharfage dues, and any export tax, duty imposts and fee.

- ✓ Other incentives granted to registered enterprise engaged in the export of products under R. A. No. 7844 known as Export Development Act of 1994' Article III, Section 16, paragraph d and e are as follows:

41. Tax credit for increase in current year's export revenue computed as follows: the first 5% increase in annual export revenue over the previous year would mean a credit of 2.5% to be applied on the incremental export revenue converted to pesos at the current rate; the next 5% increase would be entitled to a credit of 5.0%. The next 5 % increase would be entitled to a credit of 7.5%; and in excess of 15% would be entitled to credit to 10% ( paragraph d).
42. For the exporters of non-traditional products who use or substitute locally produced raw materials, capital equipment and/or spare parts, tax credits equivalent to twenty-five percent (25%) of the duties that would have been paid had these inputs been imported provided that this incentives would be available for a period of three years.
43. Fiscal Incentives provided in the Muslim Mindanao Autonomy Act No. 154 or known as Special Economic Zone Act of 2003.

According to Special Economic Zone Act of 2003, Chap. III, Section 23, the following are fiscal incentives granted to investor doing business within the declared zone.

- ✓ Income Tax Holiday(ITH)

Registered enterprises operating within the Special Economic Zone shall enjoy tax holiday from the start of their commercial operation on the basis of the following categories:

Category A - Enterprise whose business falls under ARMM Priority Plan shall be entitled to four years income tax holiday.

Category B - Export-oriented enterprise producing/rendering distinct or new products/services shall be entitled to six years tax holiday.

Category C - Export-oriented enterprise engaged in backward and forward linkages or strong potential for export development and listed in the Investment Priority Plan shall be entitled to eight years income tax holiday. Enterprises with existing operations that qualify for registrations shall be limited to their incremental capacities and/or incremental values for ITH.

Category D - The foregoing categories notwithstanding, an additional four years tax holiday shall be granted for "strategic projects". Strategic projects refer to activities, which exhibit high social economic returns and comply with any of the following conditions: create high value-added; generate sizable employment; require large investment; and use new and internationally accepted high level of

technology. The project shall be determined and approved as "strategic" by a decision of the REZA Board.

✓ Capital Equipment Incentives

Importations of capital equipments, spare parts, product consumables, or those required for pollution abatement and control including consignment thereof, by registered export-oriented enterprises upon the effectivity of this law shall be exempt to the extent of one hundred percent (100%) of the taxes and custom duties; Provided, That the importation thereof shall be used exclusively by the registered enterprise in its registered activity; Provided further, That importation of source documents by enterprises engaged in information technology shall likewise be fully exempt for the period herein.

✓ Incentives on Breeding Stocks and Genetic Materials

Importation of breeding stocks and genetic materials within ten (10) years from the date of registration of commercial operation of the enterprise shall be exempt from all taxes and duties: Provided, that such breeding stocks and genetic materials are reasonably needed in the registered activity and approved by the Board.

✓ Exemption from Real Property Tax on Machinery and Equipment

ECOZONE registered enterprises shall be fully exempt from the payment of the real property tax on equipment and machineries imposed under the Local Government Code.

✓ Tax Treatment of Merchandise in the Zone

Except as otherwise provided in this Code, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity, shall not be subject to customs internal revenue laws and regulations nor to local ordinances, the provisions of law to the contrary notwithstanding.

■ Merchandise purchased by a registered zone enterprise from the customs territory and subsequently brought into the zone, shall be considered as export sales and the exported thereof shall be entitled to the benefits allowed by law for such transaction.

❖ Domestic merchandise on which all internal revenue taxes have been paid, if subject thereto, and foreign merchandise previously imported on which duty of tax has been paid, or which have been admitted free of duty and tax, may be taken into zone from the customs territory of the Philippines and be brought back thereto free of quotas, duty or tax.

✓ Exemption from Local Taxes and Licenses

❖ Notwithstanding the provisions of law to the contrary, zone registered enterprise shall, to the extent of their construction, operation or production inside the zone be

exempt from the payment of any and local government imposts,  
fees, licenses or taxes. \_\_\_\_\_

Production equipment or machineries, not attached to real  
estate, used directly or indirectly, in the production,  
assembly or manufacture of the registered product of the  
zone registered enterprise shall be exempt from real  
property taxes: