

## Republic of the Philippines

### Introduction

#### Our Location Offer

Currently ranked the fourth largest economy in Southeast Asia and the 36th in the world by the International Monetary Fund (based on purchasing power parity; 2009 estimates), the Philippines remains to be a competitively favorable business destination for many companies. It hosts the biggest corporations across various industries, and continues to attract a lot more, thanks to the plethora of sustainable advantages the country offers that help secure their competitive position in the market amid an increasingly challenging business environment.

The Philippines is strategically located right in the heart of Asia, traversed by a network of international sea lanes and air traffic routes going to the Asian mainland. This makes the Philippines a prime location for export-oriented businesses, which are highly dependent on effective and on-time import and export schedules. Access to the ASEAN market of more than 550 million people and other major Asian markets is easy, as its capital, Manila, can be reached within 2-4 hours by plane and 24 hours by ship from key Asian cities.

Considering the archipelagic makeup of the Philippines, it has established robust infrastructures to ensure the seamless flow of goods, services, and people across its 7,107 islands. The three major islands of Luzon, Visayas, and Mindanao are made accessible by a network of roads, expressways, waterways, and airports. Among the major physical infrastructures are nine international and 20 domestic airports, three connecting railways which span across the Metro, and 12 roll-on/roll-off ports.

Digital connectivity is also well established. The Philippines offers a redundant international connectivity that allows 24x7x365 operations. Telco providers offer multiple infrastructures, with fiber optic cable as the primary backbone network and satellites as backup. There are 11 international gateway facilities and two satellites supporting international telecommunications.

A number of economic zones and IT parks are all equipped with support capabilities, such as ample and up-to-date telecommunications systems; a clean, uninterruptible power supply and computer security; and building monitoring and maintenance systems.

Presently, there are also emerging growth areas being explored and developed to cater to the growing needs and special business requirements of many enterprises. One of which is the services sector, the largest of its kind in the Philippines. It contributes around 50% to the country's gross domestic product (GDP) and is the fastest growing sector, which is highly driven by the BPO boom in the Philippines. From a non-entity in 2001, BPO has been lifted to the status of a sunshine industry, with its phenomenal 48% compound annual growth rate from 2004-2007.

A newly industrialized economy, the Philippines is also strong in the manufacturing industry such as electronics assembly, processed food, textile and garments, chemicals, pharmaceutical, and petroleum refining. Having abundant and diverse natural resources, from land to marine to mineral resources, other major industries include renewable energy, mining, agribusiness (commercial production/ processing), and fishing.

While the Philippines has wide array of investment offerings, its best value proposition still lies in the people-the Filipinos. Its labor force, which now totals over 38 million, is well equipped with high levels of education. Literacy rate is more than 94%, and 70% of the population are fluent in English, making the Philippines one of the largest English-speaking countries in the world. Every year, around 450,000 students graduate from college across a wide range of disciplines. In addition, there is a pool of skill-certified workers in the fields of automotive, construction, metals and engineering, information and communications technology, health and wellness, and tourism. The Filipino worker is a showcase in itself of professionalism, high level of commitment and loyalty, strong customer orientation, technical prowess and high trainability.

The Philippines has a business-friendly environment. The government has instituted a broad range of economic reforms and initiatives designed to spur business growth and foreign investments in the country. Key industries like manufacturing, telecommunications, petroleum, retail trade, financial sector, shipping, aviation, and water have been deregulated to allow a freer operation of market forces. Hundred percent foreign equity participation is allowed and basic rights and interests of investors are guaranteed.

Likewise, one-stop shops inside the zones and other investment promotion agencies are institutionalized to facilitate ease in business procedures and transactions.

## Republic of the Philippines

Providing support to investors is the Board of Investments, the lead government agency responsible for the promotion of investments in the Philippines. BOI assists investors to venture and prosper in desirable areas of economic activities, through the various services it offers to improve the ease of doing business in the country.

### Introduction to investment regime

The government has made it an official policy to attract, promote and welcome productive investments from foreign individuals, partnerships, corporations and governments. As a general rule, there are no restrictions on the extent of foreign ownership of export-oriented enterprises. The objective of this policy is to channel this investment into activities contributing significantly to the process of industrialization and socio-economic development within the Philippines, while at the same time remaining within the limit set by the constitution and laws of the country.

The Foreign Investments Act of 1991 (Republic Act (RA) No 7042 as amended by RA No. 8179) governs the entry of foreign investments and the conduct of doing business in the Philippines. There are also other investment legislations that provide the investment incentives rules by which foreign and local investments may qualify, such as the Omnibus Investment Code of 1987 (Executive Order (EO) No. 226) and the relevant laws of free ports and ecozones.

The government has embarked on several proven measures directed towards establishing an atmosphere that stimulates continuous flow of investments and deter capital flights, as follows:

1. ensure that the country manifests stable economic growth.
2. maintain active engagement in several multilateral and bilateral trade and investment agreements.
3. provide competitive investment incentives program to promote the priority sectors. First is the liberal program of fiscal and non-fiscal incentives being offered to investors, such as tax holidays, special income tax rates, tax exemptions on local purchase of goods and services, employment of foreign nationals and unrestricted use of consigned equipment. Second, are the reforms introduced in the bureaucracy to allow for a more expedient and efficient facilitation of businesses in the country.
4. actively implement, through the Philippine Board of Investments, investment promotion and facilitation activities such as the conduct of outbound and inbound missions, investment briefings/seminars, capability-building training programs on investment promotion for LGUs, business matching, pre-investment facilitation services, policy advocacies, and provision of marketing information.
5. continuously implement the Strategic Investors Aftercare Program (SIAP) to establish a strong partnership with the private sector by proactively touching base with investors and offering services ranging from issues and concerns facilitation to assistance for future investment plans that would help the company grow hand in hand with our economy.

### Investment priority plan/equivalent policy

Investment opportunities in the Philippines abound and the areas of investments are listed in the Investment Priorities Plan (IPP), which is annually prepared by the Philippine Board of Investments.

The IPP lists economic activities and industries which are encouraged and considered desirable for the overall economic development of the country and thus entitled to incentives.

Priority Sectors for promotion based on the 2010 IPP are as follows:

1. Agriculture/Agri-business and Fishery
2. Infrastructure
3. Manufactured products
4. Business Process Outsourcing (BPO)
5. Creative Industries

## Republic of the Philippines

### 6. Strategic Activities

### 7. Green Projects

### 8. Disaster Prevention, Mitigation and Recovery Projects

### 9. Research, Development and innovation

#### More information

For details on the list, please visit the website: <http://www.boi.gov.ph>

## Regulation of foreign investment

### Process for foreign entities/nationals to invest in our economy

#### PROCESS OF DOING BUSINESS IN THE PHILIPPINES

##### 1. Register

###### a. For corporation/partnership

\* Securities and Exchange Commission (SEC)

\* Filing fee :

- 1/5 of 1% of the authorized capital stock-general requirement for domestic enterprise and processing period is more or less 10 working days for domestic enterprise.

- 1/10 of 1% of the actual inward remittance for Branch and Representative Office and processing period is more or less 30 working days.

\* SEC website: [www.sec.gov.ph](http://www.sec.gov.ph)

###### b. For Single Proprietorship

\* Department of Trade and Industry (Regional Operations Development Group)

\* Filing Fee:

- P315.00 (including documentary stamp) for Filipino applicant

- P515.00 (including documentary stamp)

\* Processing time is within the day

\* DTI website: [www.bnrs.dti.gov.ph](http://www.bnrs.dti.gov.ph)

##### 2. Secure the following permit:

###### a. T.I.N

\* Bureau of Internal Revenue (BIR)

\* No filing fee and processing time is within 1 day

\* BIR website: [www.bir.gov.ph](http://www.bir.gov.ph)

###### b. Barangay Clearance Certificate

\* Barangay/Municipality of the Local Government Unit where the business is located

\* Filing fee is P300.00 to P500.00 and processing time is within the day

###### c. Mayors Permit (License to Operate)

\* Local Government Unit (Office of the Mayor) where business is located

\* Filing fee:

## Republic of the Philippines

- Initial fee- based on business activity
  - Garbage Fee is based on land/floor area
  - License fee - P0.25 for every P1,000.00 of company's capital
  - \* Note: Above details depends on the LGU requirements and processing period is within two (2) weeks
- d. Environmental Compliance Certificate (ECC)/or Certificate of Non-coverage (CNC)
- \* Department of Environmental and Natural Resources (DENR)
  - \* Filing fee :
    - ECC Non-Critical: P4,000 and processing period is 20 working days
    - ECC Critical : P6,000 and processing period is 40 working days
    - CNC : P100.00 and processing period is 1 working day
  - \* DENR website: [www.emb.gov.ph](http://www.emb.gov.ph)
3. Apply for employer/employee Social Security Registration
- \* Social Security System (SSS) nearest branch where business is located
  - \* No filing fee and processing time is within the day
  - \* SSS website: [www.sss.gov.ph](http://www.sss.gov.ph)
4. For installation of utilities
- a. Telephone Landline or Mobile, etc.
- \* PLDT (171 Customer service)
    - Filing fee depends on the categories, type of model unit, processing time is within the day
    - PLDT website: [www.pldt.com.ph](http://www.pldt.com.ph)
  - \* SMART 888-1111 (Customer hotline)
    - SMART website: [www.smart.com.ph](http://www.smart.com.ph)
  - \* GLOBE 730-1000 (customer hotline)
    - GLOBE website: [www.globe.com.ph](http://www.globe.com.ph)
- b. Water
- \* Maynilad Water Services (1626)
    - Maynilad website: [www.maynilad.com.ph](http://www.maynilad.com.ph)
  - \* Manila Water Co.,Inc (1627)
    - \* Filing fee of both water services depends on the capacity requirement per cubic meter and processing time is within two (2) to four (4) weeks
- c. Electric
- \* Manila Electric Company (16-211;631-111)
    - Filing fee depends on the capacity requirement per KWH and processing time is within two (2) to four (4) weeks
    - Website: [www.meralco.com.ph](http://www.meralco.com.ph)
5. OPTIONAL
- To avail of incentives, apply with the concerned Investment Promotion Agency. For more information, please visit the BOI website: [www.boi.gov.ph](http://www.boi.gov.ph)

## Republic of the Philippines

### Does this apply to all investment or, are there differential treatment?

In general, the process of doing business indicated in the preceding section applies to all types of businesses. However, special services are extended to micro, small and medium enterprises as provided below:

#### Assistance to Micro, Small and Medium-Sized Projects

The BOI extends the following:

- Preparation of simplified project application for BOI registration
- Identification of MSME support companies
- Sourcing financing support

In addition, the following assistance are further provided to micro and small enterprises:

- Exemption from application and registration fees for micro enterprises
- Seventy five percent (75%) reduction in application and registration fees for small enterprises
- Exemption from the twenty five percent (25%) equity requirement
- Simplified reportorial requirements
- Simplified application for incentives
- One-day processing of application for registration
- Reduced fees for incentives availment

### Conditions of investment

#### National Treatment

The Philippines does not apply national treatment to certain investments areas as specified by its Constitution and the Foreign Investment Act (FIA) of 1991 (RA No. 7042, as amended by RA No. 8179)

#### Most Favored Nation Treatment

The Philippines does not discriminate against any investment source economy. The FIA provides the rules and regulations for foreign investments. The law states that the domestic market is open to foreign investors as long as the activity is not included in the foreign investment negative list. For an export enterprise, which exports 60% or more of its output, there are no restrictions on the extent of foreign ownership unless the activity falls within the negative list.

The current negative list, the 8th Regular Foreign Investment Negative List (EO No. 858 dated 09 February 2010), may be accessed at this website: <http://www.neda.gov.ph>.

#### Sector-Specific Laws and Policies

Some sector-specific laws and policies were promulgated to provide support for the development of the sector. Among such laws/policies are:

- a. Agriculture
- b. Telecommunications

The Policy to Improve the Provision of Local Exchange Carriers Service (EO No. 109, s. 1993) opened up the telecommunications sector to new players to participate in the supply of telecommunication facilities all over the country.

- c. Mining

The Philippine Mining Act of 1995 (RA No. 7942) allows exploration, development and utilization of mineral resources up to 40% foreign equity. However, 100% foreign equity is allowed for purposes of granting exploration permit, financial or technical assistance agreement or mineral processing.

## Republic of the Philippines

### d. Automotive

The Motor Vehicle Development Program (EO No. 877-A) allows foreign-owned enterprises to engage in the manufacture/assembly of motor vehicles for the primary purpose of establishing and/or expanding production facilities.

### e. Renewable Energy

The Renewable Energy Act (RA No. 9513) provides for the accelerated development and advancement of renewable energy resources and the implementation of a strategic program to increase its utilization.

### f. Tourism

The Tourism Act of 2009 (RA No. 9593) provides for the development of the country as a prime tourist hub in Asia by promoting sustainable development and encouraging private sector participation.

### g. Oil

The Downstream Oil Industry Deregulation Act (RA No. 8479) provides for the liberalization and deregulation of the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products.

### h. Book Publishing

The Book Publishing Industry Development Act (RA No. 8047) provides for the promotion of the continuing development of the book publishing industry, with the active participation of the private sector, to ensure an adequate supply of affordable quality-produced books not only for the domestic market but also for the export market.

### i. Infrastructure

RA No. 6957, otherwise known as the Build-Operate-Transfer Law, as amended by RA No. 7718, provides for authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector and the provision of the most appropriate incentives to mobilize private resources for the purpose.

## Investment promotion and facilitation

To meet investors' diverse requirements, BOI offers specialized services which include:

- \* Information assistance to local and foreign investors
- \* Timely investment advice and facilitation regarding investor's business transactions
- \* Assistance in the selection of investment location
- \* Joint venture matching services for international local and foreign entrepreneurs
- \* Investment advice and facilitation for Small and Medium Entrepreneurs (SMEs)
- \* Business linkages with public and private sector
- \* Evaluation and supervision of investment applications
- \* Facilitation of Environmental Clearance Certificate and advocacy for environment-related projects
- \* Investment briefings, inbound and outbound missions, seminars and conferences for local and foreign investors
- \* Aftercare service, by the establishment of a high quality, trust based working relationship with the investors through the Strategic Investors Aftercare Program (SIAP) and the facilitation of investors' issues and concerns through the Investment Promotion Unit (IPU) Network National Competitiveness Council- Transaction Costs and Flows (NCC-TCF), and Anti-Red Tape Task Force (ARTTF).
- \* Entrepreneurial assistance to Overseas Filipino workers
- \* Industry sectors planning and preparation of industry sector profiles

In terms of investment incentives, the following are offered:

## Republic of the Philippines

### 1. Incentives Offered Under the Omnibus Investments Code of 1987 -

- a. Income Tax Holiday (ITH) or Exemption from Corporate Income Tax for four (4) years (for "Non-Pioneer" projects) or six (6) years (for "Pioneer" projects), extendable to a maximum of eight (8) years
- b. Duty-free importation of capital equipment until June 16, 2011 (unless extended by law)
- c. Additional deduction for labour expense equivalent to 50% of the wages of additional skilled and unskilled labour force.
- d. Tax and duty free importation of breeding stocks and genetic materials.
- e. Tax credit on domestic breeding stocks and genetic materials.
- f. Simplified customs procedures for the importation of equipment, spare parts, raw materials and supplies and exports of processed products.
- g. Importation of consigned equipment.
- h. Employment of foreign nationals in supervisory, technical or advisory positions. Foreign nationals may hold indefinitely the position of president, general manager and treasurer (or their equivalent) of foreign-owned registered enterprises.
- i. Tax credit for taxes and duties paid on raw materials, supplies and semi-manufactured products used in the manufacture of export products and forming part thereof.
- j. Access to bonded manufacturing/trading warehouse system.
- k. Exemption from wharfage dues and export tax, duty, impost and fees.
- l. Exemption from taxes and duties on imported spare parts.
- m. Additional deduction for necessary and major infrastructure works.

### 2. Incentives Offered Under the Special Economic Zone Act of 1995

The Philippine Economic Zone Authority (PEZA) grants the following incentives to registered ecozone enterprises:

- a. Income Tax Holiday (ITH) or Exemption from Corporate Income Tax for four (4) years (for "Non-Pioneer") or six (6) years (for "Pioneer" projects), extendable to a maximum of eight (8) years.
- b. Upon expiry of the ITH, exemption from all local and national taxes, and in lieu thereof, payment of the special tax of 5% on Gross Income.
- c. Exemption from duties and taxes on imported capital equipment, spare parts, supplies and raw materials.
- d. Zero % Value Added Tax (VAT) on local purchases of goods and services, including telecommunications, power and water bills.
- e. Exemption from payment of local government fees such as Mayor's Permit, Business Permit, etc.
- f. Exemption from export tax, imports, fees and wharfage dues.
- g. Simplified import and export procedures.
- h. Employment of foreign nationals.
- i. Special non-immigrant visa with multiple-entry privileges for foreign investors and employed foreign nationals and immediate family members.

### 3. Incentives Offered Under the Bases Conversion and Development Act of 1992

The Subic Bay Metropolitan Authority and the Clark Development Corporation grant the following incentives to registered enterprises located at the Subic Special Economic Zone (SSEZ) and Clark Freeport Zone (CFZ), respectively.

- a. Exemption from all national and local taxes but in lieu thereof, payment of a final tax of 5% of their gross income earned from sources within the economic zone or Freeport.
- b. Tax and duty free importation of raw materials and capital equipment.

## Republic of the Philippines

### More information about the process of investing in our economy

- o Board of Investments - [www.boi.gov.ph](http://www.boi.gov.ph)
- o Philippine Economic Zone Authority - [www.peza.gov.ph](http://www.peza.gov.ph)
- o Bases Conversion Development Authority - [www.bcda.gov.ph](http://www.bcda.gov.ph)
- o Clark Development Authority - [www.clark.com.ph](http://www.clark.com.ph)
- o Zamboanga Freeport Authority - [www.zambofreeport.com.ph](http://www.zambofreeport.com.ph)
- o Subic Bay Metropolitan Authority - [www.sbma.com.ph](http://www.sbma.com.ph)

## Investment protection

### Protection of property rights and conditions for expropriation

The Philippine constitution provides for the following:

a. Basic rights and guarantees provided in the Constitution such as:

\* Article 3, Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

\* Article 13, Section 1. The congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

b. Executive Order No. 226 otherwise known as "The Omnibus Investment Code of 1987 as amended provides protection of investments and entitles investors, as follows:

\* Repatriation of Investments. The right to repatriate the entire proceeds of the liquidation of the investment was originally made and at the exchange rate prevailing at the time of repatriation;

\* Remittance of Earnings. The right to remit earnings from the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance;

\* Freedom from Expropriation. Freedom from expropriation except for public use or in the interest of national welfare or defense and upon payment of just compensation and the right to remit sums received as compensation in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance; and

\* No Requisition of Investment. No requisition of property except in the event of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid and payments maybe remitted in the currency in which the investment was originally made and the exchange rate prevailing at the time of remittance.

Foreign investors are entitled to the payment of just compensation in the event that their investments are expropriated for public use. In such cases, foreign investors shall have the right to transfer the sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate at the time of remittance.

The relevant laws and rules on expropriation include:

\* Section 9, Article III of the 1987 constitution

\* Rule 67 (Expropriation) of the rules of court which provides for the procedures to be followed in expropriation proceedings.

\* Republic Act No. 8974 (An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes)

### More information



## Republic of the Philippines

BOI website : [www.boi.gov.ph](http://www.boi.gov.ph)

DOJ website : [www.doj.gov.ph](http://www.doj.gov.ph)

### Protection of IPRs

#### i) Intellectual Property Laws -

RA No. 8293, also known as the Intellectual Property Code of the Philippines (IP Code), codified the minimum IPR system committed under the WTO Agreement in particular the Agreement on Trade-Related Aspects of IPR (TRIPs). The Philippine IP system follows the first-to-file rule as most countries in the world.

The IPRs recognised by the law are: patents (inventions, utility models and industrial designs), copyright and related rights, trademarks and service marks, geographical indications, industrial designs, lay-out designs of integrated circuits and undisclosed information.

The protection of lay-out design of integrated circuit is embodied in a separate law, Republic Act 9150. A sui generis protection for new Plant Varieties is provided for under Republic Act 9168.

#### ii) Enforcement Efforts -

Since the launching in 2005 of a comprehensive and concerted IPR strategy, the Philippine government has significantly improved its performance in all critical areas of its "Strengthening the IPR Regime Strategy", as follows: (1) Public Outreach; (2) Institution and Capacity Building; (3) IPR Enforcement; (4) Judicial and Adjudication Reforms; (5) Legislation and Policy Reform; and (6) International Cooperation.

On June 21, 2008, Executive Order No. 736 creating the National Committee on Intellectual Property Rights (NCIPR) was promulgated. The NCIPR is composed of the Department of Trade and Industry (DTI) as Chair, Intellectual Property Office (IPO) as Vice-Chair, with the following as members: Department of Justice (DOJ), Department of the Interior and Local Government (DILG), Bureau of Customs (BOC), National Telecommunications Commission (NTC), National Bureau of Immigration (NBI), Philippine National Police (PNP), Optical Media Board (OMB), National Book Development Board (NBDB), Bureau of Food and Drugs (BFAD), and other agencies to be determined by the committee chair. The creation of the committee is aimed to strengthen inter-agency support and collaboration among government agencies in the forefront of IPR enforcement. It is hoped that the NCIPR will effectively formulate and implement plans and policies and strengthen the protection and enforcement of intellectual property rights in the country.

#### iii) Enforcement Procedures and Penalties for Infringement -

Infringement cases may be filed before the regular trial court regardless of amount claimed. The Bureau of Legal Affairs (BLA) of the Intellectual Property Office of the Philippines can take cognizance of administrative complaints for violations involving intellectual property rights when the total damages claimed are not less than Two Hundred Thousand pesos (P200,000.00). Other administrative penalties may be imposed by the Director of Legal Affairs for violations of laws on intellectual property rights.

Without prejudice and in addition to administrative penalties, the Intellectual Property Code provides for criminal actions that may be prosecuted before the regular courts. If found guilty, imprisonment and/or fine shall be imposed upon the infringer.

The IP code also provides for a dispute settlement or mediation mechanism involving technology transfer payments and terms of a license involving author's right to public performance or other communication of his work. The service is also offered to parties who have filed administrative cases with the Bureau of Legal Affairs of IPO Philippines.

#### iv) International Treaties -

The Philippine is a signatory to several international treaties on intellectual property rights:

- Berne Convention for the Protection of Literary and Artistic Works (August 1, 1951)
- Paris Convention for the Protection of Industrial Property (September 27, 1965)
- Convention Establishing the Intellectual Property Organization (October 21, 1981)

## Republic of the Philippines

- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for Purposes of Patent Procedure (1981)
- Rome Convention (Performers, Producers of Phonographs and Broadcasting Organizations (September 25, 1984))
- Agreement on Trade-Related Aspects of Intellectual Property Rights (1995)
- Patent Cooperation Treaty ( August 17, 2001)
- WIPO Copyright Treaty (October 4, 2002)
- WIPO Performances and phonograms Treaty (October 4, 2002)

### Other related laws:

- Republic Act No. 8792 or the Electronic Commerce Act, an act providing for the use of electronic commercial and non-commercial transaction, penalties for unlawful use thereof and other purposes (June 2000)
- Republic Act No. 9150, an act providing for the protection of layout designs (topographies) of integrated circuits (August 22, 2001)
- Republic Act No. 9168 or the Plant Variety Protection Act of 2002, an act providing for the protection to plant varieties, and establishing the National Plant Variety Protection Board, and for other purposes (June 7, 2002)
- Republic Act No. 9239 or the Optical Media Act, an act regulating optical media, reorganising for this purpose the Videogram Regulatory Board, providing penalties therefore and for other purposes, (February 2004)
- Republic Act No. 9502 or the Universally Accessible Cheaper and Quality Medicines Act of 2008, an act providing for cheaper and quality medicines, amending for the purpose Republic Act No. 8923 or the Intellectual Property Code, Republic Act. No. 6675 or the Generic Act of 1988, and the Republic Act No. 5921 of the Pharmacy Law and for other purposes (June 6, 2008).
- Republic Act No. 10088 or the Anti-Camcording Act of 2010, an act prohibiting and penalizing the unauthorized use, possession and/or control of audiovisual recording devices for the unauthorized recording of cinematographic films and other audiovisual works and/or their soundtracks in an exhibition facility, providing penalties therefore and for other purposes (May 13, 2010)

## More information

### Intellectual Property Rights

Website: [www.ipophil.gov.ph](http://www.ipophil.gov.ph)

Atty. Ricardo R. Blancaflor

Director General

## Flow of funds

At present, the country's exchange rate policy supports a freely floating exchange rate system whereby the Bangko Sentral ng Pilipinas (BSP) leaves the determination of the exchange rate to market forces. Under a market-determined exchange rate framework, the BSP does not set the foreign exchange rate but instead allows the value of the peso to be determined by the supply and demand of foreign exchange.

And if managed, under what circumstances or purposes does your government/central bank intervene?

The BSP's participation in the foreign exchange market is limited to temper sharp fluctuations in the exchange rate. On such occasions of excessive movements, the BSP enters the market mainly to maintain order and stability. When warranted, the BSP also stands ready to provide some liquidity and ensure that legitimate demands for foreign currency are satisfied.

## Republic of the Philippines

Are there any restrictions on the repatriation of funds related to a foreign investment (e.g. profits, dividends, royalties, loan payments)?

**Dividend and profit remittances as well as capital repatriation of foreign investments are not regulated. Foreign investors are free to remit dividends and profits from their own foreign exchange sourced from outside the domestic banking system. However, if the foreign exchange will be sourced from authorized agent bank (AABs) and AAB affiliate foreign exchange corporations (AAB-forex corps), there is a need for the foreign investments to have prior registration with the BSP.**

### **Mechanisms to review decisions, and settle disputes**

**All agencies that administer investment applications and grant incentives are also responsible for handling complaints and related appeals thereon. In addition, the Office of the Resident Ombudsman can receive and act on reports or complaints against officials and employees of the above agencies.**

What, if any, mechanism do you have for foreign investors to settle disputes?

**Foreign investors have recourse to dispute settlement and processing of grievances existing under laws, regulations and administrative procedures.**

**The various bilateral and regional investment agreements to which the Philippines is a party generally contain articles on investor dispute settlement and settlement of disputes between contracting parties.**

#### **Disputes between Private Parties and Government**

**The various bilateral and regional investment agreements to which the Philippines is a party contain an article on investor-state dispute settlement. It provides for the amicable settlement of disputes through negotiations. It also provides the investor the option to submit the dispute to the competent court of the Philippines or to international arbitration or conciliation.**

#### **Disputes between Private Parties**

**The Philippines recognizes various forms of alternative dispute resolution in the settling of commercial disputes such as negotiation, mediation, conciliation and arbitration.**

**Existing laws, rules and regulations on disputes between private parties include:**

- \* R.A. No. 9285 (Alternative Dispute Resolution Act of 2004) provides for the use of ADR as an efficient tool and an alternative procedure for the resolution of appropriate cases;**
- \* Department of Justice Department Order No. 98 (Implementing Rules and Regulations of the Alternative Dispute Resolution Act of 2004) promulgated in December 2009.**
- \* Special Rules of Court on Alternative Dispute Resolution (Special ADR Rules) issued by the Supreme Court in September 2009.**
- \* RA No. 876 (Arbitration Law) prescribes the procedures for arbitration in civil controversies;**
- \* PD No. 1746 authorizes the Philippine Domestic Construction Board to adjudicate and settle claims and disputes in the implementation of public and private construction contracts;**
- \* EO No. 1008 (The Construction Industry Arbitration Law) establishes the Construction Industry Arbitration Commission, the body which has original and exclusive jurisdiction over disputes arising from or connected with contracts entered into by parties involved in construction in the Philippines, whether government or private contracts;**
- \* RA No. 8293 (The Intellectual Property Code of the Philippines) provides for a dispute settlement mechanism for disputes between parties to a technology transfer payments. It also provides the Director-General of the Intellectual Property Office with the original jurisdiction to resolve disputes relating to the terms of license involving the author's right to public performance or other communication of his work.**

**The Philippine Dispute Resolution Center Inc. (PDRCI) of the Philippine Chamber of Commerce and Industry (PCCI) promotes and encourages the use of arbitration as an alternative mode of settling commercial transaction dispute and provides dispute resolution services to the business community.**

## Republic of the Philippines

### ICSID

The Philippines signed the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) on 26 September 1978 and ratified the same on 17 November 1978. The Convention entered into force for the Philippines on 17 December 1978.

### More information

International investment agreements (IIAs) - which include bilateral investment treaties (BITs), double taxation treaties (DTTs) and other international agreements with investment provisions, such as some free trade agreements (FTAs) - can also provide foreign investors protection against discrimination, unfair treatment, expropriation and transfer restrictions. Coverage under an IIA could therefore be an important factor in an investment location decision, especially where the protection afforded by the law is inadequate.

### International investment agreements

With;

Argentina; Australia; Austria; Bahrain; Bangladesh; Belgium; Cambodia; Canada; Chile; China, People's Republic of; Czech Republic; Denmark; Equatorial Guinea; Finland; France; Germany; India; Indonesia; Iran, Islamic Republic of; Italy; Japan; Korea, Republic of; Kuwait; Lao, People's Democ. Rep.; Mongolia; Myanmar (ex-Burma); Netherlands; Pakistan; Portugal; Romania; The Russian Federation; Saudi Arabia; Spain; Sweden; Switzerland; Syrian Arab Republic; Thailand; Turkey; United Kingdom ; Venezuela; Viet Nam;

Please provide a brief description of these IIAs, or your IIAs in general.

List of Economies which the Philippines have an international investment/tax agreement:

#### a. Bilateral Investment Treaty (BIT) only

1. Argentina
2. Australia
3. Cambodia
4. Chile
5. Equatorial Guinea
6. Iran, Islamic Republic of
7. Kuwait
8. Lao, People's Democratic Republic
9. Mongolia
10. Myanmar (ex-Burma)
11. Portugal
12. Turkey
13. Saudi Arabia
14. Syrian Arab Republic
15. Venezuela

#### b. Bilateral Investment Treaty (BIT ) and Double Taxation Treaty (DTT)

1. Austria

## Republic of the Philippines

2. Bahrain
3. Bangladesh
4. Belgium
5. Canada
6. China. People's Republic of
7. Czech Republic
8. Denmark
9. Finland
10. France
11. Germany
12. India
13. Indonesia
14. Italy
15. Japan
16. Korea, Republic of
17. Netherlands
18. Pakistan
19. Romania
20. Russia (Russian Fed.)
21. Spain
22. Sweden
23. Switzerland
24. Thailand
25. United Kingdom
26. Vietnam

### More information

BOI-Legal Services Department: [moramos@boi.gov.ph](mailto:moramos@boi.gov.ph)

Bureau of Internal Revenue website: [www.bir.gov.ph](http://www.bir.gov.ph)

## Movement of persons

### Treatment of foreign nations or personnel of foreign firms

#### A. Conditions for approval of foreign employees

##### (Managerial and Supervisory Positions)

Foreign nationals who wish to come to the Philippines can enter as a tourist without visa under EO No. 408, or secure a temporary visitor's visa under Section 9(a) of the Philippine Immigration Act, as amended, before any Philippine consular posts abroad. Section 9(a) visa can either be for business, pleasure, or health and normally entitles the alien to an initial stay of fifty-nine (59) days, extendible to a year.

## Republic of the Philippines

While in the Philippines, the Bureau of Immigration (BI) allows the alien to convert his immigration status from tourist/temporary visitor to another visa category without the necessity of leaving country to secure the new visa.

### B. Work permit processing and requirements

#### (Managerial and Supervisory Positions)

#### Alien Employment Permit (AEP)

Article 40 of the Labor Code provides that any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an Alien Employment Permit (AEP) from the Department of Labor and Employment (DOLE). After DOLE has determined the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the Foreign National is desired. The AEP is a pre-requisite in the issuance of working visa by the Bureau of Immigration.

#### Foreign nationals required to apply for an AEP

\* All foreign nationals who intend to engage in gainful employment in the Philippines shall apply for an AEP. (Source: Sec. 1, Department of Labor and Employment Department Order No. 97, Series of 2009)

#### Exempted from securing an AEP

\* All Members of the diplomatic services and foreign government officials accredited by and with reciprocity arrangement with the Philippine government;

\* Officers and staff of international organizations of which the Philippine government is a member, and their legitimate spouses desiring to work in the Philippines; (Note: Exact wording of DOLE Department Order No. 97, Series of 2009)

\* Foreign nationals elected as members of the Governing Board who do not occupy any other position, but have only voting rights in the corporation;

\* All foreign nationals granted exemption by law;

\* Foreign nationals who come to the Philippines to teach, present and/or conduct research studies in universities and colleges as visiting, exchange or adjunct professors under formal agreements between universities or colleges in the Philippines and foreign universities or colleges; or between the Philippine government and foreign government; provided that the exemption is on a reciprocal basis;

\* Owners and representatives of foreign principals, whose companies are accredited by the Philippine Overseas Administration (POEA), who come to the Philippines for a limited period solely for the purpose of interviewing Filipino applicants for employment abroad.

\* Permanent Resident Foreign Nationals probationary or temporary resident visa holders

#### AEP Application Procedure

##### Where to File the Application

All applications for AEP shall be filed and processed at the DOLE Regional Office or field office having jurisdiction over intended place of work. The documentary requirements are:

1. Duly accomplished application form;
2. Photocopy of passport with visa or certificate of recognition for refugees;
3. Contract of employment/appointment or Board secretary's certification of election;
4. Photocopy of Mayor's permit to operate business or in case of locators in economic zones, certification from the Philippine Economic Zone Authority or the Ecozone Authority that the company is located and operating within the ecozone; and
5. Photocopy of current AEP (if for renewal).

Applications are processed within 24 hours after publication and payment of required fees and fines, if there any.

## Republic of the Philippines

The AEP is valid for the position and the company for which it was issued for a period of one year, unless the employment contract consultancy services, or other modes of engagement provides otherwise, which in no case shall exceed five years.

### Multiple Entry Visa Holder Requirements

The expatriates of BOI-registered firms who qualify for special non-immigrant visa under Section 47(a)(2) of the Philippine Immigration Act may apply for multiple entry visa by securing an Emigration Clearance Certificate (ECC) and multiple Special Return Certificate (SRC) before departure from the Philippines with the Bureau of Immigration. ECCs serve as their Exit Clearance while SRC's enable them to be admitted upon their return to the country under the same category when they left.

Any alien, except nationals classified restricted by the Department of Foreign Affairs and who meets the following qualifications may be issued the following types of visas:

#### (a) Special Investors Resident Visa (SIRV)

\* Granted to investors with investments of at least Seventy Five Thousand US dollars (US\$75,000.00)

\* Holder of the special visa has the privilege to reside in the Philippines for as long as his/her investment exists

\* Investor's spouse and unmarried children under twenty-one (21) years of age who are joining him in the Philippines may be issued the same visa.

#### (b) Pre-arranged employment Visa under Sec. 9(g) of the Philippine Immigration Act

\* Granted to foreigners to be employed in any technical, executive or managerial position

#### (c) International Treaty Investors Visa under Sec. 9(d) of the Philippine Immigration Act

\* Granted to investors with investments of at least Three Hundred Thousand pesos (P300,000.00). Only Germans, Japanese and Americans are parties with the Philippines to this treaty

\* Employment in any technical, executive or managerial position

#### (d) Special Non-Immigrant Visa under Presidential Decree (PD) No. 1034

\* Granted to foreign personnel of offshore banks duly licensed by the Bangko Sentral ng Pilipinas to operate as an offshore banking unit

\* Entitled to multiple entry privileges and are exempt from the payment of immigration fees, fingerprinting, and registration with the Bureau of Immigration

#### (e) Special Non-Immigrant Visa under Section 47(a)(2)

\* Granted to foreigners to be employed by enterprises registered under EO No. 226 and RA No. 7916 in supervisory, technical, or advisory position under Section 47(a)(2) of Philippine Immigration Act during its first five years of registration

\* Majority foreign-owned registered enterprises may employ foreign nationals as President, treasurer and general manager beyond the five (5) - year period

#### (f) Special Non-Immigrant Visa under RA No. 8756

\* Granted to foreign national executives of Regional Headquarters or Regional Operating Headquarters of Multinational Companies

\* Entitled to a special non-immigrant multiple entry visa

#### (g) Special Subic Work Visa

\* Granted to foreign nationals employed as executives of Subic Bay Freeport zone enterprises and other foreign nationals possessing highly technical skills

### Practice of Professions

## Republic of the Philippines

Foreign nationals may be allowed to practice their professions subject to the Professional Regulation Commission Philippines (PRC) Modernization Act, which provides that upon recommendation of the Professional Regulatory Board concerned, PRC may:

1) Approve the registration of and authorize the issuance of a certificate of registration/license and professional identification card with or without examination to a foreigner who is registered under the laws of his state or country and whose certificate or registration issued therein has not been suspended or revoked: Provided, that the requirements for the registration or licensing in the laws of the Philippines and that the laws of such foreign state or country allow the citizens of the Philippines to practice the profession on the same basis and grant the same privileges as those enjoyed by the subjects or citizens of such foreign state or country; or

2) Authorize the issuance of a certificate of registration/license or a special temporary permit to foreign professionals who desire to practice their professions in the country under reciprocity and other international agreement, consultants in foreign-funded, joint venture or foreign-assisted projects of the government, employees of Philippine or foreign private firms or institutions pursuant to law, or health professionals engaged in humanitarian mission for a limited period of time.

Agencies, organizations or individuals whether public or private, who secure the services of a foreign professional authorized by law to practice in the Philippines for reasons aforementioned, shall be responsible for securing, a special permit from PRC and DOLE, pursuant to PRC and DOLE rules.

**Regulations Relating to Standards and Conditions of Employment.**

The Wage Rationalization Act created regional tripartite wage and productivity boards to determine and fix minimum wage rates on the regional level, which may vary across provinces, industries and types of establishment therein.

Books III and IV of the Labor Code of the Philippines set the minimum standards and conditions of employment pertaining to hours of work, holidays, wages, health and safety and social welfare benefits.

The Occupational Safety and Health Standards promulgated pursuant to Article 162 of the Labor Code prescribe the different rules for the protection of workers from workplace hazards.

### More information

Department of Labor and Employment website: <http://www.dole.gov.ph>

Bureau of Labor and Employment Statistics website: <http://www.bles.dole.gov.ph>

Professional Regulation Commission website: <http://www.prc.gov.ph>

National Wages and Productivity Commission website: <http://www.nwpc.dole.gov.ph>

Bureau of Immigration website: [www.immigration.gov.ph](http://www.immigration.gov.ph)

## Taxation

### Taxation of foreign nationals and foreign firms

#### Foreign corporations doing business in the Philippines

1. Generally, foreign corporations doing business in the Philippines ("resident foreign corporations") are subject to income tax only with respect to income derived from sources in the Philippines and at the rate of 30 percent based on their taxable income. Taxable income means the pertinent items of income specified in the National Internal Revenue code of 1997 ("Tax Code of 1997"), as amended, less the deductions for such types of income under the Tax Code or other special laws. Domestic corporations are subject to the same tax rate based on their taxable income but covers income from sources in and outside the Philippines. Net capital gains from the sale of unlisted shares of stock derived by a resident foreign corporation are subject to income tax at the rate of 5 percent for gains not over PhP100, 000.00, and 10 percent for gains in excess of PhP100,000.00.

2. Regional or area headquarters are exempt from income tax. A regional or area headquarters means a branch established in the Philippines by multinational companies, which does not earn or derive income from the Philippines, and which act as supervisory, communications and coordinating center for their affiliates, subsidiaries, or branches in the Asia-Pacific Region and other foreign markets.



## Republic of the Philippines

3. Regional operating headquarters are subject to income tax at the rate of 10 percent based on their taxable income. A regional operating headquarters means a branch established in the Philippines by multinational companies engaged in any of the following services: general administration and planning, business planning and coordination; sourcing and procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistics services; research and development services; and product development; technical support and maintenance; data processing and communications; and business development.

4. Foreign corporations doing business in the Philippines and registered with the Philippine Economic Zone Authority ("PEZA") are subject to tax at the rate of 5 percent based on their gross income directly connected with their activities.

### Foreign corporations not doing business in the Philippines

Generally, foreign corporations not doing business in the Philippines ("non resident foreign corporations") are subject to income tax only with respect to income derived from sources in the Philippines and at the rate of 30 percent based on their gross income. Net capital gains from the sale of unlisted shares of stock derived by a resident foreign corporation are subject to income tax at the rate of 5 percent for gains not over PhP100,000.00 and 10 percent for gains in excess of PhP100,000.00.

### Personal Income/Profits

#### Taxation of foreign nationals

1. Generally, foreign nationals doing business in the Philippines ("resident aliens" and non-resident aliens doing business in the Philippines" alike) are subject to income tax only with respect to income derived from sources from sources in and outside the Philippines and at the rate of 5,10,15,20,25 and 32 percent, depending and based on their annual taxable income. Resident Philippine nationals are subject to the same tax rate based on their taxable income but covers income from sources in and outside the Philippines. In computing taxable income, individuals may deduct from their gross income, personal exemptions in the amount of PhP50,000.00, plus, in the case of married individuals with children not to exceed four and whose age is below 21 years old, additional exemption in the amount of PhP25,000.00 for each child. Net capital gains from the sale of unlisted shares of stock derived by a resident foreign corporations are subject to income tax at the rate of 5 percent for gains not over PhP100,000.00, and 10 percent for gains in excess of PhP100,000.00.

2. Foreign nationals not doing business in the Philippines ("non-resident aliens not doing business in the Philippines") are subject to income tax only with respect to income derived from sources in the Philippines and at the rate of 25 percent based on their gross income.

3. Foreign nationals employed by regional or area headquarters, regional operating headquarters, offshore banking units, or petroleum service contractors and subcontractors, are subject to income tax at the rate of 15 percent of their gross salaries, wages, annuities, compensation, remuneration and other emoluments.

#### Funds for Repatriation

1. Generally, dividends paid by a domestic corporation to a foreign corporation are subject to income tax at the rate of 30 percent. However, such dividends may be subject to 15 percent if the country of domicile of the foreign corporation allows it a tax deemed paid credit equivalent to 15 percent, which is the difference between the regular income tax of 30 percent of non-resident foreign corporations and the reduced 15 percent income tax on dividends. A lower rate of income tax on dividends may apply under some tax treaties.

2. Profits remitted by a branch office in the Philippine of a foreign corporation are subject to income tax at the rate of 15 percent based on the gross amount of the profits applied or earmarked for remittance without any deduction for the tax component thereof (except those activities which are registered with the PEZA). A lower rate of income tax on branch profits may apply under some tax treaties.

Is the basis for taxation economy or global? If the basis for taxing is global, with whom do you have tax treaties?

As mentioned, domestic corporations are subject to income tax on income derived from sources in and outside the Philippines (global), while foreign corporations (resident and non-resident alike) are subject to income tax on income derived from sources in the Philippines only.

## Republic of the Philippines

The Philippines has effective tax treaties with thirty-seven (37) countries namely, Australia, Austria, Bahrain, Bangladesh, Belgium, Brazil, Canada, China, Czech, Denmark, Finland, France, Germany, Hungary, India, Indonesia, Israel, Italy, Japan, Korea, Malaysia, Netherlands, New Zealand, Norway, Pakistan, Poland, Romania, Russia, Singapore, Spain, Sweden, Switzerland, Thailand, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, and Vietnam.

### More information

Bureau of Internal Revenue website: [www.bir.gov.ph](http://www.bir.gov.ph)