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CREATE – RA 11534

(Corporate Recovery and Tax Incentives for Enterprises)

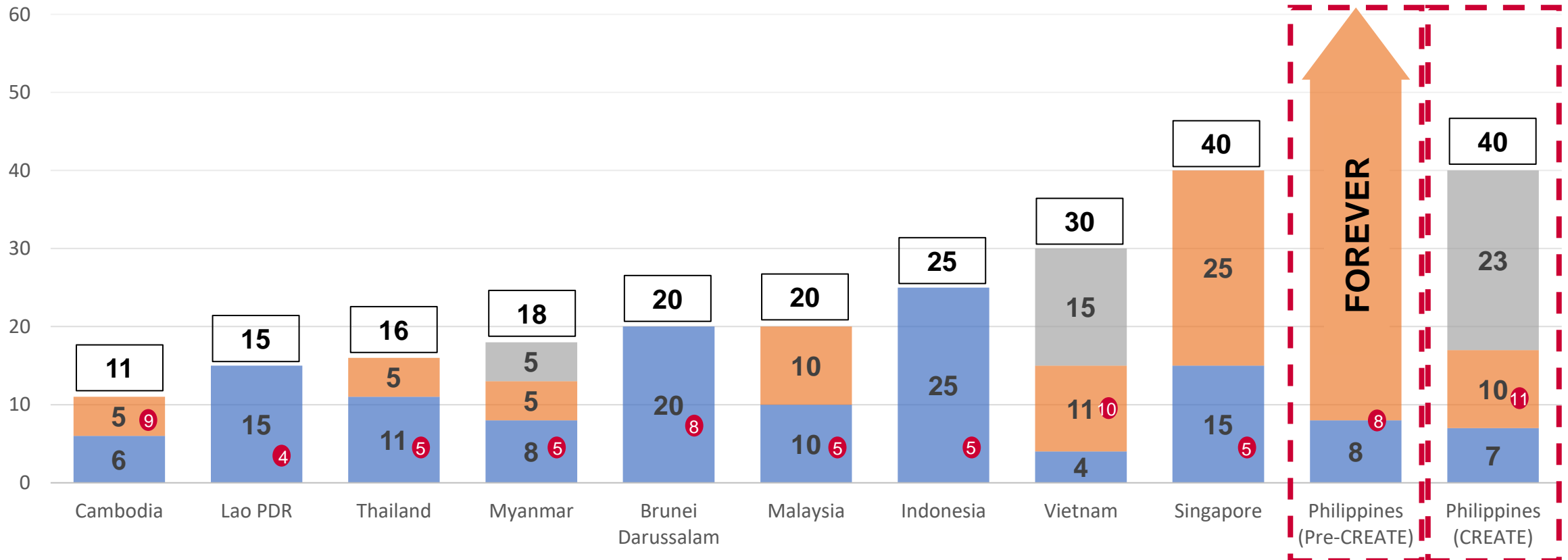
Title XIII



TAX INCENTIVES

(Sections 291 to 311)

Duration of Fiscal Incentives in ASEAN (2021)



Source: Department of Finance

NB: Red dots represent the standard duration, Numbers in boxes represent the maximum duration of incentives

Incentives

Section 294 and 295

SCOPE AND COVERAGE

- **All Investment Promotion Agencies (“IPAs”)**
 - **Shall maintain function and powers under own Charter, unless repealed by CREATE**
 - **Department of Finance (“DOF”), Bureau of Internal Revenue (“BIR”), Bureau of Customs (“BOC”) shall retain respective mandates**

- **Authority to grant TAX incentives**
 - **Fiscal Incentives and Review Board**
 - **IPA, as delegated by FIRB**

Approval/Grant of Incentives

Particulars	BEFORE		NEW	
	Export enterprise	Domestic market enterprise	Export enterprise	Domestic market enterprise
Approval of incentives	IPA		FIRB (or IPA under delegated authority)	
FIRB oversight	None		Yes	
Activities/Industries covered	As provided in the IPA charter	As defined in the Investment Priorities Plan	As defined in the Special Investment Priorities Plan	

TYPES OF TAX INCENTIVES

- **A. Income Tax Holiday (ITH_**
 - **B. Special Corporate Income Tax (SCIT) Rate - 5% based on gross income**
- Effective July 1, 2020**
- OR**
- **C. Enhanced Deduction**
 - **D. Duty Exemption on importation of capital equipment, RM, spare parts and Accessories**
 - **E. VAT exemption on importation and VAT Zero-rating on local purchases**
– **only for those directly and exclusively used for the registered activity**

Note: SCIT on domestic market enterprises - VETOED

Income Tax Holiday

Particulars	BEFORE		NEW	
	Export enterprise	Domestic market enterprise	Export enterprises	Domestic market enterprise
ITH	4-6 years	4-6 years	4-7 years (depending on area or industry priorities – based on SIPP)	
Extension of ITH	2 more years, and 3 years for expanding firms (subject to some conditions)		Non-extendible	
Additional incentives for relocation outside of NCR and in disaster / conflict areas	None		Relocation outside of NCR: additional ITH of 3 years Relocation to areas recovering from disaster/conflict: additional ITH of 2 years	

Income Tax Holiday Based on Location and

FOR EXPORTERS			
LOCATION/INDUSTRY	TIER 1	TIER 2	TIER 3
NCR	4 ITH	5 ITH	6 ITH
Metropolitan areas or areas adjacent to NCR	5 ITH	6 ITH	7 ITH
All other areas	6 ITH	7 ITH	7 ITH
FOR DOMESTIC MARKET ACTIVITIES			
NCR	4 ITH	5 ITH	6 ITH
Metropolitan areas or areas adjacent to NCR	5 ITH	6 ITH	7 ITH
All other areas	6 ITH	7 ITH	7 ITH
AREAS RECOVERING FROM ARMED CONFLICT OR MAJOR DISASTER	ADDITIONAL 2 YEARS OF ITH		
THOSE RELOCATING FROM NCR	ADDITIONAL 3 YEARS OF ITH		

5% Special Corporate Income Tax

Particulars	BEFORE		NEW	
	Export enterprise	Domestic market enterprise	Export Enterprise	Domestic market enterprise
Duration	5% GIE forever	None	5% on GIE for 10 years (Note: Uniform regardless of location and industry)	Not applicable

Enhanced Deductions

Particulars	BEFORE		NEW	
	Export enterprise	Domestic market enterprise	Export enterprise	Domestic market enterprise
Duration	None	None	10 years (Note: Uniform regardless of location and industry)	5 years (Note: Uniform regardless of location and industry)

Enhanced Deductions

DEDUCTIONS	ENHANCEMENT	CONDITION (Sec. 295)
Depreciation	<ul style="list-style-type: none"> ➤ Additional 10% for buildings ➤ Additional 20% for machineries and equipment 	Allowed for assets directly related to registered enterprise's production of goods and services (not allowed for assets used for administrative and support services)
Labor expense	Additional 50%	Not include indirect salaries, wages, benefits and other personnel costs

Enhanced Deductions

DEDUCTIONS	ENHANCEMENT	CONDITION (Sec. 295)
Research and development	Additional 100%	Apply only to those directly related to registered activity and limited to local expenditures/payments
Training expense	Additional 100%	Apply only to trainings as approved by IPAs

Enhanced Deductions

DEDUCTIONS	ENHANCEMENT	CONDITION (Sec. 295)
Domestic input expense	Additional 50%	Apply only to domestic input that is directly related to and actually used in registered export project or activity
Power expense	Additional 50%	Apply only to power expense utilized for the registered activity

Enhanced Deductions

DEDUCTIONS	ENHANCEMENT	CONDITION (Sec. 295)
Reinvestment Allowance to Manufacturing	Deduction to the extent of 50% (within a period of 5 years from reinvestment) of the amount reinvested coming from undistributed profit or surplus	Must be invested in any activities/projects listed in the SIPP
Enhanced Nolco	Loss for first 3 years of operation can be carried forward for 5 consecutive years following year of loss	Not previously offset as deduction from gross income

Enhanced Deductions

Particulars	BEFORE	NEW
Depreciation allowance	None	10% for buildings; 20% for machinery
Labor expense	150%	150%
Research and development	100%	200%
Training expense	100%	200%
Domestic input expense	100%	150%
Power expense	100%	150%
Reinvestment allowance to the manufacturing industry	None	Up to 50% of reinvested profit (within 5 years from time of reinvestment)

Duty Exemption on Importation

- Conditions for duty exemption:
 - Apply to capital equipment, raw materials,, spare parts, or accessories
 - Directly and reasonably needed and forms part of the direct cost and are not produced or manufactured domestically in sufficient quantity or of comparable quality and at reasonable prices
 - Prior approval of the IPA Is obtained

VAT Exemption on Importation/Zero-Rating on Local Purchases

Conditions for Exemption/Zero-Rating

- VAT exemption/VAT zero-rating shall only apply to goods and services directly and exclusively used in registered activity.

Period of Availment

Section 296

Commencement

Period of availment shall commence from the **actual start of commercial operations** which should be **within three (3) years** from the date of registration

Period of Availment

Section 296

Qualified Expansion or entirely new project may qualify to avail of a new set of incentives and its period of availment subject to qualifications under SIPP and performance review of FIRB.

Existing registered projects prior to the effectivity of CREATE may qualify to avail of the incentives under CREATE

Incentives Prior to CREATE – TRANSITORY PROVISIONS

Section 311

Rules:

- ✓ Registered businesses with ITH granted prior to the effectivity of CREATE shall be allowed to continue for its remaining period
- ✓ Registered businesses with granted ITH and are entitled to 5% GIT after the ITH shall be allowed to avail the 5% GIT for 10 years
- ✓ Registered businesses currently availing 5% GIT shall be allowed to continue for ten (10) years

Transition

	Incentives That Can Be Availed and Duration
Registered businesses with incentives granted prior to CREATE	<p>Currently in ITH Continue ITH for the remaining period as scheduled</p> <p>Currently in ITH and with 5% GIE after ITH Avail of the 5% tax on GIE for 10 years</p> <p>Existing firms under 5% Continue the 5% tax on GIE for 10 years</p>

Fiscal Incentives Review Board

Section 297

Expanded Functions

- Exercise policy making and oversight function on administration and grant of tax incentives by IPAs
- Approve/disapprove the grant of tax incentives upon recommendation of IPAs
 - *Investment of 1B – delegated to IPA. Amount can be increased by FIRB*
 - *Applications not acted upon within 20 days shall be deemed approved – VETOED*
- Approve applications for tax subsidies to GOCCs, GIs, Government Commissaries, and SUCs
- Formulate place-specific strategic investment plans during periods of recovery

Fiscal Incentives Review Board

Section 297

Expanded Functions

- Obtain information, summon, examine, inquire, and receive from GOCCs, GIs, Government Commissaries, SUCs, and LGUs, documents, records, books, or other data
- Decide on issues, after due hearing, concerning the approval, disapproval, cancellation, suspension, withdrawal, or forfeiture of incentives and subsidies (*adverse decisions by the FIRB may be appealed to the CTA within 30 days from receipt*)
- Promulgate rules and regulations

Fiscal Incentives Review Board

Section 297

Expanded Functions

- **Cancel, suspend, or withdraw the enjoyment of fiscal incentives**
- **Require the submission of summaries of approved investments and incentives granted and benefits data**
- **Regularly publish data pertaining to amount of tax incentives, payments, and other related information**
- **Submit annual reports to the President**

Fiscal Incentives Review Board

Section 297

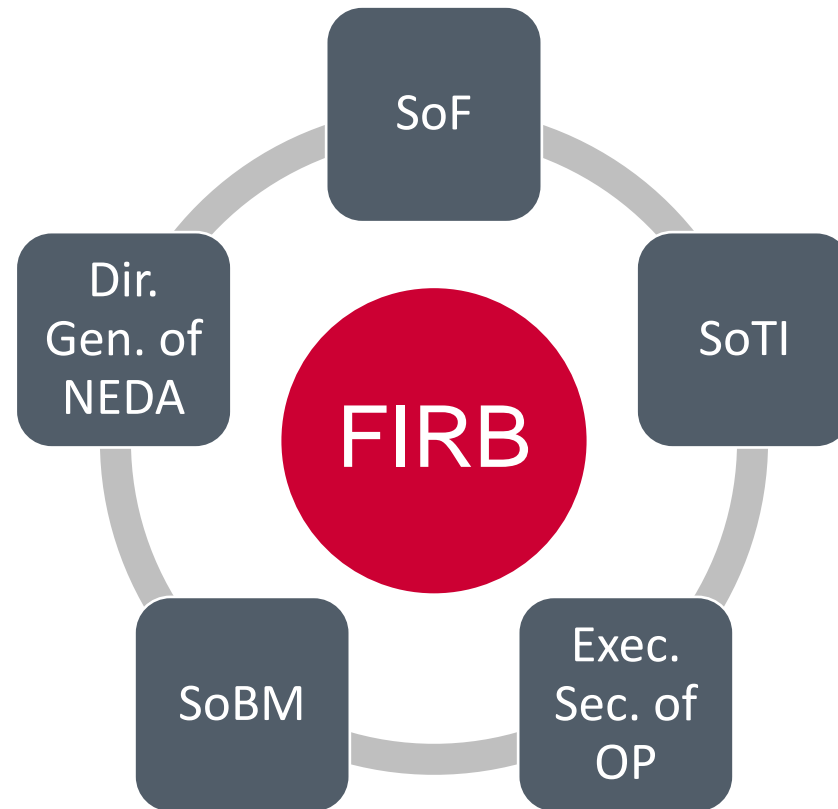
Expanded Functions

- Recommend to the President the grant of non-fiscal incentives
- Adopt policies for development and expansion of the domestic supply chain
- Exercise all other powers necessary or incidental

Fiscal Incentives Review Board

Section 298

Composition



Fiscal Incentives Review Board

Section 298

Formulation

May contain recommendations for types of non-fiscal support needed to:

create high-
skilled jobs

increase the
sophistication of
products and
services

expand
domestic supply
and reduce
dependence of
imports

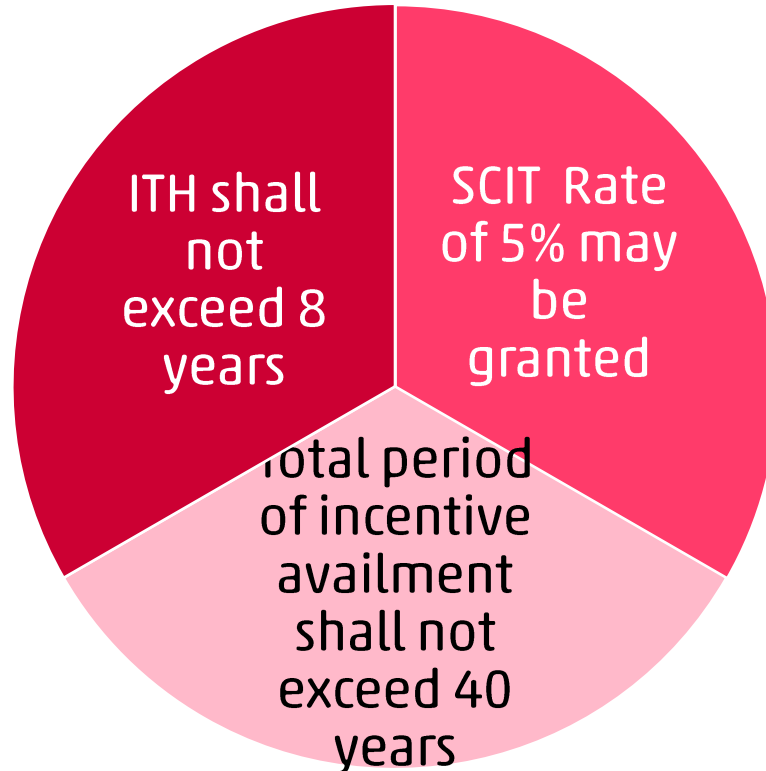
attract
significant
foreign capital
and investment

The Strategic Investment Priority Plan shall be valid for three (3) years subject to review and amendment every three (3) years thereafter

Power of President to Grant Incentives

Section 301

Limitations



Upon recommendation of FIRB, the President can MODIFY THE MIX, PERIOD OR MANNER OF INCENTIVES.

Conditions for positive recommendation by FIRB

- ✓ Project has a comprehensive sustainable development plan
- ✓ Minimum investment capital of P50Billion (or its equivalent in USD) or minimum direct employment of 10,000 within 3 years

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THANK YOU