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Potential Impact of Pillar II (Global Anti-Base Erosion Rules) to the Philippine Tax Incentives System

Institutions Administering the Grant of Fiscal Incentives in the ASEAN: A Comparative Study

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I. INTRODUCTION

The Pillar II Model rules [Organisation for Economic Co-operation and Development (OECD), 2021] provide governments with a tool to address the tax challenges arising from digitalization and globalization of the economy. Pillar II attempts to limit tax competition by introducing a globally uniform floor, below which low tax rates or certain fiscal policy measures would be largely ineffective.

The rules define the scope and set out the mechanism for the so-called Global Anti-Base Erosion (GloBE) rules, which will introduce a global minimum corporate tax rate of 15%. The minimum tax will apply to multinational entities (MNEs) with revenue above EUR 750 million.

The GloBE rules provide a coordinated system of taxation intended to ensure large MNE Groups pay the 15% minimum tax on income arising in each of the jurisdictions in which they operate. The rules create a "top-up tax" to be applied on profits in any jurisdiction whenever the effective tax rate (ETR), determined on a jurisdictional basis, falls below the minimum 15% tax rate.

As tax incentives offered under the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act [i.e., income tax holiday (ITH), enhanced deductions (ED), and 5% special corporate income tax (SCIT)] generally lower the ETR of registered business enterprises (RBEs), any top-up tax paid by MNEs in their home jurisdiction on income earned in the Philippines may be considered as tax forgone by the Philippine Government.

In the initial analysis based on the 2020 Tax Incentives Management and Transparency Act (TIMTA) reports, the average ETR of the majority of foreign-owned RBEs that may be subject to global minimum tax is 4%, making income earned in the Philippines vulnerable to top-up taxes collectible in other jurisdictions.

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Had the GloBE rules been implemented in 2020, the estimated top-up tax to be paid to other jurisdictions would amount to P19.60 billion, representing potential taxes that the Philippine Government would have forgone. From this amount, P14.68 billion is attributable to Japan, United States of America, and Netherlands, all of which are members of the OECD.

As it stands, Pillar II is a legitimate reason to revisit the implementation of the current tax incentives offered in the Philippines and the changes needed thereto to manage the impact in terms of tax revenue and attracting foreign direct investments.

II. BACKGROUND OF BASE EROSION AND PROFIT SHIFTING

Based erosion and profit shifting (BEPS) practices enable MNEs to exploit loopholes and mismatches in the tax systems of different jurisdictions resulting in a race to the bottom for corporate tax. Per OECD, BEPS practices cost countries around USD 100 to 240 billion in lost revenue annually, which is the equivalent of 4% to 10% of the global corporate income tax (CIT) revenue (OECD, 2020).

The concern about BEPS is so prevalent that the OECD/Group of Twenty (OECD/G20) countries developed the BEPS Project in 2015. The BEPS Project provides 15 actions that equip governments with domestic and international instruments to manage tax avoidance. These instruments are used to ensure that profits are taxed where economic activities generating such profits are performed and where value is created.

In 2016, the OECD/G20 Inclusive Framework (IF) on BEPS was established. It allows interested countries and jurisdictions, including developing economies, to participate on an equal footing in the development, implementation, and monitoring of the OECD/G20 BEPS Project.

Action 1 of the BEPS Project addresses the tax challenges raised by digitalization, which is currently the top priority for the OECD/G20 IF and has been a critical area of focus of the OECD/G20 BEPS Project since its inception. A two-pillar solution was proposed to solve these tax challenges:

a. Under Pillar I, market jurisdictions (i.e., those territories where sales arise) are given taxing rights over a portion of the residual profits of the largest and most profitable MNEs to ensure a fairer distribution of profits. With this, more than USD 125 billion of profit is expected to be reallocated to market jurisdictions annually; and

b. Under Pillar II, large MNEs are guaranteed to pay a global minimum corporate tax of 15% on the income arising in each jurisdiction they operate to limit competition on corporate tax. Based on the latest estimates of the OECD, Pillar II is expected to generate an additional USD 175 to 261 billion in new tax revenues annually.

As of December 2022, 142 countries and jurisdictions are members of the IF on BEPS, of which more than two-thirds are non-OECD/non-G20 countries, and nearly half are developing economies (OECD, 2022) (See Annex A.). Of this number, 138 countries and jurisdictions have also joined the statement on the Two-Pillar Solution (OECD, 2022). Several Association of Southeast Asian Nations (ASEAN) member countries are members of the IF which include Indonesia, Malaysia, Singapore, Thailand, and Vietnam. As of date, the Philippines is not a member and signatory of the IF.

Membership in the IF on BEPS has several implications for the Philippines. By joining the IF, the country can gain access to BEPS minimum standards such as rules on transfer pricing and harmful tax practices. Further, the country can enhance its cooperation with other members, improve tax transparency through Common Reporting Standards (CRS)[9], and potentially improve revenue collection by implementing the BEPS recommendations that prevent profit shifting. A country's reputation can also benefit from membership in the IF as it signals to the global community that it is committed to international tax cooperation and transparency.

On the other hand, joining the IF can increase compliance costs for taxpayers due to additional reportorial requirements. The Bureau of Internal Revenue (BIR) will need additional capacity building and more staff to enforce the BEPS rules. Implementing the BEPS recommendations may also require amendments to the tax law and regulations. Finally, joining the IF may be seen as a loss of tax sovereignty as the country must commit to implementing OECD's CRS for the automatic exchange of financial information.

III. PILLAR II GLOBE RULES

Pillar II introduced the GloBE rules which attempt to address the tax challenges by limiting tax competition and ensuring that MNEs pay a minimum level of tax regardless of where they operate. The rules create a "top-up tax" to be applied on profits whenever the ETR, determined on a jurisdictional basis, falls below the minimum 15% corporate income tax rate. Effectively, Pillar II will introduce a globally uniform floor for income taxes, below which low tax rates or certain fiscal policy measures would be largely ineffective.

The GloBE rules mainly consist of two interlocking types of rules: the income inclusion rule (IIR) and the undertaxed payments rule (UTPR) (See Annex B.). Together, the IIR and UTPR are known as the GloBe rules which operate to impose a top-up tax at a jurisdictional level based on a common definition of covered taxes and tax base using an ETR test (OECD, #2021). Ultimately, implementing the GloBe rules could potentially increase the tax collections of the Philippine Government as the measure prevents MNEs from shifting profits to low-tax jurisdictions. The GloBE rules can likewise promote a more equitable tax system as it prevents tax avoidance.

[9] CRS refers to OECD's automatic exchange of financial information between tax authorities.

A. The IIR

The IIR will be applied by and collected in the jurisdiction of the parent entities of the MNE, but will be based on the ETR computed for each jurisdiction it operates or has subsidiaries. Under the IIR, MNEs are required to compute the ETR for each jurisdiction they are operating and pay "top-up tax" for the difference between the ETR per jurisdiction and the 15% minimum tax rate. The minimum tax is paid at the level of the parent entity, in proportion[10] to its ownership interests in those entities with low-taxed income.

B. The UTPR

The UTPR serves as a backstop to the IIR and guarantees that the minimum tax is paid in cases where an entity located in a low-taxed jurisdiction is held through a chain of ownership that does not result in the imposition of the IIR on the low-taxed income. Such is usually the case when the jurisdiction of the ultimate parent entity does not impose the GloBE rules.

Under the UTPR, an adjustment (such as a denial of a deduction) shall be required to increase the tax at the group entity level. The adjustment shall be sufficient to result in the group entities paying their share of the top-up tax remaining after the IIR. The UTPR allocates the top-up tax among jurisdictions where the group has constituent entities based on where the group´s tangible assets and employees are located instead of by ownership.

Mechanism for GloBE rules

The GloBE rules will apply to MNEs with consolidated revenues of at least EUR 750 million. Nonetheless, countries can apply the IIR to MNEs headquartered in their jurisdiction regardless of the threshold (OECD, 2023).

However, there are entities that are excluded even if the MNE group remains subject to the GloBE rules. The Pillar II model rules do not apply to government entities, international organizations, and non-profit organizations (preserving domestic tax exemptions for sovereign, non-profit, and charitable entities). They also do not apply to entities that meet the definition of a pension, investment, or real estate fund.

Pillar II also provides for de minimis exclusion when there is a relatively small amount of revenue and income in a jurisdiction. The top-up tax for the constituent entities located in a low-taxed jurisdiction shall be deemed to be zero for a fiscal year if the following thresholds are met: the average GloBE revenue from the jurisdiction is less than EUR 10 million, and the average GloBE income or loss from the jurisdiction is a loss or is less than EUR 1 million.

[10] Generally, the IIR is applied at the level of the ultimate parent entity and works its way down the chain of ownership. However, rules are also provided to allow the IIR to be applied by a parent entity in which there is a significant minority interest, to minimize leakage of low-taxed income.

In computing for the income subject to the GloBE rules, the Pillar II Model rules also provide for substance-based carve-outs to encourage companies to have a physical presence and create jobs in jurisdictions where they operate. Under the substance-based carve-out rule, the income to be multiplied by the top-up tax percentage shall be reduced by a 5% payroll carve-out[11] and an 8% tangible asset carve-out[12], ultimately reducing the top-up tax liability. Both carve-out rates shall be phased down to 5% over 10 years (OECD, 2023).

Qualified Domestic Minimum Top-up Tax

The Pillar II Model rules also contemplate the possibility that jurisdictions would introduce their own qualified domestic minimum top-up tax (QDMTT) based on the GloBE mechanics. Any QDMTT to be imposed shall be entirely creditable against any liability under the GloBE, thereby preserving a jurisdiction's primary right of taxation over its own income (OECD, 2023).

Implementation of the GloBE Rules

The GloBE rules were envisioned to be implemented by 2023. However, jurisdictions such as the European Union, the United Kingdom, and Hong Kong already expressed that they are to delay the implementation of the IIR from the original OECD timeline to 2024 at the earliest (Ernst & Young, 2022).

As for the ASEAN region, the implementation of GloBE rules remains at the policy development stage, with the majority of the region reviewing the technical details of implementing IIR, UTPR, and QDMTT (See Annex C.). Singapore and Thailand are also reported to be reviewing their tax incentive schemes to ensure that they remain competitive in attracting investments (See Annex D.).

III. PHILIPPINE TAX INCENTIVES SYSTEM

Generally, domestic corporations are subject to 25% or 20%[13] regular corporate income tax (RCIT) on net taxable income depending on the amount of net taxable income and total assets. Alternately, a 2%[14] minimum corporate income tax (MCIT) on gross taxable

[11] Eligible payroll costs of eligible employees that perform activities for the MNE Group in such jurisdiction.

[12] Based on the carrying value of eligible tangible assets located in such jurisdiction (i.e., property plant and equipment, natural resources and lessee's right of use of tangible assets).

[13] Corporations with net taxable income not exceeding P5 million and with total assets not exceeding P100 million, excluding land, shall be subject to 20% RCIT in accordance with Section 27 of the Tax Code, as amended by the CREATE Act.

[14] The MCIT was reduced to 1% from 1 July 2020 until 30 June 2023 under the CREATE Act.

income may be imposed if the resulting RCIT is lower than the MCIT computed (National Internal Revenue Code of 1997, as amended).[15]

However, like other jurisdictions, the Philippines offers tax incentives to attract foreign investments, which can decrease the ETR of an RBE below the 15% minimum tax rate.

Under the CREATE Act (2021), the available tax incentives to RBEs include: (a) ITH; (b) 5% SCIT rate; (c) ED; (d) duty exemption on importation of capital equipment, raw materials, spare parts, or accessories; (e) value added tax (VAT) exemption on importations; and (f) VAT zero-rating on local purchases.

The ITH is generally followed by the SCIT or the ED. The SCIT is a tax rate equivalent to 5% based on the gross income earned in lieu of all national and local taxes and is only available to export-oriented enterprises. On the other hand, the ED is available to both export-oriented and domestic market enterprises. In no case shall the ED be granted simultaneously with the SCIT.[16]

The CREATE Act also provides for up to a 40-year tax incentive package for highly desirable projects or activities. Projects with an investment capital of at least P50 billion or those which will generate at least 10,000 jobs may be granted an ITH not exceeding eight years and, thereafter, a 5% SCIT, with a total incentive period of up to 40 years.[17]

Earlier version of tax incentives reform

As part of the tax reform to rationalize tax incentives, the Department of Finance previously proposed in earlier versions of Package 2 of the Comprehensive Tax Reform Program, which eventually resulted in the enactment of CREATE Act, to reduce the CIT of incentivized projects of RBEs at 15% of the net taxable income (Corporate Income Tax and Incentives Reform Act, H.B. No. 7982, 2010)[18]. However, this proposal was replaced in favor of the tax incentives package available today. Had this provision materialized, the 15% CIT could have addressed the potential tax foregone by the Philippine Government in the face of the GloBE rules.

[15] Section 27 of the Tax Code, as amended by the CREATE Act.

[16] Section 295 of the Tax Code, as amended by the CREATE Act.

[17] Section 301 of the Tax Code, as amended by the CREATE Act.

[18] Section 292 (A) (b), Chapter II of House Bill No. 7982.

IV. POTENTIAL IMPACT OF GloBE RULES TO THE TAX INCENTIVES SYSTEM

The GloBE rules will have an immediate impact on the overall tax burden and tax compliance of large internationally operating businesses. MNEs will need to be able to calculate the jurisdictional top-up tax in each country where they operate and allocate any top-up tax amount accordingly. Further, a re-examination of existing global transfer pricing documentation is needed. There are also significant implications for international investment and investment policies. Tax is an important determinant of foreign direct investment, and tax rates enter into investment decisions that may affect locational choices.

Policy Implication

As the Philippine headline CIT rate is well above the proposed 15% global minimum tax rate, income from corporations subject to the RCIT rate is almost assured to be spared from being taxed in other jurisdictions.

However, if an MNE subject to the GloBE rules operates or has subsidiaries in the Philippines and such subsidiaries are availing tax incentives, the MNE may be forced to pay an additional top-up tax in its home jurisdiction in case the ETR of the Philippine subsidiaries fall below the 15% minimum tax rate due to tax relief provided by income-based tax incentives.

The mechanism under Pillar II is expected to significantly reduce the effectiveness of income-based tax incentives in attracting efficiency-seeking investments, or those whose primary motivation for choosing a location is cost-effectiveness. Nonetheless, the GloBE rules do not affect non-income-based tax incentives such as customs duty exemption, VAT exemption on importations, and VAT zero-rating on local purchases.

Based on the TIMTA data from 2016 to 2020, the VAT and customs duty incentives comprise the largest share of tax forgone on average at 60.42% and 12.96%, respectively (See Annex E.).

Implication on government revenues

As of November 2022, there are 2,762 RBEs[19] which are majority foreign-owned. Out of the 2,762 firms, 807 firms are majority-owned[20] by Japanese stockholders (See Annex F.). Japan has already included the IIR under Pillar II in its proposed 2023 Tax Reform Package. Once passed, this will be deemed effective from the fiscal year beginning in or after April 2024 (PricewaterhouseCoopers, 2023).

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[19] Based on the IPA-submitted masterlist of RBEs as of 31 December 2021, monthly list of IPA-approved projects with investment capital P1 billion and below, and list of Fiscal Incentives Review Board (FIRB)-approved projects.

[20] With at least 50% foreign ownership interest.

To estimate the potential revenue impact of the GloBE rules, a sample of majority foreign-owned RBEs with net sales of at least P582.75 million (EUR 10 million)[21] and net taxable income of P58.27 million (EUR 1 million) were selected following the de minimis rules of the Pillar II guidelines. The following observations may be noted (See Table 1 and Annex G.):

a. The average ETR for RBEs is 4% based on net taxable income, bringing the average potential top-up tax to 11%[22];

b. Had the GloBE rules been implemented in 2020, the estimated top-up tax to be paid to the home jurisdiction of the MNEs for the year would have been P19.6 billion representing tax forgone for the Philippine Government; and

c. The ETR for revenues under the regular tax regime (after the ITH) is expected to be above the 15% minimum tax rate, but this must be reevaluated once RBEs are already applying its ED.

Table 1

Estimated Top-Up Tax (in million pesos)

Particulars	Exempt	Special	Regular	Total
Net taxable income	29,832.28	138,914.19	5,327.81	174,074.28
Income tax due	-	4,616.41	2,003.03	6,619.44
Average ETR	-	3%	20%	4%
Average top-up tax rate	15%	12%	0%	11%
Total top-up tax	4,468.80	16,173.33	(1,040.64)	19,601.49

Note: As the top-up tax is computed on a jurisdictional level, losses per tax regime are considered in the computation.

Analyzing the potential revenue impact based on the distribution of tax regimes applicable, the average ETR of RBEs purely subject to SCIT is only 3.74%, while RBEs subject to both ITH and SCIT have a lower average ETR at 2.65%.

[21] EUR 1 = PHP 58.27.

[22] Due to lack of available data on financial income of RBEs, net taxable income per 2020 TIMTA is used to compute for the ETR in lieu of GloBE income.

Table 2

Distribution of Estimated Top-Up Tax on a Per RBE-Level (in million pesos)

Particulars	Pure ITH	Pure SCIT	ITH + SCIT	ITH + Regular	SCIT + Regular	Mixed	Total
No. of RBEs	4	93	53	2	48	36	236
Net taxable Income	839.84	39,587.43	60,876.57	380.37	19,492.43	52,897.63	174,074.28
Income tax due	0.00	1,486.01	1,435.43	102.03	1,025.47	2,570.50	6,619.44
Average ETR	0.00%	3.74%	2.65%	26.01%	5.78%	4.19%	4.10%
Average top-up tax rate	15.00%	11.26%	12.35%	0.00%	9.54%	10.81%	11.05%
Total top-up tax	125.98	4,452.10	7,696.05	0.00	1,963.22	5,364.14	19,601.49

Note: As top-up tax is computed on a jurisdictional level, losses per tax regime are not taken out of the computation.

While the Philippines will forgo tax collections due to the non-implementation of the GloBE rules, the tax leakage per registered activity is only anticipated to last a maximum of 17 years. Thereafter, RBEs shall be subject to a CIT rate of 25% which is well above the proposed 15% minimum tax rate.

Conversely, there are also a number of Philippine conglomerates with foreign subsidiaries (See Annex H.). This list includes the International Container Terminal Services Inc. (ICTSI)[23], which operates in at least 36 jurisdictions.

Should the Philippines implement a qualified IIR, additional top-up tax may be collected by the Government from income arising from other jurisdictions that have less than 15% ETR. On the contrary, failure to introduce a qualified IIR means that the additional top-up tax that should have been collected in the Philippines may be subject to a qualified UTPR by jurisdictions where constituent entities of the MNE are located.

Estimating the IIR will depend on a number of factors, including global profits and jurisdictional ETRs (See Annex B.). Due to data limitations on each of the foreign subsidiaries' financial information and tax payments, the revenue impact of the IIR cannot be reliably determined.

[23] Per GloBE rules, income derived from international shipping and from qualified ancillary international shipping are excluded from the computation of GloBE income or loss, provided that the entity will demonstrate that the strategic or commercial of all ships concerned is effectively carried on from within the jurisdiction where the entity is located. However, net income obtained from transporting passengers or cargo by ships via inland waterways within the same jurisdiction are not excluded.

Alternate measures to the IIR and the UTPR

True to the goal of Pillar II to stop the race to the bottom among jurisdictions, policymakers can propose the abolition of the current income tax incentives and propose the gradual reduction of the CIT rate for incentivized projects of RBEs to 15% of the net taxable income. However, the abolishment of current CIT incentives would require legislative action as this is considered an amendment to the NIRC of 1997, as amended. Nonetheless, this proposal is expected to bring fewer complications to the tax system, address transfer pricing issues at the project level, and make monitoring and administration easier for the tax authorities making this the optimal solution in the long run.

As a short-term response, policymakers can propose to implement a QDMTT to reduce the amount of top-up tax that may otherwise be collectible in another jurisdiction. However, aside from the fact that implementing a QDMTT requires legislative action, the operability of a QDMTT is based on a complex set of rules and calculations which can increase the cost of compliance for taxpayers and make the tax system more difficult to administer. Ultimately, while the QDMTT addresses concerns about the GloBE rules, it would only serve as a band-aid solution to the changing tax landscape.

Instead of providing income tax incentives, the Government can also consider promoting investment tax credits[24] to businesses that invest in certain areas or industries. This can be a more targeted approach to encourage specific types of investments. Investment tax credits may be offered as a percentage of the total investment, as a fixed amount, or as a percentage of the cost savings associated with the investment. Further, tax credits may be refundable in cases where the tax credits exceed the company's tax liability.

Other tools which may be employed to attract investments that are not tied to income tax incentives include a range of incentives such as tax credits, grants, loans, workforce training programs, and other forms of financial assistance.

Policymakers can also consider stricter implementation of the grant and monitoring of income tax incentives to reduce the possible tax forgone for the Philippines in the face of the GloBE rules. One way to achieve this is by implementing a more stringent and narrower list of eligible activities for tax incentives under the Strategic Investment Priorities Plan (SIPP), and considering the potential impact of the GloBE rules in conducting the ex-ante cost-benefit analysis.

Furthermore, stricter guidelines may be established by the BIR for monitoring tax incentives. This may be applied by limiting the qualified additional deductible expenses for the ED, as well as stricter interpretation of direct costs when computing the GIE under the 5% SCIT.

By implementing these measures, policymakers can help ensure that tax incentives are given only to performing businesses and industries while minimizing potential revenue losses due to the GloBE rules.

[24] Investment tax credit permits businesses to deduct a specified percentage of certain investment costs from their tax liability.

V. CONCLUSION

Pillar II is a legitimate reason to revisit the implementation of the current tax incentives of the country and the changes needed thereto. Ignoring the impacts of Pillar II will result in forgone revenues for the Philippines that will otherwise be collected by other countries. Also, this could leave the country with tax incentives that are ineffective in attracting investments.

However, it is important to note that there are factors, other than tax incentives, that are more compelling and are given more weight in investment decisions, such as government bureaucracy, infrastructure, and the magnitude of corruption.[25] The use of tax incentives to remedy structural inefficiencies can only offer short-term results and requires reinforcement through permanent solutions that fall beyond the scope of fiscal incentives.

[25] Based on the Global Competitiveness Report published by the World Economic Forum (2017-2018).

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Annex A

Members of the OECD/G20 Inclusive Framework on BEPS as of December 2022[26]

1. Albania
2. Andorra
3. Angola
4. Anguilla
5. Antigua and Barbuda
6. Argentina
7. Armenia
8. Aruba
9. Australia
10. Austria
11. Azerbaijan
12. The Bahamas
13. Bahrain
14. Barbados
15. Belarus
16. Belgium
17. Belize
18. Benin
19. Bermuda
20. Bosnia and Herzegovina
21. Botswana
22. Brazil
23. British Virgin Islands
24. Brunei Darussalam
25. Bulgaria
26. Burkina Faso
27. Cabo Verde
28. Cameroon
29. Canada
30. Cayman Islands
31. Chile
32. China (People's Republic of)
33. Colombia
34. Congo
35. Cook Islands
36. Costa Rica
37. Côte d'Ivoire
38. Croatia
39. Curaçao
40. Czech Republic
41. Democratic Republic of the Congo
42. Denmark
43. Djibouti
44. Dominica
45. Dominican Republic
46. Egypt
47. Estonia
48. Eswatini
49. Faroe Islands
50. Finland
51. France
52. Gabon
53. Georgia
54. Germany
55. Gibraltar
56. Greece
57. Greenland
58. Grenada
59. Guernsey
60. Haiti
61. Honduras
62. Hong Kong, China
63. Hungary
64. Iceland
65. India
66. Indonesia
67. Ireland
68. Isle of Man
69. Israel
70. Italy
71. Jamaica
72. Japan
73. Jersey
74. Jordan
75. Kazakhstan
76. Kenya
77. Korea
78. Latvia
79. Liberia
80. Liechtenstein
81. Lithuania
82. Luxembourg
83. Macau, China
84. Malaysia
85. Maldives
86. Malta
87. Mauritania
88. Mauritius
89. Mexico
90. Monaco
91. Mongolia
92. Montenegro
93. Montserrat
94. Morocco
95. Namibia

[26] Members of the OECD/G20 Inclusive Framework on BEPS. Retrieved 8 February 2023, from https://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf

96. Netherlands	112. Saint Kitts and Nevis	127. Sri Lanka
97. New Zealand	113. Saint Lucia	128. Sweden
98. Nigeria	114. Saint Vincent and the Grenadines	129. Switzerland
99. North Macedonia		130. Thailand
100. Norway	115. Samoa	131. Togo
101. Oman	116. San Marino	132. Trinidad and Tobago
102. Pakistan	117. Saudi Arabia	133. Tunisia
103. Panama	118. Senegal	134. Türkiye
104. Papua New Guinea	119. Serbia	135. Turks and Caicos Islands
105. Paraguay	120. Seychelles	136. Ukraine
106. Peru	121. Serra Leone	137. United Arab Emirates
107. Poland	122. Singapore	138. United Kingdom
108. Portugal	123. Slovak Republic	139. United States
109. Qatar	124. Slovenia	140. Uruguay
110. Romania	125. South Africa	141. Viet Nam
111. Russian Federation	126. Spain	142. Zambia

Source: OECD website

Out of 142 members of the OECD/G20 Inclusive Framework on BEPS, only Kenya, Nigeria, Pakistan, and Sri Lanka did not join the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy as of 16 December 2022.[27]

[27] Members of the OECD/G20 Inclusive Framework on BEPS joining the October ... (n.d.). Retrieved February 13, 2023, from https://www.oecd.org/tax/beps/oecd-g20-inclusive-framework-members-joining-statement-on-two-pillar-solution-to-address-tax-challenges-arising-from-digitalisation-october-2021.pdf

Annex B

Summary of GloBE Rules Pillar II Principles and Mechanics

Income Inclusion Rule (IIR)	
Mechanics	The tax imposed under the IIR is a "top-up tax" calculated and applied at a jurisdictional level. The IIR uses a standardized base and definition of covered taxes to identify those jurisdictions where an MNE is subject to an effective tax rate below 15%. It then imposes a coordinated tax charge that brings the MNE's effective tax rate on that income up to the minimum rate.
Type of tax	Minimum effective income tax
Collecting jurisdiction	Jurisdiction of the parent entity, in proportion to its ownership interest in those entities in low-taxed jurisdiction.
Computation[28]	$Jurisdictional\ top\ up\ Tax = (Top\ up\ tax\ \% * Jurisdictional\ excess\ profit) - Qualified\ domestic\ minimum\ top\ up\ tax$

wherein:

$$Top - up\ tax\ percentage = Minimum\ Tax\ Rate - Jurisdictional\ ETR$$

$$Jurisdictional\ Effective\ Tax\ Rate\ (ETR) = \frac{Covered\ taxes\ calculated\ on\ a\ jurisdictional\ basis}{GloBE\ income\ calculated\ based\ on\ jurisdictional\ basis}$$

$$Jurisdictional\ Excess\ Profit = GloBE\ income - Substance\ based\ income\ exclusion$$

GloBE Income Financial income adjusted for the following:

(a) net taxes expense; (b) excluded dividends; (c) excluded equity gain or loss; (d) included revaluation method gain or loss; (e) gain or loss from disposition of assets and liabilities; (f) asymmetric foreign currency gains or losses; (g) policy disallowed expenses; (h) prior period errors and changes in accounting principles; and (i) accrued pension expense.

Substance-Based Income Exclusion: *the sum of the payroll carve-out and the tangible asset carve-out for each constituent entity, except for constituent entities that are Investment entities in that jurisdiction.*

[28] *Key operating provisions of the Globe Rules - OECD.* (n.d.). Retrieved January 31, 2023, from https://www.oecd.org/tax/beps/pillar-two-GloBE-rules-fact-sheets.pdf

	Covered Taxes: *Refers to the following taxes:* *a) Taxes recorded in the financial accounts of a constituent entity with respect to its income or profits or its share of the income or profits of a constituent entity in which it owns an ownership interest;* *b) Taxes on distributed profits, deemed profit distributions, and non-business expenses imposed under an eligible distribution tax system;* *c) Taxes imposed in lieu of a generally applicable corporate income tax; and* *d) Taxes levied by reference to retained earnings and corporate equity, including a Tax on multiple components based on income and equity.* ***Qualified domestic minimum top-up tax:*** *a minimum tax that is included in the domestic law of a jurisdiction that is implemented and administered in a way that is consistent with the outcomes provided for under the GloBE Rules and the Commentary*

Undertaxed Payments Rule (UTPR)	
Mechanics	If there is low-taxed income beneficially owned by an ultimate parent entity that is not brought into charge under an IIR (i.e., the jurisdiction of the ultimate parent entity does not impose global minimum tax), then the low-taxed income is subject to the back-up mechanism of the UTPR. It can also apply in respect of the top-up tax that arises in relation to the low-tax outcomes in the jurisdiction of the ultimate parent. Constituent entities of an MNE Group subject to UTPR shall be denied a deduction (or required to make an equivalent adjustment under domestic law) in an amount resulting in those constituent entities having an additional cash tax expense equal to the UTPR top-up tax amount for the fiscal year allocated to that jurisdiction.
Type of tax	Additional income tax through disallowance of deductible expenses
Collecting jurisdiction	Jurisdictions in which the MNE Group has constituent entities based on where the group's tangible assets and employees are located instead of by ownership
Computation	$Disallowed\ deductible\ expense = \frac{Total\ Jurisdictional\ top\ up\ tax - Jurisdictional\ top\ up\ Tax\ under\ IIR}{Jurisdictional\ statutory\ tax\ rate}$ *Wherein:* *The total UTPR top-up tax amount shall be equal to the sum of the top-up tax calculated for each low-taxed constituent entity of an MNE Group reduced by a parent entity's allocable share of the top-up tax that is brought into charge under a qualified IIR.*

Annex C

ASEAN Region Response to the GloBE rules

Country	IIR	UTPR	QDMTT	Current implementation
Philippines				The Philippine House Committee on Ways and Means has formed a working group with the DOF to study the implications of imposing a minimum income tax of 15% on the book income of corporations.
Singapore	✓ **TBA***	✓ **TBA**	✓ **2025**	On 14 February 2023, Singapore announced in its Budget 2023 that it will implement GloBE rules and a QDMTT of 15% for fiscal years starting on or after 1 January 2025. The IIR and UTPR are also anticipated to be adopted by Singapore, though no specifics have been announced to date.
Malaysia			✓ **2024**	On 7 October 2022, as part of the Government's Budget 2023 proposals, the Minister of Finance reaffirmed Malaysia's commitment to implement Pillar II and stated that Malaysia is targeting to implement a QDMTT in 2024. Malaysia is currently reviewing technical details for implementing the IIR, UTPR, and QDMTT.
Indonesia	✓ **2024**	✓ **2025**	✓ **TBA**	In December 2022, the Indonesian Government issued regulation No. 55/2022 ("GR-55"), which serves as a legal basis to adopt Pillar I and Pillar II. Indonesia is planning to design regulations to implement the IIR by 2024 and the UTPR by 2025. Indonesia is also considering a QDMTT in line with the GloBE 15% minimum tax.
Thailand			✓ **TBA**	On 15 February 2023, the representative of the Revenue Department announced during the 2023 OECD conference on tax and development that a set of domestic policies will be prepared for the government's review within 2023. The policies will incorporate certain aspects of the global minimum tax and will encompass a new domestic tax incentive policy, a domestic minimum top-up tax, as well as any necessary legislation. The government intends to disclose details on tax incentives, and make adjustments to maintain consistency with Pillar II.
Vietnam			✓ **2023 -2025**	On 22 November 2022, the Ministry of Finance (MOF) issued a decision approving a tax reform plan, under which the MOF will research and propose local legislation in line with the BEPS 2.0 rules. New regulations may apply between 2023-2025. QDMTT is under consideration for Vietnam, but technical details are still under review.

Source: Implementation of Pillar Two in the Asia- Pacific Region and Capacity building initiatives, Asian Development Bank
*To be announced

Annex D

Matrix of Selected Tax Incentives in the ASEAN Region

Nature of relief	Type of incentive	To be affected by the GloBE rules?	Philippines	Indonesia[29]	Malaysia[30]	Singapore[31]	Thailand[32]	Vietnam[33]
Income-based incentives	Income tax holiday	More likely	4-7 years	5-20 years	5-10 years	5-15 years	up to 13 years	2-4 years
	Preferential GIE	More likely	5% GIE for 10 years for exporters	none	none	none	none	none

[29] The role of investment incentives in Indonesia, retrieved from: https://www.oecd-ilibrary.org/sites/b0cf41ab-en/index.html?itemId=/content/component/b0cf41ab-en#section-d1e17417; PwC Worldwide Tax Summaries, retrieved from: https://taxsummaries.pwc.com/indonesia/corporate/tax-credits-and-incentives;

[30] Malaysian Investment Development Authority: Incentives for New Investments, retrieved from: https://www.mida.gov.my/wp-content/uploads/2020/07/Chapter-2-Incentives-for-New-Investments.pdf; Malaysian PwC Tax Booklet (2021/2022), retrieved from: https://www.pwc.com/my/en/assets/publications/2021/2021-2022-Malaysian-Tax-Booklet.pdf

[31] Economic Expansion Incentives Act 1967, 2020 Revised Edition, retrieved from: https://sso.agc.gov.sg/Act/EEIRITA1967; PwC Worldwide Tax Summaries, retrieved from: https://taxsummaries.pwc.com/singapore/corporate/tax-credits-and-incentives; Singapore Customs Duties and Dutiable Goods, retrieved from: https://www.customs.gov.sg/businesses/valuation-duties-taxes-and-fees/duties-and-dutiable-goods/

[32] Thailand Investment Promotion Act (January 2002), retrieved from: https://www.boi.go.th/english/download/boi_forms/proact_eng.pdf, Thailand Amended Investment Promotion Act (2017), retrieved from: https://investmentpolicy.unctad.org/investment-policy-monitor/measures/3120/thailand-amends-the-investment-promotion-act; PwC Worldwide Tax Summaries, retrieved from: https://taxsummaries.pwc.com/thailand/corporate/tax-credits-and-incentives; Thailand: New Incentives for Investor Retention, Relocation, High-Tech, and Green Industries, retrieved from: https://www.aseanbriefing.com/news/thailand-new-incentives-for-investor-retention-relocation-high-tech-and-green-industries/

[33] Vietnam Law on Investment, retrieved from: http://amc.edu.vn/xem-van-ban/vsndoc/40/law-no-612020qh14-dated-june-17-2020-on-investment.aspx; Vietnam PwC Pocket Tax Book, retrieved from: https://www.pwc.com/vn/en/publications/2022/220505-pwc-vietnam-ptb-2022-en.pdf

Nature of relief	Type of incentive	To be affected by the GloBE rules?	Philippines	Indonesia	Malaysia	Singapore	Thailand	Vietnam
	Reduction of CIT	More likely	none	50% reduction of CIT and/or CIT rate	60% to 100% tax exemption [34]	5% or 10% reduced CIT	50% reduction of CIT rate (i.e., 10% CIT rate)	10%-17% preferential CIT rates 50% reduction of CIT after the ITH period
Expenditure-based incentives	Accelerated depreciation for tangible assets	Less likely	none	✓	✓	none	none	✓
	R&D tax allowance[35]	More likely	✓	✓	✓	✓	✓	none
	Labor & training tax allowance	More likely	✓	✓	✓	none	none	none
	Reinvestment tax allowance	More likely	✓	✓	✓	none	none	✓

Source: OECD, PwC Tax Booklets, PwC Worldwide Tax Summaries, and Investment Promotion Acts

[34] Income-based incentives of Malaysia will either be an income tax holiday or reduction of CIT, but not both.

[35] Tax allowances are tax deductions that are granted by a jurisdiction to the extent that it exceeds the expenditure to which it relates. For example, where a taxpayer is entitled to depreciate 120% of the acquisition cost of the asset, then the additional 20% is considered a tax allowance. Source: OECD.

Annex E

2016 to 2020 Tax Forgone (In PHP millions)

Year	ITH	ITH (% of total)	Special income tax rate	Special income tax rate (% of total)	Customs duties	Customs duties (% of total)	Import VAT (Gross)	Import VAT (Gross) (% of total)	Total
2016	74,526.66	19.58%	46,655.57	12.26%	57,381.54	15.07%	202,105.77	53.09%	380,669.53
2017	70,209.04	18.44%	56,731.96	14.90%	46,510.83	12.22%	267,665.37	70.31%	441,117.20
2018	66,073.90	17.36%	62,933.28	16.53%	57,006.00	14.98%	291,154.90	76.48%	477,168.08
2019	68,400.13	17.97%	66,408.39	17.45%	47,586.09	12.50%	267,111.31	70.17%	449,505.92
2020	19,963.39	5.24%	46,632.65	12.25%	71,934.13	18.90%	293,147.79	77.01%	431,677.95

Source: TIMTA Data

Annex F

Top 15 Jurisdiction with Majority Foreign-Owned RBEs as of 30 November 2022

Country	Number of RBEs
Japan	807
United States of America	361
South Korea	332
Australia	167
Singapore	166
Taiwan	149
China	115
Netherlands	99
United Kingdom	82
Hong Kong	79
British Virgin Islands	41
Germany	40
India	29
Malaysia	26
Switzerland	24
Others	245
Total	2,762

Source: Investment Promotion Agencies (IPA)-submitted masterlist of RBEs as of 31 December 2021, monthly list of IPA approved projects with investment capital P1 billion and below, and list of Fiscal Incentives Review Board (FIRB)-approved projects.

Annex G

Estimated Top-up Tax on RBEs with at least 10 million Euros Net Sales and 1 Million Euros Net Taxable Income

Table 1

Total Estimated Top-up Tax Based on 2020 Tax Incentives Management and Transparency Act (TIMTA)

Country	No. of RBEs	Net taxable income (in PhP millions)	CIT due (in PhP millions)	Average top-up tax rate	Top-up tax (In PhP millions)
Japan	109	62,142.47	2,060.95	11%	7,276.69
United States of America	25	23,956.29	1,302.67	10%	2,373.25
Netherlands	23	46,643.23	1,980.00	12%	5,016.49
Singapore	21	16,720.08	381.64	12%	2,126.37
Unknown	10	6,081.57	304.68	9%	618.60
South Korea	7	1,715.79	55.97	11%	201.40
United Kingdom	7	1,676.52	51.73	12%	199.75
Australia	6	2,105.05	81.03	11%	234.72
British Virgin Islands	4	1,771.05	87.71	11%	177.95
Taiwan	3	789.77	25.55	12%	92.92
China	3	680.09	15.10	13%	86.91
Mixed	3	575.06	21.13	10%	65.13
Hong Kong	3	1,053.29	67.40	5%	90.59
India	2	1,405.58	39.76	12%	171.08
Denmark	2	776.83	32.55	9%	83.97
Bermuda	1	369.47	12.16	12%	43.26
Ireland	1	191.69	5.75	12%	23.00
Lebanon	1	706.82	10.99	13%	95.03
Cyprus	1	3,441.97	47.36	14%	468.94
France	1	228.18	2.77	14%	31.46
New Zealand	1	135.69	4.09	12%	16.26
Mauritius	1	81.31	3.62	11%	8.57
Cayman Islands	1	826.49	24.82	12%	99.15
Total	236	174,074.28	6,619.44	11%	19,601.49

Source: TIMTA Data and IPA-submitted masterlist of RBEs as of 31 December 2021

Table 2

Total Estimated Top-up Tax per Tax Regime (in PhP millions)

Country	No. of RBES	Member of OECD BEPS framework?	Exempt	Special			Regular			Total							
			Net taxable income	Net taxable income	CIT due	Ave ETR	Net taxable income	CIT Due	Ave ETR	Net taxable income	CIT due	Ave ETR	Ave top-up tax rate	Top-up tax exempt	Top-up tax SCIT	Top-up tax regular	Total top-up tax
Japan	109	Yes	12,026.50	48,583.17	1,496.36	3%	1,532.80	564.59	23%	62,142.47	2,060.95	4%	11%	1,803.98	5,746.45	(273.74)	7,276.69
United States of America	25	Yes	1,507.19	20,441.35	699.26	3%	2,007.75	603.41	19%	23,956.29	1,302.67	6%	10%	224.54	2,364.22	(215.50)	2,373.25
Netherlands	23	Yes	6,979.77	37,753.29	1,343.55	3%	1,910.16	636.44	18%	46,643.23	1,980.00	3%	12%	1,046.97	4,319.44	(349.92)	5,016.49
Singapore	21	Yes	5,647.19	11,120.78	348.48	3%	(47.89)	33.17	20%	16,720.08	381.64	3%	12%	847.08	1,319.64	(40.35)	2,126.37
Unknown	10	CD	680.64	5,175.57	237.08	4%	225.36	67.61	21%	6,081.57	304.68	7%	9%	97.59	539.26	(18.25)	618.60
South Korea	7	Yes	367.86	1,299.05	41.30	3%	48.89	14.67	13%	1,715.79	55.97	4%	11%	55.18	153.55	(7.33)	201.40
United Kingdom	7	Yes	204.98	1,544.91	48.48	3%	(73.37)	3.25	13%	1,676.52	51.73	3%	12%	30.75	183.25	(14.25)	199.75
Australia	6	Yes	61.77	1,979.45	59.38	3%	63.82	21.65	15%	2,105.05	81.03	4%	11%	9.27	237.53	(12.08)	234.72
British Virgin Islands	4	Yes	(48.89)	2,213.53	81.43	3%	(393.59)	6.27	0%	1,771.05	87.71	4%	11%	(7.33)	250.59	(65.31)	177.95
Taiwan	3	No	15.02	808.70	24.26	3%	(33.95)	1.29	10%	789.77	25.55	3%	12%	2.25	97.04	(6.38)	92.92
China	3	Yes	79.96	605.68	15.05	3%	(5.56)	0.05	0%	680.09	15.10	2%	13%	11.99	75.80	(0.88)	86.91
Mixed	3	CD	18.82	554.32	19.95	6%	1.91	1.18	10%	575.06	21.13	5%	10%	2.82	63.20	(0.90)	65.13
Hong Kong	3	Yes	95.34	819.97	26.01	4%	137.98	41.39	30%	1,053.29	67.40	10%	5%	14.30	96.99	(20.70)	90.59
India	2	Yes	246.63	1,140.47	34.21	3%	18.49	5.55	30%	1,405.58	39.76	3%	12%	36.99	136.86	(2.77)	171.08
Denmark	2	Yes	(300.32)	1,076.27	32.29	3%	0.88	0.26	30%	776.83	32.55	6%	9%	(45.05)	129.15	(0.13)	83.97
Bermuda	1	Yes	-	365.50	10.96	3%	3.97	1.19	30%	369.47	12.16	3%	12%	-	43.86	(0.60)	43.26
Ireland	1	Yes	-	191.69	5.75	3%	-	-	0%	191.69	5.75	3%	12%	-	23.00	-	23.00
Lebanon	1	No	340.36	366.47	10.99	3%	-	-	0%	706.82	10.99	2%	13%	51.05	43.98	-	95.03
Cyprus	1	No	1,951.71	1,561.98	46.86	3%	(71.72)	0.50	0%	3,441.97	47.36	1%	14%	292.76	187.44	(11.26)	468.94
France	1	Yes	(4.60)	231.26	2.31	1%	1.52	0.46	30%	228.18	2.77	1%	14%	(0.69)	32.38	(0.23)	31.46
New Zealand	1	Yes	1.76	133.65	4.01	3%	0.28	0.08	30%	135.69	4.09	3%	12%	0.26	16.04	(0.04)	16.26
Mauritius	1	Yes	(39.43)	120.74	3.62	3%	-	-	0%	81.31	3.62	4%	11%	(5.91)	14.49	-	8.57
Cayman Islands	1	Yes	-	826.40	24.79	3%	0.09	0.03	30%	826.49	24.82	3%	12%	-	99.17	(0.01)	99.15
Grand Total	236		29,832.28	138,914.19	4,616.41	3%	5,327.81	2,003.03	20%	174,074.28	6,619.44	4%	11%	4,468.80	16,173.33	(1,040.64)	19,601.49

Note: CD= cannot be determined

Methodology of the estimate

Internal data cleaning and tagging procedures were performed by the FIRB Secretariat from which the total number of firms included in the report is trimmed down from 2,545 to 236 RBEs. The tagging and data-cleaning methodologies applied are summarized below:

A. Based on 2020 TIMTA, RBEs with at least net sales of P582,746,312.50 (10 million Euros) and net taxable income of P58,274,631.25 (1 million Euros) are selected in accordance with the de minimis rules of the Pillar II guidelines[36]. This reduced the sample size from 2,545 to 322 RBEs;

B. From the 322 RBEs, 43 firms with no tax identification number (TIN) were excluded, reducing the sample size to 279 RBEs;

C. The selected RBEs from the 2020 TIMTA data were matched with IPA-submitted master lists in order to determine the nationality of each RBE. 236 RBEs are identified to be of majority foreign ownership using the following tagging protocols:

   a. RBEs with less than 50% foreign interest are tagged as RBEs of Filipino origin;

   b. RBEs with multiple foreign investors, each of which owns less than 50% share, are tagged as RBEs of mixed origin;

   c. RBEs in the 2020 TIMTA that do not match with any RBE in IPA-submitted master lists are tagged as RBEs of unknown origin;

D. While the data (i.e., net taxable income, income tax due, average ETR, average top-up rate, and top-up tax) is summarized on a per country and per tax regime basis, the estimated top-up tax is computed on a per legal entity level;

E. Due to data limitations, the average ETR is computed by dividing the income tax due by the net taxable income based on the income tax returns submitted by the RBEs; and

F. To compute the top-up tax, the ETR is deducted from the minimum tax rate of 15% to get the top-up rate to be applied to the net taxable income.

[36] 1 Euro = 58.27 pesos

Annex II

Global Filipino Companies and Foreign Subsidiaries

No.	Conglomerate name	Foreign subsidiary	Country of incorporation	CIT headline rate[37]
1	Top Frontier Investment Holdings Inc	San Miguel Yamamura Packaging International Limited and subsidiaries	British Virgin Islands	0%
		San Miguel International Limited and subsidiary San Miguel Holdings Limited and San Miguel Insurance Company, Ltd.	Bermuda	0%
2	SM Investments Corporation	Springfield Global Enterprises Limited	British Virgin Islands	0%
		Simply Prestige Limited and Subsidiaries	British Virgin Islands	0%
		SM Land (China) Limited and Subsidiaries	Hongkong	16.5%
		Prime Central Limited and Subsidiaries	British Virgin Islands	0%
3	Manila Electric Company	MPG Asia Limited ("MPG Asia")	British Virgin Islands	0%
		Lighthouse Overseas Insurance Limited ("LOIL")	Bermuda	0%
		Meridian Power Ventures Limited ("MPV Limited")	Hongkong	16.5%

[37] See Notes for detailed CIT Headline Rates.

No.	Conglomerate name	Foreign subsidiary	Country of incorporation	CIT headline rate
4	Ayala Corporation	AC International Finance Limited	Cayman Islands	0%
		AYC Finance Ltd	Cayman Islands	0%
		Azalea International Venture Partners Limited	British Virgin Islands	0%
		Bestfull Holdings Limited	Hongkong	16.5%
		Purefoods International , Ltd.	British Virgin Islands	0%
5	JG Summit Holdings, Inc.	URC Philippines, Limited	British Virgin Islands	0%
		URC International Co. Ltd.	British Virgin Islands	0%
		Universal Robina (Cayman), Ltd.	Cayman Islands	0%
		URC China Commercial Co., Ltd.	China	25%
		Robinsons (Cayman) Limited	Cayman Islands	0%
		RLC Resources Ltd.	British Virgin Islands	0%
		Land Century Holdings, Ltd.	Hong Kong	16.5%
		World Century Enterprise Ltd.	Hong Kong	16.5%
		First Capital Development, Ltd.	Hong Kong	16.5%
		Chengdu Xin Yao Real Estate Development Co. Ltd.	China	25%
		JGSOC Philippines Limited	British Virgin Islands	0%
		JG Digital Capital Pte. Ltd.	Singapore	17%
		JG Summit Cayman, Ltd.	Cayman Islands	0%
		JGSH Philippines, Limited	British Virgin Islands	0%
		JG Summit Philippines Ltd.	Cayman Islands	0%
		Telegraph Developments, Ltd.	British Virgin Islands	0%
		Summit Top Investments, Ltd.	British Virgin Islands	0%

No.	Conglomerate name	Foreign subsidiary	Country of incorporation	CIT headline rate
6	International Container Terminal Services Inc.	International Container Terminal Holdings Inc and Subsidiaries	Cayman Islands	0%
		ICTSI Ltd.	Bermuda	0%
		ICTSI Mauritius Ltd.	Mauritius	15%
		Aeolina Investments Limited	British Virgin Islands	0%
		ICTSI Far East Pte. Ltd	Singapore	17%
		New Muara Container Terminal Services Sdn Bhd	Brunei	22%
			Indonesia	22%
		PT ICTSI Jasa Prima Tbk and Subsidiaries	Indonesia	22%
		PT PBM Olah Jasa Andal	Indonesia	22%
		PT Makassar Terminal Services Inc	Indonesia	22%
		PT Container Terminal Systems Solutions Indonesia	Indonesia	22%
		ICTSI Hongkong Limited	Hongkong	16.5%
		Yantai International Container Terminals Limited	China	25%
		Pentland International Holdings Ltd	British Virgin Islands	0%
		ICTSI Georgia Corp	Cayman Islands	0%
		Global Procurement Ltd		
		ICTSI Hondura Ltd	Bermuda	0%
		International Container Terminal Services Private Limited	India	25%
		Container Terminal de Venezuela Conterven CA	Venezuela	34%

No.	Conglomerate name	Foreign subsidiary	Country of incorporation	CIT headline rate
		Australian International Container Terminals Limited	Australia	30%
		ICTSI (M.E.) DMCC	United Arab Emirates	0%
		ICTSI Capital B.B.	The Netherlands	25.8%
		Icon Logistiek B.V.	The Netherlands	25.8%
		Royal Capital B.V.	The Netherlands	25.8%
		ICTSI Cooperatief U.A.	The Netherlands	25.8%
		Global Container Capital, B.V.	The Netherlands	25.8%
		ICTSI Treasury B.V.	The Netherlands	25.8%
		ICTSI Americas B.V.	The Netherlands	25.8%
		ICTSI Africa B.V.	The Netherlands	25.8%
		ICTSI Sudan B.V.	The Netherlands	25.8%
		CMSA B.V	The Netherlands	25.8%
		Tecplata B.V.	The Netherlands	25.8%
		SPIA Colombia B.V.	The Netherlands	25.8%
		TSSA B.V.	The Netherlands	25.8%
		CGSA B.V.	The Netherlands	25.8%
		SPIA Spain S.I.	Spain	25%
		CGSA Transportadora S.L.	Spain	25%
		Crixus Limited	British Virgin Islands	0%
		VIctoria International Container Terminal Ltd.	Australia	30%
		ICTSI Tuxpan B.V.	The Netherlands	25.8%
		ICTSI Global Finance B.V.	The Netherlands	25.8%
		ICTSI Oceania B.V.	The Netherlands	25.8%
		ICTSI Project Delivery Services	Singapore	17%

No.	Conglomerate name	Foreign subsidiary	Country of incorporation	CIT headline rate
		Co. Pte. Ltd.		
		ICTSI QFD LLC	Qatar	10%
		ICTSI South Asia Pte. Ltd.	Singapore	17%
		ICTSI Middle East DMCC	United Arab Emirates	0%
		ICTSI Global Cooperatief U.A.	The Netherlands	25.8%
		Consultports S.A. de C.V.	Mexico	30%
		Asiastar Consultants Limited	Hongkong	16.5%
		ICTSI Americas B.V.	Panama	25%
		ICTSI South Pacific Limited	Papua New Guinea	30%
		Motukea International Terminal Limited	Papua New Guinea	30%
		South Pacific International Container Terminal Limited	Papua New Guinea	30%
		Tungsten RE Ltd.	Bermuda	0%
		Tartous International Container Terminal Inc	Syria	12%
		Madagascar International Container Terminal Services Ltd.	Madagascar	20%
		Baltic Container Terminal Ltd.	Poland	19%
		Adriatic Gate Container Terminal	Croatia	18%
		Batumi International Container Terminal LLC	Georgia	15%
		Lekki International Container Terminal Services LFTZ Enterprise	Nigeria	30%
		ICTSI DR Congo S.A.	DR Congo	30%
		ICTSI (M.E.) DMCC Iraq Branch	Iraq	15%
		Africa Gateway Terminal	Sudan	25%

No.	Conglomerate name	Foreign subsidiary	Country of incorporation	CIT headline rate
		Kribi Multipurpose Terminal	Cameroon	33%
		International Container Terminal Services Nigeria Ltd.	Nigeria	30%
		Pakistan International Container Terminal	Pakistan	29%
		Contecon Guayaquil, S.A.	Ecuador	22%
		Contecon Manzanillo, S.A.	Mexico	30%
		Tecon Suape, S.A.	Brazil	34%
		ICTSI Oregon Inc	USA	21%
		C. Ultramar, S.A.	Panama	25%
		Future Water, S.A.	Panama	25%
		Kinston Enterprise Inc	Panama	25%
		International Ports of South America and Logistics SA	Uruguay	25%
		Tecplata S.A.	Argentina	35%
		Nuevos Puertos S.A.	Argentina	35%
		Operadora Portuaria Centroamericana, S.A.	Honduras	25%
		Terminal Maritima de Tuxpan, S.A. de C.V.	Mexico	30%
		CMSA Servicios Portuarios SA De CV	Mexico	30%
		CMSA Servicios Profesionales Y De Especialistas SA De CV	Mexico	30%
		Logipuerto S.A.	Ecuador	22%
		Libra Terminal Rio S.A.	Brazil	34%
		IRB Logistica	Brazil	34%

Source: Consolidated financial statements and PWC worldwide tax summaries

Notes:
1. United States CIT Headline Rate: Federal CIT: 21%. State CITs range from 1% to 12% (although some states impose no CIT) and are deductible expenses for federal CIT purposes
2. Mauritius CIT Headline Rate: 15% (3% for companies exporting goods)
3. United Kingdom CIT Headline Rate (including London): 19 (main rate to increase to 25% from 1 April 2023)
4. India CIT Headline Rate: Domestic companies: 25% or 30% (applicable surcharge and cess) depending on turnover, 15% or 22% (applicable surcharge and cess) subject to certain conditions
5. United Arab Emirates CIT Headline Rate: Based on existing Emirate-level income taxation regimes, there is income tax at 55%+ rates for UAE concession-based oil and gas and petrochemical activities, 20% rate for branches of foreign banks, and (in practice) no taxation or 0% rate for most other companies and branches
6. Qatar CIT Headline Rate: 10% (except for petrochemical/petroleum companies/operations, for which a minimum rate of 35% applies)
7. Croatia CIT Headline Rate: 18 (10% for companies realizing less than HRK 7.5 million / EUR 995,421.06 in revenues)
8. Georgia CIT Headline Rate: 15 (20 for banks, credit unions, microfinance organizations, and Loan providers)
9. Iraq CIT Headline Rate: 15 (35 for certain companies in the oil and gas sector)
10. Cameroon CIT Headline Rate: 33% for entities with turnover above 3 billion, 30.8% for entities with turnover below or equal to 3 billion
11. Ecuador CIT Headline Rate: 22%, 25%, or 28%, depending on the company's shareholders structure (corporate structure) and disclosure compliance

Institutions Administering the Grant of Fiscal Incentives in the ASEAN: A Comparative Study[*]

I. INTRODUCTION

Attracting strategic and quality investment is crucial in attaining economic growth and generating employment. It also provides an avenue for technology and knowledge transfer and promotes international trade and domestic competitiveness. As such, many countries are aiming to enhance their attractiveness as investment destinations. Aside from positive macroeconomic fundamentals, availability of quality infrastructures, and competitive investment policies, investment inflows, whether domestic or foreign, are also determined by the capacities of institutions administering investment promotion and granting fiscal incentives.

In the Association of Southeast Asian Nations (ASEAN), each country has its own institution that administers investment promotion and grants of fiscal incentives. These government institutions play a crucial role in determining competitive investment policies, regulations, and strategies, among others, which directly influence the investment decisions of investors. In the case of the Philippines, investment promotion is vested with the Board of Investments (BOI)[1] and the various investment promotion agencies (IPAs), while the authority to grant incentives is given to the Fiscal Incentives Review Board (FIRB) or the IPAs, under delegated authority from the FIRB. Like the Philippines, ASEAN member states have their own institutions performing the same functions.

This paper provides an overview of these FIRB-like institutions in the ASEAN to get more detailed information on the extent of work these institutions do and how these compare to that of the Philippines' FIRB and IPAs.

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[1] The BOI in an attached agency of the Department of Trade and Industry that is responsible for the development of investments in the country. It leads the promotion of various industries and investment opportunities, and assists Filipino and foreign investors to venture and thrive in vast areas of economic pursuits and acts as a one-stop-shop in doing business in the Philippines.

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II. FUNCTIONS AND ORGANIZATION OF THE FIRB IN THE PHILIPPINES

The FIRB is an inter-agency committee created under Presidential Decree (PD) No. 776, s. 1975 to determine what subsidies and tax exemptions should be modified, withdrawn, revoked, or suspended. Under PD 776, the FIRB shall be composed of the Secretary of Finance as Chairman, the Secretary of Industry, the Director General of the National Economic and Development Authority (NEDA), and the Commissioners of Internal Revenue and Customs as members.

Government-owned and/or -controlled corporations, on account of their socio-economic development objectives, were granted tax exemption privileges in their respective charters or through special laws. Due, however, to the serious tax base erosion caused by such tax privileges, PD 1931, s. 1984, (June 11, 1984) withdrew all tax exemption privileges granted in favor of GOCCs, including their subsidiaries. The decree provided further, that the President and/or the Minister of Finance, upon the recommendation of the FIRB, may restore, partially or totally, the withdrawn exemptions, or otherwise revise the scope and coverage of any applicable tax and duty. PD 1955, s. 1984, on the other hand, withdrew, with some exceptions, all exemptions from or any preferential treatment in the payment of duties, taxes, fees, imposts, and other charges granted to private business enterprises and/or persons engaged in any economic activity. On March 10, 1987, when Executive Order (EO) No. 93, s. 1986 withdrew, on a general basis, the tax and duty exemption of both government and private entities, it likewise instituted a system of subsidy to take care of the tax and duty liabilities of government entities affected thereby for the reason of fiscal transparency. The administration of this subsidy for GOCCs was given to the FIRB and national government agencies, to the Department of Budget and Management.

Through the years, the mandated functions of the FIRB, as well as its membership under PD 776, s. 1975 were expanded. The most recent was through the enactment of Republic Act (RA) No. 11534, otherwise known as the “Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act”.

Prior to the enactment of the CREATE Act, the FIRB was tasked to formulate a complete system for the grant of subsidies to deserving beneficiaries, in lieu of, or combination with, the restoration of tax and duty exemptions or preferential treatment in taxation, indicating the source of funding therefor, eligible beneficiaries, and the terms and conditions for the grant thereof, pursuant to Section 2(e) of EO 93, s. 1986. The institutionalization of the grant of tax subsidy as a more effective system of assistance to deserving government entities in lieu of outright tax and duty exemptions is one of the significant features of EO 93. The tax subsidy system provides funds, withdrawable against the Tax Expenditure Fund (TEF), to qualified beneficiaries to be used by them to settle their tax and duty obligations.

As regards the membership of the FIRB, the Rules and Regulations to Implement the Subsidy Provision under EO 93 provides that the FIRB shall be composed of the Secretary of Finance as Chairman, and the Secretaries of Trade and Industry and Budget Management, Director General of NEDA, Commissioners of Internal Revenue and Customs, and the Director of the National Tax Research Center (NTRC), as members.

The FIRB structure under the CREATE Act ensures that relevant agencies grant and properly monitor tax incentives apart from tax subsidies. The FIRB shall exercise policy-making and oversight functions on the administration and grant of tax incentives by IPA and other government agencies (OGAs) administering tax incentives. Section 297 of the National Internal Revenue Code (NIRC) of 1997, as amended by the CREATE Act, provides for the following functions, among others, of the FIRB:

a. Exercise policy-making and oversight functions on the administration and grant of tax incentives by the IPAs and OGAs administering tax incentives;

b. Approve or disapprove the grant of tax incentives to the extent of the registered project or activity upon the recommendation of the IPA, provided, that the FIRB may delegate the grant of tax incentives to the Technical Committee (TC) of the FIRB or the concerned IPA;

c. Approve applications for tax subsidies to GOCCS, government instrumentalities (GIs), government commissaries, and state universities and colleges (SUCs);

d. Cancel, suspend, or withdraw the enjoyment of fiscal incentives of concerned RBEs for violations of any of the conditions imposed in the grant of fiscal incentives; and

e. Cancel, suspend, or withdraw the enjoyment of tax subsidy of concerned GOCCs, GIs, government commissaries, and SUCs, among others.

As to membership, the CREATE Act reconstituted the composition of the FIRB and its TC, which shall serve as its main support unit and perform functions as may be assigned. The FIRB is still chaired by the Secretary of Finance, with the Secretary of Trade and Industry as Co-Chairman, and Executive Secretary of the Office of the President, Secretary of Budget and Management, and Director General of NEDA, as members. The TC of the FIRB is assigned to perform functions pertinent to tax incentives pursuant to FIRB Resolution Nos. 04-21 and 10-21, as follows:

a. To review the Secretariat's evaluation of the application for tax incentives;

b. To recommend to the Board the approval, disapproval, suspension, or withdrawal of tax incentives; and

c. To decide on tax incentives applications with investment capital of more than P1,000,000,000.00 but not more than P3,000,000,000.00, subject to the confirmation of the Board, until the end of 2022.

With the expanded functions of the FIRB, the CREATE Act also mandated the NTRC to support the Board and serve as its Secretariat. The Fiscal Incentives Management, Monitoring and Evaluation, and Legal Groups were thus created in the NTRC to evaluate tax incentives applications endorsed by IPAs and monitor registered business enterprises (RBEs) availing tax incentives in the country.

III. FIRB-LIKE INSTITUTIONS IN THE ASEAN

Similar to the Philippines, other member states of the ASEAN also have their institutions administering the grant of fiscal incentives. In addition, most of these institutions are mandated to promote public and private investments and serve as policy-making bodies regarding investments and incentives. In the case, however, of the Foreign Investment Agency of Vietnam and the Ministry of Investment [Badan Koordinasi Penanaman Modal (BKPM)] of Indonesia, they have another unique function to facilitate the foreign investment activities of their country that are situated in other countries.

All institutions are empowered to perform their functions through laws and other issuances. They are also under the supervision of higher agencies or ministries. The organizational structure of each institution differs, although there are similarities regarding organizational divisions concerning investment promotion, evaluation, and supervision. Countries like the Philippines, Brunei, Malaysia, and Singapore are managed by a Board or Executive Committee. The details of the composition and mandate/functions of these institutions are presented in Table 1.

Table 1

FIRB-like Institutions in the ASEAN

ASEAN country	FIRB-like institution/s	Composition		Mandate/Functions
Brunei Darussalam	Brunei Economic Development Board (BEDB)	The BEDB is composed of the following:		The BEDB acts as a frontline agency for facilitating foreign investments in Brunei Darussalam and works closely with investors to understand their business needs.
		Chairman	Minister at the Prime Minister's Office and Minister of Finance and Economy II	
		Deputy Co-Chairman	Two - Deputy Minister of Finance and Deputy Minister of Economy	The BEDB also provides information on the local investment climate, developmental requirements, laws and regulations, cost of doing business, and project-specific information.
		Members	1. Deputy Minister Energy Department, Prime Minister's Office 2. Permanent Secretary (Economy, Trade and Industry), Ministry of Finance and Economy 3. Sabli Group of Companies 4. Principal Architect, Eco Bumi Arkitek 5. Director, LVK Group of Companies 6. Chief Executive Officer, BEDB	

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Cambodia	Council for the Development of Cambodia (CDC)	The CDC Management is composed of the following: Secretary General: Minister attached to the Prime Minister Deputy Secretary General (3) Department Directors: 1. Director of the Department of Public Relations and Promotion of Private Investment 2. Director of Department of Investment Project Evaluation and Incentives 3. Director Department of Administration 4. Director of Department of Environmental Impact Assessment 5. Director of Department of Investment Projects Monitoring 6. Director of Department of Legal Affairs and Investment Law 7. Director of Department of Private Investments Strategies Analysis	The CDC is the highest decision-making level of the government for public and private investments. It also has operational arms for private investment, namely the Cambodian Investment Board (CIB) and the Cambodian Special Economic Zone Board (CSEZB). Both Boards review investment applications and grant incentives to projects (CDC, n.d.). The CDC is mandated to review investment applications, grant incentives, and monitor investment projects after implementation (CDC, n.d.).

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Indonesia	BKPM	The organizational structure of the BKPM is as follows: Minister of Investment/Chairman Special Staff to the Chairman 1. Economic Affairs 2. Regional Relations 3. Bureaucratic Reform 4. National Entrepreneurship 5. Inter-Institutional Communications Investment Committee 1. Communication and Information 2. Spokesperson Vice Chairman Secretary General Special Advisor to the Chairman 1. Investment Competitiveness Enhancement 2. Macro Economics 3. Inter-Institution Relations 4. Investment Priority Sector Development	The BKPM, or the Indonesian Investment Coordinating Board non-ministerial government agency, is mandated to boost domestic and foreign direct investments (FDIs) by creating a conducive investment climate. The BKPM also established the Indonesia Investment Promotion Center (IIPC), an official representative of the BKPM overseas, that promotes investment in Indonesia to potential investors abroad through the provision of consultancy services on Indonesian investment opportunities, procedures, and assistance. It is also tasked to facilitate investment from Indonesia to the state of domicile and working area (BKPM, n.d.).

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
		5. Information Technology and System Integration	
		Deputy Chairman: 1. Investment Planning 2. Investment in Climate Development 3. Investment Promotion 4. Investment Service 5. Investment Supervision and Controlling 6. Investment Cooperation	
		Inspector	
		Head of Data and Information Management Center	
		Head of Education and Training Center	
		Head of Legal Assistance Center	
Lao People's Democratic Republic (PDR)	Investment Promotion Department (IPD) under the Ministry of	The organizational structure of the IDP is as follows:	The IDP administers the foreign investment system and reviews investment applications in accordance with the Investment Promotion Law of Lao PDR. Further, they serve as the Central Investment One-Stop Service Office for screening projects, coordinating, summarizing, reporting, and implementing

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
	Planning and Investment	Director General Deputy Director Generals (4) Divisions 1. Administration 2. Investment Promotion 3. Project Appraisal and Secretariat 4. Contract Appraisal and Management 5. Project Supervision Monitoring and Evaluation 6. One Stop Service 7. International Investment Cooperation 8. Public Private Partnership (PPP)	activities to attract, promote, protect, and manage the private sector and PPP (IPD n.d.).
Malaysia	Malaysian Investment Development Authority (MIDA)	The Board of MIDA is composed of the following: Chairman CEO Board Members: Deputy CEO 1. Investment Promotion Facilitation	The MIDA was incorporated in 1967 by virtue of the MIDA Act. Its primary function is to promote and coordinate industrial development in Malaysia through the evaluation of applications for projects in the manufacturing sector and select services sub-sectors, such as granting manufacturing licenses, tax incentives, expatriate posts, and any other facilities (MIDA, n.d.).

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
		2. Investment Development 3. Investment Policy Advocacy Executive Directors 1. Investment Facilitation 2. Corporate Management Services 3. Investment Policy Advocacy 4. Investment Promotion 5. Manufacturing Development (Non-Resource) 6. Manufacturing Development (Resource) 7. Investment Policy Advocacy 8. Services Development	
Myanmar	Directorate of Investment and Company Administration (DICA)	The organizational structure of DICA is as follows: Director General Deputy Director General 1. Operation a. Investment Division (1) b. Investment Division (2) c. Investment Division (3)	The DICA serves as the primary interface between businesses and the government, which is mandated to promote private sector development and boost domestic and foreign investment. It is a key agency within the Government of the Republic of the Union of Myanmar's Ministry of Investment and Foreign Economic Relations (MIFER) (DICA, n.d.).

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
		d. Investment Division (4) 2. Coordination a. Investment Promotion Division b. Plantation and Statistics Division c. Policy and Legal Division d. Human Resource Development and Research Division 3. Supervision a. Administration and Finance Division b. Company Affairs Division c. Investment Monitoring Division 4. Deputy Director General a. Regional/States Branch Office b. Departmental Cooperation Team	

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Singapore	Singapore Economic Development Board (EDB)	The Singapore EDB is managed by an Executive Committee composed of a Chairman, Managing Director, and seven (7) Executive Vice-Presidents.	The Singapore EDB is an attached agency of the Ministry of Trade and Industry responsible for strategies in facilitating investment promotion and industry development in the manufacturing and internationally tradeable services sectors (EDB, n.d.).
Thailand	Office of the Board of Investment (Thailand BOI)	The organizational structure of the Thailand BOI is as follows: Office of the Secretary General Investment Strategy Division Foreign Investment Marketing Division International Affairs Division Competitiveness Enhancement Division Information Technology Center Thai Enterprise Development Division Regional Investment and Economic Center: 1. Chiang Mai 2. Nakhon Ratchasima 3. Khon Kaen 4. Chon Buri 5. Songkhla 6. Surat Thani 7. Phitsanulok	The Thailand BOI is an attached agency of the Office of the Prime Minister and is mandated to (Thailand BOI, n.d.): a. Promote investment that helps enhance national competitiveness by encouraging research and development, innovation, and value creation in the agricultural, industrial, and services sectors, small and medium enterprises, fair competition, and reduce social and economic disparity; b. Promote clusters to create investment concentration in accordance with regional potential and to strengthen value chains; c. Promote investment in border provinces in Southern Thailand to help develop the local economy, which will support efforts to enhance security in the area; d. Promote special economic zones, especially in border areas, both inside

ASEAN country	FIRB-like institution/s	Composition		Mandate/Functions
		Investment Promotion Division	1. Bio and Medical Industries 2. Advanced Manufacturing Industries 3. Basic and Supporting Industries 4. Digital, Creative Industries, and High Value Services	and outside industrial estates, to create economic connectivity with neighboring countries and to prepare for entry into the ASEAN Economic Community (AEC); and e. Promote Thai overseas investment to enhance the competitiveness of Thai businesses and Thailand's role in the global economy.
		Overseas Offices	1. Tokyo 2. Osaka 3. Seoul 4. Beijing 5. Guangzhou 6. Shanghai 7. Stockholm 8. Taipei 9. Sydney 10. Frankfurt 11. Paris 12. New York 13. Los Angeles 14. Mumbai	

ASEAN country	FIRB-like institution/s	Composition		Mandate/Functions
			15. Jakarta 16. Hanoi	
		Investment Monitoring Division	1. Investment Monitoring Division 1 a. Bio and Medical Industries b. Advanced Manufacturing Industries 2. Investment Monitoring Division 2 a. Basic and Supporting Industries b. Digital, Creative Industries, and High Value Services	
		Investment Services Center	One start one stop investment center	
		Expatriate Services Division	1. One Stop Services Center for Visas and Work Permits 2. SMART Visa 3. Long term resident Visa	

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Vietnam	Foreign Investment Agency (FIA) of Vietnam	No available information.	The FIA is a national-level administrative agency under Vietnam's Ministry of Planning and Investment promoting and managing foreign investments and the country's direct investment activities abroad. The main functions of the FIA are as follows (FIA, 2020): a. Act as a focal body to synthesize inward and outward investment for the national economic plan; b. Preside over the development, amendment, and complementation of foreign investment policy and mechanism; collect and find solutions to difficulties and impediments during the implementation of the law, policy, and mechanism of inward and outward investment; c. Receive applications and participate in inspecting build-operate-transfer (BOT), build-to-order (BTO), and build-transfer (BT) projects; preside over the procedures for BOT, BTO, and BT projects; submit to the Minister to decide on the issuance of Investment License to BOT, BTO, BT projects where the proposal for the project is approved; d. Receive application files of outward investment projects; participate in inspecting outward investment projects;

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
			preside over the application process and monitor the outward investment projects; submit applications to the Minister for the issuance of Investment License where the project is accepted; and e. Act as a focal body to undertake the state management over investment promotion activities; coordinate with relevant units to set up a strategy, plan, policy, and direction for inward and outward investment; and synthesize, evaluate and coordinate investment promotion activities. There are three (3) investment promotion centers at a regional level in Northern, Central, and Southern Vietnam under the administration of the FIA (FIA, 2020).

IV. ADMINISTRATION OF TAX INCENTIVES IN THE PHILIPPINES AND ASEAN

As mentioned earlier, the FIRB has the authority to grant tax incentives to RBEs only to the extent of their registered project or activity under the Strategic Investment Priority Plan. However, such authority may be delegated by the FIRB to its Technical Committee or the concerned IPA. Under Section 297(B) of the NIRC of 1997, as amended by RA 11534, IPAs have the delegated authority from the FIRB to approve or disapprove the grant of tax incentives for registered projects or activities with investment capital of equal to or below P1 billion. While for projects with investment capital of above P1 billion, the authority to approve or disapprove the grant of tax incentives is vested in the FIRB.

Prior to the enactment of the CREATE Act, the IPAs were vested the full authority to administer investment incentives, among others, providing a different menu of tax incentives and authority to grant thereof. The enactment of the CREATE Act, which rationalized the grant and administration of tax incentives in the country to make it performance-based, time-bound, targeted, and transparent, provided a single menu of incentives across all IPAs.

Presently, there are 14 IPAs in the country. 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), 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 Regional Bangsamoro Board of Investments (BBOI). These IPAs are government entities created by law, executive order, decree, or other issuance and are 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.

It should be noted that the FIRB is not an IPA but an inter-agency government body whose powers are limited to those enumerated under the CREATE Act. The significant difference is the power of the FIRB to exercise policy-making and oversight functions on the administration and grant of tax incentives by the IPAs and other government agencies administering tax incentives. Conversely, the power of the FIRB to grant tax incentives is only upon the recommendation of IPAs. Also, the FIRB has no geographical jurisdiction, unlike other IPAs with limited authority within their SEZs. However, the same applies to the BOI.

In other ASEAN countries, there are FIRB-like and IPA counterparts. In some of these institutions, the role of the FIRB and an IPA are combined under one agency.

A. Brunei

In Brunei, the agency in charge of evaluating and approving investments is the Foreign Direct and Downstream Industry Working and Steering Committee (FDIDI). The role of the Brunei Economic Development Board, on the other hand, is for the application submission and aftercare process under the FDI Action and Support Centre (FAST) (BEDB, n.d.).

B. Cambodia

Under the Law on the Investment of the Kingdom of Cambodia, adopted in 1994, the Council for the Development of Cambodia (CDC) comprises two (2) operational Boards: The Cambodian Rehabilitation and Development Board and Cambodian Investment Board (CIB). Due to rapid economic development in Cambodia, the royal government introduced SEZs in 2005 [Cambodian Center for Human Rights (CCHR), 2018]. As a result, the CDC was restructured and established a new wing, the Cambodian Special Economic Zone Board (CSEZB), to manage the SEZ scheme (Sub-Decree No. 147, 2005). Thus, the CIB and CSEZB are part of the CDC and are not separate entities. The CIB is in charge of approving applications outside the SEZs.

C. Indonesia

The Badan Koordinasi Penanaman Modal is the main government agency in Indonesia that implements investment-related policies. It is an independent agency and is considered the first national single window for investment. It has the exclusive power to screen and prior approval of investment projects with foreign participation or investor registration and grant fiscal incentives (Organization for Economic Cooperation and Development [OECD], 2020).

D. Lao PDR

The Investment Promotion Department (IPD), under the Ministry of Planning and Investment, serves as the central investment one-stop service office for general business and concession activities. It is also tasked to promote Lao PDR as an investment destination, offer incentives, screen investment proposals, collect data, and monitor investment practices (IPD, n.d.). However, the authority to approve investment proposals is vested in the Investment Promotion and Management Committee at the central and provincial levels. The Committee has the critical authority for the consideration and approval of investments. The two (2) levels of committees may be involved in the approval process. Further, proposals concerning concession activities, controlled activities, and SEZ development will remain under the authority of the Central Committee (Tilleke & Gibbins, 2018).

E. Malaysia

The Malaysian Investment Development Authority (MIDA) is Malaysia's principal investment promotion agency (IPA) for developing manufacturing and services sectors. Each of the 13 states has its own IPA, namely: Pahang State Development Corporation (PKNP), Invest Johor, Invest Selangor Berhad (SB), Invest Perak, Invest Penang, Invest Kedah, Invest Melaka, Invest Negeri Sembilan (NS), Kelantan State Economic Planning Unit, Perlis State Economic Development Corporation (PKENP), Terengganu State Economic Planning Unit, Ministry of

Industrial Development Sabah, and Ministry of Industrial Development Sarawak (See Annex A.). The aforementioned IPAs only serves as a One Stop Center for submitting and coordinating application to the MIDA. Further, applications are still subject to the approval of the MIDA.

F. Myanmar

The Directorate of Investment and Company Administration (DICA) is primarily tasked with promoting private sector development and boosting domestic and foreign investment. It serves as a regulator of investment and companies, a company registrar, an IPA, and the secretariat of the Myanmar Investment Commission (MIC). The latter is a government-appointed body responsible for verifying and approving investment proposals. In addition, it carries out the duties of investment promotion, facilitation, and coordination (DICA, n.d.).

G. Singapore

The Economic Development Board is the primary investment facilitator in Singapore and is responsible for both the application process and approval.

H. Thailand

The Office of the Board of Investment Thailand is a One Stop Service Center with regional and overseas offices that accepts, evaluates, and issues Investment Promotion Resolutions in case of approval.

I. Vietnam

The Foreign Investment Agency of Vietnam serves as a focal body in several investment-related functions. It also presides over and coordinates with different agencies regarding foreign investment policies; and monitors and inspects the implementation of regulations concerning inward and outward investment. However, the power to approve investment proposals is vested in the National Assembly, Prime Minister, and the People's Committee, depending on the industry, in accordance with the 2020 Law on Investment of Vietnam (See Annex B.).

Among all the ASEAN countries, the Philippines and Malaysia are the only countries in the region with several IPAs, 14 and 13 institutions, respectively. However, the functions of the IPAs in Malaysia are limited, except for the MIDA, as the principal IPA. The MIDA is tasked to evaluate all of the applications in Malaysia. In comparison, IPAs in the Philippines evaluate applications of business enterprises with an investment capital of P1.0 billion and below.

On the other hand, Cambodia, Indonesia, Singapore, and Thailand are the only countries in the region with a singular institution that facilitates and approves investment applications—further eliminating red tape in the system by introducing a One Stop Center that caters to all investment promotion applications in their respective countries. Similarly, the Philippines' BOI also has no geographical constraints when accepting applications, unlike other IPAs that are confined within their jurisdiction. As an IPA, however, the BOI is still under the oversight functions of the FIRB regarding the administration and grant of tax incentives.

It must also be noted that in the Philippines, the President may, in the interest of national economic development and upon the recommendation of the FIRB, modify the mix, period, or manner of availment of tax incentives or craft the appropriate financial support package for a highly desirable project or a specific industrial activity based on defined development strategies for creating high-value jobs, building new industries to diversify economic activities, and attracting significant foreign and domestic capital or investment, and the fiscal requirements of the activity or project, subject to maximum incentive levels recommended by the FIRB.

The President may exercise such power if the project: (a) has a comprehensive sustainable development plan with clear inclusive business approaches and a high level of sophistication and innovation; and (b) minimum investment capital of P50.0 billion or minimum direct local employment of at least 10,000 within three years from the issuance of the certificate of entitlement (CREATE Act, 2021). Financial support to such projects or activities includes utilizing government resources such as land use, water appropriation, power provision, and budgetary support under the General Appropriations Act. Similarly, the Prime Minister of Vietnam also has the power to approve projects subject to the list provided under Article 31 of the 2020 Law on Investment Vietnam (See Annex B.).

Table 2

Institutions in the ASEAN Administering the Grant and Availment of Tax Incentives

Country	Institution/s administering the grant and availment of tax incentives
Philippines	1. FIRB 2. IPAs
Brunei Darussalam	BEDB
Cambodia	CDC
Indonesia	BKPM
Lao PDR	IPD (Ministry of Planning and Investment)
Malaysia	1. MIDA 2. Pahang State Development Corporation (PKNP)

Country	Institution/s administering the grant and availment of tax incentives
Malaysia (cont.)	3. Invest Johor 4. Invest SB 5. Invest Perak 6. Invest Penang 7. Invest Kedah 8. Invest Melaka 9. Invest NS 10. Kelantan State Economic Planning Unit 11. PKENP 12. Terengganu State Economic Planning Unit 13. Ministry of Industrial Development Sabah 14. Ministry of Industrial Development Sarawak
Myanmar	DICA
Singapore	EDB
Thailand	Thailand BOI
Vietnam	FIA Vietnam (Ministry of Planning and Investment)

V. EVALUATION PROCESS OF THE GRANT AND AVAILMENT OF TAX INCENTIVES IN THE ASEAN

As mentioned in the previous discussion, no IPA or FIRB-like institution in the ASEAN member states is entirely the same in terms of composition, organizational structure, and other functions. Therefore, evaluation processes also differ in each ASEAN country. However, except for the Philippines, Myanmar, Singapore, and Thailand, the method of evaluating applications for tax incentives in the other ASEAN countries is either not fully disclosed to the public, or the information is not officially translated into English.

Rule 6 of the Implementing Rules and Regulations (IRR) of the CREATE Act identifies the processes for evaluating the tax incentives applications of IPAs and the FIRB in the Philippines. The regulations also mention using cost-benefit analysis (CBA) to evaluate tax incentives applications, which shall be employed by both the IPAs and the FIRB. In Myanmar, the DICA introduced an investment cycle that will guide their investors in every step of the application. Furthermore, they require their investors to submit a feasibility study and identify investment needs. Similarly, Thailand requires a feasibility study to be submitted to BOI Thailand but only for projects with an investment value of over 750 million baht (USD 21.60 million)[2], excluding land and working capital costs.

As regards processing time, the IPAs and the FIRB in the Philippines have their respective Citizen's charter, which articulates the period within which they will process tax incentives applications. Of the ASEAN member states, Indonesia has the shortest processing period of eight days, while Thailand has the longest at nine to eleven months. (See Table 3.)

In the case of Vietnam, the processing time for applications differs depending on the nature of the investment project, categorized by the type of approving body or entity, i.e., National Assembly, Prime Minister, and Provincial People's Committee.

Table 3

Evaluation Process of the Grant and Availment of Tax Incentives in the ASEAN

Country	Processing time	Evaluation process
Philippines	A. For projects or activities with **investment capital of P1 billion and below**: **IPA** — **Processing time** AFAB — Twenty-four working days APECO — Six working days and four hours BCDA — Twenty days BOI — Seven weeks and five days CDC — Five working days CEZA — Nineteen days and forty-five minutes PEZA — Twenty working days PIA — Twenty to sixty working days, depending on the magnitude of the project PPMC — Seventeen working days SBMA — Three days	Pursuant to Section 297(B) of the NIRC of 1997, as amended, the application for tax incentives shall be accompanied by a CBA. The evaluation process in the Philippines is enumerated under the CREATE Act IRR. Section 6 of Rule 6 of the IRR provides the following processes at the IPA level: 1. IPA a. Pre-evaluation of the applicant's eligibility (project or activity of the applicant must be included in the Strategic Investment Priority Plan) and completeness of the submitted documents. b. Conduct of an initial evaluation to determine the ex-ante impact of tax incentives on the project or activity, and this will be compared to the benefits that will be derived by the government, which is represented by taxes, duties, and fees payable by RBEs to the government (national and local). The period of comparison shall

[2] As of December 21, 2022, USD 1 is equivalent to 34.72 baht. Retrieved from https://www.forbes.com/advisor/money-transfer/currency-converter/thb-usd/

Country	Processing time	Evaluation process
	ZCSEZA Nineteen working days, six hours, and forty minutes Note: The data for JHMC, Regional BBOI, and TIEZA are unavailable. B. For projects or activities with **investment capital of over P1 billion - 18.5 working days**. This period, however, only covers the processing time of the FIRB. The IPA shall initially evaluate the application and forward its recommendation to the FIRB. The docket of application shall then be evaluated and reviewed by the FIRB until a decision is arrived at for which the Board shall issue a Resolution. C. For applications of **highly desirable projects or a specific industrial activity - 31 working days**. The duration of the process covers the activity/processing time of the FIRB and the Office of the President, which are **18.5 working days** and **12.5 working days**, respectively. The IPA shall initially evaluate the application and forward its recommendation to the FIRB.	cover the entire period of incentives entitlement. A preliminary negative fiscal cost-benefit ratio shall not, by itself, however, disqualify the applicant for registration. c. The IPA shall issue the Order of Payment for the filing fee and stamp the Date of Official Filling, including the application number. d. In case of any issues encountered during the evaluation process, the applicant shall be notified by the IPA. The applicant shall be given a reasonable time to address the issue/s encountered or comply with the additional requirements if any. e. For projects or activities with investment capital of more than P1,000,000,000.00, the FIRB shall decide on the recommended tax incentives of the IPA. Note: The evaluation process of each IPA is partially comparable as there are differences in the processing time and the decision-making body, among others. 2. FIRB a. Upon completion of all documentary requirements, the FIRB Secretariat shall review the evaluation and recommendations of the IPA. It shall prepare an evaluation report which shall be submitted to the TC. If there is a need for more documentary requirements, the Secretariat shall return the application to the IPA concerned. b. The TC may adopt or reject the Secretariat's evaluation and shall submit its recommendations to the Board.

Country	Processing time	Evaluation process
		c. The Board shall have the exclusive authority to decide on all applications for tax incentives. The Board may adopt, revise or reverse the recommendations of the TC through a Board resolution issued for each application and such shall be signed by at least a majority of the members of the Board. d. In the case of an application that may be granted incentives by the President, the copy of the Board Resolution shall be transmitted to the Office of the President for its review and decision. e. The FIRB Secretariat shall provide the concerned IPA with a copy of the Board resolution on the approved tax incentives; included are the terms and conditions for registration of the RBE.
Brunei Darussalam	**Forty-five days** for the certification process of investments related to halal activities. Note: No available data for other industries.	No available data
Cambodia	If the proposed investment project is not identified in the negative list, the registration certificate is issued within **20 working days**.	No available data
Indonesia	The Ministry of Finance shall decide on the application within **eight working days.**	No available data
Lao PDR	If the activity is deemed eligible and meets all the requirements prescribed, the incentive certificate is issued within **30 working days**.	No available data
Malaysia	The processing and decision are made within **six weeks** from the date of receipt of complete information.	No available data
Myanmar	Upon acceptance of the application, the decision shall be made within **30 days**.	The DICA introduced an investment cycle and support needs to its investors.

Country	Processing time	Evaluation process
	After which, a certificate approving the application for tax incentives shall be issued within **ten days**.	The cycle consists of the following stages (DICA, 2018): 1. Investment preparation (identification of investment needs and feasibility study by the investor); 2. Investment decision and actual investment by the investor; 3. Start of operations; 4. Re-investment; and 5. Divestment (depending on the project)
Singapore	Tax incentives application process takes **three to six months**.	The EDB recommends that investors prepare a business plan to facilitate and speed up the discussion with the Singapore Government (EDB, n.d.).
Thailand	**Approximately nine months** for projects with investment capital not exceeding 200 million baht (USD 5.76 million); **approximately 10 months** for projects with investment capital not exceeding 2 billion baht; and **approximately 11 months** for projects with investment capital exceeding 2 billion baht. Upon acceptance of the applicant of the investment promotion resolution, the Thailand BOI shall issue a Promotion Certificate within **10 working days**.	For projects with an investment value over 750 million baht (USD 21.60 million), excluding the cost of land and working capital, the project feasibility study must be submitted to the Board, including specified details as follows (BOI Thailand, 2022) (See Annex C.): 1. Summary of the project; 2. Industry overview; 3. Appropriateness of the project; 4. Effects on the overall economy; and 5. Assistance from the Government
Vietnam	The processing time differs depending on the decision-making body. Within **58 days** for the approval by the Prime Minister; **within 85 days** for the approval by the provincial-level People's Committee; and within **165 days** for the approval by the National Assembly.	No available data

IV. CONCLUSION

Based on the foregoing discussion, while it is evident that the processes and structures of IPAs and other decision-making bodies concerning investments and tax incentives in the ASEAN vary, it cannot be discounted that there are also similarities in some ASEAN countries. For example, many IPAs or FIRB-like institutions are managed by an Executive Committee or Board. Furthermore, countries like the Philippines and Malaysia have multiple IPAs depending on the location.

The ASEAN region recognizes investment facilitation as a key tool for ASEAN Member States to attract investments. In the ASEAN Investment Report 2022, there were 10 investment facilitation measures identified that were either already in place or still being addressed by the Member States, and these were assessed as either not in place, basic or advanced.

It is worth noting that the Philippines was assessed as advanced on the 'independence of competent authorities' measure, which may be partly attributed to the expansion of the FIRB functions under the CREATE Act. It is thus, noteworthy that the country continues to align its policies and initiatives with the ASEAN Investment Facilitation Framework, which was adopted in 2021 to strengthen regional cooperation on investment facilitation.

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Annex A

List of IPAs in Malaysia and its Mandate[1]

IPA	Mandate
PKNP	The PKNP is mandated to formulate, facilitate, and implement projects and ideas to upgrade the socio-economic well-being of the Pahang State, especially in rural areas. It also acts as the trust body that coordinates investments between the private sector and the government for the state government[2].
Invest Johor	Invest Johor is a one stop center in the state of Johor that deals with investors and positions the state as an attractive destination for investment. Its primary role is promoting, facilitating, and coordinating investments in different industries. Further, it assists interested investors via direct consultation and cooperation with relevant authorities at both federal and state levels[3].
Invest SB	Invest SB is a one stop agency that provides information, advisory services, and start-up or expansion assistance to potential and existing investors[4].
Invest Perak	Invest Perak serves as the first point of contact for investors in the manufacturing and services sector in the State of Perak. It acts as the principal IPA of the State and reports directly to Chief Minster or Perak. Further, it supports qualified companies applying for state and federal government incentives[5].

[1] The mandate of the other IPAs in Malaysia not included in the table are unavailable online.

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[3] Invest Johor. (n.d.). *About Us*. Retrieved on October 14, 2022, from https://investjohor.gov.my/about-us/

[4] Invest SB (n.d.). *About Us*. Retrieved on October 14, 2022, from https://www.investselangor.my/About-Us/

[5] Invest Perak. (n.d.). *Overview*. Retrieved on October 14, 2022, from https://www.investperak.gov.my/overview-investperak/

IPA	Mandate
Invest Penang	Invest Penang is a non-profit entity of the Penang State Government with the primary purpose of promoting investments within Penang. It created Invest-in-Penang Berhad as a one stop agency that provides comprehensive information on Penang's investment opportunities and helps facilitate them. Further, the agency works with Federal agencies for investment incentives[6].
Invest Kedah	Invest Kedah is a government-linked company responsible for attracting, facilitating, and supporting business investments in Kedah. It acts as a liaison to streamline the investment processes with local government agencies. Further, the company also acts as a post-investment support service[7].
Invest NS	Invest NS is a one-solution center tasked to assist investors in setting up new and expanded operations in Negeri Sembilan[8].

[6] Invest Penang. (n.d.). *About InvestPenang*. (n.d.). Retrieved on October 14, 2022, from https://investpenang.gov.my/about-invest-penang/

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Annex B

Investment Projects in Vietnam Are Subject To The Approval Of The Following:

National assembly[9]	Prime minister[10]	Provincial People's Committee[11]
1. Investment projects that exert great effects or potentially serious effects on the environment, including: a. Nuclear power plants; b. Projects that require repurposing of the land of special-use forests, headwater protection forests, or border protection forests of at least 50 hectares; of sand-fixing and windbreak coastal forests or protection forests for wave prevention of at least 500 hectares; of production forests of at least 1,000 hectares 2. Investment projects that require repurposing of land meant for wet rice cultivation with 2 or more crops of at least 500 hectares; 3. Investment projects that require relocation of 20,000 people or more in	1. Investment projects regardless of capital sources in any one of the following cases: a. Investment projects that require relocation of 10,000 people or more in mountainous areas or 20,000 people or more in other areas; b. Investment projects on construction of: airports and aerodromes; runways of airports and aerodromes; international passenger terminals; cargo terminals of airports and aerodromes with a capacity of at least 1 million tonnes per year; c. New investment projects in the passenger air transport business; d. Investment projects on construction of ports and wharves of special seaports; ports and wharves in which investment is at least VND 2,300	1. Except for the investment projects set out in Articles 30 and 31 of this Law, the provincial People's Committees shall approve investment guidelines for the following investment projects: a. Investment projects that request the State to allocate or lease out land without auction or bidding for or receipt of land use rights, and investment projects that request permission to repurpose land, except for cases of allocation, lease, or permission for repurposing of the land of households or individuals not subject to the written approval by the provincial People's Committee in accordance with regulations of law on land; b. Projects on the construction of residential housing (for sale, lease, or lease purchase) and urban areas that

[9] Article 30 of the 2020 Law on Investment Vietnam.

[10] Article 31 of the 2020 Law on Investment Vietnam.

[11] Article 32 of the 2020 Law on Investment Vietnam.

National assembly	Prime minister	Provincial People's Committee
mountainous areas or 50,000 people or more in other areas; and 4. Investment projects that require the application of a special mechanism or policy need to be decided by the National Assembly.	billion within the category of Class I seaports; e. Investment projects which involve betting and casino services, excluding business in prize-winning electronic games for foreigners; f. Investment projects on construction of residential housing (for sale, lease, or lease purchase) and urban areas that use at least 50 hectares of land or less than 50 hectares of land but with a population of at least 15,000 people in an urban area; or that use at least 100 hectares of land or less than 100 hectares of land but with a population of at least 10,000 people in a non-urban area; or investment projects regardless of the area of land used or population within the safety perimeter of relics recognized by the competent authority as the national and special national relics; and g. Investment projects on construction and operation of infrastructure in industrial zones and export processing zones.	use at least 50 hectares of land or less than 50 hectares of land but with a population of at least 15,000 people in an urban area; or that use at least 100 hectares of land or less than 100 hectares of land but with a population of at least 10,000 people in a non-urban area; or investment projects regardless of the area of land used or population within a restricted development area or a historic inner area (determined in accordance with urban area planning projects) of a special urban area; c. Projects on investment in golf course construction and business; and d. Investment projects of foreign investors and foreign-invested business organizations executed on islands or in border or coastal communes; in other areas affecting national defense and security. 2. The investment guidelines of the investment projects in items a, b, and d, as above stated, executed in industrial parks, export-processing zones, hi-tech zones, and economic zones in conformity

National assembly	Prime minister	Provincial People's Committee
	2. Foreign investor's investment projects in the following fields: provision of telecommunications services with network infrastructure; afforestation; publication; and press; 3. Investment projects which at the same time fall within the power of at least two provincial People's Committees to approve investment guidelines; and 4. Other investment projects are subject to approval for their investment guidelines or subject to an investment decision by the Prime Minister as prescribed by law.	with planning approved by competent authorities shall be approved by management boards of such industrial parks, export-processing zones, hi-tech zones and economic zones; and 3. The Government shall elaborate on this Article.

Annex C

Details of the BOI Thailand Feasibility Study[12]

Details[13]	Particulars
Summary of the Project	Summary of the project, in brief, i.e., products, investment capital, factory location, number of workers, raw materials in use, technology, and other relevant information.
Industry overview	1. The linkage between the products for investment promotion is requested with other countries. Explain the situation in Thailand and other countries; 2. Demand for the project: domestic and major export markets and the future of these markets; and 3. Local production capacity of similar products.
Appropriateness of the Project	1. Investors a. Explanation of business and industry experiences of Thai and foreign investors and the company's executives, and the investment ratio of all investors concerned; b. Progress in the negotiations between investors: at the initial stage of negotiation or the contract is signed; and c. In the case of utilizing an existing company by not setting up a new one, explain the shareholders, business, profit and loss, and the preceding balance sheets of the existing company. 2. Financial aspects: source of funds, utilization of investment capital, Cash flow, net present value, and internal rate of return (IRR) in the case of exempted corporate income tax and non-

[12] For projects with investment capital of over 750 million Baht, excluding cost of land and working capital.

[13] BOI Thailand. (2022). *Investment Promotion Guide 2022*. Retrieved on October 24, 2022, from https://www.boi.go.th/upload/content/BOI_A_Guide_EN.pdf

Details	Particulars
	exempted corporate income tax, and Progress in the financial institution's consideration of the application for debt. 3. Competitiveness: a. Suitability of import duties and business taxes on the products and the main raw materials; b. Average production cost at 50%, 80%, and 100% of production capacity; c. Cost, insurance, and freight process and cos of imported similar products; d. Advantages in manufacturing the products in Thailand; and e. Sensitivity analysis; 4. Technical aspects: a. Available production techniques, the advantages, and disadvantages of each technique, techniques used in various countries, the reasons why the project chose the specific technique/s; b. Explanations of technical support, aspects which they assist; c. Conditions and limitations of technology transfer, the cost of know-how; d. Appropriateness of the production process; e. Appropriateness of production scales in comparison to those used in factories in other countries; f. Sources and adequacy of raw materials, including opportunities to produce raw materials in Thailand; g. Factory location; and h. Utilization of labor at various levels and training courses. 5. Effects on the environment

Details	Particulars
Effects on the overall economy	1. How much will the government lose revenue by promoting the project?
	2. Benefits to the overall economy
Assistance from the Government	1. The necessity to apply for promotional privileges: requested incentives;
	2. Degree of necessity to adjust import duties on raw materials and finished products;
	3. The necessity to request special protection from competition from foreign countries or to limit the number of local manufacturers; and
	4. Government assistance in various aspects, such as electricity, water, infrastructure, etc.

LEGISLATION AND ISSUANCES WITH REVENUE OR TAX IMPLICATIONS
July - August

EXECUTIVE ORDER (EO)

Legislation	Subject	Date of Issue	Date of Effectivity
EO 36 s. 2023	Reduction and Condonation of Real Property Taxes and Interests/Penalties Assessed on Power Generation Facilities of Independent Power Producers Under Build-Operate-Transfer Contracts with Govenrment-Owned or -Controlled Corporations	July 25, 2023	Immediately upon publication in the Official Gazette or in a newspaper of general circulation

REPUBLIC ACT (RA)

Legislation	Subject	Date of Issue	Date of Effectivity
RA 11953	Emancipating Agrarian Reform Beneficiaries from Financial Burden by Condoning All Principal Loans, Unpaid Amortizations, and Interests and Exempting Payment of Estate Tax on Agricultural Lands Awarded Under the Comprehensive Agrarian Reform Program	July 7, 2023	Fifteen days after its publication in the Official Gazette or in a newspaper of general circulation.
RA 11954	Establishing the Maharlika Investment Fund, Providing for the Management, Investment, and Use of the Proceeds of the Fund, and For Other Purposes	July 18, 2023	Immediately

Legislation	Subject	Date of Issue	Date of Effectivity
RA 11956	Further Amending Republic Act No. 11213, Otherwise Known as the "Tax Amnesty Act", as Amended by Republic Act No. 11569, by Extending the Period of Availment of the Estate Tax Amnesty Until June 14, 2025, and for Other Purposes	Lapsed into law on August 5, 2023	Fifteen days after its publication in the Official Gazette or two newspapers of general circulation.
RA 11961	Strengthening the Conservation and Protection of Philippine Cultural Heritage Through Cultural Mapping and Enhanced Cultural Heritage Education Program, Amending for the Purpose Republic Act No. 10066, Otherwise Known as the "National Cultural Heritage Act of 2009"	August 24, 2023	Fifteen days following the completion of its publication in the Official Gazette or in a newspaper of general circulation.

REVENUE REGULATIONS (RR)

Issuance	Subject	Date of Issue	Date of Effectivity
RR 7-2023	Amending Certain Provisions of Revenue Regulations Nos. 17-2011 and 2-2022, Implementing Republic Act No. 9505, Otherwise Known as the "Personal Equity and Retirement Account (PERA) Act of 2008"	July 7, 2023	Fifteen days following its publication in the Official Gazette or in a newspaper of general circulation.
RR 8-2023	Clarifies the information that shall appear in the official receipts/sales invoices on purchases of senior citizens (SCs) and persons with disabilities (PWDs) through online (e-commerce) or mobile applications, in relation to RR No. 10-2015	July 31, 2023	Fifteen days after publication thereof

Issuance	Subject	Date of Issue	Date of Effectivity
RR 9-2023	Rules and Regulations Governing the Imposition of Excise Tax on Perfumes and Toilet Waters as Provided under Section 150(b) of the National Internal Revenue Code (NIRC) of 1997, as Amended	July 28, 2023	Immediately (published on August 3, 2023)

REVENUE MEMORANDUM ORDER (RMO)

Issuance	Subject	Date of Issue	Date of Effectivity
RMO 27-2023	Amending RMO No. 15-2023, Prescribing the Revised Allocation of the CY 2023 BIR Collection Goal, by Implementing Office	July 27, 2023	Immediately
RMO 28-2023	Amending Certain Provisions of Revenue Memorandum Order No. 23-2023 to Align Existing Policies in the Issuance of Tax Verification Notices (TVNs) in the Processing of Claims for Value-Added Tax (VAT) Credit/Refund Except Those Under the Authority and Jurisdiction of the Legal Group	August 10, 2023	Immediately

REVENUE MEMORANDUM CIRCULAR (RMC)

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 74-2023	Prescribes Sworn Statement and Sworn Declaration to be Submitted Relative to the Compliance Requirements in Availing the Income Tax Exemption of Foreign-Sourced Dividends Received by Domestic Corporation	July 5, 2023	-

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 76-2023	Circularizing the New Daily Minimum Wage Rates in Certain Sectors/ Industries Under the National Capital Region as Prescribed by Wage Order No. NCR-24	July 13, 2023	-
RMC 78-2023	Prescribing the Administrative Requirements for Importers and Manufacturers of Raw Materials, Apparatus or Mechanical Contrivances, and Equipment Specially Used for the Manufacture of Heated Tobacco Products and Vapor Products	July 20, 2023	Immediately
RMC 79-2023	Availability of BIR Form Nos. 1600-PT, 1600-VT, 1602Q, 1603Q, 2551Q and 2552 in the Electronic Filing and Payment System (eFPS)	August 8, 2023	-
RMC 80-2023	Clarifying Issues Relative to the Implementation of Revenue Regulations No. 3-2023 and Other Related Concerns on Value Added Tax (VAT) Zero-Rate Transactions on Local Purchases of the Registered Export Enterprises (REEs) and Other Entities Granted with VAT Zero-Rate Incentives under Special Laws and International Agreements	August 9, 2023	Immediately
RMC 83-2023	Circularizing Republic Act No. 11956, Entitled “An Act Further Amending Republic Act No. 11213, Otherwise Known as the “Tax Amnesty Act”, as Amended by Republic Act No. 11569, By Extending the Period of Availment of the Estate Tax Amnesty until June 14, 2025, and for Other Purposes	August 14, 2023	-
RMC 86-2023	Circularizing the List of Qualified Personal Equity and Retirement Account (PERA) Eligible Products Duly Approved by the Securities and Exchange Commission	August 22, 2023	-

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