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Implications of Republic Act No. 11966

Implications of Executive Order No. 41, s. 2023



Tax Implications of Republic Act No. 11523

Tax Implications of Republic Act No. 11697



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Implications of Republic Act No. 11966 - An Act Providing for the Public-Private Partnership Code of the Philippines*

I. Salient Features

Republic Act (RA) No. 11966, otherwise known as the “Public-Private Partnership (PPP) Code of the Philippines”, which was signed into law on 05 December 2023, is a timely piece of legislation that will enhance public-private sector collaboration and lay the foundation for ensuring the realization of high-quality infrastructure projects and services in the country.

The key provisions of RA 11966 are as follows:

1. Identification, development, and preparation by implementing agencies¹ (IAs) of their respective lists of PPP projects² guided by the following principles:
 - a. Effectiveness in meeting government objectives;
 - b. Appropriateness of the chosen procurement modality and source of funding;
 - c. Value for money;
 - d. Accountability and transparency;
 - e. Consumer rights;
 - f. Affordability; and
 - g. Public access, safety, and security.

The lists of PPP projects or any update thereto shall be submitted by the IAs to the appropriate oversight agencies, including the National Economic and Development Authority (NEDA), the regional development councils (RDCs), the local Sanggunian concerned, and the PPP Center, in accordance with the rules, regulations, and guidelines to be promulgated pursuant to the provisions of the PPP Code. (Section 6)

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¹ Refers to a department, bureau, office, instrumentality, commission, or authority of the NG, SUC, LUC, LGU, and GOCC. [Section 3(q) of RA 11966]

² The law provides that all PPP projects shall be consistent and responsive to national, local, and sectoral development and investment plans.

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2. On the approval of PPP projects, the same shall be in accordance with the following:

For National PPP projects³

- a. Project cost is greater than or equal to P15 billion to be approved by the NEDA Board upon favorable recommendation of the NEDA Board-Investment Coordination Committee (ICC). In the case of projects to be implemented by State Universities and Colleges (SUCs) that do not require any government undertaking from the National Government (NG), the same shall be processed through a green lane to be established pursuant to the guidelines to be issued by the NEDA Board-ICC.
- b. Project cost of less than P15 billion—to be approved by the Head of the IA. However, if the IA is an attached agency without a governing board, the head of the department or agency to which the IA is attached shall approve the PPP project. In the case of an IA with a governing board, whether or not it is an attached agency, such a governing board shall approve the PPP project. The NEDA-ICC may also approve projects with a project cost of less than P15 billion if:
 - i. it physically overlaps with a project approved by a government authority or with a project being developed by another government entity based on national or sectoral development plans;
 - ii. it negatively affects the economic benefits, demand, and/or financial viability of a project approved by a government authority or a project being developed by another government entity based on national or sectoral development plans;
 - iii. it requires financial government undertakings to be sourced and funded under the General Appropriations Act (GAA);
 - iv. it involves availability payments⁴ to be sourced and funded under the GAA; or
 - v. the contribution of an IA in a proposed joint venture exceeds 50% of its entire assets based on its latest audited financial statements and other pertinent documents and is subject to the subsidy agreement as defined under Section 3(gg) of the Code.

³ PPP Projects undertaken by national government, state colleges and universities, government -owned and -controlled corporations including government instrumentalities with corporate powers (GICPs), government corporate entities (GCEs), government financial institutions, water districts, and economic zone authorities.

⁴ Refer to predetermined payments by the IA to the Private Partner in exchange of delivering an asset or service in accordance with the PPP contract. [Section 3(b) of RA 11966]

- c. For PPP projects that do not fall under any of the above, the IA shall notify the NEDA and the PPP Center in writing of such information and submit the project details for monitoring purposes.
- d. For national PPP projects that encompass or extend beyond jurisdictional boundaries or where bundling of similar projects can benefit from economies of scale and increase the viability of a proposed PPP project, they may be jointly implemented by all IAs concerned under a single PPP contract. In such cases, all the IAs concerned shall secure the required approvals of all Approving Bodies concerned pursuant to the provisions of the Code.

The NEDA-ICC may, as it deems necessary and in strict adherence with the principles of prudence and reasonableness, review, evaluate, and update the P15 billion threshold.

For Local PPP Projects⁵

Local PPP projects shall be approved by the respective local Sanggunians in the case of local government units (LGUs), or by the boards in the case of local universities and colleges (LUCs). Prior to approval, local PPP projects implemented by LGUs shall be confirmed by the respective local development councils (LDCs).

Proposed Government Undertaking⁶ that use NG funds for local PPP projects shall be submitted to the NEDA Board-ICC for approval, upon review and endorsement by the respective RDCs. [Section 7(a)]

3. The PPP projects undertaken through the Code shall be entitled to various incentives under applicable laws and existing government policies. Provided that any exemptions or special tax rates granted to a PPP project during the term of its PPP contract shall be reported in writing to the PPP Center. (Section 17)

II. Implications

Conceptually defined, PPPs are long-term contractual agreements between the government and a private firm targeted towards financing, designing, implementing, and operating infrastructure facilities and services traditionally provided by the public sector, in

⁵ PPP projects undertaken by LGUs and LUCs.

⁶ Government Undertakings shall include, among others, the following items to be provided by the NG to a local PPP project: (a) Guarantees on Demand; (b) Guarantees on Private Sector Return; (c) Guarantees on Loan Repayment; (d) Viability Gap Funding and other forms of subsidy; and/or (e) monetary payment of Contingent Liability through the PPP Risk Management Fund of the NG. Permits, clearances, licenses, or endorsements from NG agencies required for local PPP projects under laws, rules, and regulations shall not be considered as Government Undertakings by the NG for local PPP projects.

which responsibilities and rewards are shared.⁷ Under the PPP Code, public infrastructure or development projects and services may be undertaken through PPP.⁸

PPPs may be categorized according to structure or form, implementing agency, and solicitation mode.

As to structure or form, a PPP project may either be availability- or concession-based. In an availability PPP, the public authority contracts with a private sector entity to provide a public good, service, or product at a constant capacity to the implementing agency for a given fee (i.e., capacity fee) and a separate charge for usage of the public good, product, or service (i.e., usage fee). Meanwhile, in a concession-based PPP, the government grants the private sector the right to build and operate a public good, infrastructure, or service, as well as the right to charge public users a fee or tariff, which public regulators and the concession contract regulate.

As to the implementing agency, PPP projects can be local or national. A local PPP project is undertaken by LGUs and LUCs. In contrast, a national PPP project is undertaken by the NG, SUCs, and government-owned and/or-controlled corporations (GOCCs).

As to the solicitation mode, a PPP project can be solicited or unsolicited. A solicited PPP project is one that an implementing agency identifies as part of its list of PPP projects that is subjected to public bidding.⁹ On the other hand, an unsolicited PPP project refers to a project proposal submitted by a private proponent to undertake a PPP project¹⁰ and is made not in response to formal solicitation or request by the government.

Infrastructure improvement in the Philippines is imperative to address various challenges holding back the nation's progress. Therefore, the PPP Code of the Philippines is a timely piece of legislation that emerges as a crucial approach to investing resources in developing infrastructure and providing a collective collaboration between public and private entities. With governments often facing budgetary limitations, PPPs offer a viable mechanism to attract private sector capital, expertise, and efficiency. The collaboration allows for sharing risks, with private entities taking on financial and operational responsibilities. This risk transfer mitigates the burden on public finances and incentivizes private partners to ensure the success and sustainability of projects.

Various PPP contractual arrangements reflect how risks are shared and identify the roles of the government and the private proponent. Build-operate-and-transfer (BOT) projects¹¹

⁷ Public-Private Partnership Center. (n.d.). What is PPP? Retrieved February 2024, from <https://ppp.gov.ph/ppp-program/what-is-ppp/>; United Nations Economic and Social Commission for Asia and the Pacific (2015). PPP Concept, Benefits and Limitations. Retrieved 13 February 2024, from <https://www.unescap.org/our-work/transport/financing-and-private-sector-participation/public-private-partnership-course/module-1>

⁸ Section 3(cc) of RA 11966.

⁹ Section 3(ff) of RA 11966.

¹⁰ Section 3(ii) of RA 11966.

¹¹ See Annex A for the list of activities which may be undertaken under any of the recognized and valid BOT contractual arrangements.

and their other variants can be structured as either a concession or availability agreement. The partnership between the government and the private sector for infrastructure and development projects can be made possible through a broad spectrum of modalities,¹² which may be undertaken under RA 7718¹³ and its revised implementing rules and regulations.¹⁴

With the PPP Code in effect, IAs play a pivotal role in the success of PPP initiatives, and the identification, development, and preparation of lists of PPP projects are integral to their effective execution. These activities are the foundation for strategic infrastructure development, aligning projects with broader national and regional goals. By carefully selecting and prioritizing projects, IAs optimize the allocation of limited resources, ensuring that the most impactful initiatives are pursued. Clear identification and preparation of PPP projects also enhance transparency, build stakeholder confidence, and attract private sector participation.

On approving PPP projects, the distinction in the approval process for national PPP projects by the NEDA Board, upon favorable recommendation of the NEDA Board-ICC, and local PPP projects by the Local Sanggunians, as confirmed by LDCs, for LGUs and respective boards for LUCs, reflects the need for a hierarchical decision-making structure that aligns with the scope and impact of the projects. National PPP projects often involve significant financial commitments, have implications for the national economy, and require coordination across various sectors. In the case of National PPP projects, the NEDA Board will ensure a comprehensive and strategic evaluation of these projects, taking into account their implications on national development goals and economic sustainability. On the other hand, local PPP projects have regional and local impacts. The approval by Local Sanggunians for LGUs and boards for LUCs allows for a more detailed understanding of local needs, priorities, and community dynamics. It enhances local autonomy and governance, promotes community involvement, and ensures that PPP projects at the local level are tailored to address the specific challenges and opportunities within their jurisdictions.

Meanwhile, the ability of the NEDA-ICC to review, evaluate, and update the P15 billion threshold is of paramount importance in the context of PPP projects. This threshold represents a significant financial benchmark, and its periodic reassessment is necessary to align with the evolving economic landscape and the changing costs of infrastructure development. Regular reviews enable policymakers to ensure that the threshold remains realistic and relevant, taking into account the increasing costs of construction, technological advancements, and changing financial conditions.

Nonetheless, PPPs are not without their pitfalls. While PPPs may provide the government with an alternative option to fund critical infrastructure projects, they have potential disadvantages, and at times, they may even pose corruption and governance risks. In a collaborative work undertaken by the Asian Development Bank (ADB), the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IDB),

¹² See Annex B for the list of PPP modalities.

¹³ Entitled, “An Act Amending Certain Sections of Republic Act No. 6957”, 15 May 1994.

¹⁴ Public-Private Partnership Center. (n.d.). What is PPP? Retrieved 11 January 2024, from <https://ppp.gov.ph/ppp-program/what-is-ppp/>

the Islamic Development Bank (IsDB), and the World Bank Group (WBG);¹⁵ and in a brief prepared by Transparency International,¹⁶ the following disadvantages and risks were identified:

- a. Compared with traditional procurement methods, PPPs are significantly more complex, and governments wanting quick results may be discouraged from following the PPP route.
- b. PPPs are exposed and vulnerable to partisan politics. After the political change, new government administrations may perceive that (i) they are only paying for an infrastructure project that generated political benefits or credits to their predecessors or (ii) the PPP projects of their predecessors create budgetary constraints for them to develop their own new projects.
- c. Public controversy may emerge due to the public belief that PPP implies either a rise in charges or the application of new user charges.
- d. PPPs entail a higher cost in terms of surveillance for governments, introducing higher performance monitoring to make sure that the efficiency and quality gains are actually delivered.
- e. Countries with less sophisticated accountability and fiscal monitoring regimes face a risk that PPPs will result in excessive budget commitments that threaten long-term fiscal sustainability.
- f. After award and contract signing, contract renegotiations may occur. When this happens, being a monopolistic supplier, the private operator has an advantage in negotiating with the government compared to a supplier in a competitive market.
- g. Unsolicited PPPs may be a convenient way for governments to turn infrastructure projects into white elephant projects that can be used for rent-seeking, and corruption risks can be exacerbated by low transparency and a lack of competition in the unsolicited proposal process, which can create opportunities for corruption, patronage, and collusion.

The government must also see that in adopting concession-based arrangements, it should not be bargaining away its regulatory powers to private firms, thereby resulting in a situation dubbed as “regulation by contract,” which may be detrimental to the public interest in the long run.¹⁷ In 2019, a review of all government contracts was triggered due to certain onerous provisions of the 1997 water concession agreements, which provided for automatic rate increases, non-interference commitments, and non-compete clauses that required the government to ensure a monopoly during the entire concession period.¹⁸

¹⁵ ADB, EBRD, IDB, IsDB, and WBG (2016). The APMG Public-Private Partnership (PPP) Certification Guide. Retrieved February 2024 from, <https://ppp-certification.com/ppp-certification-guide/54-disadvantages-and-pitfalls-ppp-option>.

¹⁶ Bullock (2019). Corruption and unsolicited proposals: Risks, accountability, and best practices. Retrieved February 2024, from <https://knowledgehub.transparency.org/assets/uploads/helpdesk/Corruption-and-unsolicited-proposals-2019.pdf>

¹⁷ Wallace, P. (2019, October 14). Response to the Philippine Daily Inquirer Opinion Article Entitled “Revive PPP” dated 19 September 2019. Retrieved 28 February 2024, from <https://www.dof.gov.ph/ppp/>

¹⁸ San Juan, J. (2019, December 4). MWSS’s water concession deals onerous, DOF finds. Retrieved 28 February 2024, from <https://businessmirror.com.ph/2019/12/04/mwss-water-concession-deals-onerous-dof-finds/>

As regards the entitlement to incentives of PPP projects, Tier I¹⁹ of the 2022 Strategic Investment Priority Plan²⁰ (SIPP), issued by the Office of the President through Memorandum Order No. 61²¹ on 24 May 2022, PPP projects initiated and/or implemented by LGUs are identified as a priority activity and are therefore eligible for the following incentives:

- a. Income tax holiday (ITH);
- b. Special corporate income tax (SCIT) or enhanced deductions (ED);
- c. Duty exemption on the importation of capital equipment, raw materials, spare parts, or accessories; and
- d. Value-added tax (VAT) exemption on importation and VAT zero-rating on local purchases.

The duration of these tax benefits varies depending on whether the project involves domestic market or export activities, in addition to its geographical location and industry classification (see Table 1).

¹⁹ Tier I includes all activities listed in the 2020 Investment Priority Plan, as amended by Memorandum Circular No. 2021-005 [Amendments to the General Policies and Specific Guidelines to Implement the 2020 IPP on the Lifting of the Locational Restriction of Contact Centers and Non-Voice Business Processing Activities Located in Metro Manila (22 July 2021)].

²⁰ The SIPP refers to the plan prepared by the Board of Investment (BOI), in coordination with the Fiscal Incentives Review Board, investment promotion agencies, and other government agencies administering tax incentives, scope and coverage of location and industry tiers, recommendations for non-fiscal support and corresponding specific activities wherein investments are to be encouraged, and other information, analyses, data, guidelines, or criteria as the BOI may deem appropriate [Part 1, Rule 1, Section 4 (DD), CREATE Act IRR].

²¹ Entitled, “Approving the 2022 Strategic Investment Priority Plan”, 24 May 2022.

Table 1

Duration, in Years, of Incentives for Tier I Activities Under the RA 11534²²

Location Tier	Duration of tax incentives (in years)	
	Domestic market enterprise	Export-oriented enterprise
NCR	4 ITH + 5 ED, and a maximum of 12 customs duty exemptions on the importation of capital equipment, raw materials, spare parts, or accessories from the date of registration	4 ITH + 10 ED/SCIT, and a maximum of 17 customs duty exemptions on the importation of capital equipment, raw materials, spare parts, or accessories and VAT zero-rating on local purchases and VAT exemption on importation from the date of registration
Metropolitan areas or areas contiguous and adjacent to the NCR	5 ITH + 5 ED, and a maximum of 12 customs duty exemptions on the importation of capital equipment, raw materials, spare parts, or accessories from the date of registration	5 ITH + 10 ED/SCIT, and a maximum of 17 customs duty exemptions on the importation of capital equipment, raw materials, spare parts, or accessories and VAT zero-rating on local purchases and VAT exemption on importation from the date of registration
All other areas	6 ITH + 5 ED, and a maximum of 12 customs duty exemptions on the importation of capital equipment, raw materials, spare parts, or accessories from the date of registration	6 ITH + 10 ED/SCIT, and a maximum of 17 customs duty exemptions on the importation of capital equipment, raw materials, spare parts, or accessories and VAT zero-rating on local purchases and VAT exemption on importation from the date of registration

The above-mentioned tax incentives are not granted automatically. PPP projects initiated and/or implemented by LGUs must register with an investment promotion agency (IPA)²³ and apply for tax incentives with the Fiscal Incentives Review Board (FIRB)²⁴ if their

²² Rule 3, Section 6 of Implementing Rules and Regulation of Title XIII of RA 11534.

²³ This includes the following: (1) Authority of Freeport Area of Bataan, (2) Aurora Economic Zone and Freeport Authority, (3) Board of Investments, (4) Bases Conversion and Development Authority, (5) Clark Development Corporation, (6) Cagayan Economic Zone Authority, (7) John Hay Management Corporation, (8) Philippine Economic Zone Authority, (9) PHIVIDECA Industrial Authority, (10) Poro Point Management Corporation, (11) Regional Board of Investments-BARMM, (12) Subic Bay Metropolitan Authority, (13) Tourism Infrastructure and Enterprise Zone Authority, (14) Zamboanga City Special Economic Zone Authority.

²⁴ The FIRB is an inter-agency committee created under Presidential Decree 776 (issued on 24 August 1975), tasked to determine what subsidies and tax exemptions should be modified, withdrawn, revoked or suspended.

investment capital exceeds P1 billion²⁵ or with the IPA if the investment capital is P1 billion²⁶ or below. Such application shall be thoroughly examined in accordance with the conditions and specifications set forth in RA 11534²⁷, otherwise known as the “Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act”, its implementing rules and regulations, and other pertinent issuances.

Further, under Section 16(b) of the 2024 GAA, tax obligations assumed by the National Government pursuant to a valid PPP agreement are considered both revenue and expenditure of the government and are deemed automatically appropriated. Thus, IAs can apply for a Tax Expenditure Subsidy (TES) before the Department of Budget and Management (DBM), which is also a form of fiscal privilege under which the government assumes taxes and duties due from a government entity through budgetary appropriation, pursuant to the GAA enacted on an annual basis by the Congress. As may be provided under the GAA, national government agencies, GOCCs, government commissaries, SUCs, and other government instrumentalities are generally eligible for tax subsidy.

The TES, however, is not automatically granted. In cases where tax obligations are assumed by the National Government pursuant to a valid PPP agreement, government entities must formally request TES entitlement from the DBM. This application will undergo a thorough evaluation to avoid unwarranted leakages, abuses, and/or fiscal inefficiency.

The provision stipulating that any exemptions or special tax rates granted to a PPP project during the term of a PPP contract shall be reported in writing to the PPP Center promotes transparency. This allows the PPP Center, which serves as the central coordinating and monitoring agency for all PPP projects in the Philippines, to be informed on any other privileges or incentives accorded to PPP projects outside of those provided by existing laws.

While granting fiscal incentives for PPP projects may encourage more private firms and investors to collaborate with the government or to otherwise ‘sweeten’ their pre-cleared deal with the government, there are some concerns as to the propriety of the grant of incentives, especially to unsolicited proposals. Governments offer fiscal incentives primarily to influence an investment decision either by (i) directly affecting the profit streams accruing to that potential investment or (ii) reducing the risks attached to it.²⁸ Prior to the submission of their proposal to the government, unsolicited PPP projects have undergone feasibility and profitability analysis. As such, the proponent has predetermined, or at the very least, already

The FIRB currently processes and approves the grant of tax subsidy to GOCCs, government commissaries, SUCs, and other GIs.

²⁵ FIRB Resolution No. 003-2024 (dated 2 February 2024) increased the investment capital threshold from above P1 billion to above P15 billion.

²⁶ Ibid.

²⁷ Entitled, “An Act Reforming the Corporate Income Tax and Incentives System, Amending for the Purpose Sections 20, 22, 25, 27, 28, 29, 34, 40, 57, 109, 116, 204 and 290 of the National Internal Revenue Code of 1997, as Amended, and Creating Therein New Title XIII, and for Other Purposes”, 26 March 2021.

²⁸ Chalk (2001). *Tax Incentives in the Philippines: A Regional Perspective*. Retrieved February 2024, from <https://www.imf.org/external/pubs/ft/wp/2001/wp01181.pdf>

has a hint that the project will be viable regardless of tax incentives. Meanwhile, for road or expressway PPP projects, the Toll Regulatory Board approves the toll rates charged by contractors and already ensures that there is a reasonable return on investment, as well as operating and maintenance costs, based on their accepted bid proposal. Therefore, with fiscal prudence principles in mind, the grant of tax incentives may not always be necessary for a PPP project's success; and the potential foregone government revenues resulting from the grant of incentives could be better used for other activities that will expand the country's economic pie.

Annex A

Non-exhaustive list of activities that be undertaken under any of the recognized and valid BOT contractual arrangements (PPP modalities)²⁹

1. Highway, including expressways, roads, bridges, interchanges, tunnels, and related facilities;
2. Railways or rail-based projects that may or may not be packaged with commercial development authorities;
3. Non-rail-based mass transit facilities, navigable inland waterways, and related facilities;
4. Port infrastructures like piers, wharves, quays, storage, handling, ferry services and related facilities;
5. Airports, air navigation, and related activities;
6. Power generation, transmission, sub-transmission, distribution, and related facilities;
7. Telecommunications, backbone network, terrestrial and satellite facilities, and related service facilities;
8. Information technology (IT) and database infrastructure, including modernization of IT, geo-spatial resource mapping, and cadastral survey for resource accounting and planning;
9. Irrigation and related facilities;
10. Water supply, sewerage, drainage, and related facilities;
11. Education and health infrastructure;
12. Land reclamation, dredging, and other related development facilities;
13. Industrial and tourism estates or townships, including ecotourism projects such as terrestrial and coastal/marine nature parks, among other and related infrastructure facilities and utilities;
14. Government buildings, housing projects;
15. Markets, slaughterhouses, and related facilities;
16. Warehouses and post-harvest facilities;
17. Public fish ports and fish ponds, including storage and processing facilities;
18. Environmental and solid waste management-related facilities such as, but not limited to, collection equipment, composting plants, landfills, and tidal barriers, among others; and
19. Climate change mitigation and adaptation infrastructure projects and related facilities.

²⁹ Public-Private Partnership Center. (n.d.). *What is PPP?*. Retrieved 11 January 2024, from <https://ppp.gov.ph/ppp-program/what-is-ppp/>

Annex B

PPP contractual arrangement	Role of the private proponent	Role of the government	Notes/Remarks
Build-Operate-and-Transfer (BOT)	Finances and constructs; operates and maintains facility for a fixed term; collects fees and charges to recover investments plus profit; transfers facility at the end of cooperation period (maximum of 50 years)	Provides franchise (if required) and regulates activities of BOT contractor; acquires ownership of facilities at the end of cooperation period	Includes a supply-and-operate scheme, a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the interest of the Government so requires, operates the facility.
Build-and-Transfer	Finances and constructs; turns over ownership of the facility to the government after project completion	Acquires ownership of the facility after construction; compensates proponent at the agreed amortization schedule	May be employed in any project, including critical facilities which, for security or strategic reasons, must be operated by the Government.
Build-Own-and-Operate (BOO)	Finances, constructs, and owns facility; operates and maintains a facility in perpetuity (facility operator may be assigned); collects fees and charges to recover investments and profits	Provides authorization and assistance in securing approval of BOO contract; possesses the option to buy the output/service provided by the BOO operator	All BOO projects, upon recommendation of the NEDA-ICC, shall be approved by the President of the Philippines.
Build-Lease-and-Transfer	Finances and constructs; turns over the project after completion; transfers ownership of the facility after cooperation/lease period	Compensates proponent by way of lease of facility at agreed term and schedule; owns facility after cooperation/lease period	Akin to Lease-to-Own
Build-Transfer-and-Operate	Finances and constructs on a turn-key basis; transfers title of facility after commissioning; operates the facility under an agreement	Owens facility after commissioning	Minimizes construction risk delays

PPP contractual arrangement	Role of the private proponent	Role of the government	Notes/Remarks
Contract-Add-and-Operate	Adds to an existing facility; operates expanded project for an agreed franchise period	Collects rental payment under agreed terms and schedule; regains control at the end of lease term	There may or may not be a transfer arrangement with regard to the added facility provided by the Project Proponent.
Develop-Operate-and-Transfer	Builds and operates a new infrastructure; transfers property/ facility at the end of the cooperation period	Regains possession of property turned over to investor after cooperation period	Project proponent enjoys some benefits the initial investment creates, such as higher property or rent values; akin to BOT with the option to develop the adjoining property
Rehabilitate-Operate-and-Transfer (ROT)	Refurbishes, operates, and maintains facility; the facility is turned over after the franchise period	Provides franchise to ROT company; regains legal title of property/ facility after franchise period	Also used to describe the purchase of a facility from abroad, importing, refurbishing, erecting, and consuming it within the host country.
Rehabilitate-Own-and-Operate (ROO)	Refurbishes and owns facility; operates facility in perpetuity as long as there is no franchise violation	Turns over facility and provides franchise to operate; may opt to share in the income of ROO company	Period to operate is dependent on franchise agreement.

Note. Sourced from PPP Manual for LGUs: Understanding PPP Concepts and Framework. Retrieved 11 January 2024, from <https://ppp.gov.ph/wp-content/uploads/2012/07/PPP-Manual-for-LGUs-Volume-1.pdf>

Implications of Executive Order No. 41, s. 2023¹ Prohibiting the Collection of Pass-Through Fees on National Roads and Urging Local Government Units to Suspend the Collection of Any Form of Fees Upon All Types of Vehicles Transporting Goods Under Section 153 or 155 of Republic Act No. 7160 or the “Local Government Code of 1991”*

I. Salient Features

Executive Order (EO) No. 41, issued on 25 September 2023, aims to prohibit local government units (LGUs) from collecting toll fees and charges upon all motor vehicles transporting goods or merchandise while passing through any national roads and such other roads not constructed and funded by LGUs pursuant to Section 155 of Republic Act (RA) No. 7160, otherwise known as the Local Government Code (LGC) of 1991, as amended. The EO instructs the LGUs to suspend or discontinue the collection of fees, such as but not limited to sticker fees, discharging fees, delivery fees, market fees, toll fees, entry fees, or Mayor’s Permit fees, that are imposed upon all motor vehicles transporting goods and passing through any local public roads constructed and funded by said LGUs. (Section 1)

The EO also orders the Department of the Interior and Local Government (DILG) to secure copies of the existing ordinances of all LGUs on the collection of pass-through fees imposed upon motor vehicles, including those issued pursuant to Sections 153 and 155 of RA 7160, as amended; additionally, the DILG shall take appropriate actions to ensure that LGUs act within the scope of their prescribed authorities under Sections 133(e), 153, and 155 of RA 7160. (Sections 2 and 3)

II. Implications

Sections 153 to 155 of the LGC of 1991, as amended, cover the sections for common revenue-raising powers. Section 153 states that LGUs may impose and collect such reasonable

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fees and charges for services rendered. Additionally, Section 154 provides that LGUs may fix the rates for the operation of public utilities owned, operated, and maintained by them within their jurisdiction. Lastly, Section 155 states that for toll fees or charges, the Sanggunian may prescribe the terms and conditions and fix the rates for the imposition of toll fees or charges for the use of any public road, pier, wharf, waterway, bridge, ferry, or telecommunication system funded and constructed by the LGU concerned. However, the section also provides that when public safety and welfare so require, the Sanggunian concerned may discontinue the collection of the tolls, and thereafter the said facility shall be free and open for public use.

The issuance of EO 41 was intended to reduce transport and logistics costs and ensure the efficient movement of goods across the regions as one of the pillars of the 8-Point Socioeconomic Agenda of the Administration and revitalizing local industries under the Philippine Development Plan 2023 to 2028, respectively. It seeks to prevent trade restrictions that may result in higher commodity prices for consumers. Specifically, since the EO was implemented towards the end of the year, one of the goals might be to ease the inflationary impact of the holiday season.

According to the Metropolitan Manila Development Authority, as cited by Ong (2023), there will be an increase in deliveries, commerce, and all types of vehicles that will pass through national roads in the coming months, which would have racked up the prices of goods and commodities, and the implementation of the EO will help reduce the prices of such. Additionally, the Department of Trade and Industry Undersecretary for Communications Kim D. Lokin stated that EO 41 will also help in addressing the cost of doing business in the country, benefiting both consumers and sellers alike [Presidential Communications Office (PCO), 2023]. He also mentioned the City Government of Manila as the first LGU to issue compliance to the EO, encouraging others to follow suit (PCO, 2023).

It is safe to assume that LGUs may expect a decrease in their local collections of fees and taxes related to pass-through fees for the end of the year and for the succeeding years to come, as the implementation of EO 41 is an indefinite one.

However, the collection from pass-through fees should not be confused with the annual fixed tax on delivery trucks and vans mentioned in Section 141 of the LGC of 1991, as amended. Previously, the DILG, through its Legal Opinion No. 8, s. 2023, clarified DILG Memorandum Circular (MC) 2018-133 which contained the guidelines regarding LGU imposition and collection of illegal fees and taxes relative to the transport of goods and products. The legal opinion mentioned that the MC only prohibited the collection of pass-through fees and not the annual fixed tax for every delivery truck and van as contemplated in Section 141 of the LGC of 1991, as amended (DILG, 2023). In light of the similar provisions of EO 41 and DILG MC 2018-133, it is put forward that the collection of the annual fixed tax on delivery trucks and vans is still not prohibited even with the issuance of EO 41.

The collection from the annual fixed tax on delivery trucks and vans is only meager as compared to other taxes imposed by LGUs, and it is projected that the prohibition on the collection of pass-through fees and taxes may not cause a huge decrease in the overall LGU revenues. As shown in Table 1, tax on delivery trucks and vans is second to professional tax in

terms of the lowest average collection for the years 2018 to 2022, contributing an average contribution of only 3.94% to other taxes collected by LGUs.

Table 1

Total Revenues of LGUs, By Source, CY 2018-2022 (In Million Pesos)

Source	2018	2019	2020	2021	2022*	Average
Local sources	217,948.79	251,286.56	249,467.11	252,667.55	279,079.78	250,089.96
Tax revenues	156,889.63	182,666.16	189,266.20	189,861.02	205,992.86	184,935.17
Property taxes	68,545.88	77,057.23	75,664.14	85,766.15	94,106.70	80,228.02
Business tax (per Section 143 of the LGC of 1991, as amended)	79,767.18	96,207.77	105,207.20	95,742.63	102,395.06	95,863.97
Other taxes	8,576.57	9,401.16	8,394.86	8,352.24	9,491.10	8,843.19
Amusement tax	980.50	1,142.19	308.07	65.34	517.89	602.80
Franchise tax	2,466.14	2,439.44	2,464.39	2,351.19	2,524.17	2,449.06
Tax on delivery trucks & vans	329.12	355.67	327.87	353.41	376.00	348.41
Tax on sand, gravel & other quarry resources	1,463.51	1,569.21	1,631.00	1,984.74	2,023.36	1,734.36
Community tax	2,124.75	2,414.96	2,393.74	2,324.16	2,448.26	2,341.18
Professional tax	121.86	142.05	133.78	137.66	143.06	135.68
Others	1,090.68	1,337.65	1,136.02	1,135.73	1,458.36	1,231.69
Non-tax revenues	61,059.16	68,620.39	60,200.92	62,806.53	73,086.92	65,154.79
Regulatory fees	13,952.84	15,876.86	14,159.46	15,621.30	17,135.25	15,349.14
Service/User charges	19,143.93	22,325.58	19,009.52	20,323.93	25,479.63	21,256.52
Income from economic enterprises	23,371.82	24,427.47	20,805.33	21,754.43	25,448.20	23,161.45
Other income/receipts	4,590.58	5,990.48	6,226.60	5,106.87	5,023.83	5,387.67

Note. * - Preliminary data.

Basic data was retrieved from the Bureau of Local Government Finance as of 18 October 2023.

It is important to note that the types of pass-through fees should be clarified. In a previous legal opinion by the DILG (2012), they mentioned the following:

“Pass-through fees are TAXES, FEES, CHARGES, AND OTHER IMPOSITIONS UPON GOODS CARRIED INTO OR OUT OF, OR PASSING THROUGH the territorial jurisdiction of the LGUs in the guise of a toll, charges for wharfage or other taxes, fees, or charges in any form upon goods or merchandise.

Taxes, fees, or charges on trucks carrying raw materials and cement finished products imposed by LGUs through ordinances, as in this case, are in the nature of pass-through fees and thus considered illegal impositions/collections which run counter to Section 133(e) of the Local Government Code of 1991 (the “Code”).

It should be noted that illegal fees or illegal collections are those imposed by the LGUs which are not covered by their specific taxing powers or common taxing powers. This also covers the imposition of the taxes, fees and charges enumerated under Section 133 of the Code. In addition to the foregoing, a tax, fee, or charge may be considered an illegal collection if it is imposed by the LGU absent any ordinance directing the imposition of the same.

Nevertheless, LGUs may regulate the USE of their roads or other public facilities as provided under Section 155 of the Code through the imposition of toll fees or charges thereon, PROVIDED THAT IT IS FUNDED AND CONSTRUCTED BY THE LOCAL GOVERNMENT UNIT concerned.” (DILG Legal Opinion No. 003-12).

The difference between the pass-through fees and the annual fixed tax on delivery trucks and vans was clearly explained in DILG Legal Opinion No. 082-11, wherein it was clarified by the DILG that the delivery truck of EMBU Integrated and Trading Corporation made to pay an annual fixed tax, surcharge, and interest in the province of Laguna does not fall within the category of an alleged illegal collection by the province, highlighting the fact that what was imposed was “fixed tax on delivery trucks, vans, or any vehicle carrying goods as enumerated under Section 141 of the LGC of 1991, as amended, and other products as determined through an ordinance by the Sangguniang Panlalawigan.”

In Guinobatan, Albay, a similar case wherein it is ambiguous whether the toll fees on vehicles passing through barangay roads owned and operated by Muladbucad Grande are imposed in Barangay Ordinance No. 02, s. 2009, was considered a pass-through fee or a toll fee for the use of barangay roads owned by Muladbucad Grande. The DILG (2012) stated that the ordinance seemingly transgresses Section 133(e) of the LGC of 1991, as amended, and should “initiate the rectification of the ordinance in compliance with pertinent provisions of the Code.”

The suspension of LGUs’ imposition and collection of illegal fees and taxes is already provided in DILG MC 151-11, wherein it is stated that local executives are enjoined to:

- a. refrain from enforcing any existing ordinance authorizing the levy of fees and taxes on inter-province transport of goods, regulatory fees from passengers in local ports, and other additional taxes, fees or charges in any form upon transporting goods and passengers; and
- b. cause the immediate repeal of the ordinance imposing the above-cited fees and taxes.

This is reiterated further in DILG MC 2017-023, which stresses that the imposition of “various fees, taxes, and other charges on transporting goods and passengers carried into or out, or passing through, their respective territorial jurisdictions,” is beyond the scope of LGUs’ taxing powers. DILG MC 2017-023 enjoined local chief executives to refrain from enforcing and to repeal any existing ordinance which authorizes the levy of fees and taxes on inter-province transport of goods, regulatory fees from passengers in local ports, and other additional taxes, fees, or charges in any form upon transporting goods and passengers. The MC highlighted Section 133(e) of the LGC of 1991, as amended, which states that LGUs are prohibited from levying taxes, fees, and charges, and other impositions upon goods carried out into or out of, or passing through, the territorial jurisdictions of LGUs in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees, or charges in any form whatsoever upon such goods or merchandise.

In the case of *Palma Development Corporation vs. Municipality of Malangas, Zamboanga del Sur* (2003), an issue was raised as to whether the Municipal Revenue Code No. 09, series of 1993, subsequently approved by the Sangguniang Panlalawigan of Zamboanga del Sur in Resolution No. 1330 dated 04 August 1994, section 5G.1, was valid. The section provides an imposition of service fees for the use of municipal roads or streets leading to the wharf and to any point along the shorelines within the jurisdiction of the municipality; and for police surveillance on all goods and all equipment harbored or sheltered on the premises of the wharf and others within the jurisdiction of the said municipality. The court explained that the use of municipal roads leading to the wharf is valid based on Sections 153 and 155 of the LGC of 1991, as amended, while the provision of a service fee for police surveillance on goods runs contrary to Section 133 of the LGC of 1991, as amended.

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- Prohibiting the Collection of Pass-Through Fees on National Roads and Urging Local Government Units to Suspend the Collection of Any Form of Fees upon all Types of Vehicles Transporting Goods under Section 153 or 155 or Republic Act No. 7160 or the “Local Government Code of 1991”, Executive Order No. 41. (25 September 2023).

Tax Implications of Republic Act No. 11523¹- An Act Ensuring Philippine Financial Industry Resiliency Against the COVID-19 Pandemic*

I. Salient Features

Republic Act (RA) No. 11523, otherwise known as the “Financial Institutions Strategic Transfer (FIST) Act”, is part of the government’s economic recovery program to mitigate the adverse effects of the Coronavirus-2019 (COVID-19) pandemic. The FIST Act provides a legal framework for the full transfer of banks’ bad loans and assets by allowing them to clean their books and re-channel their resources to improve liquidity in the financial system.

The law established the Financial Institutions Strategic Transfer Corporation (FISTC) as a stock corporation organized in accordance with RA 11232², otherwise known as the “Revised Corporation Code of the Philippines”. The FISTC is not allowed to be incorporated as a one-person corporation and shall be incorporated primarily to invest in or acquire non-performing assets (NPAs) of financial institutions (FIs). Its secondary powers shall include the following:

- a. Engage third parties to manage, operate, collect, and dispose of NPAs acquired from an FI;
- b. Rent, lease, hire, subject to a security interest, mortgage, transfer, sell, exchange, usufruct, secure, securitize, collect rents and profits, and other similar acts concerning its NPAs acquired from an FI;
- c. Restructure debt, condone debt, and undertake other restructuring-related activities in case of non-performing loans (NPLs);
- d. Buy or transfer shares issued by the borrower for the purpose of business reorganization and rehabilitation of the borrower, subject to the provisions of the Revised Corporation Code of the Philippines with respect to the rights of the shareholders of the borrower company, and apply other measures or restructuring techniques with the approval of the Securities and Exchange Commission (SEC);

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¹ Approved on 16 February 2021.

² Entitled, “An Act Providing for the Revised Corporation Code of the Philippines”, 20 February 2019.

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- e. Enter into dation in payment arrangements, foreclose judicially or extrajudicially, and other forms of debt settlement involving NPLs;
- f. Spend funds to renovate, improve, complete, or alter its NPAs acquired from an FI;
- g. Issue equity or participation certificates or other forms of investment unit instruments for the purpose of acquiring, managing, improving, and disposing of its NPAs acquired from an FI;
- h. Borrow money and issue other instruments of indebtedness for the purpose of paying operational and administrative costs;
- i. Guarantee credit, and accept, intervene, or honor the bills of borrowers;
- j. Require from selling FIs a data package which should contain, among others, scans of all pertinent documents and particulars of each property or loan account being sold;
- k. Advance funds to borrowers as may be required for an acquired asset or any debt restructuring agreement pursuant thereto, or under any court order or rehabilitation plan; and
- l. Engage the services of a third-party asset servicing company for the collection and receipt of the debt payments for debts under debt restructuring or business reorganization, management, and disposition of assets of the FISTC in accordance with the rules, procedures, and conditions prescribed by the SEC, or by the courts.

The transfer of NPAs from the FI to a FISTC and from a FISTC to a third party in favor of an FI or in favor of a FISTC is exempt from the following taxes:

- a. Documentary stamp tax (DST) on the transfer of NPAs and dation in payment as may be imposed under Title VII of the National Internal Revenue Code (NIRC) of 1997, as amended by RA 10963, otherwise known as the “Tax Reform for Acceleration and Inclusion (TRAIN) Law”;
- b. Capital gains tax (CGT) imposed on the transfer of lands and/or other assets treated as capital assets as defined under Section 39(A)(1) of the NIRC of 1997, amended;
- c. Creditable withholding income taxes imposed on the transfer of land and/or buildings treated as ordinary assets pursuant to Bureau of Internal Revenue (BIR) Revenue Regulation No. 2-98, as amended; and
- d. Value-added tax (VAT) on the transfer of NPAs as may be imposed under Title IV of the NIRC of 1997, as amended, or gross receipts tax under Title V of the same Code, whichever is applicable pursuant to regulations of the BIR.

The abovementioned transfers of NPAs shall also be subject to the following, in lieu of the applicable fees:

- a. Fifty percent of the applicable registration and transfer fees on the transfer of real estate mortgage and security interest to and from the FISTC, as imposed in accordance with the existing circular of the Land Registration Authority (LRA);
- b. Fifty percent of the filing fees for any foreclosure initiated by the FISTC in relation to any NPA acquired from an FI, as prescribed by the Rules of Court; and
- c. Fifty percent of the land registration fees prescribed under the existing circulars of the LRA.

The transfers from a FISTC to a third party of NPAs acquired by the FISTC within a two-year period, or within such extended period, or transfers by way of dation in payment by a borrower or by a third party to the FISTC shall enjoy the incentives and exemption privileges enumerated above for a period of not more than five years from the date of acquisition by the FISTC.

Moreover, the incentives and exemption privileges given to FIs and FISTC can be extended to any individual at various stages of the transactions as long as they satisfy the following conditions:

- a. The transaction is limited to real and other properties acquired (ROPA) that is either a single-family residential unit or an empty lot, or to NPL secured by real estate mortgage on a residential unit or an empty lot;
- b. There shall only be one transaction consisting of one residential unit or empty lot per individual; and
- c. The two-year transfer period, including its extension, and the five-year entitlement period granted to NPA shall also apply to said single-family unit or empty lot.

The law also aims to encourage the infusion of capital and financial assistance by the FISTC to rehabilitate the financial consumer's business. The following additional tax exemption and privileges of the FISTC shall apply for a period of not more than five years from the date of its acquisition of NPLs:

- a. Income tax on net interest income, DST, and mortgage registration fees on new loans in excess of existing loans extended to borrowers with NPLs which it has been acquired; and
- b. On DST in case of its capital infusion to the borrower with NPLs.

Meanwhile, Section 17 of the FIST Act provides that any loss that an FI incurs as a result of the transfer of an NPA within the two-year period from the effectivity of the law shall be treated as an ordinary loss. The accrued interest and penalties shall not be included as a loss on said loss carry-over from operations, subject to the provisions of the NIRC of 1997, as amended, on net operating loss carry-over (NOLCO). Such loss incurred by the FI from the transfer of NPAs within the two-year period from the effectivity of the law may be carried over for a period of five consecutive taxable years immediately following the year of such loss. For purposes of corporate gain or loss, the carry-over shall be subject to pertinent laws. The tax savings derived by the FIs from the NOLCO shall not be made available for dividend declaration but shall be retained as a form of capital build-up.

II. Implications

The Implementing Rules and Regulations (IRR) of the FIST Act was approved on 26 March 2021 and was effective immediately upon its publication in the Official Gazette or a newspaper of general circulation. The IRR gave the mechanism structure for the SEC, Department of Finance, BSP, BIR, LRA, and the Insurance Commission to implement the FIST Act, which allowed the FISTC to invest or acquire an NPA of a covered FIs, that will serve as a vehicle to improve the liquidity of the country's financial system and to strengthen the financial sectors, especially those companies most affected by the COVID-19 pandemic.

The FIST Act, pursuant to its IRR, only allows the following FIs to transfer their NPAs to FISTCs: (a) BSP; (b) banks; (c) pawnshops; (d) non-stock savings and loan associations; (e) non-bank credit card issuers; (f) other credit-granting institutions supervised by the BSP; (g) financing companies; (h) lending companies; (i) accredited microfinance nongovernment organizations; (j) investment house; (k) insurance companies; (l) government-owned and -controlled corporations (GOCCs); and (m) government financial institutions (GFIs). The covered GOCCs and GFIs in the FIST Act are the Philippine Deposit Insurance Corporation, Land Bank of the Philippines, Development Bank of the Philippines, National Home Mortgage Finance Corporation, Philippine Guarantee Corporation, Home Development Mutual Fund, Social Security System, Government Service Insurance System, Small Business Corporation, and National Housing Authority.

If an FI intends to transfer its NPAs to an FISTC, it shall apply for a Certificate of Eligibility (COE) from the appropriate regulatory authority having jurisdiction over its operations. Nevertheless, Rule 25 of the IRR of the FIST Act states that only assets and loans which have become non-performing on or before 31 December 2022, can be issued a COE.

All sales or transfers of NPAs to a FISTC shall be in the nature of a true sale, wherein the transferor transfers full legal and beneficial title to and relinquishes effective control over the transferred NPAs, and the NPAs are legally isolated and put beyond the reach of the transferor and its creditors.

Under Rule 15.1 of IRR of the FIST Act, the following transactions are exempt from the payment of taxes and are entitled to the fee privileges provided in Section 15 of the FIST Act, to wit:

- a. Transfer of an NPL by an FI to an FISTC;
- b. Transfer of a ROPA by an FI to an FISTC;
- c. Dation in payment (*dacion en pago*) of an NPL by a borrower to an FI;
- d. Dation in payment (*dacion en pago*) of an NPL by a third party, on behalf of a borrower, to an FI;
- e. Transfer of an NPL by an FI to an individual;
- f. Transfer of a ROPA by an FI to an individual;
- g. Transfer of an NPL by a FISTC to a third party;
- h. Transfer of a ROPA by a FISTC to a third party;
- i. Dation in payment (*dacion en pago*) of an NPL by a borrower to a FISTC or an individual;
- j. Dation in payment (*dacion en pago*) of an NPL by a third party, on behalf of a borrower, to a FISTC or an individual;
- k. Transfer of an NPL by an individual to a third party; and
- l. Transfer of a ROPA by an individual to a third party.

Under Section 4(d) of RR 11-2021, the said transactions' tax exemptions are only granted if particular applicable requirements have been complied with.

On CGT exemption on the transfer of lands and/or other assets treated as capital assets

The exemption from the payment of CGT imposed on the transfer of lands and/or other assets treated as capital assets³ as defined under Section 39(A)(1) of the NIRC of 1997, as amended, minimizes friction costs, both implied and direct, associated with a transaction. Such costs include time, effort, money, and associated tax effects of gathering information and making a transaction⁴. The exemption from the payment of CGT would also facilitate transfers of lands and/or buildings from the FI to a FISTC and from a FISTC to a third party or dation in payment by the borrower or by a third party in favor of an FI or in favor of a FISTC.

On creditable withholding income taxes exemption on the transfer of land and/or buildings treated as ordinary assets

Under Rule 15.3(3) of the IRR of RA 11523, exemptions from the payment of creditable withholding income taxes imposed on the transfer of land and/or buildings treated as ordinary assets pursuant to BIR RR 2-98, as amended, shall not include the exemption from income tax under Title II of the NIRC of 1997, as amended. The transfer by an FI or by a FISTC of its NPA, which is treated as its ordinary asset, shall continue to be subject to the ordinary corporate income tax (CIT) or minimum CIT (MCIT), as the case may be, under the pertinent provisions of the NIRC of 1997, as amended.

Likewise, Rule 16.1(a) of the IRR of RA 11523 provides that an FISTC shall be exempt from income tax on the interest income from new loans in excess of existing loans, which are extended to a borrower with NPL that has been acquired by the FITSC from an FI within a period of not more than two years from the date of effectivity of the law, and which are solely to rehabilitate the borrower's business.

Such exemptions from the payment of creditable withholding income taxes and the income tax on interest income will help banks and other FIs to maintain their financial health temporarily to be effective partners of the national government to "recover as one" from the adverse effects of the COVID-19 pandemic. The exemption from the creditable withholding income taxes does not necessarily mean exemption from the payment of income tax, but only on the withholding of tax, which is an administrative measure on the collection of taxes. This will improve the taxpayer's cash flow and avoid the possibility of claiming a refund or credit in case the amount of creditable income tax withheld exceeds the tax due.

On the other hand, the five-year period to carry over the losses incurred due to the transfer of NPAs by the FI within two years from the effectivity of the law would give the FIs more time to recover such losses through reduced CIT. The provision in the law is longer by two years than the period provided under Section 34(D)(3) of the NIRC of 1997, as amended, which provides that the net operating loss of the business or enterprise for any taxable year immediately preceding the current taxable year shall be carried over as a deduction from gross

³ Section 39(A)(1) of the NIRC of 1997, as amended, defines capital assets as property held by the taxpayer whether or not connected with trade or business, but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business, of a character which is subject to the allowance for depreciation; or real property used in a trade or business of the taxpayer.

⁴ Kagan, J. (2020, December 27). Friction Cost. <https://www.investopedia.com/terms/f/frictioncost.asp>

income for the next three consecutive taxable years immediately following the year of such loss.

However, under Section 6.5 of BIR RR 14-200⁵, domestic and resident foreign corporations subject to the normal income tax rate are liable to the 2% MCIT, if applicable, computed based on gross income, whenever the amount of the MCIT is greater than the normal income tax⁶ under Sections 27 and 28 of the NIRC of 1997, as amended⁷. Thus, such FI cannot enjoy the benefit of NOLCO for as long as it is subject to MCIT in any taxable year.

DST on the transfer of NPAs and dation in payment

The DST is a tax upon documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale, or transfer of an obligation, right, or property incident thereto and in respect of the transaction so had or accomplished. A DST is in the nature of an excise tax. It is levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments.

The aforementioned transactions are exempt from DST subject to certain conditions. Specifically, Section 4(b)(1) of RR 11-2021 provides that any document evidencing the transfer or dation in payment is exempt from the DST as may be imposed under Title VII of the NIRC of 1997, as amended. The conditions vary depending on the transaction. For example, the transfer must be in nature of and approved by the appropriate regulatory authority as a “true sale”, and the transaction must have occurred within a period of not more than two years from the effectivity of the Act, i.e., from 18 February 2021 to 18 February 2023, among others. The exempt transactions are not liable to the DST under Sections 175, 179, 196, and 198 of the NIRC of 1997, as amended (see Table 1).

⁵ Implementing Section 34(D)(3) of the National Internal Revenue Code of 1997, Relative to the Allowance of Net Operating Loss Carry-Over (NOLCO) as a Deduction from Gross Income, 27 August 2001.

⁶ Computed with the benefit of NOLCO if any.

⁷ The MCIT rate is 1% effective 01 July 2020 until 30 June 2023, pursuant to Republic Act No. 11534, entitled, “An Act Reforming the Corporate Income Tax and Incentives System, Amending for the Purpose Sections 20, 22, 25, 27, 28, 29, 34, 40, 57, 109, 116, 204 and 290 of the National Internal Revenue Code of 1997, as Amended, and Creating Therein New Title XIII, and for Other Purposes”, 26 March 2021.

Table 1*Summary of DST on FISTC Transactions*

Section	Document	Taxable unit	Tax due per unit (in Pesos)	% of unit	Taxable base
175	Sales, agreements to sell, memoranda of sales, deliveries, or transfer of shares or certificates of stock	P200 or a fraction thereof	1.50	0.75	Par value
179	All debt instruments	P200.00 or a fraction thereof	1.50	0.75	Issue price of any such debt instruments or a fraction of 365 days for an instrument with a term of less than 1 year
196	Deed of Sale, Conveyances, Donations of Real Property (except grants, patents, or original certificate of adjudication issued by the government)	First 1,000 For each additional P1,000 or fractional part thereof in excess of P1,000	15.00 15.00	1.50 1.50	Consideration or Fair Market Value, whichever is higher (if the government is a party, the basis shall be the consideration)
198	Assignment and renewals of certain instruments	Same as that of the original instruments			

Meanwhile, Section 16 of the FIST Act exempts new loans in excess of existing loans extended to borrowers with NPLs that the FISTC has acquired from the DST. In the case of capital infusion by the FISTC to the borrower with NPLs, the FISTC shall also be exempt from the DST. These exemptions shall be availed only for a period of not more than five years from the date of acquisition of the borrower's NPL by the said FISTC.

As implemented by Section 5(b) of RR 11-2021, any document evidencing the new loans extended in excess of existing loans, which are extended to a borrower with NPL that the FISTC has acquired from an FI from 18 February 2021 to 18 February 2023, shall be exempt from the DST. Likewise, any document evidencing the FISTC's capital infusion to the business of the borrower with an NPL that the said FISTC has acquired from an FI between 18 February 2021 and 18 February 2023 shall be exempt from the DST. Specifically, these transactions may be exempt from the DST on all debt instruments (Section 179) and original issuance of shares of stock (Section 174), among others.

VAT or gross receipts tax (GRT) on the transfer of NPAs, whichever is applicable

Section 4(b)(4) of RR 11-2021 provided the rules of VAT-exemption on the transfer of NPAs from the FI to a FISTC and from a FISTC to a third party or dation in payment or borrower or by a third party in favor of an FI or in favor of a FISTC, as follows:

- a. If the property being transferred was intended for sale, for conversion into or intended to form part of a finished product for sale, for use as supplies in connection with trade or business, or as supplies in the sale of services, by a VAT-registered person, the input tax which can be directly attributed to the said property shall not be allowed as input tax to the transferor's other VATable activities;
- b. If the property being transferred is a capital good used in the trade or business of a VAT-registered person, the input tax on the said property shall be allocated as follows: the depreciated book value of the property over its acquisition cost, multiplied by the input tax directly attributed to the said property shall not be allowed as input tax to the transferor's other VATable activities; and
- c. The amount of the unallowable input taxes as determined in paragraphs (a) and (b) above, if previously debited to "input taxes", shall be charged back to the property.

Meanwhile, if the originators or transferors of the assets are FIs, the transactions are currently subject to GRT under Section 121(C) of the NIRC of 1997, as amended.

On the fee privileges on the transfer of NPAs

In the FIST Act, no local taxes are involved in the provisions concerning tax exemptions and fee privileges. The transfer of NPAs from the FI to the FISTC is subject to local transfer tax under the Local Government Code of 1991, as amended and as provided in the respective local revenue codes of the LGUs.

As already mentioned, the FISTC/SPV is basically the same entity as the previous SPV under RA 9182, as amended by RA 9343; thus, almost the same privileges were granted. Previously, under RA 9343, there were 184 certificates of eligibility (COE) amounting to P49.6 billion issued by the BSP⁸. From these, the transfer of NPAs from FIs to FISTC/SPV, the total revenue forgone from LRA fees is about P5 million based on Circular No. 11-2002, registration

⁸ Albano, J.M.V. (2010). Assessment of Republic Act No. 9343 entitled, "An Act Amending Republic Act No. 9182, Otherwise Known as the Special Purpose Vehicle Act of 2002 for the Purpose of Allowing the Establishment and Registration of New SPVs and for Other Purposes". *NTRC Tax Research Journal XXII* (6), 9-16.

and transfer fees imposed and collected by LRA. Thus, if the same NPAs were transferred from FISTC/SPV to a third party, there would be an additional P5 million in forgone revenues from LRA fees or a total of P10 million in revenue forgone from LRA fees. Such estimates may, more or less, be the expected revenue forgone under the Act as they provide the same incentive and the procedure of disposing of NPAs.

With regard to the charging of 50% of the filing fees for any foreclosure initiated by the FISTC/SPV in relation to any NPA acquired from an FI, it is noted that the Supreme Court (SC) had held that “the payment of legal fees under Rule 141 of the Rules of Court is an integral part of the rules promulgated by this Court pursuant to its rule-making power under Section 5(5), Article VIII of the Constitution. In particular, it is part of the rules concerning pleading, practice, and procedure in courts. Indeed, payment of legal (or docket) fees is a “jurisdictional requirement”. Since the payment of legal fees is a vital component of the rules promulgated by the SC concerning pleading, practice, and procedure, it cannot be validly annulled, changed, or modified by Congress.”⁹ Hence, legislative grants of discounts from the payment of legal fees will not stand.

Despite that banks can still tolerate the burden of continued increase on NPAs before the implantation of the FIST Act, it is hoped that the Act will resolve possible problems that may occur and will further strengthen the financial sector by efficiently disposing of their NPAs, and extending credit to more sectors in need, that will put the Philippines’ economy on a more stable path. Revenue-wise, however, considering fee privileges granted to the FISTCs and/or FIs, the Philippine government coffers may incur revenue loss from fees collected by other fee-collecting government agencies mandated to provide administrative and regulatory services to those FISTCs.

III. Conclusion

The provisions for tax exemptions and fee privileges under the FIST Act are justified to help the FIs through the provision of the necessary economic assistance to ensure their financial stability, which, in turn, can extend access to credits to more sectors disrupted by the COVID-19 pandemic, and thus stimulate economic recovery of the country. Although the implication of the tax exemptions would inevitably result in revenue loss to the government, it gives economic opportunity to the transactions made by FIs to dispose or settle their NPAs with FISTC, which would eventually positively affect the financial appetite of the said institutions. The tax exemptions in the FIST law also expedite bureaucratic processes, such as there will be no more DST requirements, among others.

However, the drawbacks of the previous SPV laws should be considered in implementing the FIST Act, wherein the intent of the SPV laws was not fully achieved due to external factors. For instance, pricing¹⁰ was one of the obstacles to the success of the previous SPV laws, as banks were unwilling to accept significant losses even though the BSP granted them deferred booking of losses over a period of 10 years. At that time, the average discount

⁹ Supreme Court of the Philippines 2010, Re: Petition for Recognition of the Exemption of the Government Service Insurance System from Payment of Legal Fees. 11 February 2010.

¹⁰ The considerable gap between the target selling price and bid price of assets marked for disposal.

rates under RA 9343 for NPA sales of banks were quite low, i.e., 50% for NPLs and 35% for ROPA.

In addition, Package 4 of the Comprehensive Tax Reform Program, otherwise to be known as the “Passive Income and Financial Intermediaries Taxation Act” could complement the FIST law since Package 4 intends to make passive income and financial intermediary taxes simpler, fairer, more efficient, and competitive regionally. It also intends to promote a capital movement that can be higher and more sustainable.

Lastly, the given tax exemptions are temporary reliefs or time-bound, performance-based, targeted, and transparent, which are consistent with the thrust of the government in redesigning the country’s tax incentives system.

Tax Implications of Republic Act No. 11697¹ - An Act Providing for the Development of the Electric Vehicle Industry*

I. Salient Features

Republic Act (RA) No. 11697, otherwise known as the “Electric Vehicle Industry Development Act” (EVIDA), aims to provide the electric vehicles (EVs) industry with an enabling environment for competitive, equitable, and non-discriminatory private sector participation, with a preference for indigenous technologies, to attain the long-term goal of energy security, energy sufficiency, and stable energy prices.

Under the law, the Comprehensive Roadmap for Electric Vehicle Industry (CREVI) was established to serve as a national development plan for the EV industry with an annual work plan to accelerate the development, commercialization, and utilization of EVs in the country. The comprehensive roadmap includes four components: (a) EVs and charging stations, (b) manufacturing, (c) research and development, and (d) human resource development.

The CREVI shall be regulated and implemented by the cooperation of government agencies, namely the Department of Energy (DOE), Energy Regulatory Commission, Department of Transportation (DOTr), Department of Trade and Industry (DTI), local government units (LGUs), Department of Public Works and Highways, Department of Science and Technology, Department of Environment and Natural Resources, and National Economic and Development Authority.

To carry out the intention of the EVIDA, fiscal incentives for the manufacturing, importation, and utilization of EVs were provided. The manufacturing of EVs would undergo an evaluation process to determine their inclusion in the Strategic Investment Priority Plan (SIPP) and possible entitlement to the incentives and for the length of time as provided under Title XIII of the National Internal Revenue Code (NIRC) of 1997 as amended by RA 11534²,

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¹ Lapsed into law on 15 April 2022 without the signature of the President, in accordance with Article VI, Section 27 (1) of the Constitution.

² Entitled, “An Act Reforming the Corporate Income Tax and Incentives System, Amending for the Purpose Sections 20, 22, 25, 27, 28, 29, 34, 40, 57, 109, 116, 204, and 290 of the National Internal Revenue Code of 1997, as Amended, and Creating Therein New Title XIII, and for Other Purposes”, 26 March 2021.

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otherwise known as the “Corporate Recovery and Tax Incentives for Enterprises (CREATE)” Act, and other applicable laws.

In addition, the DTI, through the Board of Investment (BOI), must recommend an EV incentive strategy to the Fiscal Incentives Review Board (FIRB) for approval as part of the manufacturing component of the CREVI. The incentive strategy aims to attract EV and EV parts manufacturing by narrowing the cost gap between EVs and traditional motor vehicles and setting local production targets to be achieved within eight years after the promulgation of the EV incentive strategy.

The importation of completely built units (CBUs) of EVs is entitled to an excise tax exemption under RA 10963³, otherwise known as the “Tax Reform for Acceleration and Inclusion (TRAIN)” Law. However, the tax exemption of imported electric jeepneys and electric tricycles may be suspended to protect local manufacturers. Meanwhile, imported CBUs of charging stations are exempt from payment of duties for eight years or until 2030.

The importation of capital equipment and components used in the manufacture or assembly of EVs and construction or installation of charging stations would also undergo an evaluation process to determine their inclusion in the SIPP and possible entitlement to the incentives and for the length of time.

On the utilization of EVs, users are entitled to a 30% discount for battery EVs (BEVs) and a 15% discount for hybrid EVs (HEVs) from the payment of the motor vehicle user’s charge under RA 8794⁴, otherwise known as the “Motor Vehicle User’s Charge Act”, as well as vehicle registration and inspection fees for eight years from 2022 to 2030.

Non-fiscal incentives were also provided, which shall remain in force until 2030 for EV users, manufacturers, and importers. The EV users are entitled to the following non-fiscal incentives:

- a. Priority registration and renewal of registration and issuance of a special type of vehicle plate;
- b. Exemption from the mandatory unified vehicular volume reduction program, number-coding scheme, or other similar schemes implemented by the Metropolitan Manila Development Authority, other similar agencies, and LGUs;
- c. Expeditious processing by the Land Transportation Franchising and Regulatory Board (LTFRB) of applications for the franchise to operate, including its renewal, for PUV operators that are exclusively utilizing EVs; and
- d. Availing of Technical Education and Skills Development Authority (TESDA) training programs on EV assembly, use, maintenance, and repair for its employees.

³ Entitled, “An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and Repealing Sections 35, 62, and 89; All Under Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended, and for Other Purposes”, 19 December 2017.

⁴ Entitled, “An Act Imposing a Motor Vehicle User’s Charge on Owners of All Types of Motor Vehicles and for Other Purposes”, 27 June 2000.

Moreover, the Bureau of Customs (BOC) may expedite the processing of the importation of parts and components for the manufacture and assembly of EVs. The government also allows expert foreign nationals to be employed by EV manufacturers under a form of the technology transfer agreement, subject to the guidelines that the Department of Labor and Employment (DOLE), the Professional Regulatory Commission, and the DTI shall issue.

II. Implications

The EVIDA defines EV as a vehicle with at least one electric drive for vehicle propulsion. The law also provides the definitions for BEV, HEV, light EV (LEV), and plug-in HEV (PHEV), viz.:

- a. BEV refers to an electrically propelled vehicle with only a traction battery as the power source for vehicle propulsion.
- b. HEV refers to a vehicle with both a rechargeable energy storage system and a fueled power source for propulsion;
- c. LEV refers to an EV such as electric scooters, electric bicycles, electric personal transport, and other similar vehicles weighing less than fifty kilograms; and
- d. PHEV refers to an HEV with a rechargeable energy storage system that can be charged from an external electric energy source.

To further elaborate on the classification of EVs by their components, Schröder and Iwasaki (2021) demarcated that there are different definitions of supply chains in the EV industry. Table 1 presents the various subtypes of EVs as differentiated from the components of a conventional vehicle or an internal combustion engine vehicle (ICEV).

Table 1

Components Used in ICEV and EV Subtypes

Components	ICEV	HEV	PHEV	BEV
Engine	✓	✓	✓	
Electric traction motor		✓	✓	✓
Inverter		✓	✓	✓
Traction battery		✓	✓	✓
Of which: battery cell		✓	✓	✓
Of which: battery management system		✓	✓	✓
Plug		✓	✓	✓

Note. Lifted from the Current Situation of Electric Vehicles in ASEAN, 2021. AutoDeal (n.d.) defines ICEVs as the engines typically found in today's cars that run on either gasoline or diesel. This term includes engines that run on compressed natural gas or LPG as they burn or combust the gas. There is no electric motor used in these types of powertrains or vehicles.

As mentioned earlier, the passage of the EVIDA provided the CREVI with a work plan on EVs, charging stations, manufacturing, research and development, and human resource

development. Under the CREVI, as provided by the DOE, there are two scenarios identified as target EV adoption by 2040: (a) business-as-usual and (b) clean energy. In a business-as-usual scenario, the target EV is 1.74 million from 2023 to 2040; compared to a clean energy scenario, the target EV is 6.31 million. In addition, the target number of EV charging stations (EVCS) is 41,700 for the business-as-usual scenario and 148,100 for the clean energy scenario. As observed, there is a significant increase in the EV fleet with the assumption of a 50% positive yield, but the business-as-usual scenario showed a more realistic EV estimated target, which does not exceed more than a million EVs during the three phases (see Table 2).

Table 2*Target EV Adoption and EVCS Deployment By 2040: CREVI*

Targets	Business as usual scenario: 10% EV fleet by 2040	Clean energy scenario: 50% EV fleet by 2040
Short-term (2023-2028)		
EV	311,700	2,454,200
Sedan, SUV, UV		
HEV	81,500	415,000
PHEV	13,600	69,000
BEV	13,600	69,000
Tricycle (BEV)	37,500	419,000
Motorcycle (BEV)	164,900	1,480,000
Bus (BEV)	600	2,200
EVCS	7,300	66,500
Medium-term (2029-2034)		
EV	580,600	1,851,500
Sedan, SUV, UV		
HEV	49,000	234,000
PHEV	24,600	80,000
BEV	123,000	327,000
Tricycle (BEV)	71,000	262,000
Motorcycle (BEV)	311,800	947,000
Bus (BEV)	1,200	1,500

Targets	Business as usual scenario: 10% EV fleet by 2040	Clean energy scenario: 50% EV fleet by 2040
EVCS	14,000	41,800
Long-term (2035-2040)		
EV	852,200	2,001,600
Sedan, SUV, UV		
HEV	36,600	107,000
PHEV	36,600	107,000
BEV	219,400	641,000
Tricycle (BEV)	103,400	223,000
Motorcycle (BEV)	454,400	922,000
Bus (BEV)	1,800	1,600
EVCS	20,400	39,800
Grand Total (2023-2040)		
EV	1,744,500	6,307,300
EVCS	41,700	148,100

Meanwhile, the BOI released the Electric Vehicle Industry Roadmap to promote and provide a clear, definitive objective to address industry supply chain gaps and implement market development strategies to strengthen the EV industry. The roadmap will be implemented in four phases within ten years (2014 to 2024). The first phase (2014 to 2015) is the launching of the EV program and identification of the technology required; the second phase (2016 to 2018) is the buildup of the local market and enhancement of the EV production capacity; the third phase (2019 to 2021) is the involvement of the local and export market expansion, together with horizontal and vertical integration with the local EV industry; and the fourth phase (2022 to 2024) is integration of the EV industry into the regional and global market, and the development of technological advancement and market size up.

According to the Chamber of Automotive Manufacturers of the Philippines, Inc., 2,536 EVs were sold during the 1st quarter of 2023, accounting for 2.61% of the 97,284 total automotive vehicle sales.⁵ Meanwhile, the Land Transportation Office (LTO) recorded 7,515 registered EVs in 2023, of which 1,359 are new registrations, of which 610 are motorcycles (MCs), 266 are sports utility vehicles (SUVs), and 259 are utility vehicles (UVs) (see Table 3).

⁵ Department of Trade and Industry – Board of Investment – Official Communication, June 2023.

Table 3*Electric-Motor Vehicles Registered, By Type, as of 31 December 2023*

Cars	SUVs	UVs	Truck	MC	Total
220	266	259	4	610	1,359

Note. Original Source: LTO See Annex A. Electric motor vehicles registered by region, and type as of 31 December 2023.

In terms of local EV manufacturers and their components, nine local EV manufacturers produce e-jeepney and e-trike (see Table 4), and seven are engaged in battery production and/or assembly for the EV industry (see Table 5).

Table 4*Local EV Manufacturers*

Company	Product
Philippine Utility Vehicle Corporation Inc.	e-jeepney and e-trike
Tojo Motors Corporation	e-jeepney and e-trike
Star 8 Green Technology Corporation	e-jeepney and e-trike
Le' Guider International	e-jeepney and e-trike
Global Electric Transport/Pangea Motors	e-jeepney
BEMAC Electric Transportation, Inc.	e-trike
Eclimo Electric Management, Inc.	e-trike
EV Wealth, Inc.	e-trike
Eleia Green Vehicles	e-trike

Note. Lifted from the Philippine Electric Vehicle Policy Analysis Report - Draft Report, 2019.

Table 5*Companies Engaged in Battery Production and/or Assembly*

Company name	Product /Services	Industry	Local production plant location
AcBel Polytech Philippines, Inc.	Manufacture of lithium-ion battery packs	Consumer Electronics	Laguna
Battery Philippines, Inc.	Manufacture of lead-acid batteries	Automotive, Power Industry	Bulacan
Hitachi Chemical Energy Technology Co. Ltd.	Manufacturer of valve regulated lead-acid (VRLA) batteries for export	Automotive	Cavite Economic Zone
Imarflex Battery Manufacturing Corporation	Manufacturing of lead-acid batteries	Automotive	Pasig
Lead Core Technology System, Inc.	Assembly and/or distribution of customized battery packs, utilizing VRLA, vented type lead acid (VTLA), nickel-cadmium, and lithium-ion batteries	Marine, Telecommunications, Power, IT, Cargo Movement	Valenzuela City, Quezon City, Subic, Pampanga
People's International Enterprises	Assembly and/or distribution of off-the-shelf and/or customized battery packs, utilizing VRLA, VTLA, nickel-cadmium, and lithium-ion batteries	Marine, Telecommunications, Power, IT, Cargo Movement	Valenzuela
Standard Manufacturing Company, Inc.	Manufacture of lead-acid batteries	Automotive	Valenzuela

Note. Lifted from the Philippine Electric Vehicle Policy Analysis Report - Draft Report, 2019

Moreover, 11 EV operators are registered with the Cooperative Development Authority (CDA) and/or DOTr – Office of Transportation Cooperatives (OTC), of which six are located in Region XII – General Santos City, with 74 electric modernized public utility vehicles (MPUV) Class 1 and 2 units (see Table 6).

Table 6*EV Operators in the Philippines, 2023*

No.	Name of transport cooperatives	Registered with		Region	Type of units	No. of units
		CDA	OTC			
1	Lagao Drivers Operators Transport Cooperative	✓	✓	Region XII – General Santos City	Electric MPUV Class 1&2	41
2	Metro Gensan Transport Cooperative	✓	✓	Region XII – General Santos City	Electric MPUV Class 1&2	26
3	Makilala Transport Cooperative	✓	✓	Region XII – Cotabato	Electric MPUV Class 1	3
4	Modelong Tricycle Drivers in Gensan Transport Cooperative	✓	✓	Region XII – General Santos City	Electric MPUV Class 1	5
5	Aponong Lagao JOD Transport Cooperative		✓	Region XII – General Santos City	Electric MPUV Class 2	2
6	Fatima Airport Transport Cooperative	✓		Region XII – General Santos City	n.d.a.	n.d.a.
7	Rajah Buayan Transport Cooperative	✓		Region XII – General Santos City	n.d.a.	n.d.a.
8	Electric Vehicle Operators Transport Service Cooperative	✓		Region III – Angeles City	n.d.a.	n.d.a.
9	Metro Naga Electric Vehicle Transport Service Cooperative	✓		Region V – Naga City	n.d.a.	n.d.a.
10	Libmanan Electric Transport Cooperative	✓		Region V – Libmanan	n.d.a.	n.d.a.
11	Lipeños Multicab Transport Service and Multipurpose Cooperative	✓		Region IV-A – Lipa City	n.d.a.	n.d.a.

*n.d.a – no data available

Note. Sources of basic data gathered from DOTr – OTC official communication, March 2023, and CDA official communication, March 2023.

Meanwhile, the implementing rules and regulations (IRR) of the EVIDA was approved on 02 September 2022 and became effective 15 days after its publication in the Official Gazette or a newspaper of general circulation and its filing with the University of the Philippines Law Center – Office of the National Administrative Register. The IRR gave the DOE, DOTr, and the DTI the authority to implement the EVIDA and regulate the EV industry. The EVIDA and

the adoption of the CREVI would serve as the backbone for developing the EV industry in the country.

The enactment of the EVIDA addresses the high acquisition costs, underdeveloped domestic EV industry, limited charging infrastructure, and lack of plans for social integration, which are the identified barriers of the EV industry (Ha and Manongdo, 2021).

Under the IRR of the EVIDA, any activities in relation to EVs will undergo an evaluation process to determine their inclusion in the SIPP and will be entitled to the incentives and for the length of time as provided under EO No. 226, otherwise known as the “Omnibus Investments Code of 1987”, as amended by the CREATE Act, and other applicable laws: (a) manufacture and assembly of EVs, EVCS, batteries, and parts and components; and (b) the establishment and operations of EVCS and other related support infrastructure such as R&D centers, training centers, testing centers, and waste treatment facilities.

Section 28 of the IRR of the EVIDA requires the DTI through the BOI to recommend an EV incentive strategy to the FIRB for approval and as part of the manufacturing component of the CREVI, which is similar to the Compressive Automotive Resurgence Strategy Program under EO No. 182, series of 2015. The incentives strategy shall:

- a. Narrow the cost gap between EVs and traditional motor vehicles and enable the shift of the local conventional motor vehicle industry to EVs: *Provided*, That the same shall include the utilization of government subsidies to entice users to shift to EVs consistent with the CREVI immediately;
- b. Provide time-bound, targeted, performance-based, and transparent fiscal and non-fiscal support to attract EV and EV parts manufacturing, particularly electronic parts and other strategic components, batteries, EVCS, and the establishment of testing facilities; and
- c. Set local production targets to be achieved within eight years from promulgating the EV incentives strategy, subject to extension as determined by the DTI.⁶

In terms of importation, Section 29 of the IRR of the EVIDA law provided incentives (i.e., excise tax exemption) for the importation of CBUs of EVs under the TRAIN Law. However, the said incentives for imported electric jeepneys and electric tricycles may be suspended by the Department of Finance to protect local manufacturers upon the recommendation of the DTI. It is noted that the importation of CBUs of EVCS is exempt from the payment of duties for eight years from the effectivity of the EVIDA.

Incidentally, from 2018 to 2022, the BOC recorded P1.94 billion for the total importation collection for EVs, parts, and components, of which P1.43 billion is value-added tax (VAT) collection, followed by import duty at P0.50 billion, and excise tax collection at P9.66 million (see Table 7).

⁶ The DTI through the BOI shall establish the application and selection process for enrollment and qualification of participants, imposing such terms and conditions as it may deem necessary to promote the objectives of the incentive strategy: *Provided*, that registered participants shall not be allowed to register the same activity or product under any other program granting incentives.

Table 7

*Importation of EVs, Parts, and Components by HS Code, 2018 to 2022
(Amounts in Million Pesos)*

HS Code	Description	Duty	VAT	Excise
85.37	Boards, panels, consoles, desks, cabinets, and other bases equipped with two or more apparatus of heading 85.35 or 85.36 for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17.			
85.37.10	For voltage not exceeding 1,000 V	325.36	1,313.58	-
87.02	Motor vehicles for the transport of ten or more persons, including the driver.			
87.02.40	With only electric motor for propulsion	4.48	11.40	-
87.03	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars.			
87.03.60	Other vehicles, with both spark-ignition internal combustion piston engine and electric motor as motors for propulsion, capable of being charged by plugging to an external source of electric power.	16.69	17.77	7.74
87.03.70	- Other vehicles, with both compression-ignition internal combustion piston engine (diesel or semi-diesel) and electric motor as motors for propulsion, capable of being charged by plugging to an external source of electric power.	140.49	77.32	1.92
87.04	Motor vehicles for the transport of goods.			
87.04.60	Other, with only electric motor for propulsion	1.47	3.10	-
87.11	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars.			
87.11.60	With electric motor for propulsion	14.40	8.90	-
	Total	502.89	1,432.07	9.66

Note. Source of basic data gathered from the BOC, 2023.

The VAT exemption for the importation of EV parts and their related components must qualify and undergo an evaluation procedure through the investment promotion agency or to

the FIRB to be entitled to fiscal and non-fiscal incentives under the NIRC of 1997, as amended by the CREATE Act. Thus, the P1.43 billion collection of the VAT in importing EV parts and its related components is not an automatic revenue foregone for the NG. In addition, purely EVs are exempt from excise tax under the NIRC of 1997, as amended.

The IRR of the EVIDA also provides for the importation of capital equipment and components used in the manufacture or assembly of EVs and the construction or installation of EVCS. But before the issuance of the IRR of the EVIDA law, the said importation of such items was already included in Tier II of the 2022 SIPP, which was published on the 27 May 2022 issue of the Daily Tribune, and effective 15 days after publication on 11 June 2022 by virtue of Memorandum Order No. 61 s. 2022.

Tier II of the 2022 SIPP included green ecosystems activities covering EV assembly (e.g., pure EV, PHEV, HEV, fuel cell EV), manufacture of EV parts, components, and systems, and establishment and operation of EV infrastructure. The eligible activities may avail the following fiscal incentives depending on the location and market orientation:

- a. Four to seven years of income tax holiday (ITH);
- b. Five years of enhanced deductions (ED) for domestic market activities or 10 years of ED or special corporate income tax (SCIT) for export-oriented enterprises of all national and local taxes;
- c. Duty exemption on importation of capital equipment, raw materials, spare parts, or accessories; and
- d. VAT exemption on the importation and VAT zero-rating on local purchases.

Table 8 shows the eligible incentives under Tier I and Tier II of the SIPP under the NIRC of 1997, as amended by the CREATE Act.

Table 8*Fiscal Incentives of the Tier I and Tier II of the SIPP*

Location	Tier I		Tier II	
	Domestic market activities	Export market activities	Domestic market activities	Export market activities
NCR	9	14	10	15
	(4 years of ITH and 5 years of ED)	(4 years of ITH and 5 years of ED)	(5 years of ITH and 5 years of ED)	(5 years of ITH and 10 years of ED/SCIT)
Metropolitan areas and areas outside of and contiguous or adjacent to NCR	10	15	11	16
	(5 years of ITH and 5 years of ED)	(5 years of ITH and 10 years of ED/SCIT)	(6 years of ITH and 5 years of ED)	(6 years of ITH and 10 years of ED/SCIT)
All other areas	11	16	12	17
	(6 years of ITH and 5 years of ED)	(6 years of ITH and 10 years of ED/SCIT)	(7 years of ITH and 5 years of ED)	(7 years of ITH and 10 years of ED/SCIT)

Note. For export enterprises, the export of at least 70% of their total production or output.

The EVIDA provides the following non-fiscal incentives for the EV industry: (a) expedited processing by the LTO, LTFRB, and BOC; (b) exemption of EV units from vehicular volume reduction schemes; (c) discounted fees for the motor vehicle user's charge; and (d) designation of dedicated parking slots, with charging stations for EV's in private and public building and establishments.

Lastly, the NG is continuously supporting the development of the EV industry, which the President issued EO 12 on 13 January 2023, which temporarily reduces or eliminates the Most-Favored Nations (MFN) tariffs rates on the importation of certain EVs (see Annex B). Reducing the tariff rates would also reduce the acquisition cost of EVs and encourage consumers to adopt EVs, which will eventually realize the targets in the CREVI.

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Annex A*Electric-Motor Vehicles Registered, By Region and Type,
as of 31 December 2023*

Region	Cars	SUV	UV	Truck	MC	Total
I		1				1
II					19	19
III	18	26	5		3	52
IV-A	10	35	19		277	341
IV-B	1				5	6
V		1			12	13
VI		2			140	142
VII	6	29	14			49
VIII			10		2	12
IX						0
X	2				1	3
XI	5					5
XII			50			50
NCR	178	166	161	4	151	660
CAR		6				6
Total	220	266	259	4	610	1,359

Source: Official Communication, 2024

Note. CARAGA has no recorded registered electric motor vehicle for 2023.

Annex B*Modified Rates of Import Duty on Electric Vehicles, Parts, and Components*

Heading No.	AHTN 2022 Code	Description	MFN Rate of Duty (%)	
			For 5 years from the date of effectivity	After the 5 th year
(1)	(2)	(3)	(4)	(5)
85.37		Boards, panels, consoles, desks, cabinets, and other bases equipped with two or more apparatus of heading 85.35 or 85.36 for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17.		
	8537.10	- For a voltage not exceeding 1,000V:		
		-- Other:		
	8537.10.91	--- X X X		
	8537.10.92	--- X X X		
	8537.10.99	--- Other	1	5
	8537.20	- X X X		
	to			
	8537.20.90			
87.02		Motor vehicles for the transport of 10 or more persons, including the driver.		
	8702.10	- X X X		
	to			
	8702.30.99			
	8702.40	- With only an electric motor for propulsion		
		-- X X X		
	8702.40.10	--- X X X		
	to			

Heading No.	AHTN 2022 Code	Description	MFN Rate of Duty (%)	
			For 5 years from the date of effectivity	After the 5 th year
(1)	(2)	(3)	(4)	(5)
	8702.40.49			
		-- Other:		
	8702.40.50	--- Motor cars (including stretch limousines but not including coaches, buses, minibuses, or vans)	0	20
		--- Other, for the transport of 30 persons or more and specially designed for use in airports:		
	8702.40.61	---- Of a g.v.w. exceeding 24t	0	20
	8702.40.69	---- Other	0	20
		--- Other motor coaches, buses or minibuses:		
	8702.40.71	---- Of a g.v.w. exceeding 24t	0	20
	8702.40.79	---- X X X		
		--- Other:		
	8702.40.91	---- Of a g.v.w. exceeding 24t	0	20
	8702.40.99	---- Other	0	20
	8702.90	- X X X		
	to			
	8702.90.90.900			
87.03		Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars		
	8703.10	- Vehicles specially designed for traveling on snow; golf cars and similar vehicles:		
	8703.10.10	-- Golf cars (including gold buggies) and similar vehicles:		

Heading No.	AHTN 2022 Code	Description	MFN Rate of Duty (%)	
			For 5 years from the date of effectivity	After the 5 th year
(1)	(2)	(3)	(4)	(5)
	8703.10.10.100	--- Electric vehicles	0	30
	8703.10.10.900	--- Other	30	30
	8703.10.90	-- Other:		
	8703.10.90.100	--- Electric vehicles	0	30
	8703.10.90.900	--- Other	30	30
		- X X X		
	8703.21	-- X X X		
	to			
	8703.70.97			
	8703.80	- Other vehicles, with only electric motor for propulsion:		
		-- X X X		
	8703.80.11	--- X X X		
	to			
	8703.80.19	-- Other		
	8703.80.91	--- Go-karts	0	30
	8703.80.92	--- All-Terrain Vehicles (ATV)	0	30
	8703.80.93	--- Ambulances	0	30
	8703.80.94	--- Hearses	0	30
	8703.80.95	--- Prison vans	0	30
	8703.80.96	--- Motor-homes	0	30
	8703.90.97	--- Sedan	0	30

Heading No.	AHTN 2022 Code	Description	MFN Rate of Duty (%)	
			For 5 years from the date of effectivity	After the 5 th year
(1)	(2)	(3)	(4)	(5)
	8703.90.98	- - - Other motor cars (including station wagons and sports cars, but not including vans)	0	30
	8703.80.99	- - - Other:		
	8703.80.99.100	- - - - X X X		
	8703.80.99.900	- - - - X X X		
	8703.90	- X X X		
	to			
	8703.90.99.900			
87.04		Motor vehicles for the transport of goods		
	8704.10	- Dumpers designed for off-highway use:		
		- - X X X		
	8704.10.13	- - - X X X		
	to			
	8704.10.18			
		- - Other:		
	8704.10.31	- - - g.v.w. not exceeding 5 t		
	8704.10.31.100	- - - - Electric vehicles	0	3
	8704.10.31.900	- - - - Other	3	3
	8704.10.32	- - - g.v.w. exceeding 5 t but not exceeding 10 t:		
	8704.10.32.100	- - - - Electric vehicles	0	3
	8704.10.32.900	- - - - Other	3	3
	8704.10.33	- - - g.v.w. exceeding 10 t but not exceeding 20 t:		

Heading No.	AHTN 2022 Code	Description	MFN Rate of Duty (%)	
			For 5 years from the date of effectivity	After the 5 th year
(1)	(2)	(3)	(4)	(5)
	8704.10.33.100	---- Electric vehicles	0	3
	8704.10.33.900	---- Other	3	3
	8704.10.34	--- g.v.w. exceeding 20 t but not exceeding 24 t:		
	8704.10.34.100	---- Electric vehicles	0	3
	8704.10.34.900	---- Other	3	3
	8704.10.35	--- g.v.w. exceeding 24 t but not exceeding 38 t:		
	8704.10.35.100	---- Electric vehicles	0	3
	8704.10.35.900	---- Other	3	3
	8704.10.36	--- g.v.w. exceeding 38 t but not exceeding 45 t:		
	8704.10.36.100	---- Electric vehicles	0	3
	8704.10.36.900	---- Other	3	3
	8704.10.37	--- g.v.w. exceeding 45 t:		
	8704.10.37.100	---- Electric vehicles	0	3
	8704.10.37.900	---- Other	3	3
		- X X X		
	8704.21	-- X X X		
	to			
	8704.52.99			
	8704.60	- Other, with only an electric motor for propulsion		
		-- X X X		
	8704.60.11	--- X X X		
	to			

Heading No.	AHTN 2022 Code	Description	MFN Rate of Duty (%)	
			For 5 years from the date of effectivity	After the 5 th year
(1)	(2)	(3)	(4)	(5)
	8704.60.19			
		-- Other, g.v.w. not exceeding 5 t:		
	8704.60.21	--- Pick-up trucks	0	30
	8704.60.22	--- Three-wheeled vehicles	0	30
	8704.60.29	--- Other:		
	8704.60.29.100	---- X X X		
	8704.60.29.900	---- Other	0	30
		-- Other:		
	8704.60.91	--- g.v.w. exceeding 5 t but not exceeding 10 t:		
	8704.60.91.100	---- X X X		
	8704.60.91.900	---- Other	0	30
	8704.60.92	--- g.v.w. exceeding 10 t but not exceeding 20 t:		
	8704.60.92.100	---- X X X		
	8704.60.92.900	---- Other	0	30
	8704.60.93	--- g.v.w. exceeding 20 t but not exceeding 45 t:		
	8704.60.93.100	---- X X X		
	8704.60.93.900	---- Other	0	30
	8704.60.94	--- g.v.w. exceeding 45 t:		
	8704.60.94.100	---- X X X		
	8704.60.94.900	---- Other	0	30
	8704.90	- X X X		
	to			

Heading No.	AHTN 2022 Code	Description	MFN Rate of Duty (%)	
			For 5 years from the date of effectivity	After the 5 th year
(1)	(2)	(3)	(4)	(5)
	8704.90.95.900			
87.11		Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars.		
	8711.10	- X X X		
	to			
	8711.50.90			
	8711.60	- With electric motor for propulsion:		
		-- X X X		
	8711.60.11	--- X X X		
	to			
	8711.60.19	-- Other:		
	8711.60.92	--- Kick scooters; self-balancing cycle; pocket motorcycles	0	30
	8711.60.93	--- X X X		
	8711.60.94	--- Bicycles with an auxiliary electric motor not exceeding 250 W and with a maximum speed not exceeding 25 km/h	0	30
	8711.60.95	--- X X X		
	8711.60.99	--- Other:		
	8711.60.99.100	---- X X X		
	8711.60.99.900	---- Other	0	30
	8711.90	- X X X		
	to			
	8711.90.90.900			

**LEGISLATION AND ISSUANCES WITH
REVENUE OR TAX IMPLICATIONS
January – February 2024**

REPUBLIC ACT (RA)

Legislation	Subject	Date of Issue	Date of Effectivity
RA 11976	Introducing Administrative Tax Reforms, Amending Sections 21, 22, 51, 56, 57, 58, 76, 77, 81, 90, 91, 103, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 128, 200, 204, 229, 235, 236, 237, 238, 241, 242, 243, 245, 248, and 269; and Repealing Section 34(K) of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes	05 January 2024	Fifteen days after its publication in the Official Gazette or in a newspaper of general circulation
RA 11977	Establishing in the Municipality of Floridablanca, Province of Pampanga, a Campus of the Pampanga State Agricultural University, to be Known as the “Pampanga State Agricultural University-Floridablanca Campus”, and Appropriating Funds Therefor	15 February 2024	Fifteen days after its publication in the Official Gazette or in a newspaper of general circulation
RA 11978	Establishing a College of Medicine in the Don Mariano Marcos Memorial State University – South La Union Campus Located in the Municipality of Agoo, Province of La Union, to be Known as the Don Mariano Marcos Memorial State University – South La Union Campus – College of Medicine, and Appropriating Funds Therefor	15 February 2024	Fifteen days after its publication in the Official Gazette or in a newspaper of general circulation
RA 11979	Converting the Campus of the Polytechnic University of the Philippines Located in the City of Paranaque, Into a Regular Campus of the Polytechnic	15 February 2024	Fifteen days after its publication in the Official

Legislation	Subject	Date of Issue	Date of Effectivity
	University of the Philippines, to be Known as the Polytechnic University of the Philippines-Paranaque City Campus, and Appropriating Funds Therefor		Gazette or in a newspaper of general circulation
RA 11980	Strengthening the Bulacan State University, Expanding Its Curricular Offerings and the Composition of the Governing Board, and Appropriating Funds Therefor	15 February 2024	Fifteen days after its publication in the Official Gazette or in a newspaper of general circulation
RA 11981	Mandating the Formulation, Funding, Implementation, Monitoring, and Evaluation of a Comprehensive and Multi – Year “Tatak Pinoy” (Proudly Filipino) Strategy, Establishing a Tatak Pinoy Council, Appropriating Funds Therefor, and for Other Purposes	26 February 2024	Fifteen days after its publication either in the Official Gazette or in at least two newspapers of general circulation

REVENUE REGULATIONS (RR)

Issuance	Subject	Date of Issue	Date of Effectivity
RR 1-2024	Further Amending Section 2, Sub-section 4.109-1(B)(p) of Revenue Regulations No. 4-2021, as Amended by Revenue Regulations No. 8-2021, to Implement the Adjustment of the Selling Price Threshold of the Sale of House and Lot, and Other Residential Dwellings for Value-Added Tax Exemption Purposes	15 January 2024	Fifteen days after its publication in the Official Gazette or in a newspaper of general circulation, whichever comes first

Issuance	Subject	Date of Issue	Date of Effectivity
RR 2-2024	Prescribing the Policies and Guidelines for the Publication of Revenue Issuances and Other Information Materials of the BIR Pursuant to Section 245(i) of the National Internal Revenue Code, as Amended, by Republic Act No. 11976, Otherwise Known as the “Ease of Paying Taxes”	02 February 2024	Fifteen days after publication in the Official Gazette or in a newspaper of general circulation

REVENUE MEMORANDUM ORDER (RMO)

Issuance	Subject	Date of Issue	Date of Effectivity
RMO 4-2024	Creation of Alphanumeric Tax Code (ATC) for Creditable Withholding Tax on Gross Remittances Made by Electronic Marketplace Operators and Digital Financial Services Providers to Sellers/Merchants	05 February 2024	Immediately

REVENUE MEMORANDUM CIRCULAR (RMC)

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 1-2024	Erroneous Inclusion of Penalties by NGAs in Electronic Tax Remittance Advice	09 January 2024	Immediately
RMC 3-2024	Circularizing Republic Act No. 11976, Otherwise Known as the “Ease of Paying Taxes Act” and the Veto Message of President Ferdinand R. Marcos Jr.	10 January 2024	-

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 5-2024	Further Clarifying the Proper Tax Treatment of Cross-Border Services in Light of the Supreme Court En Banc Decision in <i>Aces Philippines Cellular Satellite Corp. v. Commissioner of Internal Revenue</i> , G.R. No. 226680, dated August 30, 2022	10 January 2024	Immediately
RMC 7-2024	Reversion of Value-Added Tax Exemption of Transactions Specified Under Section 109 (BB) of the National Internal Revenue Code (Tax Code) of 1997, as Amended	11 January 2024	Immediately
RMC 8-2024	Clarifying the Provisions of Revenue Regulations No. 16-2023 Imposing Withholding Tax on Gross Remittances Made by Electronic Marketplace Operators and Digital Financial Services Providers to Sellers/Merchants	15 January 2024	-
RMC 9-2024	Surcharge Computed in the Filing of an Amended Return in the Electronic Filing and Payment System (eFPS)	15 January 2024	Immediately
RMC 10-2024	Announcing the Availability of Branch Account Registration in Online Registration and Update System (ORUS)	22 January 2024	Immediately
RMC 11-2024	Clarifying the Tax Treatment of Lease Accounting by Lessees Under Philippine Financial Reporting Standard 16 in Relation to Sections 34(A), 34(K), 106, 108, 179, 194 of the Tax Code, as Amended, Revenue Regulations (RR) No. 19-86, as Amended, and RR No. 02-98, as Amended	22 January 2024	Immediately
RMC 12-2024	Clarifying the Treatment of Foreign Currency Transactions for Financial Reporting and Internal Revenue Tax Purposes	22 January 2024	Immediately

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 13-2024	Clarifying the Treatment of Retirement Benefits Expense for Financial Reporting and Tax Purposes	22 January 2024	Immediately
RMC 14-2024	Payment of Annual Registration Fee Pursuant to Republic Act No. 11976, Otherwise Known as the “Ease of Paying Taxes Act”	24 January 2024	Immediately
RMC 15-2024	Temporary Use of BIR Form No. 0605 for the Remittance of Creditable Withholding Tax by Joint Ventures/Consortiums Under Revenue Regulations No. 14-2023	25 January 2024	-
RMC 16-2024	Extending the Deadline for the Submission of Alphabetical List of Employees/Payees from Whom Taxes Were Withheld	26 January 2024	-
RMC 17-2024	Publishing the Full Text of the November 29, 2023 Letter from the Food and Drug Administration (FDA) of the Department of Health (DOH) Endorsing Updates to the List of VAT-Exempt Products Under Republic Act No. 10963 (TRAIN Law) and RA 11534 (CREATE Act)	26 January 2024	-
RMC 18-2024	Availability of BIR Form Nos. 1700 and 2000 in the Electronic Filing and Payment System	31 January 2024	-
RMC 19-2024	Clarifying the Tax Treatment of Interest Expense Paid or Incurred on Indebtedness in Connection with the Taxpayer’s Profession, Trade or Business and Other Related Matters	05 February 2024	Immediately
RMC 21-2024	Clarification on the Answer to Question No. 31 of Revenue Memorandum Circular No. 49-2022 in Relation to Revenue Regulations No. 4-2022,	07 February 2024	Immediately

Issuance	Subject	Date of Issue	Date of Effectivity
	Implementing Section 295(F) of the National Internal Revenue Code (Tax Code) of 1997, as Amended by Republic Act (RA) No. 11534, Otherwise Known as the Corporate Recovery and Tax Incentives for Enterprises Act or CREATE Act		
RMC 22-2024	Availability of BIR Form No. 17022-EX January 2018 (ENCS) v2 in the Electronic Filing and Payment System	12 February 2024	Immediately
RMC 23-2024	Availability of BIR Form No. 1701A in the Electronic Filing and Payment System	12 February 2024	Immediately
RMC 25-2024	Amending the Pertinent Provisions of Revenue Memorandum Circular No. 16-2024 Extending the Deadline of Submission of Alphabetical List of Employees/Payees from Whom Taxes Were Withheld	13 February 2024	Immediately
RMC 26-2024	Availability of BIR Form Nos. 2200-AN, 2200-A, and 2200-T in the Electronic Filing and Payment System	13 February 2024	Immediately
RMC 27-2024	Updated Checklist of Documentary Requirements for BIR Registration-Related Frontline Services	20 February 2024	-
RMC 29-2024	Extension of the Deadline for the Submission of the Certificate of Compensation Payment/Tax Withheld (BIR Form No. 2316) and Clarifications in Relation Thereof	26 February 2024	-
RMC 30-2024	Entry into Force, Effectivity and Applicability of the Philippines-Brunei Double Taxation Agreement	26 February 2024	-
RMC 33-2024	Availability of Additional Functionalities of the Contact Center Solution and Chatbot Revie	24 January 2024	-

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 35-2024	Policies and Guidelines for Brand Registration and the Submission of Packaging Labels and Product Composition/Formulation Sheet as an Additional Requirement for Proper Tax Classification of Vapor Products Pursuant to Section 4 (C) of Revenue Regulations No. 14-2022	21 February 2024	Immediately
RMC 37-2024	Availability of TIN Inquiry Thru Electronic Mail (eMail)	19 February 2024	-
RMC 40-2024	New and Upgraded Internal Revenue Stamp Design for Cigarettes, Heated Tobacco Products, and Vapor Products	21 February 2024	-
RMC 41-2024	Policies and Guidelines on the Launching of the 4th Generation Internal Revenue Stamps for Purposes of Ordering and Inventory Planning of Importers and Local Manufacturers of Cigarettes and Heated Tobacco Products, and Vapor Products	21 February 2024	-

OTHERS

Issuance	Subject	Date of Issue	Date of Effectivity
DOF Department Circular No 001-2024	Supplemental Guidelines on the Grant of Relief on Surcharges and Interests on Local Tax on Transfer of Real Property Ownership	19 January 2024	Shall take effect upon its filling with the Office of the National Administrative Register of the University of the Philippines Law Center

Issuance	Subject	Date of Issue	Date of Effectivity
Local Budget Circular No. 154¹	Guidelines on the Release and Utilization of the Local Government Support Fund-Support to the Barangay Development Program (LGSF-SBDP) of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) Under the FY 2024 General Appropriations Act (GAA), Republic Act (RA) No. 11975	06 February 2024	Immediately after its publication
Local Budget Circular No. 155²	Guidelines on the Release and Utilization of the Local Government Support Fund-Financial Assistance to Local Government Units under the FY 2024 General Appropriations Act, Republic Act No. 11975	15 February 2024	Immediately after its publication
DBM-DILG JMC No. 1, s. 2024³	Policy Guidelines on Procedures in the Implementation of the Local Government Support Fund – Support and Assistance Fund to Participatory Budgeting (LGSF-SAFB) Under the FY 2024 General Appropriations Act (GAA), Republic Act No. 11975	21 February 2024	Fifteen calendar days after its publication
Bureau of Customs (BOC) Customs Administrative Order No. 01-2024	Customs Dues, Fees, and Charges	-	Thirty days after its complete publication at the Official Gazette or in a newspaper of national circulation
BOC Customs Memorandum	Imposition of Provisional Safeguard Duty on the Importation of Liquefied	12 February 2024	-

¹<https://www.dbm.gov.ph/wp-content/uploads/Issuances/2024/Local-Budget-Circular/LOCAL-BUDGET-CIRCULAR-NO-154-DATED-FEBRUARY-6-2024.pdf>

²<https://www.dbm.gov.ph/wp-content/uploads/Issuances/2024/Local-Budget-Circular/LOCAL-BUDGET-CIRCULAR-NO-155-DATED-FEBRUARY-15-2024.pdf>

³<https://www.dbm.gov.ph/index.php?view=article&id=2618:joint-memorandum-circular-no-1-s-2024-dbm-dilg&catid=336>

Issuance	Subject	Date of Issue	Date of Effectivity
Circular No. 30-2024	Petroleum Gas (LPG) Steel Cylinder from Various Countries with Safeguard Measure Case No. SG01-2023 Under Department of Trade and Industry Department Administrative Order No. 23-04, Series of 2023		

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