Doing Business Guide

The Philippines

1st Edition

Villaruz, Villaruz & Co., CPAs

www.villaruz.com.ph

An independent member of
Morison International

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About This Booklet

This booklet is produced by Villaruz, Villaruz & Co., CPAs for the benefit of its clients and associate offices worldwide who are interested in doing business in The Philippines.

Its main purpose is to provide a broad overview of the various things that should be considered by organisations considering setting-up business in The Philippines.

The information provided cannot be exhaustive and – as the underlying legislation and regulations are subject to frequent changes – we recommend anyone considering doing business in The Philippines or looking to the area as an opportunity for expansion should seek professional advice before making any business or investment decision.

Contact us:

Villaruz, Villaruz & Co., CPAs
Units 2&3, 9th Floor Galleria Corporate Center,
EDSA corner Ortigas Avenue,
Quezon City 1100,
Metro Manila,
The Philippines

T: +632 638 3099
F: +632 687 4787
E: gvvillaruz@villaruz.com.ph
www.villaruz.com.ph

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Introduction

History

The history of the Philippines began in the thirteenth century when 10 datus (chieftains) from Borneo, together with 100 kinsmen, each settled in what is now known as the Island of Panay in the Visayas. In 1521, it became a Spanish colony when Ferdinand Magellan discovered the islands, which were known to the Western world during the sixteenth century. The colonisation was mainly political and religious; Spain ruled the country for more than 300 years. Philippine independence was proclaimed on 12 June 1898, following a revolution against Spain. However, the Philippines was then ceded to the USA following the Spanish–American War by means of the Treaty of Paris in 10 December 1898. For the next 48 years, the country was under US rule and English became the language of government, commerce and education. The Americans introduced a system of free education, as well as democratic traditions and application of laws and principles of government.

In 1935, the country became a self-governing commonwealth. Manuel Quezon, the elected president, was tasked to prepare the country for independence after a 10-year transition. However, in 1941, the Japanese occupied the islands; US and Filipino forces fought to regain control at the height of World War II, in 1944–45. The Philippines then became the showcase of democracy in Asia, with peaceful transition of power through many successive presidents. However, on 21 September 1972, martial law was declared by President Marcos, who promulgated a new Constitution in 1973 that prolonged his stay in power. He ruled as a virtual dictator within a system of constitutional authoritarianism whereby political rivals were jailed, Congress was dismissed and media critics were silenced.

On 21 August 1983, his arch-rival, former Senator Benigno 'Ninoy' Aquino, returning home from 3 years of self-exile abroad, was shot dead at the airport by a military assassin. This provoked a revolution among the Filipino people which finally toppled the dictatorship in February 1986, installing in its place the Philippines' first female president, Corazon 'Cory' Aquino. After four presidential successions, Benigno 'Pnoy' Aquino III, the son of Cory and Ninoy Aquino, is the current president.

Geography, climate and demographics

The Philippine Archipelago is composed of 7,107 islands located at the southeastern coast of mainland Asia. It is bordered to the west by the West Philippine Sea, to the north by the South China Sea, to the east by the Pacific Ocean, and to the south by the Celebes Sea and coastal waters of Borneo. It is divided into three geographical regions: Luzon, Visayas and Mindanao. It has a land area of approx. 300,000 km^2, with a varied topography composed of vast arable lands, mountain regions, a coastline extending to more than 15,000 km and some 60 natural harbours. It has an average temperature of 75–87°F (24–31°C); the northern half of the country experiences cooler, mild weather from November to February, the hot and dry season from March through May, and the rainy season from July to October. The southern half of the country has a more changeable climate and is now affected by tropical storms due to climate change, with humidity ranging from 71% in March to 85% in September and average rainfall of 305 cm.

Manila is the capital city and the country's major commercial port, while Makati is the central financial business district where most of the national and multinational companies operate. International commercial ports outside Manila can be found in Batangas and Subic for the Luzon Region, Cebu and Iloilo for the Visayas Region, and Davao City in Mindanao Region.

The population of the Philippines (just under 100 million, as of September 2013) is ranked 12th and represents 1.4% of the world population, with a steady growth rate of 1.9% (based on 2010 census results from the Philippines National Statistics Office). It has a favourable demographic: over 61% of the population are aged 15–64 years and 35% aged 0–14 years, with a median age of only 22 years. In the long term, the large growing population can offer a sustainable demand-based economy, one of the key determinants of future economic growth. The metropolitan Manila area is composed of 16 cities with an overall population of almost 12 million. However, the entire Greater Manila urban area, which extends beyond the boundaries of Metro Manila, has an estimated population of 25 million.

The indigenous population of the Philippines' is a mixture primarily of Indo-Malay, Chinese, and Spanish and composed of various ethnic groups mainly by Tagalog (28.1%), Cebuano (13.1%), Ilocano (9%), Bisaya (7.6%), Hiligaynon (7.5%), Bikol (6%), Waray (3.4%) and others (25.3%). Aetas, an indigenous dark-skinned people, form a minority. About 60% of the population is of working age (15–64 years), and the male/female is roughly equal.

The national language is Filipino, which is based on the Tagalog language. Filipino and English are the official languages in government, business and education. There are also some 120–170 distinct indigenous Philippine dialects, a dozen of which are classified as official regional languages with over 1 million speakers. Christianity is the main religion, with Roman Catholicism making up the majority of the population. Other religions include Islam, Buddhism and Hinduism.

The Philippine education system draws upon both Western and Eastern ideologies, being influenced by the USA and Spain as well as by its neighbouring Asian countries. Philippine students enter public school at about age 4, starting from nursery school up to kindergarten. Elementary school (ages 6–7 years) is followed by 4 years in high school and 2 years in senior high school. Following college entrance examinations, students may attend university for 3–5 years. Other types of schools include private schools, preparatory schools, international schools, laboratory high schools, and science high schools. The school year starts in June and ends in March, with a 2-month summer break from April to May, 1 week's break in October, and a week or two for the Christmas/New Year holidays.

Political system

The Philippines is a democratic republican state with a presidential form of government consisting of executive, legislative, and judicial branches:

- The **Executive Branch** is headed by the President, and responsible for appointing the cabinet members who head the executive departments, bureaus and offices. The President has the control of these offices, exercises general supervision over the local governments, and ensures that laws are faithfully executed

- The **Legislative Branch** is vested in the Congress, a bicameral body composed of the Senate with 24 Senators and the House of Representatives with not more than 250 members, unless otherwise provided by the law, except to the extent reserved to the people by the provision of initiative and referendum.
- The **Judiciary Branch** consists of a hierarchy of courts, headed by the Supreme Court, with a Chief Justice and 14 Associate Justices.

Local government is divided into:

- Provinces, each headed by a governor
- Cities and municipalities, headed by a mayor and divided into barangays (the smallest unit of local government, headed by a barangay captain).

These units are autonomous and responsible for providing social services, and are empowered to impose limited local taxes and fees.

Legal system

Philippine law is a combination of Anglo-American Law, Roman Law, Spanish Law and indigenous customs and traditions of the Filipino people. The Constitution of 1987 is the fundamental law of the land.

Sources of legal jurisprudence are the Civil Code, the Penal Code, the National Internal Revenue Code, the Labor Code and the Code of Commerce.

Other parts of the Constitution include letters of instruction, judicial decisions and pronouncements, administrative orders, and rules and regulations issued by the three branches of the government.

Cultural

Filipino culture is associated with Asian, Spanish and American influences. Contemporary music is influenced by Western music, but traditional Filipino music continues to be popular.

The Economy

General description

The currency is the Philippine peso (₱).

The Philippine economy has been considered one of the emerging markets in Southeast Asia; the country ranks among the most promising newly industrialised countries, and was one of the 1990's best-performing economies. This slowed around the turn of the twenty-first century, but has steadily recovered since 2004. The country also survived the 2008 global economic and financial crisis better than other economies in the region due to minimal exposure to troubled international securities, lower dependence on exports, relatively resilient domestic consumption, Overseas Filipino Workers (OFWs), stable remittances, and rapidly expanding IT and business process outsourcing (IT-BPO) industry.

The stable remittances of OFWs provided a strong basis for currency stability and a healthy accumulation of international reserves for the country. The savings rate exceeds investment and its human resources continue to be in demand.

The current account balance has recorded consecutive surpluses since 2003; international reserves are at record highs; the banking system is stable; and the stock market was Asia's second best performer in 2012. Efforts to improve tax administration and expenditure management have helped ease the Philippines' tight fiscal situation and reduce high debt levels. The Philippines received several credit rating upgrades on its sovereign debt in 2012, and has had little difficulty tapping domestic and international markets to finance its deficits. Achieving a higher growth path nevertheless remains a pressing challenge. Economic growth in the Philippines averaged 4.5% during the Macapagal-Arroyo administration (2001–2010), but poverty worsened during her term. Growth has accelerated under the Aquino government, but with limited progress thus far in bringing down unemployment (around 7%) and improving the quality of jobs.

Underemployment (employment of professionals below the level of their qualification) is nearly 20%, and more than 40% of the employed are estimated to be working in the informal sector. The Aquino administration has been working to boost the budgets for education, health, cash transfers to the poor, and other social spending programs, and is relying on the private sector to help fund major infrastructure projects under its public–private partnership program. Long-term challenges include reforming governance and the judicial system, building infrastructure, improving regulatory predictability and the ease of doing business, and attracting higher levels of local and foreign investments. The Philippine Constitution and other laws continue to restrict foreign ownership in important activities/sectors (such as land ownership and public utilities).

Macroeconomic indicators

Gross domestic product (GDP) and gross national income (GNI)

The National Statistics Coordination Board (NSCB) reported that GDP growth for Q2, 2014, at constant 2000 prices, increased to 6.4%, from 5.6% in the previous quarter and down from

7.9% in the same period from the previous year. This increase was contributed mainly by the 7.8% increase in the industry sector followed by the 6% increase in the services sector. The largest contributing factor in the industry sector is manufacturing which gained an increase of 10.8%. The agriculture industry meanwhile, experienced an improvement from last year's decline and has now reached 3.6%.

The GNI for Q2, 2014 increased to 7.3% from last year's Q2 measure of 6.4% due to the continued inflow of remittances by the Overseas Filipino Workers (OFWs).

The average year-on-year growth rate of GDP from 2001 to 2014 is 6.4%, reaching an all-time high of 8.9% during Q2, 2010 and the lowest at 0.5% during Q3, 2009.

With an annual growth rate of 6.4%, the Philippines came twelfth in Asia (along with Malaysia) as of June 2014, placing fourth in Southeast Asia, exceeding the annual growth rate of Vietnam of 5.25%, Indonesia of 5.12%, Singapore of 2.4%, and Brunei's decline of -3.3%.

The growth in net primary income (NPI) from the rest of the world to 12.7%, together with an impressive growth in the domestic economy, pushed the gross national income (GNI) to 7.3%. Per capita GDP grew to 10.6% while household final consumption expenditures (HFCE) grew to 8.2%. These changes in GDP, GNI and HFCE were caused by the projected population increase to 100 million.

Unemployment

The unemployment rate (defined as the number of people actively looking for a job divided by the labour force) decreased from 7.5% in January 2014 to 7.0% as of April 2014 excluding the values pertaining to the region of Leyte which was devastated by typhoon Yolanda, (international name Haiyan). Changes in unemployment depend mostly on inflows made up of unemployed people starting to look for jobs; employed people losing their jobs and seeking new ones; and people who stop looking for employment.

Inflation and interest rates

The latest inflation rate was recorded at 4.5% in May 2014 which increased from 3.3% last December 2013 due to the El Niño phenomenon that the country experienced. Despite this, the Central Bank of the Philippines is committed to promote and maintain price stability and provide proactive leadership in bringing about a strong financial system conducive to a balanced and sustainable growth of the economy.

Net exports

The country is in the process of transitioning from a developing country to an industrialised country due to the export economy moving away from agriculture to electronic and petroleum-based products. In February 2014 the Philippines showed a 24.4% growth on its export revenues compared to February of 2013. The export performance was mainly attributed to the broad-based growth of all major commodity groups like the electronic products which made up 40.4% of all exports as of February 2014, as compared to the manufacturing-based growth of the previous periods.

Foreign investment

For Q1, 2014, total approved foreign investments (FI) were down by 25.6% or ₱37.4 billion, from ₱50.3 billion from the same period last year. The top three countries investing in Q1, 2014 are the People's Republic of China with ₱9.0 billion or 24.2% of the total approved FI, Japan with ₱8.3 billion or 22.3% and Singapore with ₱4.3 billion or 11.4%.

The manufacturing sector claimed 74.1% or ₱27.7 billion of the total FI pledges in Q1, 2014 followed by administrative and support services at ₱4.2 billion or 11.2% and electricity, gas, steam, and then air conditioning supply with ₱2.0 billion or 5.3%.

Tourism industry and economy

The tourism industry is acknowledged as a major factor in the Philippine economy, contributing an expected 7.1% to the 2014 GDP. It also continues to benefit from the expansion of international and domestic airline routes through lower-cost and increased-frequency flights to popular destinations.

In 2013, the tourism industry provided 3.2% of the total employment or an estimated 1,226,500 jobs throughout the country. The growth in 2014 as estimated by the World Travel & Tourism Council will bring a share of ₱490.2 billion in the country's GDP with a rating of up to 3.8%.

The tourism campaign *It's More Fun in the Philippines*, launched in January 2012 has raised global awareness of the country as an attractive tourist destination. Much of the user-created content went viral within hours, catching the attention of the international media as well as high numbers of potential tourists.

In April 2012 Philippine Airlines upgraded its aircraft fleet to revitalise the national flag carrier. Despite the growing demand for luxury travel, many tourists still prefer budget options which resulted to diverse range of accommodation outlets, tourism services, and promotions to meet the needs of the industry.

Investment grade ratings

'Investment grade' is a badge of credit-worthiness. Agencies analyse a borrower's risks (financial stability, economic, political, social, and health) and give a grade. The higher the grade means the more credible the borrower and the lower the cost of the debt. The lower the borrowing costs, the more savings are generated that could be spent on social services such as education, health and peace and order.

Fitch

In March 2013, Fitch upgraded the Philippines' rating from BB+ to BBB-, its first investment grade rating. BBB- means BBB (low) which incidentally, means that from a speculative quality, Fitch found the country's investment to be good in terms of credit. In this rating, the default risk is low and the economy is stable which makes it attractive to foreign investors.

This rating gives the country a vote of confidence and marks the Philippines as an A-list country that is considered safe to invest. This positive rating was awarded because the country's economy has been resilient, expanding 6.6% in 2012 despite a weak global economic backdrop.

Standard & Poor's

Standard & Poor (S&P's) awarded another investment grade to the Philippines in May 2013, upgrading its previous rating from BB+ to BBB- to reflect the country's strong external profile, moderate inflation, and declining reliance on foreign currency debt.

Japan Credit Rating Agency Ltd (JCRA)

Five days after receiving the investment grade from S&P's, the Philippines received its third investment grade of BBB from BBB- from JCRA. JCRA was confident that the Philippine economy will sustain an economic growth of around 6% in the medium term on the back of strong domestic demand and that the fiscal position will continue to improve moderately as the current administration is committed to hold the fiscal deficit to GDP ratio within its 2% target from 2013 onward through higher taxes on tobacco and alcohol and enhanced tax collection efficiency.

Moody's

The fourth and most recent investment grade was given by Moody's with a rating of Baa3, a positive outlook following the trend of similar ratings from Fitch and S&P's. Baa3 is the lowest investment grade rating but it is still better compared to the country's previous rating of Ba1 which is only of "speculative quality". It is therefore a positive thing for an emerging country to have a rating of this level.

Moody's decision was based on the country's strong growth, political stability and improved governance. Their report also mentioned that the Philippines' economic performance has entered a structural shift to higher growth, accompanied by low inflation. The Aquino administration, which supports further institutionalisation for good governance, was another reason for the upgrade in the rating.

Various indices related to economy

2013 Index of Economic Freedom

The country ranked 97th out of 177 countries in the 2013 Index of Economic Freedom published by the *Wall Street Journal* and the Heritage Foundation, with a freedom score of 58.2 (1.1 points higher than in previous years). In the Asia-Pacific region, the Philippines is ranked 17th out of 41 countries. However, the score is below the world average of 59.6 and remains within the category of 'mostly unfree'. The areas measured by the index include the rule of law, regulatory efficiency, government interference, and open markets.

Doing Business 2014

The *Doing Business* survey measures how much bureaucracy private businesses encounter when dealing with government agencies. The country ranked 108th in *Doing Business*

2014, recently published by the World Bank and the International Finance Corporation. The government aims to reach the top 60 by 2016. The Philippines was previously ranked 125th, successfully bucking the trend after many years of decline and is now considered among the most improved in terms of ease of doing business.

Confidence Index (CI)

Business confidence is the degree of optimism businesses have regarding the state of the economy. Based on the Business Expectation Survey (BES) conducted by the Department of Economic Statistics of the Bangko Sentral ng Pilipinas (BSP), overall confidence in Q4, 2013 stood strong at 52.3% (versus 42.8% in Q3). Factors cited for such optimism include expected increase in consumer demand during the Christmas and main rice harvest seasons; more orders and projects, leading to higher volume of production; expansion of businesses and new product lines; and the continued demand for construction projects (public and private) augmented by rehabilitation efforts from the earthquake in Bohol (October 2013). It is further amplified by low inflation and interest rates, strong peso, higher foreign investment inflows and steady OFW remittances.

The most resilient was the wholesale and retail sector as their business anticipates a strong demand during the Christmas season, followed by hotels and restaurants. Financial services are also strong, with an increase in demand for credit by OFWs and BPOs. Construction firms also expect acceleration in activity. However, along with mining, quarrying, agriculture, forestry, and fishing, they are subject to the impact of volatile metal prices, seasonal variations, and typhoon damage.

Unfortunately, Q1, 2014 saw a downturn, with a CI of only 40.7%; respondents attributed their less optimistic outlook for the coming quarter to seasonal slack in demand after the holiday season, political issues, and global economy uncertainties.

2011–16 Philippine Development Plan

Before 2011, the Philippines was faced with low, lagging, and uneven growth and high poverty and inequality. Inclusive growth was elusive because of inadequate investment; output growth not leading to employment creation; inadequate levels of human development; and low trading profits.

To address these challenges and to achieve inclusive growth, the government has vowed to pursue the following measures under its 2011–2016 Philippine Development Plan:

- Attain a high and sustained economic growth that provides productive employment opportunities
- Promote equal access to development opportunities through better education, primary health care and nutrition, and other basic social services; equal access to infrastructure, credit, land, technology, and other productive inputs; uphold good governance and strong institutions to encourage competition
- Establish effective and responsive social safety nets to assist those who are less capable of participating in economic activities.

Legal Structures and Business Organisations

Types of business enterprise

There are several types of business enterprise an investor can choose from in establishing operations in the Philippines.

Organised under Philippine laws

Sole proprietorship

Sole proprietorship is a business structure owned by an individual who has full control/ authority and owns all the assets, is personally accountable for all liabilities, or suffers all losses but enjoys all the profits to the exclusion of others.

A sole proprietorship must apply for a business name and be registered with the Department of Trade and Industry – National Capital Region (DTI-NCR). In the provinces, the application may be filed with the extension offices of the DTI.

Partnership

Under the Civil Code of the Philippines, a partnership is treated as juridical person, having a separate legal personality from that of its members. Partnerships may be either general partnerships, where the partners have unlimited liability for the debts and obligation of the partnership; or limited partnerships, where one or more general partners have unlimited liability and the limited partners have liability only up to the amount of their capital contributions. It consists of two or more partners. A partnership with more than ₱3,000 capital must register with the Securities & Exchange Commission (SEC).

Corporation

Corporations are juridical persons established under the Corporation Code and regulated by the SEC, with a personality separate and distinct from that of their stockholders. The liability of the shareholders of a corporation is limited to the amount of their share capital. It consists of at least 5–15 incorporators, each of whom must hold at least one share and must be registered with the SEC. Minimum paid-up capital: ₱5,000.

A corporation can be either a stock or a non-stock company, regardless of nationality. Such a company, if 60% Filipino/40% foreign-owned, is considered a Filipino corporation; if more than 40% foreign-owned, it is considered a domestic foreign-owned corporation.

Stock corporation

This is a corporation with capital stock divided into shares and authorised to distribute to the holders of such shares dividends or allotments of the surplus profits on the basis of the shares held.

Non-stock corporation

This is a corporation that is organised principally for public purposes (e.g. charitable, educational, cultural) and does not issue shares of stock to its members.

Organised under foreign laws

1. Branch office

A branch office is a foreign corporation organised and existing under foreign laws that carries out business activities of the head office and derives income from the host country. It is required to put up a minimum paid-up capital of US$ 200,000, which can be reduced to US$ 100,000 if its activity involves advanced technology or if the company employs at least 50 direct employees. Registration with the SEC is mandatory.

2. Representative office

A representative office is a foreign corporation organised and existing under foreign laws. It does not derive income from the host country, and is fully subsidised by its head office. It deals directly with clients of the parent company as it undertakes such activities as information dissemination, acting as a communication centre and promoting company products, as well as quality control of products for export. It is required to have a minimum inward remittance in the amount of US$ 30,000 annually to cover its operating expenses, and must be registered with the SEC.

3. Regional headquarters/Regional operating headquarters (RHQ/ROHQ)

Under RA 8756, any multinational company may establish an RHQ or ROHQ as long as they are existing under laws other than the Philippines, with branches, affiliates and subsidiaries in the Asia-Pacific region and other foreign markets.

Regional headquarters (RHQ)

An RHQ undertakes activities that shall be limited to acting as supervisory, communication and coordinating centre for its subsidiaries, affiliates and branches in the Asia-Pacific region.

It acts as an administrative branch of a multinational company engaged in international trade.

It does not derive income from sources within the Philippines and does not participate in any way in the management of any subsidiary or branch office it might have in the Philippines.

An inward remittance of US$ 50,000 annually is required to cover operating expenses.

Regional operating headquarters (ROHQ)

An ROHQ performs the following qualifying services to its affiliates, subsidiaries, and branches in the Philippines:

- General administration and planning
- Business planning and coordination
- Sourcing/procurement of raw materials components
- Corporate finance advisory services
- Marketing control and sales promotion
- Training and personnel management
- Logistics services
- Research and development services and product development
- Technical support and communications
- Business development

It derives its income in the Philippines and must have a capital of US$ 200,000 (one-time remittance).

Regulatory environment

Business enterprises are required to register with a number of government agencies. Many Philippine laws are patterned after laws that have been proven effective in other countries, with the result that the legal framework for business and consumer protection is generally sound and well developed.

Monopolies may be regulated or prohibited by the government for the public interest. The central issue, however, is not whether a monopoly exists, but whether the monopolist uses its power to alter the price of product or to restrain free competition in the market.

There is no restriction on acquisitions, mergers or consolidation, unless these will result in unfair competition, will restrain trade to artificially prevent free competition in the market, or will result in foreign ownership that will violate the Foreign Investment Negative List (FINL).

Labour and Personnel

Background of Philippine workforce

- A ready supply of highly skilled and trainable workers, who are highly productive and are fluent in English
- Minimum wages vary by region
- Minimum wages are set by Regional Wage Boards, and are determined not by labour productivity, but by minimum liveable wage
- Employer and employee social security contributions are fairly nominal
- Foreigners working in the Philippines require employment permits before commencing their duties, and processing of applications is quite slow.

Time of work

Normal working hours are 8 hours/day, including a meal break of <1 hour and short rest periods.

A weekly rest day of 24 consecutive hours after 6 days of work should be scheduled by the employer upon consultation with the workers.

Regular holidays and national special days

New Year's Day	1 January
Maundy Thursday	Movable date
Good Friday	Movable date
Araw ng Kagitingan	Monday nearest 9 April
Labour Day	Monday nearest 1 May
Independence Day	Monday nearest 12 June
Ninoy Aquino Day	Monday nearest 21 August
National Heroes Day	Last Monday of August
Eidul Fitr	Movable date
Eidul Adha	Movable date
All Saints Day	1 November
Bonifacio Day	Monday nearest 30 November
Christmas Day	25 December
Rizal Day	Monday nearest 30 December
Last day of the year	31 December

Mandatory welfare benefits

Service incentive leave	Employees with 1 year of service are entitled to 5 days' vacation and 5 days' sick leave with pay.
Maternity leave	Section 14-A of Republic Act No. 8282, otherwise known as the Social Security Act of 1997, a female member of the Social Security System who has paid at least 3 monthly contributions in the 12-month period immediately preceding the semester of her childbirth or miscarriage, shall be paid a daily maternity leave benefit equivalent to 100% of her average daily salary credit for 60 days (or 78 days in case of caesarian delivery), subject to certain conditions provided by said Act.
Paternity leave	7 days' leave with pay for the first 4 deliveries of his lawful wife.
Special leave for women	2 months' leave with full pay following gynaecological surgery as certified by competent physician.

Mandatory employee remuneration

Basic salary	Employees must be paid at least the statutory minimum wage. Minimum wage varies by region and whether the employee is an agricultural worker. Salaries for managerial and professional employees vary according to the type of work, function, position, company status, industry classification and company location.
Overtime pay	Additional pay for work in excess of 8 hours as follows: • Ordinary days: plus 25% of the basic hourly rate • Special day, rest day, and holidays: plus 30% of the regular hourly rate on said day.
Night shift differential	Additional pay of 10% of the basic rate for work between 22:00–06:00.
Holiday pay	1 day's pay for every regular holiday, even if unworked, subject to certain conditions. If worked, 200% of regular daily wage.
Premium pay	Additional pay for work within 8 hours as follows: • Special rest day: plus 30% of basic daily rate • Rest day falling on a special day: plus 50% of basic daily rate • Rest day falling on a regular holiday: plus 30% of 200% of basic daily rate.
'13th month' pay	1/12 of the total basic salary earned within the calendar year.

Separation pay	0.5–1 month's pay per year of service for authorised causes of separation.
Retirement pay	22.5 days' salary per year of service for optional retirement at age 60 under RA 7641 or under applicable agreement (daily rate × 22.5 × years of service).

Social security

Social Security System (SSS) - provides private employees and their families with protection against disability, sickness, old age and death.

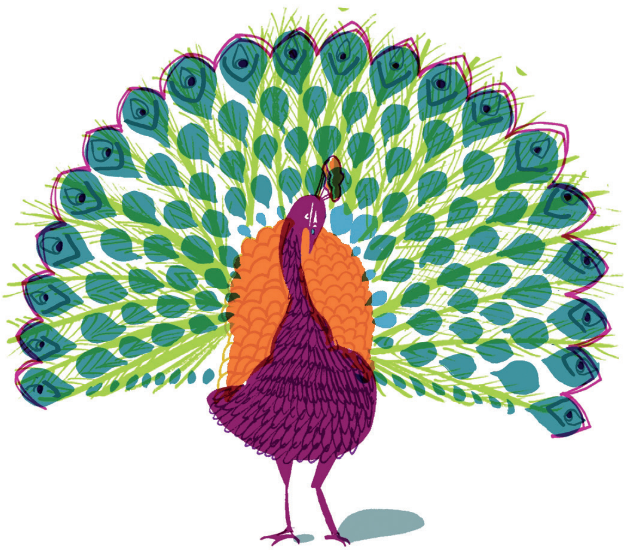
The maximum amount of mandatory employer contribution is ₱1,560/month.

Home Development Mutual Fund (HDMF) - a provident savings system providing housing loans to private and government employees, and to self-employed persons who elect to join the fund.

The maximum amount of mandatory employer contribution is ₱100/month.

Philippine Health Insurance Corporation (PhilHealth) - designed to provide employees with practical means of paying for adequate medical care. Employees' Compensation Program must cover all employees, and administered through the SSS. Grants medical and rehabilitation services and disability and death benefits to employees.

The maximum amount of mandatory employer contribution is ₱375/month.



Taxation System

The Philippine government collects the bulk of its revenue through the Bureau of Internal Revenue (BIR) and the Bureau of Customs. Although the BIR's collections have been increasing throughout the twenty-first century, there has been no noticeable change in mix of taxes collected. This is to be expected, however, given that Philippine tax law has not been subjected to any fundamental revision since the introduction of VAT in 1988.

Taxes are imposed at both national and local government level. The BIR administers national taxes, imposed under the Tax Code. The treasurer and assessor's office of different local government administer local taxes, imposed under the Local Government Code. The Bureau of Customs collects taxes and duties on imports.

Principal taxes

- **Capital gains tax** is a tax imposed on the gains presumed to have been realised by the seller from the sale, exchange, or other disposition of capital assets located in the country, including *pacto de retro* sales and other forms of conditional sale.
- **Documentary stamp tax** is a tax on documents, instruments, loan agreements and papers evidencing the acceptance, assignment, sale or transfer of an obligation, rights, or property incident thereto.
- **Donor's tax** is a tax on a donation or gift, and is imposed on the gratuitous transfer of property between two or more persons who are living at the time of the transfer.
- **Estate tax** is a tax on the right of the deceased person to transmit his/her estate to his/her lawful heirs and beneficiaries at the time of death and on certain transfers that are made by law as equivalent to testamentary disposition.
- **Income tax** is a tax on all yearly profits arising from property, profession, trades or offices or as a tax on a person's income, emoluments, profits and the like.
- **Percentage tax** is a business tax imposed on persons or entities who are not VAT registered and whose gross annual sales or receipts do not exceed ₱1,919,500 from sale or lease of goods, properties or services in the course of trade or business.
- **Value added tax (VAT)** is a business tax imposed and collected from the seller in the course of trade or business on every sale of properties (real or personal) lease of goods or properties (real or personal) or vendors of services. It is an indirect tax; thus, it can be passed on to the buyer.
- **Withholding tax on compensation** is the tax withheld from individuals receiving purely compensation income.
- **Expanded withholding tax** is a kind of withholding tax that is prescribed only for certain payors and is creditable against the income tax due of the payee for the taxable quarter year.

- **Final withholding tax** is a type of withholding tax that is prescribed only for certain payors and is not creditable against the income tax due of the payee for the taxable year. Income tax withheld constitutes the full and final payment of the income tax due from the payee on the said income.
- **Withholding tax on government money payments** is the withholding tax withheld by government offices and instrumentalities, including government-owned or -controlled corporations and local government units, before making any payments to private individuals, corporations, partnerships and/or associations.
- **Local government tax** is payable by 20 January of each year, based on the preceding year's gross sales or receipts declared to the local government unit where the business is conducted.
- **Property tax** is payable every year to the city or municipality where the property is located.
- **Tariffs and custom** are taxes imposed on imported goods; it is usually 1% of the dutiable value. A 12% VAT is also imposed on the imported goods which are based on the total landed cost.

Classes of taxpayer

In the Philippine Tax Code, taxable persons are classified as either **Individual** or **Corporation**.

Classes of individual taxpayer according to citizenship and residency

- **Resident citizen** - a Filipino citizen residing in the Philippines for more than 180 days within a specific taxable year. Income derived from all sources (within and outside the Philippines) are taxed according to a graduated tax table ranging from 5% to 32%.
- **Non-resident citizen** - a Filipino citizen residing outside the Philippines for more than 180 days within a specific taxable year. Only income derived in the Philippines is taxed according to graduated tax table ranging from 5% to 32%.
- **Resident foreigner** - a foreign national residing in the Philippines for more than 180 days within a specific taxable year. Only income derived in the Philippines are taxed the same as the Filipino citizen.
- **Non-resident foreigner** - a foreign national residing in the Philippines for not more than 180 days within a specific taxable year. Income is subject to 25% final withholding tax.

Classification of corporation

- **Domestic corporation** is taxed on income derived from all sources at 30% tax rate.
- **Licensed foreign corporation** is treated as 'resident foreign corporation', and subject to 30% income tax, based on its taxable net income from sources within the Philippines.
- **Unlicensed foreign corporation** is treated as 'non-resident foreign corporation', and taxable on the gross income derived within the Philippines, subject to 30% final withholding tax.

Tax treaties background

The Philippines has existing tax treaties with various countries – including the USA, UK, Canada and Singapore – which provide for tax relief on income derived by foreign or local residents of the Philippines and the foreign country from sources within their respective territories. The tax relief includes tax exemption or entitlement to preferential tax rates on certain types of income such as interest, royalties and dividends.

Availment of tax treaty relief is not simply automatic: under existing BIR rules and regulations, taxpayers must comply with certain formalities. A formal request must be filed with the International Tax Affairs Division (ITAD) of the BIR stating the nature, mechanics and conditions of the specific transaction applied for. Supporting information should include documents executed abroad, certified and authenticated by the respective Philippine consulate abroad.

The processing of the application normally takes less than 6 months, although it could take longer if additional documents are requested.

List of countries with tax treaty with the Philippines

Australia	Kuwait	Thailand
Austria	Japan	UK
Belgium	Korea	USA
Brazil	Malaysia	
Canada	Netherlands	
Denmark	New Zealand	
Finland	Nigeria	
France	Norway	
Germany	Pakistan	
Hungary	Romania	
India	Russia	
Indonesia	Singapore	
Israel	Spain	
Italy	Sweden	

Banking and Finance

The Philippine banking system is driven more directly by market forces.

The BSP (Central Bank of the Philippines) is continually improving its prudential regulation and supervision, which can be expected to further strengthen the banking system over time.

A wide range of banking services is available. The market for specialised banking services is relatively new.

Foreign banks play an important role in the banking system, particularly in facilitating inbound foreign capital. A number of major international banks have branch operations in the Philippines offering full banking services.

Foreign investors currently may acquire up to 60% equity in a Philippine bank.

Statutory and Reporting Requirements

The Financial Reporting Standards Council (FRSC) was established by the Board of Accountancy (BOA) 'the Board' in 2006 under the Implementing Rules and Regulations of the Philippine Accountancy of Act, 2004 to assist the Board in carrying out its power and function to promulgate accounting standards in the Philippines. The FRSC's main function is to establish generally accepted accounting principles (GAAP) in the Philippines. It monitors issuances of the International Financial Reporting Interpretations Committee (IFRIC) of the IASB (International Accounting Standards Board), which it adopts as Philippine Interpretations–IFRIC. Philippine Financial Reporting Standards (PFRSs) and Philippine Interpretations–IFRIC approved for adoption are submitted to the Board of Accountancy (BOA) and Professional Regulatory Commission (PRC) for approval.

The FRSC issues its Standards in a series of pronouncements. These consist of:

Philippine Financial Reporting Standards (PFRSs): these correspond to International Financial Reporting Standards (IFRS).

PFRS	Title	Effective date
PFRS 1	First-time Adoption of Philippine Financial Reporting Standards *[superseded by PFRS 1 (Revised)]*	01/01/05
	Amendments to PFRS 1: Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate	01/01/09
PFRS 1 (Revised)	First-time Adoption of Philippine Financial Reporting Standards	07/01/09
	Amendments to PFRS 1: Additional Exemptions for First-time Adopters	01/01/10
	Amendment to PFRS 1: Limited Exemption from Comparative PFRS 7 Disclosures for First-time Adopters	07/01/10
	Amendments to PFRS 1: Severe Hyperinflation and Removal of Fixed Date for First-time Adopters	07/01/11
	Amendments to PFRS 1: Government Loans	01/01/13*
PFRS 2	Share-based Payment	01/01/05
	Amendments to PFRS 2: Vesting Conditions and Cancellations	01/01/09
	Amendments to PFRS 2: Group Cash-settled Share-based Payment Transactions	01/01/10
PFRS 3	Business Combinations *[superseded by PFRS 3 (Revised)]*	01/01/05
PFRS 3 (Revised)	Business Combinations	07/01/09
PFRS 4	Insurance Contracts	01/01/05
	Amendments to PFRS 4: Financial Guarantee Contracts	01/01/06
PFRS 5	Non-current Assets Held for Sale and Discontinued Operations	01/01/05

PFRS 6	Exploration for and Evaluation of Mineral Resources	01/01/06
PFRS 7	Financial Instruments: Disclosures	01/01/07
	Amendments to PFRS 7: Transition	01/01/07
	Amendments to PFRS 7: Reclassification of Financial Assets	07/01/08
	Amendments to PFRS 7: Reclassification of Financial Assets - Effective Date and Transition	07/01/08
	Amendments to PFRS 7: Improving Disclosures about Financial Instruments	01/01/09
	Amendments to PFRS 7: Disclosures – Transfers of Financial Assets	07/01/11
	Amendments to PFRS 7: Disclosures – Offsetting Financial Assets and Financial Liabilities	01/01/13*
	Amendments to PFRS 7: Mandatory Effective Date of PFRS 9 and Transition Disclosures	01/01/15*
PFRS 8	Operating Segments	01/01/09
PFRS 9	Financial Instruments	01/01/15
	Amendments to PFRS 9: Mandatory Effective Date of PFRS 9 and Transition Disclosures	01/01/15*
PFRS 10	Consolidated Financial Statements	01/01/13*
	Amendments to PFRS 10: Transition Guidance	01/01/13*
	Amendments to PFRS 10: Investment Entities	01/01/14*
PFRS 11	Joint Arrangements	01/01/13*
	Amendments to PFRS 11: Transition Guidance	01/01/13*
PFRS 12	Disclosure of Interests in Other Entities	01/01/13*
	Amendments to PFRS 12: Transition Guidance	01/01/13*
	Amendments to PFRS 12: Investment Entities	01/01/14*
PFRS 13	Fair Value Measurement	01/01/13*
*Amendments in the Standard		

Philippine Accounting Standards (PAS): these correspond to International Accounting Standards (IAS).

PAS	Title	Effective date
PAS 1	Presentation of Financial Statements *[superseded by PAS 1 (Revised)]*	01/01/05
	Amendment to PAS 1: Capital Disclosures	01/01/07
PAS 1 (Revised)	Presentation of Financial Statements	01/01/09
	Amendments to PAS 1: Puttable Financial Instruments and Obligations Arising on Liquidation	01/01/09

	Amendments to PAS 1: Presentation of Items of Other Comprehensive Income	07/01/12*
PAS 2	Inventories	01/01/05
PAS 7	Statement of Cash Flows	01/01/05
PAS 8	Accounting Policies, Changes in Accounting Estimates and Errors	01/01/05
PAS 10	Events after the Reporting Period	01/01/05
PAS 11	Construction Contracts	01/01/05
PAS 12	Income Taxes	01/01/05
	Amendments to PAS 12 – Deferred Tax: Recovery of Underlying Assets	01/01/12
PAS 14	Segment Reporting *[superseded by PFRS 8]*	01/01/05
PAS 16	Property, Plant and Equipment	01/01/05
PAS 17	Leases	01/01/05
PAS 18	Revenue	01/01/05
PAS 19	Employee Benefits [superseded by PAS 19 (Amended)]	01/01/05
	Amendments to PAS 19: Actuarial Gains and Losses, Group Plans and Disclosures *[superseded by PAS 19 (Amended)]*	01/01/06
PAS 19 (Amended)	Employee Benefits	01/01/13*
PAS 20	Accounting for Government Grants and Disclosure of Government Assistance	01/01/05
PAS 21	The Effects of Changes in Foreign Exchange Rates	01/01/05
	Amendment: Net Investment in a Foreign Operation	01/01/06
PAS 23	Borrowing Costs [superseded by PAS 23 *(Revised)]*	01/01/05
PAS 23 (Revised)	Borrowing Costs	01/01/09
PAS 24	Related Party Disclosures [superseded by PAS 24 *(Revised)]*	01/01/05
PAS 24 (Revised)	Related Party Disclosures	01/01/11
PAS 26	Accounting and Reporting by Retirement Benefit Plans	01/01/05
PAS 27	Consolidated and Separate Financial Statements *[superseded by PAS 27 (Revised)]*	01/01/05
PAS 27 (Revised)	Consolidated and Separate Financial Statements *[superseded by PAS 27 (Amended)]*	07/01/09
	Amendments to PAS 27: Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate *[superseded by PAS 27 (Amended)]*	01/01/09
PAS 27 (Amended)	Separate Financial Statements	01/01/13*
	Amendments to PAS 27 (Amended): Investment Entities	01/01/14*

PAS 28	Investments in Associates *[superseded by PAS 28 (Amended)]*	01/01/05
PAS 28 (Amended)	Investments in Associates and Joint Ventures	01/01/13*
PAS 29	Financial Reporting in Hyperinflationary Economies	01/01/05
PAS 30	Disclosures in the Financial Statements of Banks and Similar Financial Institutions *[superseded by PFRS 7]*	01/01/05
PAS 31	Interests in Joint Ventures *[superseded by PFRS 11]*	01/01/05
PAS 32	Financial Instruments: Disclosure and Presentation	01/01/05
	Financial Instruments: Presentation	01/01/07
	Amendments to PAS 32: Puttable Financial Instruments and Obligations Arising on Liquidation	01/01/09
	Amendment to PAS 32: Classification of Rights Issues	02/01/10
	Amendments to PAS 32: Offsetting Financial Assets and Financial Liabilities	01/01/14*
PAS 33	Earnings per Share	01/01/05
PAS 34	Interim Financial Reporting	01/01/05
PAS 36	Impairment of Assets	01/01/05
	Amendments to PAS 36: Recoverable Amount Disclosures for Non-Financial Assets	01/01/14*
PAS 37	Provisions, Contingent Liabilities and Contingent Assets	01/01/05
PAS 38	Intangible Assets	01/01/05
PAS 39	Financial Instruments: Recognition and Measurement	01/01/05
	Amendments to PAS 39: Transition and Initial Recognition of Financial Assets and Financial Liabilities	01/01/05
	Amendments to PAS 39: Cash Flow Hedge Accounting of Forecast Intragroup Transactions	01/01/06
	Amendments to PAS 39: The Fair Value Option	01/01/06
	Amendments to PAS 39: Financial Guarantee Contracts	01/01/06
	Amendments to PAS 39: Reclassification of Financial Assets	07/01/08
	Amendments to PAS 39: Reclassification of Financial Assets – Effective Date and Transition	07/01/08
	Amendments to PAS 39: Embedded Derivatives	06/30/09
	Amendment to PAS 39: Eligible Hedged Items	07/01/09
PAS 40	Investment Property	01/01/05
PAS 41	Agriculture	01/01/05
*Amendments in the Standard		

The basic source of Philippine tax law is the National Internal Revenue Law, which codifies all tax provisions, the latest of which is embodied in Republic Act No. 8424 ('The Tax Reform Act of 1997'). It amended previous national internal revenue codes, which was approved on 11 December 1997. The Secretary of Finance, upon the recommendation of the Commissioner, promulgates needful rules and regulations for the effective enforcement of the provisions of the Tax Code (Section 244, Tax Code of 1997). The Commissioner of Internal Revenue, however, has the exclusive and original power to interpret the provisions of the Tax Code, but subject to review by the Secretary of Finance. Administrative issuances which may be relied upon in interpreting the provisions of the Tax Code, which are signed by the Secretary of Finance, or the Commissioner of Internal Revenue, or his duly authorised representative, come in the form of Revenue Regulations, Revenue Memorandum Orders, Revenue Memorandum Rulings, Revenue Memorandum Circulars, Revenue Memorandum Rulings, and BIR Rulings.

Revenue Regulations are issuances signed by the Secretary of Finance, upon recommendation of the Commissioner of Internal Revenue, that specify, prescribe or define rules and regulations for the effective enforcement of the provisions of the National Internal Revenue Code (NIRC) and related statutes.
Revenue Memorandum Orders (RMOs) are issuances that provide directives or instructions; prescribe guidelines; and outline processes, operations, activities, workflows, methods and procedures necessary in the implementation of stated policies, goals, objectives, plans and programs of the Bureau in all areas of operations, except auditing.

Revenue Memorandum Rulings (RMRs) are rulings, opinions and interpretations of the Commissioner of Internal Revenue with respect to the provisions of the Tax Code and other tax laws, as applied to a specific set of facts, with or without established precedents, and which the Commissioner may issue from time to time for the purpose of providing taxpayers with guidance on the tax consequences in specific situations. BIR Rulings, therefore, cannot contravene duly issued RMRs; otherwise, the Rulings are null and void *ab initio*.

Revenue Memorandum Circular (RMCs) are issuances that publish pertinent and applicable portions, as well as amplifications, of laws, rules, regulations and precedents issued by the BIR and other agencies/offices.

Incentives for Investments and Grants

Foreign Investments Act, 1991

Republic Act 7042 as amended by RA 8179, also known as the Foreign Investments Act of 1991 (FIA), is the basic law that governs foreign investments in the Philippines. It is considered a landmark legislation because it liberalised the entry of foreign investments into the country.

Under this law, foreign investors are allowed to invest 100% equity in companies engaged in almost all types of business activities subject to certain restrictions, as prescribed in the Foreign Investments Negative List (FINL). The FINL is a shortlist of investment areas or activities that may be opened to foreign investors and/or reserved for Filipino nationals. The FINL are classified as follows:

List A – consists of areas of activity reserved for Philippine nationals where foreign equity participation in any domestic or export enterprise engaged in any activity listed therein shall be limited to a maximum of 60%, as prescribed by the Constitution and other specific laws.

List B – consists of areas of activity where foreign ownership is limited to up to 60% pursuant to law, such as defence- or law enforcement-related activities, which have negative implications on public health and morals, and small and medium-scale enterprises.

The FIA clearly states that if the activity to be engaged in is not included in the FIN, is more than 40% foreign-owned, and will cater to the domestic market, then the capital required is at least US$ 200,000. The capital may be lowered to US$ 100,000 if activity involves advance technology, or the company directly employs at least 50 employees.

If the foreign company will export at least 60% of its output, or a trader that purchases products domestically will export at least 60% of its purchases, then the required paid-in capital of US$ 200,000 is not applicable. If the company is at least 60% Filipino and 40% foreign owned and will cater to the domestic market, then paid-in capital can be less than US$ 200,000.

Specific areas of equal investment rights for former Filipino nationals

While most areas of businesses have limits for foreign investors, Section 9 of the amended FIA lists the following types of business where former natural-born Filipinos can enjoy the same investment rights as a Philippine citizen:

- Cooperatives
- Rural banks
- Thrift banks and private development banks
- Financing companies.

Former natural-born Filipinos can also engage in activities under List B of the FINL. This means that their investments shall be treated as Filipino or will be considered as forming part of Filipino investments in activities closed or limited to foreign participation.

The equal investment rights of former Filipino nationals do not extend to activities under List A of the FINL that are reserved for Filipino citizens under the Constitution.

Former natural-born Filipinos have also been given the right to be transferees of private land up to a maximum of 5,000 m2 in the case of urban land or 3 hectares in the case of rural land to be used for business or other purposes.

Key features of the FIA

- Concept of a negative list
- Opened domestic market to 100% foreign investment, except those in the FINL
- Re-defined 'export enterprise' to mean at least 60% for export
- Allowed 100% foreign ownership of business activities outside FINL but *without* incentives

Foreign Investment Negative Lists (FINL)

List A: Foreign ownership is limited by mandate of the Constitution and specific laws

No foreign equity

1. Mass media except recording
   (Art. XVI, Sec. 11 of the Constitution; Presidential Memorandum dated 4 May 1994)
2. Practice of professions [1]
   a. Engineering
      - Aeronautical
      - Agricultural
      - Chemical
      - Civil
      - Electrical
      - Electronics and communication
      - Geodetic
      - Mechanical
      - Metallurgical
      - Mining
      - Naval architecture and marine
      - Sanitary

b. Medicine and allied professions
   - Medicine
   - Medical technology
   - Dentistry
   - Midwifery
   - Nursing
   - Nutrition and dietetics
   - Optometry
   - Pharmacy
   - Physical and occupational therapy
   - Radiologic and X-ray technology
   - Veterinary medicine

c. Accountancy

d. Architecture

e. Criminology

f. Chemistry

g. Customs brokerage

h. Environmental planning

i. Forestry

j. Geology

k. Interior design

l. Landscape architecture

m. Law

n. Librarianship

o. Marine deck officers

p. Marine engine officers

q. Master plumbing

r. Sugar technology

s. Social work

t. Teaching

u. Agriculture

v. Fisheries

w. Guidance Counseling (RA 9258)

x. Real Estate Service (RA 9646)

y. Respiratory Therapy (RA 10024)

z. Psychology (RA 10029)

(Art. XII, Sec. 14 of the Constitution; Sec. 1 of RA 5181)

3. Retail trade enterprises with paid-up capital of less than US$ 2.5million (Sec. 5 of RA 8762) [2]

4. Cooperatives (Ch. III, Art. 26 of RA 6938)

5. Private security agencies (Sec. 4 of RA 5487)

6. Small-scale mining (Sec. 3 of RA 7076)

7. Utilisation of marine resources in archipelagic waters, territorial sea, and exclusive economic zone (Art. XII, Sec. 2 of the Constitution)

8. Ownership, operation and management of cockpits (Sec. 5 of PD 449)

9. Manufacture, repair, stockpiling and/or distribution of nuclear weapons (Art. II Sec. 8 of the Constitution) [3]

10. Manufacture, repair, stockpiling and/or distribution of biological, chemical and radiological weapons and anti-personal mines (various treaties to which the Philippines is a signatory and conventions supported by the Philippines) [3]

11. Manufacture of firecrackers and other pyrotechnic devices (Sec. 5 of RA 183)

Up to 20% foreign equity

12. Private radio communication network (RA 3846)

Up to 25% foreign equity

13. Private recruitment, whether for local or overseas employment (Art. 27 of PD 442)

14. Contracts for the construction and repair of locally funded public works (Sec. 1 of CA 541, LOI 630) except:

    a. infrastructure/development projects covered in RA 7718; and

    b. projects that are foreign funded or assisted and required to undergo international competitive bidding (Sec. 2(a) of RA 7718)

15. Contracts for construction of defence-related structure (Sec. 1 of CA 541)

Up to 30% foreign equity

16. Advertising (Art. XVI, Sec. 11 of the Constitution)

Up to 40% foreign equity

17. Exploration, development and utilisation of natural resources (Art. XII, Sec. 2 of the Constitution) [4]
18. Ownership of private lands (Art. XII, Sec. 7 of the Constitution; Ch. 5, Sec. 22 of CA 141)
19. Operation and management of public utilities (Art. XII, Sec. 11 of the Constitution; Sec. 16 of CA 146)
20. Ownership/establishment and administration of educational institutions (Art. XIV, Sec. 4 of the Constitution)
21. Culture, production, milling, processing, trading excepting retailing, of rice and corn and acquiring, by barter, purchase or otherwise, rice and corn and the by-products thereof (Sec. 5 of PD 194; Sec. 15 of RA 5762) [5]
22. Contracts for the supply of materials, goods and commodities to government-owned or controlled corporation, company, agency or municipal corporation (Sec. 1 of RA 5183)
23. Project proponent and facility operator of a Build-Operate-Transfer (BOT) project requiring a public utilities franchise (Art. XII, Sec. 11 of the Constitution; Sec. 2a of RA 7718)
24. Operation of deep sea commercial fishing vessels (Sec. 27 of RA 8550)
25. Adjustment companies (Sec. 323 of PD 612 as amended by PD 1814)
26. Ownership of condominium units where the common areas in the condominium projects are co-owned by the owners of the separate units or owned by a corporation (Sec. 5 pf RA 4726)

Up to 49% foreign equity

27. Lending Companies (Sec 6 of RA 9474) [6]

Up to 60% foreign equity

28. Financing companies regulated by the Securities & Exchange Commission (Sec. 6 of RA 980 as amended by RA 8556) [6]
29. Investment housed regulated by the SEC (Sec. 5 of PD 129 as amended by RA 8366) [6]

1. This is limited to Filipino citizens, save in cases prescribed by law.
2. Full foreign participation is allowed for retail trade enterprises; (a) with paid-up capital of US$ 2.5 million or more, provided that investments for establishing a store is not less than US$ 830,000; or (b) specialising in high-end or luxury products, provided that the paid-up capital per store is not less than US$250,000 (Sec. 5 of RA 8762)
3. Domestic investments are also possible (Art. II, Sec. 8 of the Constitution; Conventions/Treaties in which the Philippines is a signatory)

4. Full foreign participation is allowed through financial or technical assistance agreement with the President (Art. XII, Sec. 2 of the Constitution)
5. Full foreign participation is allowed provided that within the 30-year period from start of operation, the foreign investor shall divest at least 60% of their equity to Filipino citizens (Sec. 5 of PD 194; NFA Council Resolution No. 193, Sec..1988)
6. No foreign national may be allowed to own stock in financing companies or investment houses unless the country of which s/he is a national accords the same reciprocal rights to Filipinos (Sec. 6 of RA 5980 as amended by RA 8556; PD 129 as amended by RA 8366)

List B: Foreign ownership is limited for reasons of security, defence, risk to health and morals and protection of small and medium-scale enterprises

Up to 40% foreign equity

1. Manufacture, repair, storage, and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) clearance:
    a. Firearms (handguns to shotguns), parts of firearms and ammunition therefore, instruments or implements used or intended to be used in the manufacture of firearms
    b. Gunpowder
    c. Dynamite
    d. Blasting supplies
    e. Ingredients used in making explosives:
        - Chlorates of potassium and sodium
        - Nitrates of ammonium, potassium, sodium, barium, copper (II), lead (II), calcium and cuprite
        - Nitric acid
        - Nitrocellulose
        - Perchlorates of ammonium, potassium and sodium
        - Dinitrocellulose
        - Glycerol
        - Amorphous phosphorus
        - Hydrogen peroxide
        - Strontium nitrate powder
        - Toluene
    f. Telescopic sights, sniper scope and other similar devices

However, the manufacture or repair of these items may be authorised by the Chief of the PNP to non-Philippine nationals, provided that a substantial percentage of output, as determined by the said agency, is exported. Provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA 7042 as amended by RA 8179)

2. Manufacture, repair, storage and/or distribution of products requiring Department of National Defense (DND) clearance:

    - Guns and ammunition for warfare
    - Military ordinance and parts thereof (e.g., torpedoes, depth charges, bombs, grenades, missiles)
    - Gunnery, bombing and fire control systems and components
    - Guided missiles/missile systems and components
    - Tactical aircraft (fixed and rotary-winged), parts and components thereof
    - Space vehicles and components systems
    - Combat vessels (air, land and naval) and auxiliaries
    - Weapons repair and maintenance equipment
    - Military communications equipment
    - Night vision equipment
    - Stimulated coherent radiation devices, components and accessories
    - Armament training devices
    - Others as may be determined by the Secretary of the DND

However, the manufacture or repair of these items may be authorised by the Secretary of the DND to non-Philippine nationals; Provided that a substantial percentage of output, as determined by the said agency is exported. Provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA 7042 as amended by RA 8179)

3. Manufacture and distribution of dangerous drugs
4. Sauna and steam bathhouses, massage clinics and other like activities regulated by law because of risks posed to public health and morals
5. All forms of gambling, e.g. race track operation
6. Domestic market enterprises with paid-in equity capital of less than the equivalent of US$ 200,000
7. Domestic market enterprises that involve advanced technology or directly employ at least 50 employees with paid-in-equity capital of less than the equivalent of US$ 100,000 (RA 7042 as amended by RA 8179)

Incentive for investors

The government has come up with a liberal program of fiscal and non-fiscal incentives to attract foreign capital and technology that complement local resources.

Various incentive schemes are available, depending on the location and registration of the proposed business activity.

Projects registered with the Board of Investments (BOI)

The BOI, under the Omnibus Investments Code (or Executive Order 226), encourages investments through tax exemption and other benefits in preferred areas of economic activity specified by the BOI in the Investment Priorities Plan (IPP).

The IPP, formulated annually by the BOI, through an inter-agency committee, and approved by the President, lists the priority activities for investments. It contains a listing of specific activities that can qualify for incentives under Book 1 of this Code.

Qualification

A Filipino enterprise can register their activity with the BOI if their project is listed as a preferred project in the current IPP. Said enterprise may engage in domestic-oriented activities listed in the IPP whether classified as pioneer or non-pioneer. However, an activity that is not listed may also be entitled to incentives if either of the following conditions are met:

- At least 50% of the production is for export (for 60% Filipino/40% foreign-owned enterprises)
- At least 70% of production is for export (for enterprises that are more than 40% foreign owned).

For foreign-owned firms or those whose foreign participation exceeds 40% of the outstanding capital stock who intend to engage in domestic-oriented activities, they can only be registered with BOI if they propose to engage in an activity listed or classified in the IPP as pioneer. However, if it fails to meet the pioneer classification, it can likewise opt to be an export-oriented firm to qualify for BOI registration. However, this time, the export requirement is at least 70% of actual production.

Fiscal incentives

A. Income tax holiday (ITH)

1. BOI-registered enterprise shall be exempt from payment of the income taxes reckoned from the scheduled start of commercial operations, as follows:

    a. New projects with a pioneer status for 6 years

    b. New projects with a non-pioneer status for 4 years

    c. Expansion projects for 3 years. As a general rule, exemption is limited to incremental sales revenue/volume

d. New or expansion projects in less developed areas for 6 years, regardless of status

e. Modernisation projects for 3 years. As a general rule, exemption is limited to incremental sales revenue/volume.

2. New registered pioneer and non-pioneer enterprises and those located in the less developed areas (LDAs) may avail of a bonus year in each of the following cases:

   a. The indigenous raw materials used in the manufacture of the registered product must be at least 50% of the total cost of raw materials for the preceding years prior to the extension, unless the Board prescribes a higher percentage

   b. The ratio of total imported and domestic capital equipment to the number of workers for the project does not exceed US$ 10,000 to one worker

   c. The net foreign exchange savings or earnings amount to at least US$ 500,000 annually during the first 3 years of operation. In no case shall a registered pioneer firm avail of this incentive for a period exceeding 8 years.

B. Exemption from taxes and duties on imported spare parts

A registered enterprise with a bonded manufacturing warehouse shall be exempt from customs duties and national internal revenue taxes on its importation of required supplies/spare parts for consigned equipment or those imported with incentives.

C. Exemption from wharfage dues and export tax, duty, impost and fees

All enterprises registered under the IPP will be given a 10-year period from date of registration to avail of the exemption from wharfage dues and any export tax, impost and fees on its non-traditional export products.

D. Tax exemption on breeding stocks and genetic materials

Agricultural producers will be exempt from the payment of all taxes and duties on their importation of breeding stocks and genetic materials within 10 years from the date of registration or commercial operation.

E. Tax credits

1. Tax credit on tax and duty portion of domestic breeding stocks and genetic materials is given equivalent to 100% of the value of national internal revenue taxes and customs duties on local breeding stocks within 10 years from date of registration or commercial operation in case of agricultural producers.

2. Tax credit on raw materials and supplies. A tax credit equivalent to the national internal revenue taxes and duties paid on raw materials, supplies and semi-manufacture of export products and forming part thereof shall be granted to a registered enterprise.

F. Additional deductions from taxable income

1. **Additional deduction for labour expenses (ADLE).** For the first 5 years from registration, a registered enterprise shall be allowed an additional deduction

from taxable income equivalent to 50% of the wages of additional skilled and unskilled workers in the direct labour force. The incentive shall be granted only if the enterprise meets a prescribed capital-to-labour ratio and shall not be availed of simultaneously with the ITH. This additional deduction shall be doubled if the activity is located in an LDA.

2. **Additional deduction for necessary and major infrastructure works.** Registered enterprises located in LDAs or in areas deficient in infrastructure, public utilities, and other facilities may deduct from their taxable income an amount equivalent to the expenses incurred in the development of necessary and major infrastructure works. The privilege, however, is not granted to mining or forestry-related projects, as they would naturally be located in certain areas near their sources of raw materials.

Non-fiscal incentives

A. Employment of foreign nationals

A registered enterprise may be allowed to employ foreign nationals in supervisory, technical or advisory positions for 5 years from date of registration. The positions of President, General Manager and Treasurer of foreign-owned registered enterprises (more than 40%) or their equivalent shall, however, not be subject to the foregoing limitations.

B. **Simplification of customs procedures** for the importation of equipment, spare parts, raw materials and supplies and exports of processed products.

C. **Importation of consigned equipment** for a period of 10 years from date of registration, subject to posting of a re-export bond.

D. **The privilege to operate a bonded manufacturing/trading warehouse subject to customs rules and regulations.**

Projects registered with the Economic Zones and Freeport Authorities

Philippine Economic Zone Authority (RA 7916)

The Philippine Economic Zone Authority (PEZA) was created under Republic Act (RA) 7916 known as the Special Economic Zone Act of 1995, as amended by RA 8748, to promote foreign and local investment into special economic zones, generating employment opportunities and encouraging mutual trade among industries in and around the economic zones.

PEZA promotes the establishment of economic zones, IT Parks and IT Buildings to respond to demands for ready-to-occupy locations for foreign and domestic investors who are export manufacturers or exporters of IT-enabled services.

Qualification

Enterprises which export at least 70% of their production may register with PEZA.

Incentives for export and IT enterprises

A. Fiscal incentives

- Income Tax Holiday (ITH) or exemption from payment of corporate income tax for 4 years, extendable to a maximum of 8 years; after the ITH period, the option to pay a special 5% tax on gross income, in lieu of all national and local taxes
- Exemption from duties and taxes on imported capital equipment, spare parts, supplies, raw materials
- Exemption from wharfage dues and export taxes, imposts and fees.

B. Non-fiscal incentives

- Permanent resident status for foreign investors and immediate family members with initial investments of US$ 150,000 or more
- Employment of foreign nationals
- Simplified import and export procedures.

Investment incentives for Ecozone developers/operators and IT Parks (outside Metro Manila)

A. Fiscal incentives

- Income tax holiday
- Incentives under the Build–Operate–Transfer Law, which includes government support for accessing official development assistance and other sources of financing
- Option to pay a special 5% gross income tax, in lieu of all national and local taxes.

B. Non-fiscal incentives

- Provision of vital off-site infrastructure facilities
- Permanent resident status for foreign investors and immediate family members
- Employment of foreign nationals
- Assistance in the promotion of economic zones to local and foreign locator enterprises.

Clark Development Corporation (CDC) and Subic Bay Metropolitan Authority (SBMA) (RA 7227)

Republic Act No. 7227 (RA 7227) created the Bases Conversion Development Authority (BCDA) and, while carrying out its primary mission, went a step further by accelerating the conversion and development of base lands as well as promoting the social and economic development of Central Luzon via the Clark Development Corporation (CDC) and the Subic Bay Metropolitan Authority (SBMA). These sites were former US military facilities.

100% foreign equity is allowed for many types of industries including manufacturing, tourism and service-oriented businesses.

Both CDC and SBMA grant essentially the same sets of incentives to registered Clark Special

Economic Zone (CSEZ) and Subic Bay Freeport (SBF) enterprises. They are managed as separate custom territories, ensuring free flow of articles within the zones.

Qualification

Firms located inside the zone are also exempt from all local and national taxes, paying instead a fixed fee of 5% of gross income earned (provided locators generate 70% of their total revenues from sources outside the customs territory; otherwise, regular corporate income tax will be collected).

Fiscal incentives

- A final tax of 5% on gross income earned shall be paid in lieu of all local and national taxes
- Tax and duty free importation of capital equipment, raw materials, supplies, spare parts and all other articles, including finished goods
- Additional deduction for labour expenses and training expenses
- Exemption from franchise, common carrier or VAT and other percentage taxes on public and service utilities.

Non-fiscal incentives

- Permanent resident status for investors, their spouses, unmarried children aged <21 years, provided they have continuing investments of not less than US$ 250,000
- Employment of foreign nationals
- Unlimited purchase and consumption of tax- and duty-free goods within the Freeport Zones.

Regional enterprises locating in the Economic and Freeport Zones

Revenue Regulations No. 16/99 issued on 27 September 1999 amends Revenue Regulations No. 1/95 and other related rules and regulations relative to the tax incentives granted to enterprises registered in the Subic Special Economic and Freeport Zone. Specifically, any multinational company whose purpose is to engage in regional and/or international trade/services and business activities may establish in the Subic/Clark Special Economic and Freeport Zone its seat of management and the situs of its business transactions, including the recording of its income, from some or all countries in the Asia-Pacific region and or other parts of the world, including the Philippines.

Incentives for regional enterprises

- May generate revenues locally up to 50% of its total revenues with only 5% tax based on gross income earned

- Allowable deductions by industry for:
  - Trading and infrastructure development enterprises
  - Service enterprises
  - Financial enterprises.
- Additional deductions for:
  - Trading and infrastructure development enterprises
  - Service enterprises
  - Financial enterprises.

Cagayan Economic Zone Authority (CEZA) RA 7922

The Cagayan Economic Zone Authority (CEZA) was mandated to supervise and manage the development of the Cagayan Special Economic Zone and Freeport (CSEZFP; Cagayan Freeport) into a self-sustaining industrial, commercial, financial, and tourism/recreational centre and Freeport with suitable retirement/residential areas. This move was expected to create employment opportunities in and around the Cagayan Freeport, and to effectively encourage and attract legitimate and productive local and foreign investments.

The Cagayan Freeport was established by virtue of Republic Act No. 7922 (RA 7922), otherwise known as the Cagayan Economic Zone Act of 1995.

Qualification

The applicant must meet the following conditions for registration:

- The applicant must infuse capital within the CSEZFP, either in the form of a lease agreement, joint venture or Build–Operate–Transfer arrangements, or other methods of investment
- A CSEZFP enterprise shall be a duly constituted business enterprise organised or domiciled in the Philippines or any foreign country
- The enterprise must name a representative or agent who is a legal resident of the Philippines
- If affiliated with an existing enterprise in the Philippines outside the CSEZFP, the CSEZFP enterprise must establish a separate business organisation to conduct business exclusively within the CSEZFP which shall be a separate taxable entity
- In meritorious cases, the CEZA may allow the non-establishment of a separate business entity subject to such terms and conditions as may be prescribed by CEZA Section 5.

Incentives

- Income tax holiday (ITH) of 4–6 years for qualifying industries

- Tax- and duty-free importation of articles, raw materials, capital goods, equipment and consumer items
- A special tax rate of 5% of gross income in lieu of all national and local taxes
- Tax credits for foreign corporations
- Effective zero rating for articles admitted to the Cagayan Freeport from the customs territory under proper permit
- Permanent resident status for foreign investor and their immediate family
- Other incentives under the Presidential Decree No. 66 or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987.

Zamboanga City Special Economic Zone Authority (ZEZA) RA 7903

Zamboanga City Special Economic Zone Authority (ZEZA) was created by virtue of Republic Act No. 7903 (RA 7903). It is managed as a separate customs territory.

Qualification

- Both foreign and local investors with export and/or domestic market can apply for registration and availment of incentives.

Incentives

- Tax- and duty-free importation of raw materials, equipment and other articles
- ITH of 6 years for pioneer projects, 4 years for non-pioneer projects and 3 years expansion projects
- 5% flat tax rate from gross income earned after the ITH
- Exemption from all local and national taxes
- Permanent resident visas for foreign investors and immediate family members with investment of at least US$ 150,000
- Other incentives under the Presidential Decree No. 66 or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987.

PHIVIDEC Industrial Authority (PD 538)

The Philippine Veterans Investment Development Corporation (PHIVIDEC) Industrial Authority, both a corporation and an industrial authority, was established through Presidential Decree No. 538, as amended by PD 1491. It was mandated by its Charter to manage and supervise the 3,000-hectare Phividec Industrial Estate in Misamis Oriental.

Qualification

Both foreign and local investors with export and/or domestic market can apply for registration and availment of incentives.

Incentives

- Exemption from tariff, customs, duties and internal revenue taxes for raw materials, supplies, articles, equipment, machinery, spare parts and wares brought into the estate and utilised in the production, storing , packing and shipment of goods meant for the foreign market
- Exemption from local taxes and licenses, except real property taxes
- Continued availment of BOI's privileges, if the industry is BOI registered
- Exemption from wharfage dues if pier is constructed by investors
- Employment of foreign nationals on technical and management levels
- Availment of inexpensive electrical power rates
- Availment of the lowest land lease rates in the country (₱11.35–17.05/m^2/year)

Projects registered as regional headquarters and regional operating headquarters (RHQs/ROHQs)

Republic Act No. 8756 provides the terms and conditions and licensing requirements of the RHQ and ROHQ.

Qualification

RHQ

- Does not derive income from sources within the Philippines and does not participate in any manner in the management of any subsidiary or branch office it might have in the Philippines
- Required capital: US$ 50,000 annually to cover operating expenses.

ROHQ

- May derive income in the Philippines
- Required capital: US$ 200,000 one-time remittance.

Incentives

There are two sets of incentives for expatriates that are RHQs/ROHQs:

i. **Incentives for expatriates (of both RHQs and ROHQs)**

- Multiple entry visa (Art. 60)
  - Expatriates, including spouse and unmarried children below 21 years old are entitled to this type of visa

- Valid for 3 years; extendible for another 3 years
- Exempt from payment of fees except reasonable administrative costs
- Non-immigrant visa will be processed within 72 hours from submission of documents to the Bureau of Immigration
- Exempt from securing Alien Certificate of Registration

- Withholding tax of 15% on compensation income applicable to both foreign and Filipino executives holding managerial and technical positions
- Tax- and duty-free importation of used household goods and personal effects
- Travel tax exemption for personnel and their dependents.

ii. RHQs

- Exemption from corporate income tax, but shall file an annual information return
- Exemption from VAT and sale or lease of goods and property, and rendition of services to RHQ shall also be exempted
- Exemption from all kinds of local taxes, fees or charges
- Tax- and duty-free importation of equipment and materials for training and conferences
    - Equipment and training materials not locally available
    - Equipment disposed within 2 years after importation subject to payment of taxes and duties
- Importation of brand new motor vehicles subject to payment of taxes and duties

iii. ROHQs

- Subject to 10% taxable income (corporate income tax)
- Subject to 12% VAT
- Exemption from all kinds of local taxes, fees or charges
- Tax- and duty-free importation of equipment and materials for training and conferences
- Equipment and training materials not locally available
- Equipment disposed within 2 years after importation subject to payment of taxes and duties
- Importation of brand new motor vehicles subject to payment of taxes and duties.

Agencies Providing Assistance to Entrepreneurs

Department of Trade and Industry – The executive department of the Philippine government, tasked to expand Philippine trade, industries and investments as the means to generate jobs and raise incomes for Filipinos. It acts as a catalyst for intensified private sector activity in order to accelerate and sustain economic growth through comprehensive industrial growth strategy, progressive and socially responsible trade liberalisation and deregulation programs and policymaking designed for the expansion and diversification of Philippine trade, both domestic and foreign.

Department of Labor and Employment – The DOLE is the national government agency mandated to formulate and implement policies and programs, and serve as the policy-advisory arm of the Executive Branch in the field of labour and employment. It is the lead agency mandated to develop the competencies and competitiveness of Filipino workers, to deliver employment facilitation services for full and decent employment, and to promote industrial peace based on social justice.

Go Negosyo – The word negosyo is the Filipino term for 'business'. Go Negosyo is the advocacy of the Philippine Center for Entrepreneurship (PCE), a non-stock, non-profit organisation that advocates for a change in mind-set and attitude.

The Philippine Business Registry – The Philippines Business Registry (PBR) is a government-initiated project that facilitates business registration-related transactions by integrating all agencies involved in business registration. It provides a faster process for business registration, thus strengthening the government's effort of providing quality service to the people and realising its commitment to curb corruption and reduce bureaucracy.

Small Business Corporation – The Corporation envisions becoming the nationwide leader in small enterprise development financing and small credit delivery systems. It has focused on developing an appropriate mix of financing products that are responsive to the needs of SMEs in the country.

The Philippine Commission on Women (PCW) – The PCW is the lead Philippine government agency steering development efforts towards women's empowerment and gender equality. Its mission is to partner with key stakeholders to make government work for the promotion and fulfilment of women's human rights. It aims to enable women and men to equally contribute to and benefit from development, through gender mainstreaming in plans, policies, programs and services.

Expatriate Living

The services of expatriates are covered by an employment contract, under which they are entitled to salaries and other benefits as agreed by the parties, subject to the relevant taxes (e.g., withholding tax on compensation, fringe benefits tax).

The Next Step

Contact Villaruz, Villaruz & Co., CPAs to discuss your needs.

Villaruz, Villaruz & Co., CPAs
Units 2&3, 9th Floor Galleria Corporate Center,
EDSA corner Ortigas Avenue,
Quezon City 1100,
Metro Manila,
The Philippines

T: +632 638 3099
F: +632 687 4787
E: gvvillaruz@villaruz.com.ph
www.villaruz.com.ph

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