The Philippines 2022: Economic and Investment Policy Updates

GPCCI Policy Infosheet

AHK Deutsch-Philippinische Industrie- und Handelskammer
German-Philippine Chamber of Commerce and Industry

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Contents

Overview

In order to achieve international competitiveness, improve the investment climate, and recover from the economic decline brought by the COVID-19 pandemic, the Philippines needed to amend its current laws that will facilitate a complete transformation of its economy.

With this, President Rodrigo Duterte passed laws that would develop a more enabling environment for foreign investors. Furthermore, these laws would greatly help Filipinos access to better services, lower prices of high-quality goods, new technologies, skills development, and a wider market.

Amendments to Public Service Act

Opening Opportunities in the Philippine Public Services Sector

On 21 March 2022, the Amendments to Public Service Act (Republic Act No. 11659) was signed into law which seeks to ease restrictions on foreign investments in public services by amending the 85-years-old public service law, distinguishing definitions between *“public utilities”* and *“public services”*, and repealing provisions that limit foreign participation in certain economic activities.

This enables more opportunities to invest in various Philippine public service sectors and shall also modernize them by increasing competition and provide better quality of services among others.

Key Amendments

Liberalize “Public Services” by limiting the coverage of “public utilities” that will be subject to the 40% foreign ownership limitation:

- Distribution of electricity
- Transmission of electricity
- Petroleum and petroleum products pipeline transmission systems
- Water pipeline distribution systems and wastewater pipeline systems (including sewerage pipeline systems)
- Seaports
- Public utility vehicles

Any industry not included in the list of “public utilities” will remain as “public services” and **will be liberalized, allowing up to 100% foreign ownership.**

Telecommunications, subways, railways, expressways, airports, and shipping industries will now be considered as public services, RA 11659 allows up to 100% foreign ownership in these sectors.

Scan to view the full text of Republic Act No. 11659

Amendments to Foreign Investments Act

Promoting MSME Investment and Facilitating Knowledge & Skills Sharing

On 02 March 2022, the Amendments to Foreign investment Act (Republic Act No. 11647) was signed into law which aims to promote and attract foreign investments by allowing them to set up and fully own domestic enterprises in the Philippines. It includes the establishment of agencies tasked to integrate the investment promotion activities and also provides skills training program that will return the benefit for Filipino workers.

In order for the Philippines to keep up with technological and economic advancements in the world, RA 11647 enables more foreign investments and professionals to enter the local market.

Key Amendments

Create an Inter-Agency Investment Promotion Coordination Committee that will integrate all promotion and facilitation efforts to encourage foreign investments in the country.

Enable Foreign participation in Micro, Small, and Medium Enterprises – while the law reserves micro and small domestic enterprises with paid-in equity capital of less than USD 200,000 / EUR 175,000 to Philippine Nationals. The threshold can lowered to USD 100,000 / EUR 90,000 if the foreign enterprise is:

1. **Involved in advanced technology**, as determined by the Department of Science and Technology; or
2. **Endorsed as start-up or start up enablers** by the lead host agencies pursuant to RA 11337 otherwise known as the Innovative Startup Act; or
3. **The company hires no less than 15 Filipino employees**, a reduction from the previous requirement of 50.

Promote sharing of knowledge and skills to the local market - benefiting entities must conduct a skills development program for Filipino workers to ensure that they receive the knowledge and skills from their foreign colleagues.

Scan to view the full text of Republic Act No. 11647

Amendments to Retail Trade Liberalization Act

Reducing Paid-Up Capital for Foreign Retail Enterprises

On 10 December 2021, The amendments to the Retail Trade Liberalization Act (Republic Act No. 11595) was signed into law which reduces the minimum paid-up capital requirements of foreign retail enterprises, removes the pre-qualification requirements, and lowers the investment requirements for each retail store owned by a foreign investor.

Key Amendments

Lower paid-up captial, reduced minumum investment per store, and no pre-qualification requirements

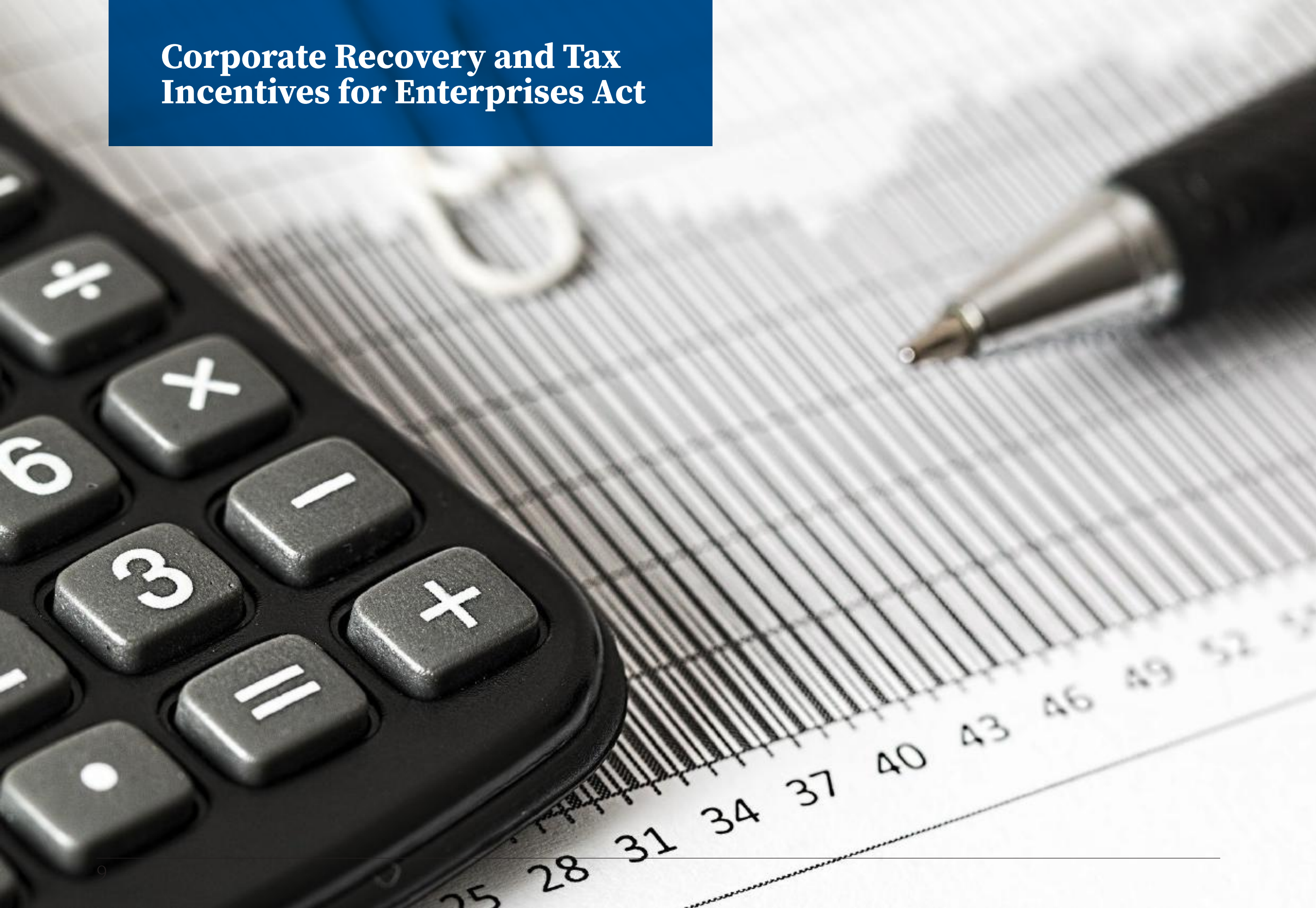
	Republic Act No. 11595	Republic Act No. 8762
Minimum Paid-Up Capital*	**USD 500,000 / EUR 450,000**	USD 2.5 Million / EUR 2.25 Million
Minimum investment per retail store*	**USD 200,000 / EUR 185,000**	USD 830,000 / EUR 765,000
Pre-qualification of Foreign Retailers	**No longer required**	5 year retailing branches 5 year track record in retailing
Promotion of Locally Manufactured Products	**Encouraged but amount is not specified**	10%-30% of the aggregate cost of the stock inventory

The amendments also mandates that foreign retail enterprises must hire Filipino workers before engaging the services of a foreign national. Meanwhile, foreign retailers are encouraged to keep a stock inventory of locally manufactured products but no longer require 10-30% of the aggregate cost as mandated in the previous law.

RA 11595 enables the Philippines to attract more foreign players in the country's retail sector that shall not only create jobs but also benefit consumers to have greater variety of products and higher quality of goods at lower prices.

Scan to view the full text of Republic Act No. 11595

Corporate Recovery and Tax Incentives for Enterprises Act



Lowering Corporate Income Taxes and Rationalizing Fiscal Incentives

On 26 March 2021, Republic Act No. 11534 otherwise known as the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act was passed into law to lower corporate income tax rates and rationalize fiscal incentives to better attract local and foreign investments in the Philippines.

Moreover it seeks to further increase the competitiveness of the Philippines by offering incentives that are performance-based, time-bound, targeted, and transparent.

Previously known as TRABAHO and CITIRA, CREATE Law was also passed as a financial stimulus program that provides tax relief for companies in financial need during the COVID-19 pandemic.

Key Amendments

Reforms on Corporate Income Taxes

Corporate Income Taxes for domestic and foreign corporations shall be reduced from 30% to 25% and shall be reduced further by 1% each year until it reaches 20% by 2027.

	CREATE Law	Old Rate
Domestic Corporations	25%	30%
Minimum Corporate Income Tax for Domestic Corporations	1%	2%
Domestic Corporations with Net Taxable Income not exceeding ₱5M	20%	30%
Non-Profit Proprietary Educational Institutions and Hospitals	1%	10%
Resident Foreign Corporations	25%	30%
Minimum Corporate Income Tax for Resident Foreign Corporations	1%	2%
Non-Resident Foreign Corporations	25%	30%
Regional Operating Headquarters	25%	10%

Value-Added Tax Exemptions

- Sale or distribution, importation, printing, or publication of any educational material covered by the UNESCO agreement including e-books.
- Sale of importation of capital equipment and raw materials for PPE production
- Sale of importation of all prescription drugs, medical supplies, devices, and equipment for COVID-19
- Sale or importation of vaccines for COVID-19
- Sale and importation of prescription drugs on cancer, mental illness, tuberculosis, and kidney-related diseases

Scan to view the full text of Republic Act No. 11534

Key Amendments (continuation)

Rationalization of Fiscal Incentives

	CREATE Law		Old Law	
	Exporters	**Domestic**	Exporters	Domestic
Income Tax Holiday Duration	4-7 years	4-7 years	4-6 years	4-6 years
Option 1: ITH + 5% tax on Gross Income Earned (GIE)				
Special Corporate Income Tax (SCIT) / GIE Duration	**14-17 years** ITH: 7 years, GIE: 10 years	Not Applicable	Indefinite	Indefinite
Option 2: ITH + Enhanced Deductions (ED)				
Enhanced Deductions Duration	**10 years**	**15 years**	None	None
ITH + Enhanced Deductions Duration	**14-17 years** ITH: 7 years, ED: 10 years	**9-12 years** ITH: 7 years, ED: 5 years	None	None

Enhanced Deductions

	CREATE Law	Old Rate
Power Expense	**150%**	100%
Labor Expense	**150%**	150%
Training Expense	**200%**	100%
Research and Development	**200%**	100%
Domestic Input Expense	**150%**	100%
Reinvestment Allowance to Manufacturing Industry	**Up to 50%** of reinvested profit	None
Depreciation Allowance	**10% buildings; 20% machinery**	None

- Duty exemption on importation of capital equipment, raw materials, spare parts, or accessories
- VAT exemption on importation and VAT zero-rating on local purchases

Duration of Incentives
defined under the Strategic Investment Priority Plan and location conditions

Export-oriented Enterprises

LOCATION / INDUSTRY TIERS	Tier 1	Tier 2	Tier 3
National Capital Region (NCR)	4 ITH + 10 ED/SCIT	5 ITH + 10 ED/SCIT	5 ITH + 10 ED/SCIT
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 10 ED/SCIT	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT
All other areas	6 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT	7 ITH + 10 ED/SCIT

Domestic Enterprises

LOCATION / INDUSTRY TIERS	Tier 1	Tier 2	Tier 3
National Capital Region (NCR)	4 ITH + 5 ED	5 ITH + 5 ED	5 ITH + 5 ED
Metropolitan areas or areas contiguous and adjacent to NCR	5 ITH + 5 ED	6 ITH + 5 ED	7 ITH + 5 ED
All other areas	6 ITH + 5 ED	7 ITH + 5 ED	7 ITH + 5 ED

Imprint

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