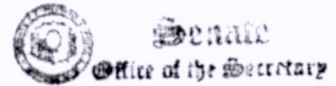


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



'18 FEB 21 P12 57

SENATE
S.B. No. 1701

RECEIVED BY: 

Introduced by Senator Aquilino "Koko" Pimentel III

AN ACT
AMENDING REPUBLIC ACT NO. 10708, OR THE
"TAX INCENTIVES MANAGEMENT AND TRANSPARENCY
ACT," TO EXPAND ITS COVERAGE, IN VIEW OF FURTHER
ENHANCING STATE FISCAL MANAGEMENT AND
ACCOUNTABILITY, AND FOR OTHER PURPOSES

Explanatory Note

Republic Act No. 10708, or the "Tax Incentives Management and Transparency Act" (TIMTA), established a strict reportorial system of the tax incentives granted to registered investments. It was enacted to help address a significant question: Do the current tax incentives cost the government more compared to the benefits that the investments bring?

At present, there are 123 laws that provide investment-related tax incentives, which are administered by Investment Promotion Agencies (IPAs). Also, there are 192 laws that provide non-investment related tax incentives, which are administered by other government agencies (OGAs), such as the Cooperative Development Authority (CDA), Department of Social Welfare and Development (DSWD), and the Bureau of Internal Revenue (BIR).

The rapid increase in the grant of these incentives, although with laudable aims, has resulted in considerable foregone revenue on the part of the government. This situation warrants a thorough evaluation of these incentives in terms of stimulating growth and other socio-economic development, both actual and projected, in the concerned sector and in the Philippine economy. Hence, it is necessary to likewise subject these entities to the strict reportorial system of TIMTA.

At present, the coverage of TIMTA includes only business entities registered with IPAs, thus providing a limited view of the entire situation. Hence, this bill seeks to include within the coverage of TIMTA other registered entities enjoying tax incentives, which are administered by OGAs.

This expanded TIMTA coverage will provide for enhanced and more in-depth gathering, monitoring, review, and analysis of relevant data, resulting in more effective and accountable fiscal management of the government.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


AQUILINO "KOKO" PIMENTEL III



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*Be it enacted by the Senate and the House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Declaration of Policy. – It is hereby declared the
policy of the State to further enhance its fiscal management by
establishing greater transparency and accountability on the part of
relevant government agencies in their grant of tax incentives.

SEC. 2. Section 3(a) of Republic Act No. 10708 (TIMTA) is hereby
amended to read as follows:

a. *Investment Promotion Agencies* (IPAs) shall refer to
government entities created by law, executive order,
decree or other issuance, in charge of promoting
investments, administering tax and non-tax incentives,
and/or overseeing the operations of the different
economic zones and freeports in accordance with their
respective charters. These include the Board of
Investments (BOI), Philippine Economic Zone Authority
(PEZA), Bases Conversion and Development Authority
(BCDA), Subic Bay Metropolitan Authority (SBMA),

1 Clark Development Corporation (CDC), John Hay
2 Management Corporation (JHMC), Poro Point
3 Management Corporation (PPMC), [Bataan Technology
4 Park, Inc. (BTPI),] Cagayan Economic Zone Authority
5 (CEZA), Zamboanga City Special Economic Zone
6 Authority (ZCSEZA), Phividec Industrial Authority
7 (PIA), Aurora Pacific Economic Zone and Freeport
8 Authority (APECO), Authority of the Freeport Area of
9 Bataan (AFAB), Tourism Infrastructure and Enterprise
10 Zone Authority (TIEZA), and ail other similar
11 authorities that may be created by law in the future;

12
13 **SEC. 3.** Section 3(b) of TIMTA is hereby amended to read as
14 follows:

15
16 b. *Tax incentives* shall refer to fiscal incentives such as
17 those which come in the form of income tax holidays
18 (ITH), exemptions, deductions, credits or exclusions
19 from the tax base, as provided by law, to registered
20 business entities **AND OTHER REGISTERED**
21 **ENTITIES;** [and]

22
23 **SEC. 4.** Section 3 is hereby amended to insert new subsections (d)
24 and (e), as follows:

25
26 **D. OTHER REGISTERED ENTITY SHALL REFER**
27 **TO ANY INDIVIDUAL, PARTNERSHIP,**
28 **ORGANIZATION, CORPORATION, PHILIPPINE**
29 **BRANCH OF A FOREIGN CORPORATION, OR**
30 **OTHER ENTITY INCORPORATED AND/OR**
31 **ORGANIZED AND EXISTING UNDER**
32 **PHILIPPINE LAWS, AND REGISTERED WITH**
33 **OTHER GOVERNMENT AGENCIES (OGA)**
34 **ADMINISTERING TAX INCENTIVES.**

35
36 **E. OTHER GOVERNMENT AGENCIES**
37 **ADMINISTERING TAX INCENTIVES (OGA)**
38 **SHALL REFER TO GOVERNMENT AGENCIES**
39 **OTHER THAN IPAS WHICH ADMINISTER TAX**
40 **INCENTIVES OF ANY KIND TO ANY SPECIFIC**
41 **ENTITIES AND/OR CLASS OF PERSONS**

1 PURSUANT TO ANY LAW. THESE SHALL
2 INCLUDE BUT NOT BE LIMITED TO THE
3 COOPERATIVE DEVELOPMENT AUTHORITY
4 (CDA), DEPARTMENT OF SOCIAL WELFARE
5 AND DEVELOPMENT (DSWD), ARMED FORCES
6 OF THE PHILIPPINES (AFP), BUREAU OF
7 INTERNAL REVENUE (BIR), AND OTHERS.
8

9 **SEC. 5.** Section 4 of the TIMTA is hereby amended to read as
10 follows:

11
12 SEC 4. *Filing of Tax Returns and Submission of Tax*
13 *Incentives Reports.* – All registered business entities
14 **AND OTHER REGISTERED ENTITIES,**
15 **WHETHER TAXABLE OR EXEMPT,** are required
16 to file their tax returns and/OR pay their tax liabilities,
17 on or before the deadline as provided under the National
18 Internal Revenue Code (NIRC), as amended, using the
19 electronic system for filing and payment of taxes of the
20 Bureau of Internal Revenue (BIR). **PROVIDED, THAT**
21 **FOR PURPOSES OF COMPLYING WITH THEIR**
22 **TAX OBLIGATIONS, OTHER REGISTERED**
23 **ENTITIES WITHOUT ACCESS TO ELECTRONIC**
24 **FACILITIES SHALL FILE WITH THEIR**
25 **RESPECTIVE REVENUE DISTRICT OFFICES**
26 **(RDOS).**

27
28 For registered business entities **AND OTHER**
29 **REGISTERED ENTITIES** availing of incentives
30 administered by the IPAs **AND OGAS,** they shall file
31 with their respective IPAs **OR OGAS** a complete annual
32 tax incentives report of their income-based tax
33 incentives, value-added tax and duty exemptions,
34 deductions, credits or exclusions from the tax base,
35 **INCLUDING EXEMPTIONS FROM LOCAL**
36 **TAXES,** as provided in the charter of the IPA concerned
37 **AND RESPECTIVE LAWS,** within thirty (30) days
38 from the statutory deadline for filing of tax returns and
39 payment of taxes.
40

1 The IPAs **AND OGAS** shall, within sixty (60) days from
2 the end of statutory deadline for filing of the relevant tax
3 returns, submit to the BIR, their respective annual tax
4 incentives reports based on the list of the registered
5 business entities who ha file said tax incentives report.
6

7 The details of the tax incentives reports, as provided in
8 the preceding paragraphs, shall be provided in the
9 implementing rules and regulations (IRR) of this Act.
10

11 The foregoing provisions shall be without prejudice to
12 the right of the BIR and the Bureau of Customs (BOC)
13 to conduct assessment within the prescribed period
14 provided in the NIRC, as amended, and the Tariff and
15 Customs Code of the Philippines (TCCP), as amended,
16 respectively.
17

18 **SEC. 6.** Section 5 of the TIMTA is hereby amended to read as
19 follows:
20

21 *SEC. 5. Monitoring of Tax Incentives.* – The BIR and
22 the BOC shall submit to the Department of Finance
23 (DOF), notwithstanding any law to the contrary: (a) the
24 tax and duty incentives of registered business entities
25 **AND OTHER REGISTERED ENTITIES** as reflected
26 in their filed tax returns and import entries; and (b)
27 actual tax and duty incentives as evaluated and
28 determined by the BIR and the BOC.
29

30 The DOF shall maintain a single database for monitoring
31 and analysis of tax incentives granted.
32

33 For purposes of monitoring and transparency, the DOF
34 shall submit to the Department of Budget and
35 Management (DBM) the aggregate data on a sectoral and
36 per industry basis of: (1) the amount of tax incentives
37 availed by registered business entities **AND OTHER**
38 **REGISTERED ENTITIES**; (2) the estimate claims of
39 tax incentives immediately preceding the current year;
40 (3) the programmed tax incentives for the current year;
41 and (4) the projected tax incentives for the following

1 year. Such information shall be given to the Oversight
2 Committee created under Section 9 of this Act.

3
4 The aforesaid data shall be reflected by the DBM in the
5 annual Budget of Expenditures and Sources of Financing
6 (BESF), which shall be known as the Tax Incentives
7 Information (TII) section; *Provided*, That the TII shall be
8 limited to the aggregate data related to incentives availed
9 of by registered business entities **AND OTHER**
10 **REGISTERED ENTITIES** based on the submissions
11 of the DOF and the concerned **IPAS AND OGAS**,
12 categorized by sector, by **IPA OR OGA**, and **BY** type of
13 incentive.

14
15 Nothing in this Act shall be construed to diminish or
16 limit, in whatever manner, the amount of incentives that
17 EPAs may grant pursuant to their charters and existing
18 laws; or to prevent, deter, or delay the promotion and
19 regulation of investments, processing of applications for
20 registrations, and evaluation of entitlement of incentives
21 by IPAs.

22
23 **SEC. 7.** Section 6 of the TIMTA is hereby amended to read as
24 follows:

25
26 *SEC. 6. Conduct of Cost-Benefit Analysis on Investment*
27 *Incentives.* – The **FISCAL INCENTIVES AND**
28 **REVIEW BOARD (FIRB)** [National Economic and
29 Development Authority (NEDA)] is mandated to
30 conduct cost-benefit analysis on the investment **AND**
31 **NON-INVESTMENT** incentives to determine the
32 impact of tax incentives on the **RELEVANT SECTOR**
33 **AND THE** Philippine economy.

34
35 For this purpose, all heads of the IPAs **AND OGAS**
36 shall submit to the **FIRB [NEDA]: (1)** the aggregate tax
37 incentives[,] based on the submissions of registered
38 business entities **AND OTHER REGISTERED**
39 **ENTITIES** as provided in Section 4 of this Act; and **(2)**
40 **THE** aggregate investment **AND NON-INVESTMENT**
41 -related data [both on a sectoral or per industry basis]

1 **PER REGISTERED ENTITY**, which may include, but
2 not **BE** limited to, **APPROVED AND ACTUAL**
3 investment projects, investment cost, **APPROVED**
4 **AND** actual employment **GENERATED**, [and] export
5 **SALES** [earnings], **AND FISCAL AND OTHER**
6 **SOCIO-ECONOMIC BENEFITS.**

7
8 **SEC. 8.** Section 7 of the TIMTA is hereby amended to read as
9 follows:

10
11 *SEC. 7. Penalties for Noncompliance with Filing and*
12 *Reportorial Requirements.* – Any registered business
13 entity **OR OTHER REGISTERED ENTITY** which
14 fail[s] to comply with filing and reportorial requirements
15 with the appropriate IPAs **OR OGAS** and/or which
16 fail[s] to show proof of filing of tax returns using the
17 electronic system for filing and payment of taxes of the
18 BIR shall be imposed the following penalties **BY THE**
19 **APPROPRIATE IPA OR OGA:**

20
21 a. xxx

22
23 b. xxx

24
25 c. Third (3rd) violation – cancellation of the registration
26 **WITH THE IPA OR OGA.** *Provided,* That if the
27 failure to show such proof is not due to the fault of the
28 registered business entity **OR OTHER REGISTERED**
29 **ENTITY**, the same shall not be a ground for the
30 suspension of the ITH and/or other income-based tax
31 incentives availment. **PROVIDED FURTHER, THAT**
32 **COLLECTIONS FROM THE PENALTIES SHALL**
33 **ACCRUE TO THE GENERAL FUND.**

34
35 xxx

36
37 **SEC. 9. Repealing Clause.** — All other laws, decrees, orders,
38 issuances, rules and regulations, or portions thereof, which are
39 inconsistent with the provisions of this Act, are hereby repealed,
40 amended, or modified accordingly.

1 **SEC. 10. *Effectivity.*** — This Act shall take effect fifteen (15) days
2 after its complete publication in the Official Gazette or in two (2)
3 newspapers of national circulation.

4

5 Approved,