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PEZA (dis)incentives

OUT of 139 countries, the Philippines ranked No. 94, according to the Travel and Tourism Competitiveness Report released by the World Economic Forum in 2011. This year the Philippines emerged No. 82 out of 140 countries.

Apparently, there's an improvement in the overall ranking; however, our country's performance in the travel and tourism regulatory framework as well as in business environment and infrastructure remains far below our Asian neighbors, specifically Singapore, Japan and Hong Kong which ranked as Nos. 10, 14 and 15, respectively.

Our poor performance in transparency in government policy-making and strength of investor protection damages our country's reputation to foreign investors, thereby creating an impression that our economy is unfriendly and uninviting for business.

It is not amiss to state, however, that our government had since undertaken steps to remedy this predicament by making the business environment more conducive and appealing to the flow of business opportunities through tie-ups with foreign investors. This is precisely why Republic Act (RA) 7916, otherwise known as The Special Economic Zone Act of 1995, was enacted and later amended by RA 8748. Other special laws establishing additional special economic zones were subsequently legislated.

Tourism is only one among the various business activities eligible for Philippine Economic Zone Authority (Peza) registration. Depending on the nature of a company's business or the location of their clients, businesses may be able to apply for certain tax-incentive programs in our country. The government has come up with a program of fiscal and non-fiscal incentives to attract foreign investments in the form of either capital or technology advancements.

The Peza law and its implementing rules laid down the specific incentives of Peza-registered ecozones. Generally, these incentives are:

• Income-tax Holiday (ITH) for four years for non-pioneer projects or six years for pioneer projects or three years for expansion projects.

• After the ITH period, the option to pay a special 5-percent tax on gross income earned, in lieu of all national and local taxes, except real property taxes on land owned by developers.

• Tax and duty-free importation.

• Exemption from export taxes, wharfage dues, impost and fees.

•Zero-percent value-added tax on purchases of goods and services for use in the registered activity, subject to compliance with Bureau of Internal Revenue (BIR) and Peza requirements.

• Exemption from withholding taxes on payments of local buyers from customs territory.

• Exemption from payment of any and all local government fees, imposts, licenses or taxes.

• Other incentives, as may be determined by the Peza Board

Note, however, that on February 22, 2013, the BIR issued Revenue Memorandum Circular (RMC) 23-2013 circularizing the full text of the Peza Board Resolution 12-610. In that issuance, the Peza Board approved the proposed amendments to the Peza guidelines on the registration and administration of Tourism Economic Zone (TEZ) developers and locator enterprises as follows:

No more 5-percent gross-income tax (GIT) incentive to developers of TEZs in Metro Manila, Cebu City, Mactan Island and Boracay Island.

No more ITH and 5-percent GIT incentives to locator enterprises of TEZs in the aforesaid four areas, except for tax- and duty-free importation and zero-VAT rating on local purchases of capital equipment.

Henceforth, no more TEZs shall be established in Metro Manila, Cebu City, Mactan Island and Boracay Island. This new policy shall not have retroactive effect; however, TEZ developers/operators and locator enterprises in the above-mentioned areas that have not signed their Registration Agreements with Peza shall be covered by this new policy.

Existing and future TEZ developers and locator enterprises outside the four areas shall continue to avail themselves of the incentives granted by Peza subject to existing guidelines.

With Board Resolution 12-610, Peza hopes to spur investors to develop other less prominent but no less attractive areas of the country. For the business sector, in particular developers, it is likely that they would go to fringe cities to take advantage of low land rates and incentives but for some, the benefits of locating to major urban zones tend to outweigh the prospect of losing incentives. Let’s just wait and see how this new rule will play out.

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The author is a senior associate of Du-Baladad and Associates Law Offices, a member-firm of World Tax Services Alliance.

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