



Atty. Julie Ann L. Aranda

TAX LAW FOR BUSINESS

*BDB Law's "Tax Law for Business" appears in the opinion section of **Business Mirror** every Thursday.*

Incentives in the tourism business

IT'S more fun in the Philippines! The government has been using this campaign slogan to promote the country as a favored tourist destination for some years now. We have seen different television commercials featuring the top tourist spots in the country—Cebu, Boracay, Bohol, Davao and Ilocos, among others—and using this oft-repeated slogan.

There is no doubt that the country boasts of many beautiful tourist attractions, but it is important that the development of tourism infrastructure and allied services should be linked to them. Even before the slogan was conceived, the government has already created laws that aim to promote investments in our tourism industry. Indeed, certain laws were enacted in recognition of

the importance of tourism as an indispensable element of the national economy, thereby ensuring its development.

Meanwhile, some incentives are provided to draw investors and partners in the development and promotion of the tourism industry. The Tourism Act of 2009 makes available to tourism economic-zone operators and other duly registered tourism enterprises some incentives. These include, but are not limited to, fiscal incentives, such as an income-tax holiday for six years, which could be extended if the enterprise substantially expands or upgrades its facilities before those six years expire; the payment of 5 percent on its gross income earned in lieu of all other national and local taxes, license fees, imposts, and assessments, except real-estate taxes and other fees, as may be imposed; 100-percent exemption of all taxes and customs duties on importations of capital investment and equipment; and exemption from customs duties and national taxes for new and expanding registered enterprises' importation of transportation and accompanying spare parts, *provided* that they are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices, and that they are reasonably needed and will be used exclusively by an accredited tourism enterprise.

This law defines tourism enterprises as facilities, services and attractions involved in tourism, such as, but not limited to, travel and tour services; tourist-transport services, whether for land, sea or air; tour guides; services involving adventure sports, such as mountaineering, spelunking, scuba-diving and others with significant tourism potential; convention organizers; establishments providing accommodations, including, but not limited to, hotels, resorts, apartelles, tourist inns, motels, pension houses and home-stay operators: tourism estate-management services, restaurants, shops and department stores, sports and recreational centers, spas, museums and galleries, theme parks, convention centers and zoos.

Besides this law, there are other laws and executive issuances that provide incentives to tourism-sector players. For instance, tourism enterprises in special economic zones continue to be governed by the rules applicable to locators in these zones. Locators in these zones are entitled to a four-year income-tax holiday and a 5-percent tax on gross income after that holiday

ends. Other fiscal and nonfiscal incentives are available to these locators. For this purpose, a tourism enterprise is defined, according to Philippine Economic Zone Authority (Peza) rules, as referring to an individual, association, partnership, corporation or other business organization duly registered with the Peza that proposes to establish and operate tourist-oriented accommodations, restaurants operating as an integral part of a tourism facility (e.g. hotels, resorts, recreational centers) and sports recreational facilities within the ecozone.

Tourism involves intense competition with the entire world, and this high level of competition demands a creative and unique approach. To be successful, both public and private sectors should create a good marketing strategy in constantly putting forth the best possible image of the country, while creating interest on a broad scale in as many ways as possible. And promising tax incentives is one way of attracting partners in the development of the tourism industry. We just hope that these incentives, once given by the proper authorities, are respected by the tax-implementing agency, so that we can say, it's really more fun in the Philippines!

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

The article is for general information only, and is neither intended nor should be construed as a substitute for tax, legal or financial advice on any specific matter. Applicability of this article to any actual or particular tax or legal issue should be supported, therefore, by a professional study or advice. For comments or questions about the article, e-mail the author at julie.aranda@bdblaw.com.ph or call 403-2001, local 312.