AMENDMENTS TO THE GUIDELINES ON THE DESIGNATION AND SUPERVISION OF TOURISM ENTERPRISE ZONE AND THE ADMINISTRATION OF INCENTIVES UNDER R.A. NO. 9593

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Adopted: 15 December 2014
Date Filed: 23 January 2015

"WHEREFORE BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to adopt, confirm, and ratify as a corporate act the approval of the following amendments to the TIEZA Guidelines on the Designation and Supervision of TEZ and the Administration of Incentives Under RA 9593"[*]

A.

Revise and add the following definition of terms in Book I, Rule I, Sec. 2 of the TIEZA Guidelines:

a.

"Accommodation Establishments shall include hotels, tourist inns, motels, apartelles, resorts, home stay, pension houses and the accompanying facilities and services.

f.

"Capital Equipment" shall refer to equipment that are directly and actually needed and shall be exclusively used by the TEZ Operator and/or the Registered Tourism Enterprise in its registered activity.

g.

"Capital Investment" shall refer to the acquisition of capital assets or fixed assets that are expected to be productive in many years.

m.

"Convention and Exhibition Facilities and Services shall refer to a person or entity which is engaged in developing meetings, incentives, convention, and exhibition (MICE) centers; and regularly managing and gathering for the purpose of exchanging or disseminating views, technical expertise, experiences, knowledge, skills, information, policies or any other related activity.

r.

"Gross Income" shall refer to gross sales or gross revenues derived from registered tourism enterprise activity/ies, net of sales discounts, sales return and allowances and minus costs of sales or direct costs but before any deduction is made for administrative, marketing, selling and/or operating expenses or incidental losses during a given taxable period as provided in the NIRC, as amended and other pertinent revenue regulations."

s.

"Goods" unless otherwise specified in these Rules shall refer to merchandise used by a registered tourism

enterprise in the normal operation of its registrable activity/ies within the TEZ.

u.

“Registered Enterprise” or “Registered Tourism Enterprise” shall refer to a facility, service, or attraction primarily engaged in whole or in part in tourism and for the purpose of attracting visitors to and within the Philippines, which is duly registered with the TIEZA.

y.

“Substantial Expansion” shall refer to the expansion, renovation or upgrade of physical assets amounting to at least 50% of the original investment of the Tourism Enterprise.

z.

“Sustainable Tourism Development” shall refer to the management of all resources that meet the needs of tourists and host regions while protecting the opportunities for the future, in such a way that economic, social and aesthetic needs can be fulfilled while maintaining cultural integrity, essential ecological processes, biological diversity and life support systems.

aa.

“TEZ Operator” shall refer to an entity duly incorporated under Batas Pambansa Bilang 68, otherwise known as the Corporation Code of the Philippines, and other relevant laws, unless the TEZ Operator is a local government unit or any other instrumentality of the government in the pursuit of their mandates, whose capital may be provided by the LGUs and/or private entities, and which shall administer and supervise each TEZ.

gg.

“Tourism Estate Management Facilities and Services” shall refer to the handling of a real property by developing, operating, and controlling it as well as the proper maintenance in order to achieve optimum worth in the market of the subject property. The subject property being intended partly or in whole to attract tourists and host total tourism experience.

hh.

“Transport Facilities and Services” shall refer to a person or entity which may either be a single proprietorship, partnership or corporation, regularly engaged in providing for a fee or lawful consideration, tourist transport services through any land based carriers, watercraft. or air conveyances.

ii.

“Travel and Tour Facilities and Services” shall refer to entities which may either be a single proprietorship, partnership or corporation regularly engaged in the business of extending to individuals or groups, such services pertaining to arrangements and bookings for transportation and/or accommodation, handling and/or conduct of tours.”

B.

Add another paragraph in Book II, Rule IX, Sec, 1, thus:

“Initially, the incentives provided in Rule XI of these Guidelines shall only be granted to Primary Tourism Enterprises which shall refer to Travel and Tour Facilities and Services and Transport Facilities and Services whether for land, sea or air transportation exclusively for tourist use: Accommodation Establishments and the

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accompanying facilities and services: Convention and Exhibition Facilities and Services: Tourism Estate Management Facilities and Services, and such other enterprises as may be identified by the Secretary, after due consultation with concerned sectors."

C.

Amend Sec. 3 of Book II, Rule IX, Sec. 3, thus:

"Sec. 3. Grant and Administration of Incentives. Incentives may be granted by TIEZA within ten years from effectivity of this Act. However, incentives granted prior to the expiration of the ten year period shall continue to be effective until fully realized."

D.

Add an opening paragraph in Book II, Rule XI:

"The following incentives may, in the discretion of the Board, be granted to TEZ Operators and Registered Tourism Enterprises within the TEZ:

xxx xxx xxx"

E.

Revise Book II, Rule XI, Sec. 1 (2 and 3):

"2.

Additional Period of Availment - the income tax holiday incentive may be extended but in no case to exceed a total additional period of six (6) years. Provided, that prior to the expiration of the first six (6) years, the registered enterprise will undertake a Substantial Expansion; xxx

3.

Conditions for Availment by Existing Enterprises in Brownfield Zones – Existing enterprises in Brownfield Zones may avail of the non-extendible income tax holiday subject to the following conditions:

a.

The Registered Tourism Enterprise undertakes a Substantial Expansion.

b.

The expansion or upgrade has resulted in an extension of the life of its assets or increase in the capacity or efficiency of the enterprise that benefits the current and future periods.

c.

In appropriate cases, there is a significant change in its category classification under the Department of Tourism's accreditation system.

xxx xxx xxx"

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F.

Revise Book Ill, Rule XIII, Sec. 2 (i and ii):

“SECTION 2. Incentives. In case an enterprise outside the TEZ elects to avail itself of the incentives provided under the Act, it shall do so in writing and file its application for registration and shall be governed by the following provisions:

i.

In the case an existing enterprise outside the zone opts to avail of the Income Tax Holiday incentive under this Act, it shall be entitled to a non- extendible Income Tax Holiday incentive not to exceed six (6) years from the time of completion of the expansion or upgrade and subject further to the following conditions:

a.

The Registered Tourism Enterprise undertakes a Substantial Expansion;

b.

The expansion or upgrade has resulted in an extension of the life of its assets or increase in the capacity or efficiency of the enterprise that benefit current and future periods; and

c.

In appropriate cases, there is a significant change in its category classification under the Department of Tourism's accreditation system.

(ii)

It shall also be entitled to import Capital Investment and Equipment free of taxes and duties when necessary for such expansion, renovation or upgrade. Provided, finally, that the Board may in exceptionally meritorious cases allow an enterprise which will undertake an expansion or upgrade of its facilities for less than fifty per cent (50%) of the Original Investment to avail of the income tax holiday incentive, but the period of availment shall be prorated to the value of the expansion or upgrade.”

IT IS FURTHER RESOLVED TO authorize the publication of the Amended TIEZA Guidelines in the Official Gazette and newspaper of general circulation, and the necessary filing thereof with the Office of National Administrative Register.

ADOPTED through Referendum by the TIEZA Board of Directors this 15th day of December 2014 at Makati City, Philippines.”

This is to certify that the foregoing is an accurate excerpt from the Resolution adopted by the Board of Directors of the Tourism Infrastructure and Enterprise Zone Authority through Referendum on 15 December 2014 at Makati City, Philippines.

This is to certify further that the said Resolution is existing, valid and has not been repealed or amended as of even date.

(SGD) ATTY. AL CONRAD B. ESPALDON
Corporate Secretary

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[*] A copy of the Guidelines (as amended on December 15, 2014) is attached to this Resolution and it is available at the Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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