

RULES AND REGULATIONS TO IMPLEMENT REPUBLIC ACT NO. 9400, “AN ACT AMENDING REPUBLIC ACT NO. 7227, OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992, AND FOR OT...

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PART I

General Provisions

SECTION 1. Purpose - These rules shall be referred to as the Rules and Regulations to Implement Republic Act (RA) No. 9400.

SECTION 2. Definition of Terms. For purposes of these Rules, the following terms and definitions shall apply:

- RA 7227 — shall refer to Republic Act No. 7227, the "Bases Conversion and Development Act of 1992, and for Other Purposes", as amended;
- RA9400 — shall refer to Republic Act No. 9400, "An Act Amending Republic Act 7227, as Amended, Otherwise Known as the Bases Conversion and Development Act of 1992, and for Other Purposes",
- RA 7916 — shall refer to Republic Act No. 7916, the "Special Economic Zone Act of 1995", as amended by RepublicAct No. 8748;
- DOF - shall refer to the Department of Finance;
- BCDA — shall refer to the Bases Conversion and Development Authority which is a body corporate created under Section 3 of RA 7227, which is the governing body of the ciai economic zones created under RA 7227, as amended, by virtue of Proclamation No 163. series of 1993; Executive Order 132, series of 2002; Executive Order 103, series of 1993;
- SBMA - shall refer to the Subic Bay Metropolitan Authority, which is a body corporate created under Section 13 of RA7227, as amended, which governs the Subic Special Economic and Freeport Zones;
- CDC — shall refer to the Clark Development Corporation as the operating and implementing arm of the BCDAto manage the Clark Special Economic Zone (CSEZ) and Clark Freeport Zone (CFZ) pursuant to Executive Order No. 80, Series of 1993;
- PPMC — shall refer to the Poro Point Management Corporation, as the implementing arm of BCDA in the conversion of the Poro Point Freeport Zone pursuant to Executive Order 132, series of 2002,
- JHMC — shall refer to the John Hay Management Corporation, to act as the implementing arm of the BCDA in the conversion of the John Hay Special Economic Zone pursuant to Executive Order 103, series of 1993 and Executive Order 132, series of 2002;
- BTPI — shall refer to the Bataan Technological Park incorporated, as the implementing arm of BCDA in the conversion of the Morong Special Economic Zone, pursuant to Proclamation No. 984, Series of 1997;

- PEZA— shall refer to the Philippine Economic Zone Authority created under RA 7916, as amended;
- Ecozones — shall refer to Special Economic Zones which are selected areas, already created and identified under RA 7227 with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment, and financial centers; Provided that the areas declared or constituted as Special Economic Zones (SEZ) shall be fenced-in;
- PEZA Ecozones — shall refer to Special Economic Zones created and proclaimed by the President of the Philippines in accordance with RA 7916;
- Freeport Zones — shall refer to the presently fenced-in area within Subic Special Economic Zone, and the areas identified in R.A. 7227 as constituting the Clark Freeport Zone and the Poro Point Freeport Zone within which there shall be a free and unimpeded flow of goods and merchandise from one Freeport Enterprise to another or to other establishments and residents within the boundaries thereof in accordance with law;
- Customs territory — shall refer to the national territory of the Philippines outside of the boundaries of the Ecozones or Freeport Zones, duly defined or proclaimed in accordance with RA 7227, where the customs and tax laws of the Philippines are in full force or effect, and outside of those areas specifically declared by other laws and/or presidential proclamations to have the status of special economic zones and/or freeports,
- Zone Management Authority— shall refer to the body created under RA 7227 or to be created in accordance with the said Act, which owns the Ecozone or Freeport Zone and/or is charged with the development, operation, management and maintenance of the infrastructure, facilities and utilities inside the Ecozone or Freeport Zone;
- Incentives Administration Authority — shall refer to the body created or identified under RA 7227, which shall register, grant and administer incentives provided in RA 7227 or RA 7916, as well as regulate and supervise all Ecozone Enterprises or Free Enterprises located within a particular Ecozone or Freeport Zone;
- SSEZ — shall refer to the Subic Special Economic Zone created under Section 12 of RA 7227. As used in these Rules and Regulations, it shall specifically refer to the land area thereof outside of the coverage of the Subic Freeport Zone (SFZ);
- SFZ— shall refer to the particular land area within the Subic Special Economic Zone created under Section 12 of RA 7227, which is fenced-in and duly designated as Freeport Zone;
- CSEZ — shall refer to the Clark Special Economic Zone created under Section 15 RA 7227, and designated by Proclamation No. 163, Series of 1993,
- CFZ — shall refer to the land area within the Clark Special Economic Zone (CSEZ) declared under Section 12 of RA 7227 as a Freeport Zone, consisting of not more than four thousand four hundred hectares (4,400 has.), with the exception of the twenty-two-hectare commercial area situated near the main gate and the seven-and-a-half hectare Bayanihan Park outside the main gate of CSEZ;
- PPFZ—shall refer to the Poro Point Freeport Zone created under Section 15-A of RA 7227, as amended by Sec. 3 of RA 9400;
- MSEZ — shall refer to the Morong Special Economic Zone created under Section 15-B of RA 7227, as amended by Sec. 4 of RA 9400;
- JHSEZ — shall refer to the John Hay Special Economic Zone created under Section 15-C of RA 7227, as amended by Sec. 5 of RA 9400;
- Ecozone Enterprise — shall refer to a business entity located within the SSEZ, CSEZ, MSEZ and JHSEZ which

is entitled to incentives as provided by law and duly registered with the Incentives Administration Authority, other than PEZA, of the Ecozone where the business entity is located;

- PEZA Enterprise — shall refer to a business entity located within CSEZ, JHSEZ, CFZ and in Ecozones to be created under RA 7227, duly registered with PEZA and entitled to incentives under RA 7916 in accordance with its implementing rules and regulations;

aa. Freeport Enterprise — shall refer to a business entity located within CFZ, PPFZ, and within the Subic Freeport Zone, which is entitled to incentives, including tax and duty free importation, as may be provided by law, and duly registered with the incentives Administration Authority of the Freeport Zone where the business entity is located.

bb. Certificate of Registration — shall refer to the certificate issued to a business entity in an Ecozone or Freeport Zone by the concerned Ecozone or Freeport Zone Incentives Administration Authority evidencing the registration with incentives of the business entity as an Ecozone Enterprise, PEZA Enterprise or Freeport Enterprise in the Ecozone or Freeport Zone where the business entity is located.

cc.

National Taxes — shall refer to all internal revenue taxes, including the regular income tax imposed under the National Internal Revenue Code (Tax Code), as amended, as well as customs duties and import charges under the Tariff and Customs Code or Philippines, as amended.

SECTION 3. Operation, Management and Administration of Tax Incentives in the Ecozones and Freeport Zones. The Ecozone or Freeport Management Authority in each of the Ecozones and Freeport Zones, including Ecozones to be created by Presidential Proclamation in accordance with R.A. 7227, shall be that body duly created under 7227, or already constituted or to be constituted in accordance with the provisions thereof

- Subic Special Economic Zone — The Zone Management Authority shall be developed into a self-sustaining industrial, commercial, financial and investment center to generate employment opportunities in and around the Ecozone and to attract and promote productive investments.

- Subic Freeport Zone — The Zone Management Authority and Incentives Administration Authority of the Subic Freeport Zone is SBMA. The SFZ shall be developed into a self-sustaining, industrial, commercial, financial and investment center, and shall be operated and managed as a separate customs territory ensuring free flow or movement of raw materials, capital, equipment and consumer items within, into and exported out of the SFZ; provided, that the tax and duty-free importation of consumer items shall be governed by regulations and guidelines to be issued by the Department of Finance (DOF), upon recommendation of the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC), in consultation with the BCDA, the SBMA, the CDC, the PPMC, the Department of Trade and Industry, and the Department of Agriculture.

- Clark Special Economic Zone — The Zone Management Authority of the Clark Special Economic Zone is BCDA with CDC as its implementing arm pursuant to proclamation No. 163, series of 1983, and Executive Order No. 80, series of 1993. The BCDA, through CDC, is vested with the powers and functions exercised by PEZA pursuant to Presidential Decree No. 66, as amended, but it shall have no regulatory power over public utilities. The CSEZ may be registered with the PEZA to avail of tax incentives provided for under RA 7916. PEZA shall be the Incentives Administration Authority in the PEZA Ecozone/s within the CSEZ. PEZA for this purpose shall

enter into a Memorandum of Agreement with CDC in the administration of incentives.

- Clark Freeport Zone — The Clark Freeport Zone shall be operated and managed as a self-sustaining and separate customs territory ensuring free flow or movement of goods and capital equipment within, into, and exported therefrom. The Freeport Management Authority of the Clark Freeport Zone, including the Ecozone within CFZ proclaimed under RA 7916, is BCDA with CDC as its implementing arm pursuant to Proclamation No. 163, series of 1983, and Executive Order No. 80, series of 1993. The BCDA, through CDC, is vested with the powers and functions exercised by PEZA pursuant to Presidential Decree No. 66, as amended, but it shall have no regulatory power over public utilities.

The Incentives Administration Authority of CFZ is BCDA, through CDC; Provided, however, that PEZA shall be the Incentives Administration Authority in the PEZA Ecozone/s proclaimed under RA 7916 within the CFZ.

- Poro Point Freeport Zone — The Zone Management Authority and the Incentives Administration Authority of the Poro Point Freeport Zone is the BCDA, with PPMC as its implementing arm. The Poro Point Freeport Zone shall be operated and managed as a Freeport.

- Morong Special Economic Zone—The Zone Management Authority and Incentives Administration Authority of Morong Special Economic Zone is BCDA, with BTPL as its implementing arm. The MSEZ shall be operated and managed as an economic zone.

- John Hay Special Economic Zone—The Zone Management Authority of John Hay Special Economic Zone is BCDA, with JHMC as its implementing arm. It shall be operated and managed as an economic zone as herein provided. PEZA shall be the Incentives Administration Authority in JHSEZ for new locators who will register with PEZA after the effectivity of RA 9400.

- Other Ecozones to be created by Presidential Proclamation in accordance with RA 7916 in relation to R.A. 7227 — PEZA shall be the Incentives Administration Authority over Ecozones to be created by Presidential Proclamation in accordance with RA 7916 in relation to RA 7227.

SECTION 4. Tax Incentives in Ecozones and Freeport Zones. Ecozone and Freeport Enterprises shall be entitled to the following tax incentives:

- Subic Special Economic Zone— Ecozone Enterprises in the SSEZ shall be entitled to the 5% special tax on Gross Income Earned, in lieu of national and local taxes.

- Subic Freeport Zone — Freeport Enterprises in the SFZ shall be entitled to: (i) the freeport status of the zone; and (ii) the 5% special tax on Gross Income Earned, in lieu of national and local taxes.

- Clark Special Economic Zone — PEZA Enterprises in the PEZA Ecozone/s within CSEZ shall be entitled to the same tax and duty incentives as provided for under RA 7916.

- Clark Freeport Zone — Freeport Enterprises in the CFZ shall be entitled to- (i) the freeport status of the zone; and (ii) the 5% special tax on Gross Income Earned, in lieu of national and local taxes. PEZA Enterprises in the PEZA Ecozone/s within CFZ shall be entitled to incentives provided under RA 7916, but shall not be entitled to the freeport status of CFZ.

- Poro Point Freeport Zone— Freeport Enterprises in the PPFZ shall be entitled to: (i) the freeport status of the zone; and (ii) the 5% special tax on Gross Income Earned, in lieu of national and local taxes.

- Morong Special Economic Zone — Ecozone Enterprises in the MSEZ shall be entitled to: (i) tax and duty free importation of raw materials and capital equipment; and (ii) the special 5% tax on gross income earned, in lieu of

national and local taxes.

- John Hay Special Economic Zone — PEZA registered enterprises shall be entitled to the incentives provided for under RA 7916. For purposes of incentives administration, the JHSEZ shall be considered a PEZA Ecozone.

- Other Special Economic Zones to be created by Presidential Proclamation under RA 7916 in relation to R.A. 7227—PEZA Enterprises in Ecozones to be created by Presidential Proclamation under RA 7916 in relation to R.A. 7227 shall be entitled to the same tax and duty free incentives as provided for under RA 7916.

SECTION 5. The Special Five Percent (5%) Tax on Gross Income Earned (GIE).

- For purposes of implementing the special 5% tax on Gross Income Earned, in lieu national and local taxes, granted to Ecozone Enterprises and Freeport Enterprises SSEZ, SFZ, CFZ, PPFZ, and MSEZ the following shall apply:

- Gross Income Earned (GIE) shall refer to gross sales or gross revenue derived from business activities within the subject Ecozone or Freeport, net of discounts, sales returns and allowances minus cost of sales or direct costs before any deduction for administrative, marketing, selling, and/or operating expenses or incidental losses during a given taxable year; Provided, that, in the case of financial enterprises within Freeports, gross income shall include interest income, gains from sales, and other income, net of costs of funds.

- Only the following cost of sales/direct cost shall be allowed as deductions for purposes of calculating the GIE earned for the following Ecozone or Freeport enterprises/industries, to wit:

- Trading Enterprises — Costs of Sales (beginning inventory plus purchases, minus ending inventory of goods),

- Manufacturing Enterprises —

Direct salaries, wages, or labor expenses, inclusive of training directly related to the registered activity;

Production supervision salaries;

Raw materials used in the manufacture of products;

Decrease in goods in process account (intermediate goods);

Decrease in finished goods account;

Supplies and fuels used in production;

Depreciation of machinery and equipment used in production, and of that portion of the building owned or constructed by the registered enterprise that is used exclusively in the production of goods;

Rent and utility charges associated with building, equipment and warehouses used in production; and

Financing charges associated with fixed assets used in production, the amount of which were not previously capitalized.

- Service Enterprises —

Direct salaries, wages, or labor expenses, inclusive of training directly related to the registered activity;

Service supervision salaries;

Direct materials, supplies used;

Depreciation of machinery, equipment used in the rendition of registered services, and of that portion of the building owned or constructed by the registered enterprise that is used exclusively in the rendition of the registered service;

Rent and utility charges for buildings and capital equipment used in the rendition of registered services;

Financing charges associated with fixed assets used in the registered service business the amount of which were not previously capitalized.

- Financial Institutions — (none)

- For purposes of implementing the 5% tax on Gross Income Earned, in lieu of national and local taxes, granted to PEZA Ecozone Enterprises in CSEZ, CFZ, MSEZ and JHSEZ, the relevant provisions of R.A. No. 7916, its Implementing Rules and Regulations, Circulars, Memoranda of Agreement with other government agencies, and all other relevant issuances of PEZA and of other government agencies relative to the implementation of the tax incentives under RA 7916, shall apply.

SECTION 6. Payment and Remittance of the 5% Tax on Gross Income Earned.

A.

The 5% Tax on Gross Income Earned shall be paid and remitted by Ecozone Enterprises and Freeport Enterprises as follows:

1.

For Ecozone Enterprises in the SSEZ and Freeport Enterprises in the

a.

3% to the National Government;

b.

2% to the SBMA for distribution to the local government units (LGUs) concerned, namely: Olongapo City, and the municipalities of Subic Sa Antonio, San Marcelino, and CastiSlejos of the Province of Zambales, and th municipalities of Morong, Hermosa, and Dinalupihan of the Province of Bataan on the basis of the population (50%), land area (25%), and equal sharin (25%).

2.

For Ecozone Enterprises in the MSEZ, JHSEZ and Freeport Enterprises in CFZ and PPFZ that are registered with CDC and PPMC, respectively:

a.

3% to the National Government;

b.

2% to the local government units (LGUs) through the Treasurer's Office of the Municipality or City where the Ecozone Enterprise or Freeport Enterprise is located.

B.

Returns and payment of the 5% Tax on Gross Income Harned (GIE) shall be governed by the following:

1.

Quarterly and Final Adjustment Tax Returns:

a.

Every Ecozone and Freeport Enterprise subject to the herein 5% tax rate shall file a quarterly and final adjustment income tax return showing, among others —

i.

the Gross Income Earned for such period;

ii.

the amount representing 5% of the tax on said Gross Income Earned,

iii.

the amount representing the 3% share of the National Government; and

iv.

the amount representing the aforementioned 2% of the city/municipality;

b.

The quarterly income tax return shall be filed within sixty (60) days after the close of each of the first three (3) quarters and a final adjustment income tax return covering the entire taxable year, not later than the 15th day of the fourth month following the close of its taxable year, whether a calendar or a fiscal year accounting period, in accordance with Title II, Chapter XII, of the National internal Revenue Code of 1997, as amended: Provided, however that an Ecozone Enterprise or Freeport Enterprise shall prepare and accomplish at least six (6) copies thereof for filing, as follows:

i.

Original and duplicate original copies thereof for filing with the duly authorized representative of the Commissioner of Internal Revenue, the purpose of payment of the aforementioned 3% share of the Nation Government;

ii.

"Two duplicate copies for the purpose of payment of the aforesaid share of the city/municipality;

iii.

One copy thereof for the file of the said registered enterprise; Provided, further, that if two or more cities/municipalities are entitled to a share in the 2% tax share of cities/municipalities, as many copies shall be accomplished for the purpose of filing at least two copies thereof with the concerned cities/municipalities; and

iv.

Within thirty (30) days from date of filing of the Income Tax Returns, one copy for the file of the Incentives Administration Authority with which the Ecozone Enterprise or Freeport Enterprise is registered.

2.

Filing Procedure

a.

The Ecozone or Freeport Enterprise shall present and submit its aforementioned tax return to the Authorized Agent Bank (AAB) of the Revenue District Office (RDO) having jurisdiction of the concerned Ecozone or Freeport;

b.

After payment of the 3% tax share of the National Government, all copies thereof shall be stamped received; and

c.

The remaining copies thereof shall be returned to the said Ecozone or Freeport Enterprise, one (1) copy thereof for its file, and the rest, duly stamped received by the said AAB shall be submitted to the Zone Management Authority for the remittance of the 2% share of the LGU/s.

d.

Within thirty (30) days from date of filing of the Income Tax Returns, one copy for the file of the Incentives Administration Authority with which the Ecozone Enterprise or Freeport Enterprise is registered.

3.

Additional Attachment —

a.

An Ecozone Enterprise shall submit with its quarterly income tax return a separate schedule showing:

i.

the Gross Income Earned for the quarter without, however, showing the details on how the same has been computed;

ii.

the 5% special tax due thereon;

iii.

the 3% tax share of the National Government; and

iv.

The share of each city/municipality from the 2% tax share of cities and municipalities.

b.

The same schedule, in addition to the duly audited financial statements of the Ecozone Enterprise, shall be submitted with the annual final adjustment return, Provided, however, that for this purpose, said schedule shall show the details how its Gross Income Earned has been computed. Provided, finally, that all Ecozone Enterprises shall secure, on an annual basis, a certification from the concerned Authority that:

i.

The enterprise is duly registered and entitled to the 5% special tax on gross income; and

ii.

Whenever, applicable, the percentage allocation of the 2% share in the case of overlapping cities/municipalities.

Refund/Credit for Erroneously Paid 5% Special Income Tax —The BIR shall make the appropriate refund and/or issue the corresponding credit, for any and all erroneous payments pertaining to the National Government's stated 3% share taxes paid by Ecozone Enterprises, while the concerned city/municipality SHALL be responsible for making said refund and/or tax credit as regards the 2% share pertaining to them.

c.

Returns and payment of the 5% Tax on Gross Income Earned (GIE) of PP7 Enterprises shall be governed by the Rules and Regulations of RA 7916 and related issuances of the DOF/BIR.

d.

An Ecozone and a Freeport Enterprise availing tax incentives provided for under RA 9400 shall secure from the concerned Incentives Administration Authority on an annual basis a certification that the enterprise is a bona fide registered enterprise entitled to incentives provided under RA 9400, such as Income Tax Holiday and/or 5% tax on GIE, and to attach the said certification to their annual Income Tax Return upon filing thereof.

SECTION 7. Tax Treatment of Goods Introduced Into and Brought Out of the Ecozones and Freeport Zones.

- Raw materials, capital goods, and consumer items of domestic origin which are brought out of the Ecozone or Freeport Zone introduced into the customs territory shall be considered as importations into the customs territory and the buyer of the goods shall be treated as importer thereof, hence, subject to the VAT on importation. In all instances, raw materials, capital goods, equipment and consumer items and foreign articles introduced into the customs territory, unless authorized under applicable laws, rules and regulations, shall be subject to taxes and duties under the National Internal Revenue Code of 1997, as amended, and by the Tariff and Customs Code of the Philippines, as amended.

- Ecozone or Freeport Enterprises paying the Regular Corporate Income tax, except if export-oriented, shall register as VAT taxpayer. Hence, VAT on its local purchases can be passed on to them by the seller from the Customs Territory, and therefore, can be treated as its input tax. On the other hand, the seller from the Customs Territory cannot claim effective zero-rating or VAT exemption of its sale to such Ecozone or Freeport Enterprise, and shall therefore be liable to normal VAT output tax on its sale to said Ecozone or Freeport Enterprise.

- Articles which are missing or cannot be accounted for in the Freeport Zone shall be presumed to have been introduced into the Customs Territory without the appropriate permits and, therefore, subject to taxes and duties, without prejudice to the imposition of such other applicable sanctions.

- Articles which are manufactured in Ecozones or Freeport Zones and exported there to a foreign country shall, upon subsequent importation in the Customs Territory, subject to the laws on importation which are applicable to like articles manufactured in a foreign country.

- Foreign articles brought into or otherwise diverted to the Customs Territory, shall be treated as ordinary importations and thus, shall be subject to the payment of the corresponding internal revenue taxes in accordance with the 1997 Tax Code, as amended, and other relevant tax laws. Provided that, articles removed to the Customs Territory will be presumed to be of foreign origin, unless the contrary can be shown by satisfactory evidence.

SECTION 8. Other Tax and Fiscal Obligations.

- If the Ecozone or Freeport Enterprise wants to avail of the incentives under the 5% special tax regime, it may generate income from sources outside the Ecozone or Freeport Zone or within the Customs territory of up to thirty percent (30%) of its total income from all sources. Provided, however, that if the income of an Ecozone or Freeport Enterprise exceeds said thirty percent (30%) threshold, then all of its income whether from the Zone or the Customs Territory shall be subject to the relevant internal revenue taxes under the National Internal Revenue Code of 1997, as amended.

- An Ecozone or Freeport Enterprises shall be constituted as a withholding agent for the government, in the following instances:

- If it acts as an employer and its employees receive compensation income subject to the withholding tax under Sec. 72 (a), Chapter X, Title II of the Tax Code of 1997, as amended, as currently implemented by RR 2-98, as amended;

- If it makes income payments to individuals or corporations subject to the expanded withholding tax pursuant to Sec. 50 (b) of the Tax Code of 1997, as amended, and as implemented by RR 2-98, as amended; and/or

- If it makes payment/remittance of certain income subject to the final withholding tax under Sec. 50 (a), in relation to Sec. 51 of the Tax Code of 1997, as amended.

- The 5% preferential tax rate shall not apply to interest income received or earned by an Ecozone or Freeport Enterprise from any Philippine currency bank deposit and yield or any other monetary benefit from deposit

substitutes, and from trust funds and similar arrangements, which shall still be subject to the corresponding internal revenue taxes under the Tax Code.

SECTION 9. Bookkeeping and Reportorial Requirements.

- All Ecozone and Freeport Enterprises shall keep regular and accurate records of their transactions, including importations, and maintain books of accounts and allied documents in accordance with the bookkeeping rules and regulations prescribed by the BIR which shall be made accessible and open to inspection and verification by authorized officers of the Bureau concerned in accordance with law and shall be done in coordination with the zone's administrator. For this purpose, the BIR is authorized to conduct, during office hours, an audit, check, or inventory count for verification and reconciliation of such records with the inventory of articles in the concerned Freeport.

- The Incentives Administration Authorities in the Ecozones and Freeports shall submit their respective annual tax expenditures, in four (4) quarterly reports for any given year, to the DOF, using the format prescribed in Annex A[*] herein, not later than the end of the month following the close of a particular quarter, in which the tax incentives granted, which shall include the following information:

- Name of the registered firm with and without tax exemption;
- Date of registration of the enterprise;
- "Type of registered activity;
- Type/s of tax incentives granted, if any;
- Gross revenues/grass sales for the quarter;
- Gross income for the quarter,
- 5% tax paid and net income derived from the registered activity or amount of income tax holiday availed of for the quarter, Provided, that, if the 5% tax is paid the respective amounts remitted to the national Government and LGUs must also be stated;
- Amount and description of importations, and estimated amount of duties and taxes waived (if necessary) on said importation;
- Amount of sales to domestic market and as a percentage of gross revenues-
- Amount of taxes and duties paid on domestic sales; and
- Amount of export sales, whether direct or constructive exports, and as a percentage of gross revenues.
- Such other information/data as may be required by the Secretary of Finance pursuant to rules and regulations as may be hereinafter be issued.
- For proper monitoring, the DOF shall review and create a single database of all incentives provided by all Incentives Administration Authorities. The DOF shall likewise submit an annual report to the President.

SECTION 10. Conflict of Laws, In case of conflict between national and local laws with respect to the tax exemption privileges of the SSEFZ, CSEFZ, PPFZ, MSEZ, and JHSEZ, the same shall be resolved in favor of said zones, provided, however, that SSEFZ, CSEFZ, and PPFZ shall be subject to the provisions of Section 12 (d), (e), (f), (g), (h), and (i) of RA 7227, as amended.

SECTION 11. Tax Incentives of Currently Registered Enterprises, Business enterprises presently registered and

granted tax incentives by the CDC, PPMC, JHMC, and BTPI, shall be entitled to the same incentives until the expiration of their contracts entered into prior to the effectivity of RA 9400, as amended.

SECTION 12. Exclusivity of Incentives. It is understood that, henceforth, registered Ecozone and Freeport Enterprises already availing of the incentives and benefits under RA 9400 in accordance with these rules, shall be expressly disqualified from availing of other incentives and benefits defined and/or granted, under other laws, rules, and regulations.

SECTION 13. Penal Provisions. Any enterprise within a Freeport or Ecozone which has been found by final judgment, to be involved in smuggling shall be perpetually barred from doing business in any Freeport and special economic zone, in addition to the penalty and sanctions imposed by existing laws.

SECTION 14. Non-applicability to PEZA Ecozones and PEZA Enterprises. otherwise expressly stated, the provisions in these Rules and Regulations shall not to PEZA Ecozones and PEZA Enterprises, which shall be governed by RA 7916, its implementing rules and regulations and other issuances related to the implementation thereof

SECTION 15 Separability Clause If for any reason, any section or provision of these Rules be declared unconstitutional or invalid; such parts not affected shall remain in full force and effect.

SECTION 16. Repealing Clause. All orders, circulars, memoranda, and other issuances, arts thereof, which are inconsistent with these Rules, are hereby repealed or modified accordingly.

SECTION 17. Effectivity. These Implementing Rules and Regulations shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Adopted: 13 Feb. 2008

(SGD.) MARGARITO B. TEVES
Secretary

[*] Text Available at Office of the Administrative Register, U.P. Law Complex, Diliman Quezon City.

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