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PROCEDURES AND GUIDELINES FOR THE AVAILMENT BY EPZA FIRMS OF THE INCOME TAX HOLIDAY INCENTIVES UNDER E.O. 226

EPZA GENERAL CIRCULAR NO. 90-001, October 17, 1990

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Pursuant to EPZA Board Resolution No. 90-152 dated 04 September 1990, the following procedures and guidelines shall govern the availment by EPZA firms of the income tax holiday incentives provided under Book VI of E.O. No. 226 and implemented under Rules VI and VII of the Amended Rules and Regulations to Implement PD No. 66, as further amended by E.O. No. 226:

I.
Coverage

All new and expansion projects registered with EPZA on or after August 31, 1987 are entitled to income tax holiday (ITH) incentives under E.O. 226, while those registered between the period December 1, 1986 and August 13, 1987 may opt to be governed by E.O. 226.

This Circular covers the following:

1. General Application Procedures and Guidelines — Sec. II and III.

2. Application and Evaluation guidelines for "Pioneer Status" — Sec. IV

3. Existing Producers Wishing to Engage/Engaged in a Different Product Line — Sec. V

4. Additional Period of Availment — Sec. VI

5. Expansion of Existing Firms — Sec. VII

II.
Application Procedures

1. The zone registered enterprise files with the PERD, EPZA, Legaspi Towers 300, Malate, Manila, a notarized application accompanied by the following documents/information.

a. For new registered pioneer firms

1. Certification of pioneer status from EPZA

2. The taxable year when the income tax holiday shall be applied

3. The amount of tax due

4. Two (2) copies of audited financial statements

5. Two (2) copies of income tax returns

b. For new registered non-pioneer firms

1. EPZA Registration Certificate

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2. The taxable year when the income tax holiday shall be applied

3. The amount of tax due

4. Two (2) copies of audited financial statements

5. Two (2) copies of income tax return

c. For Expanding Firms

1. EPZA Registration Certificate

2. Board Resolution authorizing expansion project

3. Production and sales records (in volume and value) for the last three (3) years

4. The taxable year when the income tax holiday shall be applied

5. The amount of tax due

6. Certification of start of commercial operations of the expansion duly attested by the Zone Manager

7. Two (2) copies of audited financial statements

8. Two (2) copies of income tax returns

2. A filing fee of P500.00 shall be collected for each application.

3. The PERD evaluates the application and prepares the evaluation report.

4. The PERD recommendation is filed with the EPZA Board for approval.

5. Upon approval, the PERD implements the Board action by preparing the transmittal letter to the EPZA enterprise, to be signed by the Administrator.

6. The certification on the rate of exemption on income tax shall be issued to the BIR copy furnished the applicant firm together with the evaluation reports and complete files of documents used in the computation of rate of income tax exemption.

III.
General Guidelines

1. Those who have already availed of the incentives in their income tax returns for the past taxable years are required to file their application for ITH with the Project Evaluation and Review Department (PERD), EPZA at 4th Floor, Legaspi Towers 300 Roxas Boulevard, Manila.

2. Except as otherwise provided in these procedures, application for ITH shall be filed in the prescribed form within one month from the filing of the Annual Income Tax Return (ITR) with the Bureau of Internal Revenue (BIR). For companies which filed tentative ITR's, the filing of the application shall be done within one (1) month from the filing of the final ITR or one (1) month after the lapse of the two year period within which to file the final ITR.

3. The rate of exemption for new enterprises registered under E.O. 226 which are engaged solely in the activity for which it is registered is 100%.

4. In all cases of availment of ITH, the start of commercial operation shall be the date prescribed in the Registration Agreement or if not indicated, the date in the project feasibility study or the date the zone enterprise actually begins its commercial operations, whichever comes earlier. The date of "start of commercial

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operations" for purpose of the ITH may, however, be adjusted if the delay thereof is due to factors beyond the control of zone enterprise.

5. The ITH incentives shall apply only to the extent in which the enterprise is engaged in its registered operation, and only during the period of its registration with the EPZA.

6. The "income" of the registered firm entitled to ITH shall be confined to income directly derived from registered operations.

IV.
Application and Evaluation Guidelines for Pioneer Status

1. Applications for pioneer status may be filed at the same time with the original application for registration with EPZA or may be filed at a later date after EPZA registration. In either case, a filing fee of P1 ,000.00 shall be charged.

2. As a general rule, the basis for determining whether a proposed project may be considered Pioneer or Non-pioneer shall be the current "Investment Priorities Plan" which is prepared by the Board of Investments and approved by the President.

3. If the area of activity is not listed in the IPP, the Authority shall undertake consultations with the Board of Investments (BOI) and other government agencies in charge of regulating/supervising the industry where the proposed activity belongs.

4. Simultaneously, the PERD may conduct actual inspection of the applicant's manufacturing facilities and make further evaluation according to established standards that may have been determined after consultations with other government agencies.

5. When consultations indicate that there is no similar existing area of activity or technology, the Authority may cause the publication of the application of the enterprise (for pioneer status) in one newspaper of general circulation for one (1) day, the cost of which shall be for the account of the enterprise.

6. Within fifteen (15) days from date of publication, and there are no petitions or protests received against said application, the appropriate recommendation shall be submitted to the EPZA Board by the PERD. In case there are protests received, proceedings and or hearings shall be held within a period of one (1) month from receipt thereof, during which period a final ruling shall be made by the Authority.

7. Applications for pioneer status which are not specifically listed in the IPP may be acted upon only after the start of commercial operations and actual production of the registered product. The application shall be supported by samples of the products being manufactured and/or may require actual plant inspection in accordance with the foregoing procedures.

V.
Existing Producers Wishing to Engage/Engaged in a Different Product Line

For producers engaged/wishing to engage in a different line of activity/products from those registered under the laws repealed by E.O. 226, the computation of the rate of exemption shall have no base figure, provided that a separate book of accounts shall be set up for the new project and the production of such product shall be approved by and registered with the Authority.

The 100% rate of exemption shall be applied only to the net taxable income derived from the registered activity as shown in the audited/certified segregated income statement.

The tax holiday incentives shall likewise be as follows:

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1. Four (4) years for non-pioneer but not to exceed 7 years.

2. Six (6) years for pioneer but not to exceed 8 years.

Provided, that the company shall maintain two (2) separate books of accounts for the categories.

VI.
Additional Period of Availment

1. The ITH incentive for non-pioneer firms may be extended for another year but not exceeding three (3) years if they meet any of the following criteria:

a. The project meets the prescribed ratio of US$10,000.00 worth of imported and domestic capital equipment to one (1) worker; This will include equipment sent in to form part of equity capital but the value of consigned equipment shall not be included.

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In case of discrepancy on the total sales volume and value against the summation of figures contained in the actual quarterly report on operations, the staff shall notify the proponent in writing for explanation and or reconciliation of records. The sales value indicated in the ITR shall be the final sales figure to be adopted by the staff for heterogeneous products while for homogeneous, it shall be the sales volume reflected in the quarterly reports.

c. Deduct the base figure as reflected in the terms and conditions of registration as set by the Board (in the case of expanding export producer) to get the incremental sales.

For registered enterprises under E.O. 226 with no base figure reflected in its terms and conditions of registration, the base figure shall be determined as follows:

1. Homogeneous products — the highest attained production volume prior to expansion.

2. Heterogeneous products — the highest attained sales value for the past three years prior to expansion.

d. Divide the incremental sales value/volume by the total sales to get the rate of exemption (to determine the estimated income tax holiday incentive, the rate of exemption is multiplied by the Net Taxable Income from registered activity for which the incentive is claimed).

5. Modernization or rehabilitation to be registrable may or may not result in increase in capacity but the following conditions should be met:

1. The area of activity must be listed in the IPP specially for modernization or rehabilitation; and

2. phases/stages of production sought to be modernized/rehabilitated must be identified;

3. must result in any of the following:

a. substantial reduction of production cost;

b. significant increase in productive efficiency including debottlenecking; or

c. meaningful upgrading of product quality;

d. keeping abreast with the state of the art in the production of registered product.

6. Increase in production capacity prior to start of operations shall not be considered expansion but adjustment of original targets and the effectivity of the ITH shall be the same date as indicated in the original approval.

However, if the change will involve more than 50% of the original plan, the effectivity of the ITH may be adjusted upon proper evaluation and approval by the Board.

Please be guided accordingly.

Adopted: 17 Oct. 1990

(SGD.) RAMON J. FAROLAN
Administrator

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