



FOR ACTION



DMS REF #
2023-BIIC-0017493

LOCATOR ADVISORY No. 2023- 007

To: **ALL SBMA LOCATORS, APPLICANTS AND ALL OTHERS CONCERNED**

From: **JONATHAN D. TAN**
Chairman and Administrator **JUL 10 2023**

Subject: **AMENDMENT TO THE SPECIFIC GUIDELINES OF ACTIVITIES IN SUPPORT OF EXPORTERS UNDER THE 2020 INVESTMENT PRIORITIES PLAN (IPP) PARTICULARLY ECOZONE LOGISTICS SERVICE ENTERPRISES (ELSE) TYPE 3; AND DEVELOPERS AND OPERATORS OF ECONOMIC ZONES, AND INDUSTRIAL PARKS AND BUILDINGS FOR EXPORTERS, RELEVANT TO INVESTMENT PROPOSALS AND VAT- ZERO RATE CERTIFICATE**

Date: **30 May 2023**

This Locator Advisory has reference to the following documents:

- a) Board of Investments (BOI) Memorandum Circular (MC) No. 2022- 003, entitled, "Amendments to the Specific Guidelines of Activities in Support of Exporters under the 2020 Investment Priorities Plan" issued on May 11, 2023.
- b) BOI MC No. 2023- 001, entitled "Clarification on the Coverage of Logistic Services as 'Activities in Support to Exporters' under the 2022 Strategic Investment Priority Plan (SIPP)" issued on February 01, 2023; and
- c) Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 53- 2023, entitled, "Provides Clarifications on the Entitlement of Economic Zone Developers and Operators to the Value- Added Tax (VAT) Zero- Rating on Local Purchases of Goods and Services Directly and Exclusively Used in the Registered Project or Activity" issued on May 11, 2023.

Amendments on the Specific Guidelines of Export Activities under the 2020 IPP also known as the transitional Strategic Investment Priority Plan (SIPP) and Clarifications on the Coverage of Logistic Services¹ as Activities in Support of Exporters

Pursuant to the BOI MC No, 2022- 003 and BOI MC 2023- 001, the following specific activities and qualifications are to be considered as activities in support of export activities, thus, these projects are qualified under the CREATE Act.

a) **Ecozone Logistics Service Enterprises or ELSE Type 3 or "combination of both"** as follows:

- 1. Establishment of a warehouse storage facility; and

¹ 2020 IPP also known as Transitional SIPP:
 II. Export Activities
 -xxx-
 3. Activities in Support of Exporters
 -xxx-
 e. Logistics Services
 This covers logistics integrated services which must involve warehousing, inventory management and transport of goods. Mere trucking or forwarding services are excluded.

SUBIC BAY METROPOLITAN AUTHORITY
OFFICE OF THE
CHAIRPERSON & ADMINISTRATOR

JUN 05 2023 GMMP
@/q 4:11PM

RECEIVED BY: <i>RICHARDS</i>	TIME: 4:35 pm
Control No.: 17493	

Jps
06/02/2023
A-000000



SUBIC BAY
METROPOLITAN AUTHORITY



2. Importation or procurement from local sources and/or from other PEZA registered enterprises of goods for resale, or for packing/ covering (including marketing, labelling), cutting, or altering to customers' specification, mounting and/or packaging into kits or marketable lots thereof for subsequent sale, transfer, or disposition for export.

*Further, such integrated ELSEs shall be considered as export enterprises; **Provided, that they render at least 70% of their output/ services to another registered export enterprise.***

b) Development and Operation of Economic Zones and Industrial Parks and Buildings for Exporters.

1. *Development and operation of economic zones, and industrial parks within export or freeport zones with integrated facilities for export-oriented enterprises.* The economic zones and industrial parks shall have infrastructure such as paved roads, power system, water supply, drainage system, sewerage treatment facilities, pollution control systems, communication facilities, and other infrastructure/ facilities needed for the operation of exporters located therein.
2. *Development and management of new buildings located outside NCR, declared as an economic zone or within export or freeport zones, with a minimum contiguous land area of 10,000 square meters with the following features:*
 - High-speed fiber optic telecommunications backbone and high-speed international gateway facility or wide-area-network (WAN); or any high-speed data telecommunication system that may become available in the future.
 - Clean² uninterruptible power supply.
 - Computer security and building monitoring and maintenance systems (e.g., computer firewalls, encryption technology, fluctuation controls, etc.); and
 - Any other requirements as may be determined by the Board of the concerned IPAs.
3. *Provided that,*
 - i. **at least seventy percent (70%) of the leasable/ saleable areas shall be dedicated to exporters³.**
 - ii. Revenues arising from clients/tenants engaged in activities that are not allowed pursuant to the definition of a registered business enterprise under Section 293(M) of the CREATE Act will not be entitled to the ITH incentive.
 - iii. Phased development of an economic zone or industrial park may be allowed provided that the whole project is completed within five (5) years unless otherwise approved by the Board of the concerned IPA.

Therefore, based on the foregoing, applicants for CREATE Certificate of Registration (COR) incentives if they meet qualifications as defined therein, in which case, may be classified as export enterprise.

As corollary, registered business enterprises, which meets the provisions stated above and the qualifications of an export enterprise per definition of Section 293(E) of the CREATE Act, in which case, shall be entitled to VAT- Zero Rate incentives under the Act.

Otherwise, the RBE shall be qualified as a domestic market enterprise, thus, it is not entitled to VAT incentives under the CREATE Act.

² Clean power supply is electrical power that is free from voltage spikes and drops. It is electricity using alternating current (AC) that oscillates at a perfect 60Hz with no noise or distortion in the line showing the current's frequency (a perfect sine wave). Voltage ripple or power supply that is outside of the ideal sinusoidal waveform, which are, in turn called, dirty power supply or polluted power.

³ For SBMA- registered business enterprises (RBEs), this means exporting at least 70% of its total production/ service as defined under Sec. 293(E) of the CREATE Act. For non- IPA registered enterprises this means exporting at least 60% of its output as defined under Sec 3(E) of the Foreign Investments Act, as amended.



SUBIC BAY
METROPOLITAN AUTHORITY



In view of the foregoing, SBMA registered business enterprises which have (1) filed their request for its 2023 VAT Zero- rating Certificate; (2) compliant with SBMA reportorial requirements including reports required under CREATE; (3) have qualified according to the Section 293(E) of the Act and the amended guidelines above; (4) affidavits and verifiable documents that show 70% sales to other REEs (*for ELSE Type 3*) or 70% leases to other export enterprises (*for developers/ operators of ecozones, industrial parks, and buildings*); and (5) such other qualifications and documents required under Locator Advisories dated May 26, 2022 and April 29, 2022 shall be issued the VAT Zero- rating Certificate.

The SBMA shall issue further Locator Advisories on these matters as it deems proper. All other Locator Advisories inconsistent herewith are hereby considered amended, modified, or revoked accordingly. Further, this Locator Advisory shall remain in effect unless superseded, clarified, or amended by the SBMA, the Board of Investments, the Fiscal Incentives Review Board, or the Bureau of Internal Revenue.

For your information and guidance.

Enclosures:

1. BOI Memorandum Circular No. 2022- 003
2. BOI Memorandum Circular No. 2023- 001
3. BIR Revenue Memorandum Circular No. 53- 2023

JDT/nwl/va/psj

MEMORANDUM CIRCULAR NO. 2022-003
Series of 2022

TO : ALL BOI CLIENTS AND ALL OTHERS CONCERNED

SUBJECT : AMENDMENTS TO THE SPECIFIC GUIDELINES OF ACTIVITIES IN SUPPORT OF EXPORTERS UNDER THE 2020 INVESTMENT PRIORITIES PLAN (IPP)

WHEREAS, the BOI Memorandum Circular No. 2021-001 entitled "General Policies and Specific Guidelines to Implement the 2020 Investment Priorities Plan" was approved by the Board and Published on 09 February 2021;

WHEREAS, R.A. 11534 (CREATE Act) was signed by the President on 26 March 2021 which took effect on 11 April 2021 and its Implementing Rules and Regulations (IRR) was published on 26 June 2021;

WHEREAS, Sections 6 (b) and (c), and 7 of R.A. 7916, otherwise known as "The Special Economic Zone Act of 1995", as amended, sets the criteria for the establishment of economic zones (ecozones) which include the availability of infrastructure (e.g. transportation infrastructure such as roads, railways, ports, airports, and telecommunications infrastructure, etc.); water source and electric power supply for use of the ecozone; and, other facilities needed to generate linkage with industries and employment opportunities for its own inhabitants and those of nearby towns and cities;

WHEREAS, Rule 13, Section 1(c) of the IRR of the CREATE Act, provides for the minimum contiguous land area that vertical economic zones should comply;

WHEREAS, Rule 4, Section 5 of the IRR of the CREATE Act, provides that all such areas under Memorandum Order No. 50, approving the 2020 IPP, signed by the President on 18 November 2020, which took effect on 06 December 2020, and its General Policies and Specific Guidelines to implement the 2020 IPP shall be open for application until the publication of the Strategic Investment Priority Plan (SIPP) under the Act;

WHEREAS, Rule 4, Section 8 of the IRR of the CREATE Act, provides that subject to publication requirements and the criteria for investment priority determination, the BOI may, at any time, include additional areas in the SIPP, alter any of the terms of the declaration of an investment area, and temporarily suspend projects or activities therein if it considers that such project or activity is no longer a priority within the effectivity of the SIPP;

WHEREAS, Rule 4, Section 9 of the IRR of the CREATE Act, provides upon approval of the plan, in whole or in part, or upon approval of an amendment thereof, the plan or the amendment, specifying and declaring the preferred areas of investments shall be published in at least one (1) newspaper of general circulation or the Official Gazette: Provided, that all such areas in the existing SIPP shall be open for application until publication of an amendment or deletion thereof;

WHEREAS, the BOI is mandated to promote and generate foreign and local investments, and develop globally competitive industries. As such, the Agency pursues robust industrial policy to further enable major industries and stimulate productivity and job creation;

WHEREAS, the Board conducted a review of M.C. 2021-001 to consider the recent developments in the industry and adopt reasonable and justifiable positions of the private sector and related government agencies;

NOW THEREFORE, in order to effectively carry out the intent and purpose of R.A. 11534, the Board in its meeting on 28 April 2022 and by virtue of Board Resolution No. 12-02, Series of 2022, respectively, with a quorum duly present, approved the following:

Amendments on the Specific Guidelines of Export Activities under the 2020 IPP also known as the transitional Strategic Investment Priority Plan (SIPP):

II. EXPORT ACTIVITIES

XXX

3. Activities in Support of Exporters

XXX

e. Logistics Services

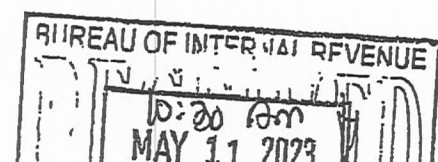
This covers logistics integrated services which must involve warehousing, inventory management and transport of goods. Mere trucking or forwarding services are excluded.

f. Development and Operation of Economic Zones; and industrial parks and Buildings for Exporters

This covers the development and operation of economic zones, and industrial parks within export or freeport zones with integrated facilities for export-oriented enterprises. Economic zones and industrial parks shall have infrastructure such as paved roads, power system, water supply, drainage system, sewerage treatment facilities, pollution control systems, communication facilities, and other infrastructure/facilities needed for the operation of exporters located therein.

This also covers the development and management of new buildings located outside NCR, declared as an economic zone or within export or freeport zones, with a minimum contiguous land area of 10,000 square meters with the following features:

- o High-speed fiber-optic telecommunication backbone and high-speed international gateway facility or wide-area network (WAN); or any high-speed data telecommunication system that may become available in the future;
- o Clean¹, uninterruptible power supply;
- o Computer security and building monitoring and maintenance systems (e.g., computer firewalls, encryption technology, fluctuation controls, etc.); and
- o Any other requirements as may be determined by the Board of the concerned IPAs.



At least seventy percent (70%) of the leasable/saleable areas shall be dedicated to exporters.²

Revenues arising from clients/tenants engaged in activities that are not allowed pursuant to the definition of a registered business enterprise under Section 293(M) of the CREATE Act will not be entitled to the ITH incentive.

Phased development of an economic zone or industrial park may be allowed provided that the whole project is completed within five (5) years unless otherwise approved by the Board of the concerned IPA.

These amendments shall apply to all projects qualified under CREATE Act.

Footnotes:

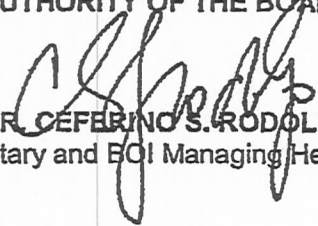
¹ Clean power supply is electrical power that is free from voltage spikes and drops. It is electricity using alternating current (AC) that oscillates at a perfect 60 Hz with no noise or distortion in the line showing the current's frequency (a perfect sine wave). Voltage ripple or power supply noise that is outside of the ideal sinusoidal waveform, which are, in turn called, dirty power supply or polluted power.

² For IPA-registered business enterprises (RBEs) this means exporting at least 70% of its total production/service as defined under Sec. 293(E) of the CREATE Act. For non-IPA registered enterprises this means exporting at least 60% of its output as defined under Sec. 3(e) of the FIA, as amended.

This Circular shall take effect immediately upon publication in a newspaper of general circulation and three (3) copies thereof shall be filed with the Office of the National Administrative Registrar (ONAR), University of the Philippines (UP) Law Center, Diliman, Quezon City pursuant to Presidential Memorandum Circular No. 11 dated 09 October 1992.

Done in the City of Makati, this 1st day of June 2022, in the year of the Lord, Two Thousand and Twenty Two.

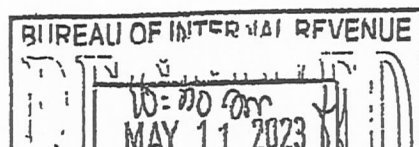
BY AUTHORITY OF THE BOARD


DR. CEFERINO S. RODOLFO
Undersecretary and BOI Managing Head

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. 2022-003 has been approved by the BOI through Board Resolution Number 12-02, Series of 2022 dated 28 April 2022.


For: ATTY. ELY JEAN DC PORTOZA
Board Secretary



MEMORANDUM CIRCULAR NO. 2023-001
Series of 2023

TO : ALL BOI CLIENTS AND ALL OTHERS CONCERNED

**SUBJECT : CLARIFICATION ON THE COVERAGE OF LOGISTIC SERVICES AS
"ACTIVITIES IN SUPPORT TO EXPORTERS" UNDER THE 2022
STRATEGIC INVESTMENT PRIORITY PLAN (SIPP)**

WHEREAS, Section 293 (E) of Republic Act (RA) 11534, also known as the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, defines "export enterprise" as "any individual, partnership, corporation, Philippine branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an Investment Promotion Agency to engage in manufacturing, assembling or processing activity, and services such as information technology (IT) activities and business process outsourcing (BPO), and resulting in the direct exportation, and/or sale of its manufactured, assembled or processed product or IT/BPO services to another registered export enterprise that will form part of the final export product or export service of the latter, of at least seventy percent (70%) of its total production or output";

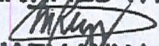
WHEREAS, Section 295 (D) of R.A. No. 11534 (CREATE Act) and Section 5, Rule II, Part II of its amended IRR provide that VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered projects or activity by registered export enterprise;

WHEREAS, logistic services, as one of the "Activities in Support to Exporters" under the 2022 SIPP covers logistics integrated activities which must involve warehousing, inventory management and transport of goods. Mere trucking and forwarding services are excluded;

WHEREAS, Philippine Economic Zone Authority (PEZA) Board Resolution (BR) 97-366 "Guidelines for Registration and Operations of Ecozone Facilities Enterprise Engaging in Warehouse Operations", as amended by PEZA BR 10-506, referring them as Ecozone Logistics Service Enterprises or ELSEs, provides that the following types of warehouse operations are qualified for registration with PEZA:

1. Establishment of a warehouse facility for the storage, deposit, safekeeping of goods for subsequent transfer directly to the Ecozone plant of the PEZA registered export enterprise-owner/consignee thereof;
2. Importation or procurement from local sources and/or from other PEZA registered enterprises of goods for resale, or for packing/covering (including marking, labelling), cutting or altering to customers' specification, mounting and/or packaging into kits or marketable lots thereof for subsequent sale, transfer or disposition directly to PEZA registered export enterprises, for direct export or for consignment to PEZA-registered export enterprises.
3. Combination of both.

CERTIFIED TRUE COPY


MARY ANN L. REYES
DIVISION CHIEF, FAS-GSD

WHEREAS, under BIR RMC 24-2022, Registered Business Enterprises (RBEs) which are categorized as Domestic Market Enterprises (DMEs) are not entitled to VAT zero-rating on local purchases and the Sale of goods or services to such DMEs shall be subject to VAT at 12%.

NOW THEREFORE, the Board, on 31 January 2023, by virtue of Resolution No. 02-01, series of 2023, issued the following clarifications on the coverage of logistic services as one of the activities in support of exporters under the 2022 SIPP pursuant to Sec. 300 of the CREATE Act, and Sections 2 and 3 of Rule 4 of its IRR, which provides that the BOI shall formulate the SIPP and its corresponding guidelines:

Based on the definition of export enterprises under Sec. 293. (E) of the CREATE Act, the listing in the SIPP for logistic services as one of the activities in support of exporters shall cover the Ecozone Logistics Service Enterprises or ELSEs type 3 or "combination of both", as follows:

- 1. establishment of a warehouse storage facility; and*
- 2. importation or procurement from local sources and/or from other PEZA registered enterprises of goods for resale, or for packing/covering (including marking, labelling), cutting or altering to customers' specification, mounting and/or packaging into kits or marketable lots thereof for subsequent sale, transfer or disposition for export;*

Further, such integrated ELSEs shall be considered as export enterprises; Provided, that they render at least 70% of their output/services to another registered export enterprise.

Done in Makati City, 01 February 2023.

BY AUTHORITY OF THE BOARD



DR. CEFERINO S. RODOLFO
Undersecretary and BOI Managing Head

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. 2023- 001 has been approved by the BOI through Board Resolution Number 02-01, Series of 2023, dated 31 January 2023.

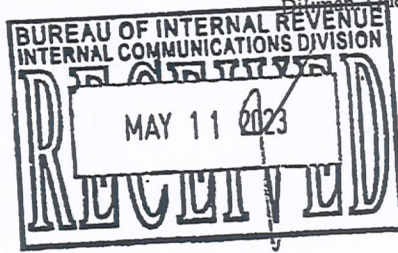

ATTY. ELYJEAN DC PORTOZA
Board Secretary

CERTIFIED TRUE COPY


MARY ANN L. REYES
DIVISION CHIEF, FAS-GSD



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
BIR National Office Building
Diliman, Quezon City



MAY 11 2023

REVENUE MEMORANDUM CIRCULAR NO. 53 - 2023

SUBJECT: Provides Clarifications on the Entitlement of Economic Zone Developers and Operators to the Value-Added Tax (VAT) Zero-Rating on Local Purchases of Goods and Services Directly and Exclusively Used in the Registered Project or Activity ✓

TO: All Internal Revenue Officers and Others Concerned

For the information and guidance of all concerned, attached herewith is the copy of the Board of Investments (BOI) Memorandum Circular (MC) No. 2022-003 dated 01 June 2022, which amended the Specific Guidelines of Activities in Support of Exporters under the 2020 Investment Priorities Plan (IPP), also known as the transitional Strategic Investment Priority Plan (SIPP).

The aforementioned BOI MC included the development and operation of economic zones; and industrial parks and buildings for exporters, as "Activities in Support of Exporters", to wit:

"II. EXPORT ACTIVITIES

XXX

3. Activities in Support of Exporters

XXX

f. Development and Operation of Economic Zones; and industrial parks and Buildings for Exporters.

This covers the development and operation of economic zones, and industrial parks within export or Freeport zones with integrated facilities for export-oriented enterprises. Economic zones and industrial parks shall have infrastructure such as paved roads, power system, water supply, drainage system, sewerage treatment facilities, pollution control systems, communication facilities, and other infrastructure/facilities needed for the operation of exporters located therein.

This also covers the development and management of new buildings located outside NCR, declared as an economic zone or within export or Freeport zones, with a minimum contiguous land area of 10,000 square meters with the following features:

- High-speed fiber-optic telecommunication backbone and high-speed international gateway facility or wide-area network (WAN); or any high-speed data telecommunication system that may become available in the future;
- Clean¹, uninterruptible power supply;
- Computer security and building monitoring and maintenance systems (e.g., computer firewalls, encryption technology, fluctuation controls, etc.); and
- Any other requirements as may be determined by the Board of the concerned IPAs.

At least seventy percent (70%) of the leasable/saleable areas shall be dedicated to exporters².

Revenues arising from clients/tenants engaged in activities that are not allowed pursuant to the definition of a registered business enterprise under Section 293(M) of the CREATE Act will not be entitled to the ITH incentive.

Phased development of an economic zone or industrial park may be allowed, provided the whole project is completed within five (5) years unless otherwise approved by the Board of the concerned IPA.

These amendments shall apply to all projects qualified under CREATE Act.

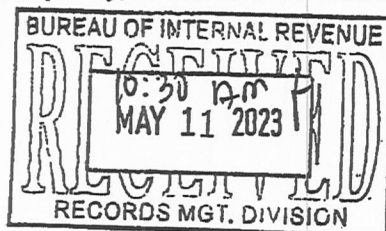
Footnotes:

¹ Clean power supply is electrical power that is free from voltage spikes and drops. It is electricity using alternating current (AC) that oscillates at a perfect 60 Hz with no noise or distortion in the line showing the current's frequency (a perfect sine wave). Voltage ripple or power supply noise that is outside of the ideal sinusoidal waveform, which are, in turn called, dirty power supply or polluted power.

² For IPA-registered business enterprises (RBEs) this means exporting at least 70% of its total production/service as defined under Sec. 293(E) of the CREATE Act. For non-IPA registered enterprises this means exporting at least 60% of its output as defined under Sec. 3(e) of the FIA (Foreign Investments Act), as amended."

Based on the foregoing, the ecozone developer and operator may be classified as export enterprise if it meets the qualifications stated above, in which case, it shall also be entitled to the VAT incentives under the CREATE Act.

On the other hand, in case an enterprise is not qualified based on the amended guidelines, the ecozone developer or operator will be classified as a domestic market enterprise under Item D(I)(8)(j) of the General Policies and Specific Guidelines to Implement the 2020 IPP which covers the development of domestic industrial zones, as circularized by the BOI thru Memorandum Circular No. 2021-001. Consequently, it shall not be entitled to the VAT incentives under the CREATE Act.

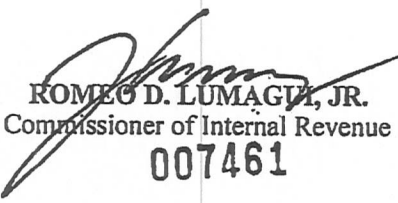


All revenue issuances and BIR Rulings inconsistent herewith are hereby considered amended, modified, or revoked accordingly.

All revenue officials concerned are enjoined to give this Circular as wide a publicity as possible.

This Circular takes effect immediately.

I-2/ies


ROMEO D. LUMAGUIN, JR.
Commissioner of Internal Revenue

007461

