

CIRCULAR NO. 2018-02
Series of 2018

SUBJECT : Inventory of Board Policies
To : All BOI-registered Enterprises

Board Resolutions and Dates of Adoption	Brief Description	Board Resolution
2016		
Resolution No. 9-61, Series of 2016, April 13, 2016.	Policy on the registration of new mass housing projects with existing projects, which are not compliant with the 20% Socialized Housing Requirement (SHR).	<p>RESOLVED, that as a matter of policy on the registration of new projects, the following actions BE APPROVED and CONFIRMED, to wit:</p> <ol style="list-style-type: none"> 1. For existing projects that have not complied with the 20% SHR, an extension of time may be granted for one year reckoned from the date of registration of the new project within which to comply. Provided, that the proof of compliance shall be submitted not later than filing of the ITH application for the first taxable year of the newly-registered project. Failure to submit the proof of compliance within such extension period shall, upon due process, cause the cancellation of registration of the new project. <p><i>This extension period shall apply only to existing projects registered under the 2010 and 2011 IPPs that did not avail of ITH incentive.</i></p> <ol style="list-style-type: none"> 2. For existing projects registered under the 2012 IPP and onwards, which did not avail of ITH or whose ITH were already denied, compliance to the 20%SHR will no longer be imposed by BOI. In other words, the non-compliance to the 20%SHR for previous projects registered under the 2012 IPP and onwards that did not avail of ITH or whose ITH were denied by BOI shall not prejudice the applications for registration of new projects of the same developer. The forfeiture of the ITH is already the penalty imposed for non-compliance.
Resolution No. 9-62, Series of 2016, 13 April 2016.	Policy on mass housing projects covered by license to sell covering lots only.	<p>RESOLVED, that as a matter of policy and to reconcile the issues on Mass Housing Projects with License to Sell (LTS) covering lots only, the following actions BE APPROVED and CONFIRMED, to wit:</p> <ol style="list-style-type: none"> 1. BOI shall not register mass housing projects without an LTS covering house and lot.

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		<p>2. The developers of BOI-registered mass housing projects that submitted LTS covering "lots only" must prove that the project covers "houses and lots" by submitting the Development Plan duly approved by the LGU, which was attached to the firm's application for LTS. The Development Plan must be dated prior or on or before the date of filing of the firm's application for LTS with the HLURB and must be certified true copy by the HLURB.</p> <p>3. For projects that were issued new/amended LTS covering "houses and lots" that supersedes the LTS covering "lots only", shall only be prospective in application, in the absence of proof to the contrary. Thus, BOI shall only grant ITH to those revenues arising from the sale of house and lot made on or after the date indicated at the new/amended LTS covering house and lot.</p> <p>4. For projects without any LTS covering house and lot, the ITH application shall be denied for that particular taxable year.</p>
<p>Resolution No. 27-13, Series of 2016, 05 October 2016.</p>	<p>Exemption to Rule 1, Sec. 2 (d) of Circular No. 2014-01, Series of 2014, on the Revised Rules on Procedure on the Cancellation of Registration under Executive Order No. 226.</p>	<p>RESOLVED, as a matter of policy, mass housing projects opting to cancel its BOI housing project registration within the five (5) year holding period provided under Rule 1, Sec. 2 (d) of Circular No. 2014-01, Series of 2014, on the Revised Rules on Procedure on the Cancellation of Registration under Executive Order No. 226:</p> <p>The five (5) year holding period provided under Rule 1, Sec. 2 (d) of Circular No. 2014-01, Series of 2014, on the Revised Rules on Procedure on the Cancellation of Registration under Executive Order No. 226, is not applicable to cancellation of mass housing projects provided that the following conditions are present:</p> <p>a) The firm has not availed of income tax holiday incentives or the firm has availed of income tax holiday incentives and the availment period has already expired; and,</p> <p>b) The firm is compliant with the submission of reportorial requirements and/or has paid the penalty imposed for the non-submission of reports before cancellation.</p>
<p>Resolution No. 31-02, Series of 2016, 16 November 2016.</p>	<p>Imposition of fees on requests for certification of good standing for the BOC's Client Profile Registration System (CPRS); and imposing penalties</p>	<p>RESOLVED, that the following fines and/or penalties for purposes of obtaining BOI Endorsement/ Certification to the Bureau of Customs for Client Profile Registration System (CPRS), BE APPROVED and CONFIRMED, pursuant to Article 7(3) of Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, as amended; Administrative Order No. 31, Series of</p>

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	in case of non-compliance with export commitment for purposes of CPRS facilitation.	<p>2012 dated 01 October 2012; and DOF-DBM-NEDA Joint Circular No. 1-2013 dated 30 January 2013:</p> <ol style="list-style-type: none"> 1. For BOI-registered enterprises that does not avail or is no longer availing of incentives under Executive Order No. 226, the penalty for non-compliance with export commitment shall be as follows: <ul style="list-style-type: none"> First violation : Reprimand with a requirement that the export commitment be complied within the year Second violation : PhP 15,000.00 Third violation : Cancellation of registration 2. For BOI-registered enterprises that are still availing of incentives under Executive Order No. 226, the penalty for non-compliance with export commitment shall be as follows: <ul style="list-style-type: none"> First violation : PhP 15,000.00 Second violation : Cancellation of registration
2015		
Resolution No. 1-02, Series of 2015, 07 January 2015.	Policy on the movement of start of commercial operations and income tax holiday (ITH) reckoning dates, and extension of period of availment of ITH for projects severely affected by power failures in Mindanao.	<p>RESOLVED, as a matter of policy, in view of the prevailing power shortage in Mindanao which is beyond the control of end-users and is greatly affecting the schedule of implementation of projects and causing economic cost to operating enterprises, the Board may consider power failure as force majeure in reference to various jurisprudence issued by the Supreme Court. In this regard, it may grant requests for movement of the start of commercial operations and the ITH reckoning dates as well as extension of period of availment of ITH for BOI-registered projects severely affected by such power failures in Mindanao.</p> <p>RESOLVED, that the policy shall cover the following projects:</p> <ol style="list-style-type: none"> 1. Projects that are still under construction that require more time to be finished and there is need for movement of start of commercial operations and the ITH reckoning dates: <ol style="list-style-type: none"> a. Apply existing policy where the Board may grant the request for deferment of start of commercial operations for a maximum of one (1) year. The ITH reckoning date may be moved in consonance with the deferment of start of commercial operations. b. Accordingly, the movement of the ITH reckoning date shall correspond to the number of days the

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		<p>company's construction activities were affected by power failures.</p> <p>c. The Board may grant a second or subsequent request for deferment if the company continues to experience the same power problem until the project is completed and ready for commercial operation.</p> <p>2. Projects that are in commercial operations that need extended period to fully enjoy the incentives.</p> <p>a. The frequency and duration of the power failure experienced by the registered enterprises should have resulted to stoppage in their operations during their entitlement period.</p> <p>RESOLVED, that to validate their claims, the enterprises shall submit the Power Interruption Report from the National Grid Corporation of the Philippines which indicates the date and time of power failures.</p> <p>RESOLVED, that the policy, once adopted by the Board, shall cover projects that remain affected by the power failures until such time that the DOE declares that the power shortage in Mindanao has been addressed.</p>
Resolution No. 2-02, Series of 2015, 14 January 2015.	Policy on the determination of the required socialized housing compliance by the end of income tax holiday (ITH) availment of BOI-registered low cost housing projects.	<p>RESOLVED, that the following policy guidelines for all mass housing projects registered under 2010 IPP and onwards, BE APPROVED and CONFIRMED:</p> <p>1. For all housing projects registered under 2012 IPP onwards, actual or full compliance with the 20% SHR shall be based on units sold applied for ITH and not on registered capacity or corresponding total saleable area thereof.</p> <p>For all housing projects registered under 2010 and 2011 IPP actual or full compliance with the 20% SHR shall be based on registered capacity for horizontal housing projects; or building construction costs based on the actual number or equivalent total floor area of qualified saleable low cost housing units for vertical housing units.</p> <p>2. For both horizontal and vertical housing projects, in cases where ITH was granted in prior years when compliance proportionate to the units sold for SHR was met, a final reckoning of SHR compliance due at the end year of ITH will be made prior to availment of end-year ITH, otherwise ITH will not be granted.</p> <p>3. If ITH was denied or not availed of by the enterprise in the previous year, the SHR compliance corresponding thereto shall be excluded from cumulation of required SHR for the end year.</p>

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		<p>For purposes of estimating the equivalent number of horizontal SH units, the following computation based on the 80% cost factor as being adopted by HLURB and developers of SH be used as Standard Reference:</p> <ul style="list-style-type: none"> a. P360,000/ unit based on the 80% cost factor of P450,000 selling price b. P320,000/ unit based on the 80% cost factor of P400,000 selling price c. P250,000/ unit construction cost, excluding cost of land <p>In computing SHR compliance of vertical housing projects under Investment Scheme the range of the size of housing units shall be determined for every project, and the midpoint of the range shall be used as the average housing size for said project.</p>
Resolution No. 3-03, Series of 2015, 21 January 2015.	Policy on non-registration of new housing projects of BOI-registered enterprises with existing projects that are not compliant with the 20% SHR.	RESOLVED , as it is hereby RESOLVED , that as a MATTER OF POLICY , non-compliance to the 20% socialized housing requirement of existing projects of a BOI registered enterprise, including its parent corporation and their subsidiaries, shall cause the non-registration of their new housing projects, until the corresponding ITH-based Compliance of the non-complying existing projects are satisfied.
Resolution No. 35-10, Series of 2015, 04 November 2015.	Exemptions to Section 7 (public offering requirement) of the Retail Trade Liberalization Act of 2000.	RESOLVED , that as a matter of policy, the following BE APPROVED and CONFIRMED : <ul style="list-style-type: none"> 1. In addition to the exemptions provided under Section 7 of the Retail Trade Liberalization Act of 2000, the public offering requirement will not apply to: <ul style="list-style-type: none"> a. Sole proprietorships; b. Partnerships; and c. Close corporations. 2. In addition to the documentary requirements listed under the Implementing Rules and Regulations, sole proprietorships, partnerships, and close corporations will be required to submit their Articles of Incorporation and By-laws.
Resolution No. 38-02, Series of 2015, 16 December 2015.	Policy on the Cancellation of Projects.	RESOLVED , as it is hereby resolved, that the following policy on the cancellation of projects BE APPROVED and CONFIRMED : <ul style="list-style-type: none"> a. For projects that availed of incentives and the Tax and/or Duty Free on Capital Equipment had been recouped, the penalty to be imposed shall correspond to the non-submission of reports.

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		<p>b. For projects that availed of incentives and the Tax and/or Duty Free on Capital Equipment had not been recouped, the amount of refund shall be imposed, including the penalty on the non-submission of reports.</p> <p>c. In both items a and b, if the computed penalty exceeds the total amount of incentives granted, the amount of penalty to be imposed shall only be the total amount of incentives granted.</p> <p>d. In both items a and b, the BOI Revised Rules of Procedure on the Cancellation of Registration shall be applied. Upon failure to comply to the Board's decision to pay the refund and penalty, collection cases shall be filed through the Office of the Solicitor General (OSG).</p> <p>e. For projects where no data can be found, both from the IRISS and the actual file and thus it is impossible to ascertain whether the project has availed of incentives or whether Tax and/or Duty Free on Capital Equipment had been recouped, if availed, and where there can be no basis for computation of penalty or refund, a cancellation through publication shall govern.</p> <p>f. For projects where there are missing data because of the flooding of the BOI basement due to typhoon Ondoy in 2009, and the subsequent clearing up of basement records in 2011, the computation of penalty for non-submission of reports shall be reckoned from 2012 pursuant to BOI Revised Rules of Procedure on the Cancellation of Registration under EO No. 226.</p>
2014		
Resolution No. 16-02, Series of 2014, 13 May 2014.	Policy on the strict implementation of Rule IV, Section 1 of the Implementing Rules and Regulations of Executive Order 226.	<p>RESOLVED, that Rule IV, Section 1 of the Implementing Rules and Regulations of Executive Order 226, providing the prescriptive period for accepting the General and Specific Terms and Conditions within 30 days BE STRICTLY IMPLEMENTED.</p> <p>RESOLVED FINALLY, that two (2) requests for extension of thirty (30) days to accept the terms and conditions may be granted on meritorious grounds, subject to the following conditions:</p> <p>a. Each request for extension should be filed before the expiration of the period to comply with the requirements (whether the initial period or as extended); and</p> <p>b. It shall be accompanied by proofs of significant progress.</p>
Resolution No. 5-16, Series of 2014, 04 February 2014.	Policy on the settlement of capital equipment incentive refund including	RESOLVED , that as a matter of policy, the settlement of any refund including interest and monetary penalties on an installment basis may be settled as follows:

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	interest and monetary penalties on an instalment basis.	<p>a. 5 Million and below, within one (1) year from date of the signing of the Agreement;</p> <p>b. More than 5Million, within two (2) years from date of the signing of the Agreement.</p>								
Resolution No. 10-02, Series of 2014, 18 March 2014.	Policy on the acceptable percentage of revenue for projects with commercial operation to be considered as new.	<p>RESOLVED, that as a MATTER OF POLICY, the acceptable Percentage of Revenue for Projects with Commercial Operation in determining whether a project can be considered as "new", BE APPROVED, is as follows:</p> <table border="1" data-bbox="727 599 1503 2107"> <thead> <tr> <th data-bbox="727 599 1078 701">Sector</th> <th data-bbox="1086 599 1503 701">Policy on Projects with Operations to be Considered as NEW</th> </tr> </thead> <tbody> <tr> <td data-bbox="727 704 1078 1674">Manufacturing, in general, including agriculture/fishery production and processing</td> <td data-bbox="1086 704 1503 1674"> <p>A. Homogeneous product:</p> <p>Actual production volume prior to application with the Board should not exceed 10% of the projected production volume on the first year (Year 1) of operation, or</p> <p>$\frac{\text{Actual Production Volume}}{\text{Projected production volume on Year 1}} \leq 10\%$</p> <p>B. Heterogeneous product:</p> <p>Actual sales value prior to application with the Board should not exceed 10% of the projected sales value on the first year (Year 1) of operation, or</p> <p>$\frac{\text{Actual Sales Value}}{\text{Projected Sales Value on Year 1}} \leq 10\%$</p> </td> </tr> <tr> <td data-bbox="727 1677 1078 1889">Shipbuilding</td> <td data-bbox="1086 1677 1503 1889">Once the first vessel has been started for construction, it should be the time considered as its commercial operation.</td> </tr> <tr> <td data-bbox="727 1892 1078 2107">Mining</td> <td data-bbox="1086 1892 1503 2107">Once the resource or ore deposit has been mined or extracted, it should be the time considered as its commercial operation.</td> </tr> </tbody> </table>	Sector	Policy on Projects with Operations to be Considered as NEW	Manufacturing, in general, including agriculture/fishery production and processing	<p>A. Homogeneous product:</p> <p>Actual production volume prior to application with the Board should not exceed 10% of the projected production volume on the first year (Year 1) of operation, or</p> <p>$\frac{\text{Actual Production Volume}}{\text{Projected production volume on Year 1}} \leq 10\%$</p> <p>B. Heterogeneous product:</p> <p>Actual sales value prior to application with the Board should not exceed 10% of the projected sales value on the first year (Year 1) of operation, or</p> <p>$\frac{\text{Actual Sales Value}}{\text{Projected Sales Value on Year 1}} \leq 10\%$</p>	Shipbuilding	Once the first vessel has been started for construction, it should be the time considered as its commercial operation.	Mining	Once the resource or ore deposit has been mined or extracted, it should be the time considered as its commercial operation.
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Manufacturing, in general, including agriculture/fishery production and processing	<p>A. Homogeneous product:</p> <p>Actual production volume prior to application with the Board should not exceed 10% of the projected production volume on the first year (Year 1) of operation, or</p> <p>$\frac{\text{Actual Production Volume}}{\text{Projected production volume on Year 1}} \leq 10\%$</p> <p>B. Heterogeneous product:</p> <p>Actual sales value prior to application with the Board should not exceed 10% of the projected sales value on the first year (Year 1) of operation, or</p> <p>$\frac{\text{Actual Sales Value}}{\text{Projected Sales Value on Year 1}} \leq 10\%$</p>									
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		<p>Hotels and other service-oriented projects</p>	<p>Actual sales value prior to application with the Board should not exceed 10% of the projected sales value on the first year (Year 1) of operation, or</p> $\frac{\text{Actual Sales Value}}{\text{Projected Sales Value on Year 1}} \leq 10\%$
		<p>Power generation</p>	<p>Once commissioning has been started, then it is the time considered as its commercial operation.</p>
<p>Resolution No. 12-02, Series of 2014, 01 April 2014.</p>	<p>Policy on vertical mass housing projects opting for direct participation scheme.</p>	<p>RESOLVED, that the following policy be adopted for vertical mass housing projects opting for Direct Participation Scheme provided in the "Guidelines on the Compliance of Vertical Housing Projects with the 20% Socialized Housing Requirement":</p> <p>Vertical mass housing firms, which exceed the prescribed minimum contribution of 40% of the ITH availment for a particular taxable year due to adjustments/deductions upon evaluation of the concerned ITH application, shall be allowed to apply the excess amount to future ITH availment(s) or other registered vertical mass housing projects of the enterprise.</p>	
<p>2013</p>			
<p>Resolution No. 41-02, Series of 2013, 17 December 2013.</p>	<p>Policy limiting the grant of ITH bonus years using "use of indigenous raw materials" to BOI-registered manufacturing projects only. Power projects are not entitled to ITH bonus year using the said criterion</p>	<p>RESOLVED FURTHER, that, in view of the highly profitable nature of power projects and to optimize the grant of incentives, the policy that</p> <p>"Power projects using hydro (water), wind, solar (sun), geothermal, and other natural resources may qualify for ITH bonus year using the indigenous raw materials criterion since these resources are used to generate power",</p> <p>which was adopted by the Board on 20 February 2008 and reiterated on 09 October 2012 is hereby RESCINDED.</p> <p>RESOLVED FINALLY, that, as a matter of policy, "The grant of ITH bonus years using "use of indigenous raw materials" criterion would be limited to BOI-registered manufacturing projects only. Power projects would not be entitled to ITH bonus year using the said criterion" is hereby ADOPTED in its stead, and be applied prospectively to new power projects that will be registered under E.O. 226.</p>	

SECRETARY'S CERTIFICATE

This is to certify that these policies have been approved by the Board of Investments.



ATTY. MARJORIE O. RAMOS-SAMANIEGO
Board Secretary