



PRIMER

FOR BOI REGISTERED COMPANIES

MAKE IT
HAPPEN
THE PHILIPPINES

boi BOARD OF
INVESTMENTS
PHILIPPINES



OBLIGATIONS AS A BOI-REGISTERED ENTERPRISE

Doing business in the Philippines as a BOI-registered enterprise opens the door to profitable opportunities in a resilient country with a consistently high growth rate. This brilliant opportunity, however, carries with it the responsibility to play by the rules.

The rules are fairly straightforward and easy to follow.

1

The enterprise must observe and abide by the provisions of the Omnibus Investments Code of 1987 (as amended) and its Implementing Rules and Regulations (IRR)

This rule also applies to other related laws and their IRR, as well as its commitments and representations made in the application for registration. BOI-registered enterprises should also take adequate measures to ensure that its obligations, as well as those of its officers, employees and stockholders are faithfully discharged.

It is to be understood that any misrepresentation or falsification in the documents or other supporting papers submitted to the BOI shall constitute grounds for the automatic cancellation of a firm's BOI registration.

2 The enterprise must have a valid Address of Record

All BOI notices or communications to the enterprise shall be sent to this address. The enterprise is responsible for notifying the BOI, in writing, of any changes to its Address of Record within 10 calendar days of this change.

Should the enterprise fail to do so, service of all BOI communications, notices or processes in its Address of Record shall be considered valid, complete, and binding to the firm.

In case the enterprise has an authorized representative, notices, communications and processes shall be sent to this authorized representative.

3 The enterprise must notify the BOI before doing any of the following acts:

- Invest in, extend loans, or buy bonds in substantial amount from any properties either in the Philippines or abroad. This proviso, however, does not apply to bonds issued by the Philippine Government.
- Issue stock convertible into voting stock
- Buy its own stocks

4 The enterprise must seek prior permission of the BOI before doing any of the following acts.

- Transfer ownership and / or control of the enterprise
- Engage in an undertaking other than the preferred project covered by its registration
- Expand its capacity, with or without incentives

5 The enterprise must maintain separate books of account for each activity, registered or unregistered with the Board.

6 The enterprise shall submit an Environmental Compliance Certificate or Certificate of Non-Coverage, whichever is applicable to the registered project.

7 The enterprise shall comply with the Tree Planting Program of the BOI requiring a minimum of 100 forest trees to be planted not later than one year from the date of registration.

8 The enterprise must commit to the tenets of good corporate governance.

9 The enterprise shall submit the following reportorial requirements to the Legal and Compliance Service (LCS) on or before their respective due dates:

| Type of Certificate | Requirements / Steps |
|---|--|
| Annual Report on Actual Operations (BOI Form S-1) | Calendar Year – on or before April 30 of the succeeding year |
| | Fiscal year – within 4 months after the end of the Fiscal Year |
| Annual Audited Financial Statement (AFS) | Within thirty (30) days from the date of filing with the BIR |
| Annual Income Tax Return (ITR) | Within thirty (30) days from the date of electronic filing (EFPS) with the BIR |

Upon implementation of the BOI Online Services System (BOSS), the hard copy of the BOI Form S-1 would no longer be required since the BOI-registered firms will fill out and submit the forms online.

INCENTIVES FOR BOI-REGISTERED ENTERPRISES

The **Investment Priorities Plan (IPP)**, which lists categories of economic activities and encourage investments provide appealing BOI incentives under the Omnibus Investment Code of 1987 as amended or Executive Order 226.*

Projects covered by the Omnibus Investment Code of 1987 and situated outside economic and freeport zones can register with the BOI to avail of these incentives:

1 **Income Tax Holiday (ITH) per the following table:**

| Type and Status | No. of Years |
|--|--------------|
| New & Pioneer | 6 |
| New & Non-Pioneer | 4 |
| Expanding | 3 |
| Projects located in Less Developed Areas | 6 |
| Modernizing | 3 |

2 **Duty exemption on Importation of capital equipment, spare parts and accessories under Executive Order No. 85 / R.A. 9513 / R.A. 8479 in accordance with the respective IRRs of said laws.**

* Subject to change with the expected passage of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Bill.

3 Additional deduction from taxable income equivalent to 50% (or 100% if located in less-developed areas) of the wages corresponding to the incremental increase in number of direct labor (skilled and unskilled workers) on the year it was availed vis-à-vis the previous year, if the project meets the prescribed ratio of capital equipment to the number of workers set by the Board, may be availed for the first five years from date of registration but not simultaneously with ITH. An application should be filed with the Incentives Service (IS) within one month from filing of the final ITR with the BIR.

4 Importation of consigned equipment for a period of 10 years from date of registration, subject to posting of re-export bond. The application should be filed with the IS for endorsement to the Department of Finance (DoF).

5 Tax credit equivalent to the national internal revenue rates and duties paid on raw materials and supplies, and semi-manufactured products used in producing its export product and forming part thereof for a period of 10 years from start of commercial operations.

An application should be filed with the DoF Tax Credit Center within one year from date of exportation in case of direct exports and two years in case of indirect exports.

Requests for amendment of the date of SCO for purposes of determining the reckoning date of the 10-year period shall be filed within one year from date of committed SCO.

6 Exemption from wharfage dues and any export tax, duty, impost, and fee for a period of 10 years from date of registration.

7 Access to Custom Bonded Manufacturing Warehouse (CBMW) subject to Customs rules and regulations provided that the enterprise exports at least 70% of production output.

8 Exemption from taxes and duties on imported spare parts and consumable supplies for export producers with CBMW exporting at least 70% of production.

9 Employment of foreign nationals in supervisory, technical, or advisory positions for a period of five (5) years. Foreign nationals with the position of President, General Manager or Treasurer (or their equivalent) of foreign-owned registered enterprises may renew their visas indefinitely.

INCOME TAX HOLIDAY (ITH)

Q: WHAT TYPES OF INCOME QUALIFY FOR AN ITH?

Ans: Only income directly attributable to the revenue generated from the registered project at the project location shall qualify for ITH. For this purpose, the enterprise will submit audited segregated income statements. Net income for operations of the registered activity shall be certified under oath by the Chief Executive Officer (CEO) or Chief Financial Officer (CFO).

A registered enterprise cannot include interest income in availing of the ITH incentive for a particular year.

The enterprise shall submit a list of cost items common to all its projects / activities (whether BOI or non-BOI registered), and the methodology adopted in allocating the common cost between the registered and non-registered activities. In addition, interest expense on the enterprise's liabilities shall be appropriately allocated between the registered and non-registered activities.

Q: WHAT ARE THE STEPS TO AVAIL OF THE ITH?*

Ans: The important steps consist of:

1. Request a Certificate of ITH Entitlement (CoE) from the Legal and Compliance Service (LCS)

2. Attach the CoE to the Income Tax Return (ITR) wherein the ITH is claimed and file the ITR with the BIR.
3. File the ITH application along with supporting documents with the IS.
4. Check listing of the ITH application by the IS staff.
5. Pay the filing fee.
6. Official acceptance of the ITH application by the IS staff provided the documentary requirements are complete.
7. Evaluation of the ITH application and presentation to the Board for action.
8. Written notification to the firm on the Board's decision on the ITH application
9. Pay the issuance fee and settle any penalties and fulfill the conditions set by the Board (if any).
10. Receives a copy of the BIR endorsement.



* Subject to change with the expected passage of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Bill.

Q: WHEN SHOULD THE ITH APPLICATION BE FILED?

Ans: An ITH application should be filed within 30 days from the date of filing of the final ITR or the last day as prescribed by **Republic Act No. 8424 or the National Internal Revenue Code (Tax Reform Act of 1997)**, whichever is later. If the ITR was filed online, the reckoning date should be based on the e-filing date and not the date when the physical copy of the ITR was received by the BIR.

Q: IS THERE AN EXTENSION TO THE DEADLINE FOR FILING OF THE ITH APPLICATION?

Ans: An ITH application filed beyond 30 days but less than 6 months from the date of filing of the final ITR is considered late and shall incur penalties.

An ITH application filed beyond six (6) months from the date of filing of the final ITR will no longer be accepted and the firm's ITH for that year will be deemed forfeited.

Non-submission of the required documents beyond six (6) months from date of filing of the final ITR will cause the ITH application to be returned with no action.

An ITH application found to have incomplete supporting documents may be provisionally accepted and granted an extension of 30 calendar days from the date the application is submitted for check listing subject to submission of an Undertaking that the missing documents would be submitted within the extension period otherwise the application will be considered late.

Q: IF THE PROJECT SUFFERED A NET LOSS, SHOULD THE FIRM STILL FILE AN ITH APPLICATION?

Ans: The firm is advised to still file its ITH application even if the registered activity suffered a net loss to ensure that in case there is taxable income after the BIR audit, the firm will still be entitled to tax exemption.

Q: SHOULD THE CERTIFICATE OF GOOD STANDING FROM THE SSS BE SECURED ANNUALLY?

Ans: The SSS Certificate of Good Standing is imposed as a requirement in the specific terms and conditions of BOI-registered enterprises usually appearing under the provision for ITH incentive. As such, it is one of the documentary requirements attached to a firm's application for ITH.

Q: HOW LONG IS THE PROCESSING TIME FOR ITH APPLICATIONS?

Ans: ITH applications are processed on a first in, first out basis. Due to the volume of applications, firms shall receive a notification of the Board's action on their ITH applications approximately within one year from the date of official acceptance, excluding delays if there are any issues or concerns related to the application.

DUTY-FREE IMPORTATION OF CAPITAL EQUIPMENT

Q: IF THE AMOUNT OF ITH GRANTED BY THE BOARD IS DIFFERENT FROM THE ITH CLAIMED, OR THE ITH APPLICATION IS DENIED, CAN THE BOARD'S DECISION BE APPEALED?

Ans: A firm may file a Motion for Reconsideration provided it satisfies the grounds enumerated in Section 2 of BOI Memorandum Circular No. 2016-002 and subject to compliance with the requirements and procedures set forth therein.

Q: CAN THE REQUIREMENTS FOR THE AVAILMENT OF THE ITH BONUS YEAR BE ADJUSTED?*

Ans: This refers to the minimum Net Foreign Exchange Earnings of US\$500,000 per year for the first three years of operations; Capital equipment to Labor Ratio US\$28,000:1 and the minimum requirement of 50% indigenous raw materials to total cost of raw materials. The conditions for the grant of an ITH bonus year are reflected in a firm's Specific Terms and Conditions in accordance with the Implementing Rules and Regulations to avail of the ITH bonus year. In this regard, the requirements provided in the Specific Terms and Conditions shall be implemented as stated.

Q: WHEN MAY BOI-REGISTERED ENTERPRISES FILE THEIR REQUEST FOR CERTIFICATE OF ITH ENTITLEMENT (CoE)?

Ans: BOI-registered enterprises may file their request for CoE immediately after the end of their accounting calendar, noting that the same should be filed within 30 days from filing of their annual ITRs with the BIR.

Q: WHAT ARE THE STEPS TO AVAIL OF DUTY-FREE IMPORTATION OF CAPITAL EQUIPMENT?*

Ans: Only equipment directly needed and exclusively used in its operation shall be entitled to capital equipment incentives.

Steps in availing of duty-free importation of capital equipment.

1. File the application for the issuance of a Certificate of Authority (CA) for its imported equipment with the IS along with the necessary supporting documents. The CA grants the firm duty-free importation of the capital equipment listed in the application.
2. Check listing of the application by the IS staff.
3. Pay the filing fee.
4. Official acceptance of the application by an IS staff provided the documentary requirements are complete.
5. Evaluation of the application and preparation of the CA.
6. Written notification to the firm on the approximate amount of duties to be waived; the issuance fee to be paid, and other conditions for the release of the CA.
7. Post a performance bond / shareholder's or other guarantee equivalent to the amount of duties to be waived and pay the issuance fee.

* Subject to change with the expected passage of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Bill.

* Subject to change with the expected passage of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Bill.

8. Receive a copy of the CA.
9. Present the CA to the DoF Mabuhay Lane and request the release of the imported capital equipment endorsement.
10. Attach the DoF endorsement upon filing of the Import Entry Declaration with the Bureau of Customs (BoC).
11. Release of the imported capital equipment.

NOTE: Importers must secure an Importer's Clearance Certificate (ICC) from the BIR and an accreditation from the BoC prior to the arrival of the imported capital equipment.



Q: WHEN SHOULD THE FIRM FILE ITS APPLICATION FOR DUTY FREE IMPORTATION OF CAPITAL EQUIPMENT?*

Ans: Under EO No. 85, the registered enterprise may file its application for the issuance of a Certificate of Authority (CA) for its imported capital equipment not necessarily prior to ordering the equipment. The CA, however, should have been obtained by the registered enterprise before the release of the shipment by the BoC.

Under RA No. 8479, and RA 9513, the firm should file its application for the issuance of a CA prior to opening the Letter of Credit or Issuance of the Purchase Order for the said equipment.

Q: HOW LONG DOES IT TAKE TO PROCESS APPLICATIONS FOR DUTY-FREE IMPORTATION OF CAPITAL EQUIPMENT?

Ans: Applications will be processed within 10 working days from the date of official acceptance of the said applications.

** Subject to change with the expected passage of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Bill.*

EMPLOYMENT OF FOREIGN NATIONALS (47a2 VISA)

Q: WHAT ARE THE CONDITIONS IN APPLYING FOR THE VISA?

- Ans:**
1. The applicant firm should be in good standing with the BOI (i.e. compliant with its terms and conditions);
 2. The foreign national to be employed would occupy a supervisory, technical, or advisory position;
 3. The total number of foreign nationals employed by the firm should not exceed 10% of the total number of Filipino employees; and
 4. Foreign employees occupying technical positions should be assigned at least 2 Filipino understudies.

Q: WHAT ARE THE STEPS IN APPLYING FOR THE VISA?

- Ans:**
1. File the application for the 47a2 Visa with the IS along with the necessary supporting documents including the documentary requirements of the Department of Justice (DOJ) as per checklist.
 2. Check listing of the application by the IS staff.
 3. Pay the filing fee.
 4. Official acceptance of the application by an IS staff provided the documentary requirements are complete.
 5. Evaluation of the application and preparation of the endorsement to DOJ.
 6. Transmittal of the endorsement to the DOJ.
 7. Processing of application by DOJ then issuance of endorsement to Bureau of Immigration (BI).

8. Retrieval of DOJ endorsement for transmittal to BI.
9. Presentation of passport and payment of fees to BI for implementation.

Q: WHO ARE CONSIDERED AS QUALIFIED DEPENDENTS 47A2 APPLICANTS?

- Ans:** Only the spouse and the unmarried children under 21 years of age of the applicant can be considered as qualified dependents.

Q: HOW LONG DOES IT TAKE TO PROCESS THE VISA?

- Ans:** It takes 5-7 working days for the BOI to evaluate the application and transmit the endorsement to DOJ. The DOJ takes 10-15 working days to process the endorsement. The BI can implement the visa on the passport upon receipt of DOJ endorsement and payment of its fees.

Q: HOW LONG IS THE VALIDITY OF THE VISA?

- Ans:** The visa may be applied with a validity of one (1) year up to three (3) years but only for a maximum period of five (5) years from date of BOI registration. However, for foreign-owned enterprises, foreign nationals occupying the positions of President, General Manager, and Treasurer may be renewed indefinitely.

Q: WHEN SHOULD THE VISA BE RENEWED?

- Ans:** The firm should file for renewal of the visa at least one (1) month prior to its expiration.

TERMS AND CONDITIONS

Q: IS A BOI-REGISTERED ENTERPRISE REQUIRED TO INFORM THE BOI OF THE ACTUAL START OF ITS COMMERCIAL OPERATIONS?

Ans: Yes. The firm is required to officially inform the Legal and Compliance Service (LCS) within one month from its actual start of commercial operation for monitoring and incentives availment purposes. A copy of the Report on Actual Start of Commercial Operation, Initial Investments and Employment may be accessed at <https://boi.gov.ph/resources/downloadable-forms/monitoring/>.

Q: WHAT SHOULD THE ENTERPRISE DO IF IT CANNOT START COMMERCIAL OPERATIONS AS SCHEDULED?

Ans: The firm should file a request with the LCS for the amendment of the project timetable and/or the movement of the Income Tax Holiday (ITH) reckoning date.

Q: MAY THE ITH RECKONING DATE BE MOVED?

Ans: Yes, it may be moved provided that (1) the reasons for the movement of the ITH reckoning date falls under any of the

grounds set forth in Article 7(14) of the Omnibus Investments Code of 1987, and (2) the request for the movement of the ITH reckoning date is filed before the scheduled start of commercial operation.

Q: WHAT WILL HAPPEN IF AN ENTERPRISE FAILS TO IMPLEMENT ITS PROJECT BASED ON THE COMMITTED TIMETABLE?

Ans: A delay of one year in the implementation of the project timetable as set by the Board shall result in the cancellation of BOI registration, unless otherwise reinstated by the Board.

Q: WHAT WILL HAPPEN IF AN ENTERPRISE DOES NOT MEET ITS COMMITMENT TO EXPORT AT LEAST 50% OR 70% OF ITS TOTAL PRODUCTION?*

Ans: The Board may forfeit the ITH in the case of MSEs under Board Resolution No. 09-20, Series of 2019, or cancel the BOI registration in the case of other enterprises, for failure to comply with the export commitment.

Q: HOW MAY THE ENTERPRISE COMPLY WITH THE TENETS OF GOOD CORPORATE GOVERNANCE?

Ans: The enterprise may comply by accomplishing the Self-Rating Good Corporate Governance form, which may be downloaded at <https://boi.gov.ph/resources/downloadable-forms/monitoring/>.

** Subject to change with the expected passage of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Bill.*



Q: IF THE ENTERPRISE IS NOT YET OPERATING OR IS NO LONGER AVAILING OF ITH AND / OR OTHER INCENTIVES, IS IT REQUIRED TO SUBMIT THE ANNUAL REPORTORIAL REQUIREMENTS?

Ans: As long as the project is registered with the BOI, it is required to comply with the submission of the annual reportorial requirements.

