



FIRB ADVISORY NO. 007-2024

TO : All Investment Promotion Agencies (IPAs), Registered Business Enterprises (RBEs), and all other key stakeholders

SUBJECT : Interim Implementing Rules and Regulations (IRR) on the Availment of Incentives and Transfer of Registration as Provided Under Republic Act No. 12066

DATE : 17 December 2024



This Advisory circularizes the **interim IRR** of Republic Act No. 12066, otherwise dubbed as the Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy (CREATE MORE) Act.

Pursuant to Section 32 of the CREATE MORE Act, the Secretary of Finance and Secretary of Trade and Industry are mandated to promulgate the IRR within ninety (90) days from the effectivity of the said Act.

However, in view of Sections 20 and 21 of the CREATE MORE Act, which set deadlines for pre-CREATE and CREATE RBEs to transfer and avail of a new set of incentives under the CREATE Act and CREATE MORE Act, respectively, an interim IRR is hereby issued to implement the aforementioned sections.

The interim IRR is attached for the guidance of all the IPAs, RBEs, and other key stakeholders.

Thank you.



DAKILA ELTEEN M. NAPAO
Assistant Secretary of Finance
Head of the FIRB Secretariat



**INTERIM IMPLEMENTING RULES AND REGULATIONS ON THE AVAILMENT OF
INCENTIVES AND TRANSFER OF REGISTRATION AS PROVIDED UNDER
REPUBLIC ACT NO. 12066**

Pursuant to Section 32 of Republic Act (RA) No. 12066, after due consultation with the Bureau of Internal Revenue (BIR), Bureau of Customs (BOC), Board of Investments (BOI), and other Investment Promotion Agencies (IPAs), the Secretary of Finance and the Secretary of Trade and Industry do hereby jointly promulgate the following interim implementing rules and regulations (IRR) to govern the processing of tax incentive applications and the availment of incentives for new and existing registered projects or activities, pending the effectivity of the IRR of RA No. 12066.

RULE 1. General Provisions

SECTION 1. Title. – These Rules shall be referred to as the “Interim Implementing Rules and Regulations of Republic Act No. 12066.”

SECTION 2. Scope. – This interim IRR shall provide the rules to implement the following provisions of RA No. 12066:

- a. Applications for registration and availment of incentives for new and qualified expansion projects or activities under RA No. 12066 under Sections 294, 295, 296 and the new Section 296-A of the National Internal Revenue Code (NIRC) of 1997, as amended;
- b. The transfer of registration of registered business enterprises (RBEs) granted incentives prior to the effectivity of RA No. 11534, otherwise known as the “Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act,” and RA No. 12066, as provided under Sections 296 and 296-A of the NIRC of 1997, as amended, respectively; and
- c. Availment of Value-Added Tax (VAT) and duty incentives of RBEs under Section 311 of the NIRC of 1997, as amended by RA No. 11534, and Section 31 of RA No. 12066.

SECTION 3. Coverage. – This interim IRR shall apply to:

- a. All existing IPAs as defined in the NIRC of 1997, as amended, or related laws, with respect to the administration and grant of tax incentives;
- b. Business enterprises with new or qualified expansion projects or activities listed in the Strategic Investment Priority Plan (SIPP) intending to avail of the incentives under RA No. 12066;
- c. RBEs with existing projects or activities registered with an IPA prior to the effectivity of RA No. 11534, hereinafter referred to as “pre-CREATE RBEs”;
- d. RBEs with existing projects with investment capital exceeding Fifteen Billion Pesos (P15,000,000,000.00) during the effectivity of RA No. 11534, hereinafter referred to as “CREATE RBEs”; and
- e. Business enterprises with pending tax incentives applications prior to 28 November 2024 that opt to avail of incentives under RA No. 12066.

RULE 2. Application for Registration of New and Qualified Expansion Projects or Activities

SECTION 1. Processing of Applications Under RA No. 12066. – The concerned IPA may process applications for registration under RA No. 12066 and grant the incentives therein pending the effectivity of its IRR: *Provided*, That such applications comply with the requirements and conditions prescribed under the IRR of RA No. 11534, as amended: *Provided, However*, That the processing of applications for registration shall be governed by the IRR of RA No. 12066 upon its effectivity.

RULE 3. Transfer of Registration and Availment of Incentives Under RA No. 11534 or RA No. 12066

SECTION 1. Qualifications for Registration. – Pre-CREATE RBEs and CREATE RBEs with investment capital exceeding Fifteen Billion Pesos (P15,000,000,000.00) may transfer their registration to RA No. 11534 and RA No. 12066, respectively, to avail of the incentives provided therein, subject to the following conditions:

- a. The RBE has either started operating or is in the pre-operating stage but has not availed of any income tax-based incentives under the terms and conditions of its registered project;
- b. The RBE meets the qualifications for registration as prescribed under Part III, Rule 6, Section 2 of IRR of RA No. 11534;

- c. The RBE is not an excluded service activity as defined under Part I, Rule 1, Section 4(W) of the IRR of RA No. 11534; and
- d. The RBE complies with the conditions and requirements set forth in the SIPP.

SECTION 2. *Filing of Application.* – RBEs qualified to transfer their registration under this interim IRR shall submit an Affidavit of Intent (attached as **Annex “A”**) to the concerned IPA on or before **31 December 2024**, and submit their application for transfer using the prescribed application form under Part III, Rule 6 of the IRR of RA No. 11534. Applications with Affidavit of Intent filed beyond the said period shall not be considered.

SECTION 3. *Registration and Evaluation Process.* – The evaluation of the application shall be made by the concerned IPA within twenty (20) working days from receipt of complete submission from the RBE: *Provided*, That all applications for transfer of registration shall be acted upon by the concerned IPA within thirty (30) days from the effectivity of the IRR of RA No. 12066: *Provided further*, That the approval or disapproval of the application for transfer of RBEs covered under this Rule shall be made in accordance with the investment capital threshold as provided under Section 297(B) of the NIRC of 1997, as amended: *Provided finally*, That the concerned IPA shall include in its monthly report of approved projects to the Fiscal Incentives Review Board (FIRB) Secretariat the projects issued with new certificates of registration pursuant to this Rule using the prescribed monitoring template (FIRB Form No. 2000MU).

Upon approval of the transfer, the RBE shall surrender its existing Certificate of Registration or Certificate of Registration and Tax Exemption for cancellation and shall correspondingly be issued a new Certificate of Registration under RA No. 11534 or RA No. 12066, as the case may be.

SECTION 4. *Entitlement to Incentives.* – The transferee projects or activities may be entitled to the following incentives under RA No. 11534 or RA No. 12066, as may be applicable:

- a. Income Tax Holiday (ITH);
- b. 5% Special Corporate Income Tax (SCIT) rate based on the gross income earned, in lieu of all national and local taxes and local fees and charges;
- c. Enhanced Deductions Regime (EDR):

- i. Twenty percent (20%) income tax rate specified in Sections 27 and 28 of the NIRC of 1997, as amended, upon the taxable income of RBEs;
- ii. Additional depreciation allowance of the assets acquired for the entity's production of goods and services (qualified capital expenditure);
- iii. Additional deduction on labor expense;
- iv. Additional deduction on research and development expense;
- v. Additional deduction on training expense;
- vi. Additional deduction on domestic input expense;
- vii. Additional deduction on power expense;
- viii. Deduction for reinvestment allowance to manufacturing and tourism industries;
- ix. Additional deduction on expenses relating to exhibitions, trade missions, or trade fairs; and
- x. Enhanced Net Operating Loss Carry-Over (NOLCO);
- d. Duty exemption on importation of capital equipment, raw materials, spare parts, or accessories directly attributable to the registered project or activity, including goods used for administrative purposes;
- e. VAT exemption on importation and VAT zero-rating on local purchases of goods and services directly attributable to the registered project or activity, including expenses incidental thereto; and/or
- f. RBE local tax.

Provided, That the applicant shall elect the applicable income tax-based incentive regime at the time of its application for transfer.

SECTION 5. *Period of Availment of Incentives.* – The period of availment of incentives based on the combination of both location and industry tiers, as determined in the SIPP, shall be as follows:

A. RA No. 11534 Incentives

For Export Enterprises:

Location		Tier I	Tier II	Tier III
National Region (NCR)	Capital	4 ITH followed by 10 EDR/SCIT	5 ITH followed by 10 EDR/SCIT	6 ITH followed by 10 EDR/SCIT

Location	Tier I	Tier II	Tier III
Metropolitan areas or areas contiguous and adjacent to the NCR	5 ITH followed by 10 EDR/SCIT	6 ITH followed by 10 EDR/SCIT	7 ITH followed by 10 EDR/SCIT
All other areas	6 ITH followed by 10 EDR/SCIT	7 ITH followed by 10 EDR/SCIT	7 ITH followed by 10 EDR/SCIT
Expansion projects	3 ITH followed by 10 EDR/SCIT		

Non-income tax-based incentives	Period of Availment
Duty exemption on importation	Maximum period of seventeen (17) years from the date of registration, unless otherwise extended under the SIPP
VAT exemption on importation and VAT zero-rating on local purchases of goods and services	

For Domestic Market Enterprises:

Location	Tier I	Tier II	Tier III
NCR	4 ITH followed by 5 EDR	5 ITH followed by 5 EDR	6 ITH followed by 5 EDR
Metropolitan areas or areas contiguous and adjacent to the NCR	5 ITH followed by 5 EDR	6 ITH followed by 5 EDR	7 ITH followed by 5 EDR
All other areas	6 ITH followed by 5 EDR	7 ITH followed by 5 EDR	7 ITH followed by 5 EDR
Expansion projects	3 ITH followed by 5 EDR		

Non-income tax-based incentives	Period of Availment
Duty exemption on importation	Maximum period of twelve (12) years from the date of registration, unless otherwise extended under the SIPP
VAT exemption on importation and VAT zero-rating on local purchases of goods and services	<i>Not applicable</i>

B. RA No. 12066 Incentives

For Export Enterprises:

Location	FIRB-approved		
	Tier I	Tier II	Tier III
NCR	4 ITH + 20 EDR/SCIT, or 24 EDR/SCIT	5 ITH + 20 EDR/SCIT, or 25 EDR/SCIT	6 ITH + 20 EDR/SCIT, or 26 EDR/SCIT
Metropolitan areas or areas contiguous and adjacent to the NCR	5 ITH + 20 EDR/SCIT, or 25 EDR/SCIT	6 ITH + 20 EDR/SCIT, or 26 EDR/SCIT	7 ITH + 20 EDR/SCIT, or 27 EDR/SCIT
All other areas	6 ITH + 20 EDR/SCIT, or 26 EDR/SCIT	7 ITH + 20 EDR/SCIT, or 27 EDR/SCIT	7 ITH + 20 EDR/SCIT, or 27 EDR/SCIT
Expansion projects	13 EDR/SCIT		

Non-income tax-based incentives	Period of Availment
Duty exemption on importation	Entire registration period as an RBE
VAT exemption on importation and VAT zero-rating on local purchases of goods and services	

For Domestic Market Enterprises:

Location	FIRB-approved		
	Tier I	Tier II	Tier III
NCR	4 ITH + 20 EDR, or 24 EDR	5 ITH + 20 EDR, or 25 EDR	6 ITH + 20 EDR, or 26 EDR
Metropolitan areas or areas contiguous and adjacent to the NCR	5 ITH + 20 EDR, or 25 EDR	6 ITH + 20 EDR, or 26 EDR	7 ITH + 20 EDR, or 27 EDR
All other areas	6 ITH + 20 EDR, or 26 EDR	7 ITH + 20 EDR, or 27 EDR	7 ITH + 20 EDR, or 27 EDR
Expansion projects	13 EDR		

Non-income tax-based incentives	Period of Availment
Duty exemption on importation	

Non-income tax-based incentives	Period of Availment
VAT exemption on importation and VAT zero-rating on local purchases of goods and services <i>Note: Only applies to high-value domestic market enterprises</i>	Expiration of the income tax-based incentives, subject to the conditions set forth in Section 296-A of the NIRC of 1997, as amended

SECTION 6. Performance Commitments. – Transferee projects or activities shall be imposed with the following performance commitments, as may be applicable, on their respective registrations:

- a. Investments capital;
- b. Job generation;
- c. Export threshold;
- d. Technology requirement;
- e. Related party sales limit;
- f. Minimum tax payment;
- g. Domestic purchase requirement;
- h. Quality of service; and/or
- i. Other performance commitments that may be imposed by the concerned IPA.

Provided, That when any of the imposed performance commitments are not met, justifications shall be submitted to the concerned IPA. The entitlement to tax incentives may be canceled, suspended, or withdrawn upon due notice.

SECTION 7. Reckoning Period of the Income Tax-Based Incentive. – The reckoning period of the income tax-based incentive for operating RBEs issued with new Certificates of Registration shall be 01 January 2025: *Provided,* That the reckoning period of the income tax-based incentive of pre-operating RBEs issued with new certificates of registration under this Rule shall be pursuant to the terms and conditions provided under such Certificate of Registration.

RULE 4. Transitory Provisions

SECTION 1. Effectivity of Transitory Provisions. – The provisions of Section 311 of the NIRC of 1997, as amended, applicable to RBEs with incentives granted prior to the effectivity of RA No. 11534, and Section 31 of RA No. 12066, applicable to projects or activities granted tax incentives under RA No. 11534,

shall take effect upon the effectivity of RA No. 12066 on 28 November 2024, notwithstanding the absence of its IRR.

SECTION 2. *Applicability of VAT and Duty Incentives Under Section 311 of the NIRC, as Amended, and Section 31 of RA No. 12066 to Non-Transferee RBEs.* – RBEs granted income tax-based incentives and enjoying VAT zero-rating on local purchases and VAT exemption on importation prior to the effectivity of RA No. 11534, regardless of market orientation, may enjoy VAT exemption on importation or VAT zero-rating on local purchases until 31 December 2034, as provided under Section 311 of the NIRC of 1997, as amended, and Section 31(5) of RA No. 12066.

For this purpose, the respective IPA shall amend the existing Certificate of Registration or its equivalent, and/or issue the VAT Zero-Rating Certificate or Certificate of Authority to Import, as the case may be.

SECTION 3. *VAT Zero-Rating Certificate.* – Upon verification of compliance with the conditions for the issuance of the VAT Zero-Rating Certificate under RA No. 12066, the concerned IPA may issue the VAT Zero-Rating Certificate for covered transactions under RA No. 12066, upon determination of the compliance with the export requirement, as may be applicable, pending the effectivity of the IRR of RA No. 12066. The VAT Zero-Rating Certificate shall state, among others:

- a. Name and business address of the RBE;
- b. Taxpayer Identification Number of the RBE;
- c. Unique control number;
- d. Registered project or activity;
- e. Name of IPA having jurisdiction over the registered enterprise; and
- f. Covered prospective taxable year.

Provided, However, That the processing of VAT Zero-Rating Certificates shall be governed by the IRR of RA No. 12066 upon its effectivity.

RULE 5. Final Provisions


SECTION 1. *Separability Clause.* – If any provision of this interim IRR is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected shall remain in full force and effect.

SECTION 2. *Effectivity.* – This interim IRR shall take effect immediately upon publication in a newspaper of general circulation.

Approved,


RALPH G. RECTO
Secretary of Finance




MA. CRISTINA ALDEGUER-ROQUE
Secretary of Trade and Industry

ANNEX A
Sample Affidavit of Intent

REPUBLIC OF THE PHILIPPINES)
(_____) S.S.

AFFIDAVIT OF INTENT

I, _____, of legal age, with address at _____ after having been sworn to in accordance with law, depose and state that:

1. I am the **[position]** of **[name of entity]**, with principal office located at **[principal office address]**;
2. **[Name of entity]** is a registered business enterprise bearing Certificate of Registration No. **[number]**, engaged in **[project or activity]**, located at **[location of the project or activity]**;
3. **[Name of entity]** registered its activity with the **[Investment Promotion Agency]** on **[date of registration]** and commenced its commercial operations on **[date of start of commercial operations (SCO)]**/is set to commence its commercial operations on **[date of SCO]**;
4. I hereby certify that the project has not availed of any income tax-based incentive granted in its **[Certificate of Registration or Certificate of Registration and Tax Exemption, whichever is applicable]**;
5. This affidavit is executed to attest to the truthfulness of the foregoing statements and signify our intent to apply for the transfer of registration and availment of incentives under **[Republic Act No. 11534 or Republic Act No. 12066, whichever is applicable]**.

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ at _____.

Affiant

SUBSCRIBED AND SWORN TO before me this _____ at
_____, affiant exhibiting to me his/her Identification Card No.
issued in _____ and valid until _____.

Doc. No. ____;
Page No. ____;
Book No. ____;
Series of 202_.

NOTARY PUBLIC