17 June 2020

Global Tax Alert

Philippines enhances proposal for corporate tax reform to promote investment

Executive summary

On 22 May 2020, the Philippine Department of Finance (DOF) officially submitted its proposed amendments to the *Corporate Income Tax and Incentives Reform Act* (CITIRA)[1] bill. The enhanced bill (now referred to as the *Corporate Recovery and Tax Incentives for Enterprises Act* (CREATE) bill) aims to aid the recovery of businesses negatively affected by the COVID-19 pandemic and enhance the ability of the Philippines to attract highly desirable investments. CREATE is the largest fiscal stimulus program for enterprises in the country's history.

The proposed amendments are subject to further deliberations in the Congress.

This Alert summarizes the key amendments proposed by the CREATE bill.

Detailed discussion

Key tax enhancements under CREATE

- An immediate reduction of the corporate income tax (CIT) rate from 30% to 25% will take effect beginning 1 July 2020, followed by a 1% annual reduction beginning 1 January 2023 until the CIT rate is reduced to 20% beginning 1 January 2027.
- An extension of the net operating loss carryover from three years to five years for losses incurred in 2020 by non-large taxpayers.

- A longer transition period of four to nine years will be available for registered businesses currently receiving the 5% gross income earned incentive, increased from two to seven years (subject to certain conditions). Alternatively, existing registered projects or activities that will qualify for registration under the new Strategic Investment Priority Plan may opt to shift to the new tax incentives regime, instead of availing of the sunset period.
- Additional flexibility in the granting of fiscal and non-fiscal incentives will be available. The President will have the power to modify the mix, period or manner of the granting of incentives for highly desirable projects or specific industrial activities with the total period granted not exceeding 40 years.

Other proposed amendments under the tax reform package

- Net capital gains derived by foreign corporations on the sale of shares of stock of domestic corporations not traded on the Philippine stock exchange will be subject to a final tax of 15%, increased from the current rate of 5% on the first ~US$2,000 and 10% on the excess thereof.
- Regional Operating Headquarters[2] will be subject to regular CIT rates after two years from the effective date of the CREATE bill, increased from the current 10% rate on taxable income.
- Qualified Registered Business Enterprises (RBEs)[3] will be granted an income tax holiday (ITH) for two to four years, depending on the assigned RBE category level. After the ITH period, a special corporate income tax (SCIT) rate of 8% beginning 1 January 2021, 9% beginning 1 January 2022, and 10% beginning 1 January 2023 onwards will be imposed on gross income earned in lieu of all national and local taxes. The duration of the SCIT is three or four years depending on the assigned RBE category level and may be extended by three or four years at any one time, provided that the total period of the incentive does not exceed 12 years.
- In lieu of the ITH and SCIT, enhanced deductions may be granted for a period of five to eight years depending on the assigned RBE category level.

Implications

It is expected that the CREATE measures will: (i) immediately assist businesses during the downturn; (ii) help enterprises invest in the revitalization of their businesses in the post-COVID-19 recovery period and create more jobs for Filipino workers; (iii) improve the country's competitiveness in doing business among its ASEAN neighbors; and (iv) boost the Philippines' bid to attract multinational companies seeking to diversify their supply chains.

Endnotes

1. Senate Bill No. 1357.
2. *Regional Operating Headquarters (ROHQ)* shall mean a foreign business entity which is allowed to derive income in the Philippines by performing qualifying services to its affiliates, subsidiaries or branches in the Philippines, in the Asia-Pacific Region and in other foreign markets. ROHQs are currently entitled to a preferential income tax rate of 10% on taxable income and various fiscal and non-fiscal incentives such as exemption from local taxes, fees or charges and tax and duty-free importation of training materials and equipment not locally available, among others.
3. *Registered Business Enterprise (RBE)* refers to 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 (IPA) excluding service enterprises such as those engaged in customs brokerage, trucking or forwarding services, janitorial services, security services, insurance, banking, and other financial services, consumers' cooperatives, credit unions, consultancy services, retail enterprises, restaurants, or such other similar services, as may be determined by the Fiscal Incentives Review Board, irrespective of location, whether inside or outside the zones, duly accredited or licensed by any of the IPAs and whose income delivered within the economic zones shall be subject to taxes under the National Internal Revenue Code of 1997, as amended. RBEs are entitled to the specific fiscal and non-fiscal incentives granted through the IPA where they are registered.

For additional information with respect to this Alert, please contact the following:

Ernst & Young Philippines (SGV & Co.), Makati City

- Fabian K. Delos Santos fabian.k.delos.santos@ph.ey.com
- Fidela T. Isip-Reyes fidela.t.isip-reyes@ph.ey.com

Ernst & Young LLP (United States), Philippines Tax Desk, New York

- Michelle C. Arias michelle.arias@ey.com

Ernst & Young LLP (United States), Asia Pacific Business Group, New York

- Chris J. Finnerty chris.finnerty1@ey.com
- Bee Khun Yap bee-khun.yap@ey.com

EY | Assurance | Tax | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

EYG no. 004229-20Gbl

1508-1600216 NY
ED None

ey.com