

REPUBLIC OF THE PHILIPPINES
TOURISM INFRASTRUCTURE AND ENTERPRISE ZONE AUTHORITY
GUIDELINES FOR THE DESIGNATION AND SUPERVISION OF TOURISM
ENTERPRISE ZONES AND THE ADMINISTRATION OF INCENTIVES
UNDER R.A. 9593

BOOK ONE

GENERAL PROVISIONS

Rule I.

Definition and Basic Guidelines

SECTION 1. Title. These rules shall be referred to as the "GUIDELINES FOR THE DESIGNATION AND SUPERVISION OF TOURISM ENTERPRISE ZONES AND THE ADMINISTRATION OF INCENTIVES UNDER R.A. 9593."

SECTION 2. Definition of Terms. For purposes of these Implementing Guidelines, the following definitions shall apply :

- a. "Act" shall refer to Republic Act No. 9593, otherwise known as the "Tourism Act of 2009".
- b. "Board" shall refer to the Board of Directors of Tourism Infrastructure and Enterprise Zone Authority (TIEZA).
- c. "Brownfield Tourism Zone" shall refer to an area with existing infrastructure or tourism related development as determined by TIEZA.
- d. "Carrying Capacity" refers to the number of individuals who can be supported in a given area within natural resource limits, and without degrading the natural, social, cultural and economic environment for present and future generations. The carrying capacity shall be computed based on an acceptable model/method of establishing the maximum number of people or tourism development in any given space at a given time.
- e. "Capital Investment" shall refer to the money used to purchase a capital asset or equipment.

- f. "Certificate of Designation" shall refer to the certificate issued by TIEZA upon approval of the application for the designation of an area as a Tourism Enterprise Zone (TEZ).
- g. "Certificate of Entitlement" shall refer to the certificate issued by TIEZA to TEZ operators and/or registered tourism enterprises as proof of their entitlement to incentives provided under the Act.
- h. "Certificate of Registration" shall refer to the certificate issued by TIEZA to an enterprise upon its registration.
- i. "Contiguous Territory" shall refer to a territory so closely united and so nearly adjacent to each other, even if separated by bodies of water, that they meet at a certain point.
- j. "Date of Registration" shall refer to the date appearing in the certificate of registration.
- k. "Department" shall refer to the Department of Tourism as reorganized pursuant to the Act.
- l. "Fixed Assets" shall refer to those assets subject to depreciation under the National Internal Revenue Code (NIRC).
- m. "Greenfield Tourism Zone" shall refer to an area with minimal or no existing infrastructure and tourism related development as determined by TIEZA.
- n. "Gross Income" shall refer to gross sales or gross revenues derived from business activity, net of sales discounts, sales return and allowances and minus costs of sales or direct costs but before any deduction is made for administrative expenses or incidental losses during a given taxable period as provided in the NIRC, as amended and other pertinent revenue regulations.
- o. "Goods" unless otherwise specified in these Rules shall refer to merchandise used by a registered enterprise in the normal operation of its business within the TEZ.
- p. "Original Investment" as used in these rules shall refer to the fair market value of the physical assets, exclusive of land acquisition costs, at the time of filing of application for the availment of incentives for existing enterprises.
- q. "Registered Enterprise" shall refer to an enterprise duly registered with the TIEZA.

- r. "SEC" shall refer to the Securities and Exchange Commission.
- s. "Spare Parts" shall refer to usual components of machinery and / or equipment which are subject to wear and tear arising from normal use, utilization and operation.
- t. "Start of Business Operations" shall refer to the date specified in the application for registration or the date when the particular TEZ or registered tourism enterprise actually begins operation, whichever comes first, but not earlier than the date of registration, regardless of phases or modules or schedule of development.
- u. "Substantial Expansion" shall refer to the expansion or upgrade of physical assets amounting to at least 50% of the original investment of the Tourism Enterprise.
- v. "Sustainable Tourism Development" is the management of all resources that meet the needs of tourists and host regions while protecting the opportunities for the future, in such a way that economic, social and aesthetic needs can be fulfilled while maintaining cultural integrity, essential ecological processes, biological diversity and life support systems.
- w. "TEZ Operator" – shall refer to an entity duly incorporated under Batas Pambansa Bilang 68, otherwise known as the Corporation Code of the Philippines, and other relevant laws, whose capital may be provided by the LGUs and/or private entities, and which shall administer and supervise each TEZ.
- x. "TEZ Administrator" – shall refer to a person appointed by the Board of Directors of a TEZ Operator who shall be responsible for implementing the policies, plans and projects of the TEZ Operator.
- y. "TIEZA" shall refer to the Tourism Infrastructure and Enterprise Zone Authority.
- z. "Tourists" shall refer to people who travel to and stay in places outside their usual environment for more than twenty-four (24) hours and not more than one (1) consecutive year for leisure, business and other purposes not related to the exercise of an activity remunerated from within the place visited.
- aa. "Tourism Enterprises" shall refer to facilities, services and attractions primarily engaged in whole or in part in tourism and for the purpose of attracting visitors to and within the Philippines such as, but not limited to,

facilities, services and attractions involved in tourism; travel and tour services, tourist transport services, whether for land, sea or air transportation; tour guides; adventure sports services involving such sports as mountaineering, spelunking, scuba diving and other sports activities of significant tourism potential; convention organizers; accommodation establishments, including but not limited to, hotels, resorts, apartment hotels or apartelles, condotels (that cater to tourists), tourist inns, motels, pension houses, and home stay operators; tourism estate management services, restaurants, shops, and department stores, sports and recreational centers, spas, facilities offering health and wellness services, museums and galleries, theme parks, convention centers, zoos, and such other enterprises as may be identified by the Department or the Board.

bb. "Tourism Enterprise Zone (TEZ)" shall refer to tourism enterprise zones created pursuant to Chapter IV-A, Section 59 of the Act.

BOOK TWO

TOURISM ENTERPRISE ZONES

Rule II.

Establishment and Designation of Tourism Enterprise Zones

SECTION 1. Jurisdiction. The TIEZA shall have sole and exclusive jurisdiction in the establishment and designation of a TEZ which shall not be impliedly repealed or modified. All permits and licenses shall be issued by TIEZA to TEZ Operators and Registered Tourism Enterprises .

SECTION 2. Criteria. Any geographic area where a Tourism Enterprise Zone may be established shall conform with the following criteria to ensure that TEZs will not proliferate in a manner that diminishes their strategic economic and developmental value to the national economy:

- a.) The area is capable of being defined into one contiguous territory;
- b.) It has historical and cultural significance, environmental beauty, or existing or potential integrated leisure facilities within its bounds or within reasonable distances from it;
- c.) It has, or it may have, strategic access through transportation

infrastructure, and reasonable connection with utilities infrastructure systems;

- d.) It must be at least five (5) hectares and sufficient in size, such that it may be further utilized for bringing in new investments in tourism establishments and services. Provided that, in extremely meritorious cases, an area less than five (5) hectares may be developed as a TEZ if the Board deems it sufficient for the purposes, requirements and nature of the tourism project to be undertaken therein;
- e.) It is in a strategic location such as to stimulate the sustainable socio-economic development of neighboring communities.
- f.) The area must be situated where controls can easily be established to curtail illegal activities.

The dispersal of economic activities in the least developed areas in the countryside is encouraged. An area in any of the least developed areas identified in the annual Investment Priorities Plan (IPP) shall be given priority in the designation as a Tourism Enterprise Zone.

SECTION 3. Classification of TEZs. Based on the particular purpose stated in the applicant's development plan, the TEZs to be created shall be classified as follows:

- a.) Cultural Heritage Tourism Zone – areas that will allow the tourist to experience the places, artifacts and activities that authentically represent the stories of the people living in the area, past or present. The area may include, but will not be limited to:
 - 1. Cultural landscapes;
 - 2. Historic sites, areas and precincts;
 - 3. Ruins, archaeological and maritime sites;
 - 4. Sites associated with industrial, scientific and agricultural heritage;
 - 5. Collections that house or collectively promote objects of heritage significance;
 - 6. Historic places and areas, including villages, small towns, cities and parts of larger urban areas with significant cultural and heritage assets; and
 - 7. Museums, Art Galleries, Cultural Centers, Arts & Crafts Shops, and Antique Shops, and Cultural Sites.

- b.) Health and Wellness Tourism Zone – areas that will allow visitors to avail of quality but affordable mainstream, traditional, or alternative healthcare services for treatment of illnesses and health problems in order to maintain one's health and well-being.

The area may include, but will not be limited to enterprises that are, or offer:

1. Medical and Allied Services;
2. Spas;
3. Health Farms;
4. Counselling and Rehabilitation Services; and
5. Traditional Filipino Touch Therapy.

- c.) Eco-Tourism Zone - areas that will allow visitors to experience a form of sustainable tourism within a given natural and/or cultural area where community participation, conservation and management of biodiversity, respect for culture and indigenous knowledge systems and practices, environmental education and ethics as well as economic benefits are fostered and pursued for the enrichment of host communities and satisfaction of visitors.

The area may include, but will not be limited to:

1. Sites of scenic natural or rural beauty;
2. Areas for observing wildlife;
3. Areas for low impact activities such as camping, trekking, climbing, spelunking, diving, surfing, and other similar activities; and
4. Sites for observing and interacting with traditional or indigenous practices in relation to the environment.

- d.) General Leisure Tourism Zone – areas that may offer recreational facilities that will have high visitor density.

The area may include, but will not be limited to:

1. Golf Parks/Resorts;
2. Theme Parks and Amusement Centers;
3. Convention and Meeting Centers;
4. Sports Complexes/Resorts;
5. Event Centers/Resorts;
6. Department Stores/Restaurants/Shops; and;
7. Zoos.

- e.) Mixed Use Tourism Zone – areas that will allow a combination of some or all of the features of the aforementioned zones within one area.

Retirement communities and facilities duly accredited by the Philippine Retirement Authority may be located in General Leisure Tourism Zones, Health and Wellness Tourism Zones and Mixed-used Tourism Zones.

SECTION 4. Investment Requirement. The minimum amount of investment required to be entitled to incentives provided under the Act shall not be less than Five Million US Dollars (US \$5,000,000.00) exclusive of land acquisition costs. Provided that, in extremely meritorious cases, an amount less than Five Million US Dollars (US \$5,000,000.00) may be invested for a Cultural Heritage Tourism Zone or an Eco-Tourism Zone if the Board deems it sufficient for the purposes, requirements and nature of the tourism project to be undertaken therein.

SECTION 5. Qualification of Applicants. Any entity duly incorporated under the Corporation Code and other relevant laws, or any LGU or any other instrumentality of government in the pursuit of their mandate may qualify as an applicant for the designation of an area as a TEZ.

SECTION 6. Documentary Requirements for Designation of TEZ:

- I. Upon Application:
 - a.) Duly accomplished TIEZA Application Form;
 - b.) SEC Registration Certificate, copies of the articles of incorporation and by-laws; in case of a joint venture, a copy of the joint venture agreement;
 - c.) Company Profile, containing basic data/ information on its technical, financial, marketing and management capability/ competence to undertake the proposed project;
 - d.) Resolution of the applicant's board of directors authorizing the filing of the application and the designation of their authorized representative to TIEZA; list of its directors, principal officers, and major stockholders, including their respective bio-data.

In the case of an instrumentality of the national government acting in pursuit of its mandate and/or a local government unit an authority from the Head of Agency or Local Chief Executive authorizing the filing of the application and the designation of their authorized representative to TIEZA;

- e.) Vicinity Map reflecting various land uses, important verifiable landmarks within the five (5) kilometers radius of the project site, proximity to transportation and utilities infrastructure, and tourism focal points in the vicinity and their distances from the project site;
- f.) Proof of land ownership and/ or Long-Term Lease Agreement(s) for a period of not less than twenty five (25) years on the entire area of the proposed TEZ ;
- g.) Endorsement letter from the National Historical Institute (NHI) in the case of Cultural and Heritage Tourism Zone, from the Department of Health (DOH) in the case of Health and Wellness Tourism Zone; or from Philippine Retirement Authority (PRA) in the case of retirement villages/communities; and
- h.) Other supporting documents/ papers/ clearances as may be required by the TIEZA depending upon the nature of the business and the type of business organization of the applicant.

II. Prior to Designation

- a.) Resolution of the concerned LGU approving the development plan;
- b.) Copy of the approved Comprehensive Land Use Plan of the concerned LGU;
- c.) Verified survey returns and technical description of the land area for the proposed TEZ;
- d.) Environmental Compliance Certificate issued by the Department of Environment and Natural Resources (DENR);
- e.) Clearance/Permit from the concerned Protected Area Management Board if the proposed zone is within a Protected Area;

- f.) Financial statement for (3) years for existing companies;
- g.) Development Plan of the area which shall identify and include the following:
1. Tourism focal points and resources available within the proposed TEZ and adjoining areas;
 2. Features which satisfy the requisites for the designation of a TEZ enumerated under Section 2, Rule II of these Rules;
 3. Amount to be invested by the applicant in the area;
 4. Areas for infrastructure development and the kind of development, for investment and the nature of investment, and for preservation and the sustainable activities allowed within preserved areas;
 5. Public utilities to be operated within the TEZ;
 6. Medium and long-term studies on market trends, and corresponding development strategies for the TEZ;
 7. Studies on the economic impact of development within the TEZ and in surrounding communities;
 8. Studies on the carrying capacity of the TEZ and surrounding communities;
 9. Design plans for structures incorporating therein measures that should ensure the sustainable development of the area and the surrounding environment, to include the following: the civil and architectural plans that preferably incorporates Philippine design elements and cultural heritage, structural plans, electrical, mechanical, sanitation and design computations, cost estimates and specifications, financial schedules and construction timetable;
 10. Energy efficiency and climate change mitigation measures to be adopted and implemented in the area; and
 11. Compliance statement on Development Standards. TIEZA shall in coordination with the Department formulate and enforce development standards for the operation and maintenance of all

facilities and structures to be built on all Tourism Zones. The development standards to be formulated and enforced shall be used as basis for the accreditation of tourism enterprises seeking to avail of the incentives under the Act. Such standards shall prescribe the minimum and progressive levels of operating quality and efficiency consistent with local and international standards, such as but not limited to the following:

- a.) Infrastructure Requirements;
- b.) Setback Requirements;
- c.) Consumption of natural resources;
- d.) Sewerage Disposal System;
- e.) Surface Water Disposal;
- f.) Safety and security;
- g.) Site Coverage Density;
- h.) Landscaping;
- i.) Visual Security;
- j.) Roads;
- k.) Vehicle Parking;
- l.) Waste Water Treatment; and
- m.) Ventilation Requirements.

h.) Other requirements as may be prescribed by the TIEZA Board.

SECTION 7. Filing of Application. The application for designation of a TEZ shall be filed with the TIEZA upon payment of the corresponding non-refundable filing fee.

SECTION 8. Incomplete Papers. Within fifteen (15) days from receipt of the application, TIEZA shall notify the applicant of all pertinent requirements not complied with. The applicant shall have thirty (30) days from receipt of such notice to comply with the said requirements. Only upon compliance will the application be recorded/ processed. In this case, the date of compliance shall be deemed the date of filing.

Failure to comply within the said period shall be construed as an abandonment of the application, unless upon written request, an extension is granted by TIEZA.

SECTION 9. Publication of Application. Applications for designation of a TEZ will be subject to publication requirement and payment of publication fee.

SECTION 10. Evaluation and Approval. Upon submission of all the requirements stated in Section 7 hereof, the TIEZA shall evaluate the application for TEZ

designation, and if found viable, the TIEZA COO shall recommend to the Board its approval, subject to other conditions it may reasonably impose.

Any deviation or modification from the approved development plan shall require the prior authorization of TIEZA. Any unauthorized deviation or modification may subject the operator to the penalties provided for in Rule XVI of these Rules.

SECTION 11. Certificate of Designation. All TEZs designated under these Rules shall be issued a certificate under the seal of the Tourism Infrastructure and Enterprise Zone Authority and the signature of its Chief Operating Officer or any other officer of the TIEZA as it may empower and designate for the purpose.

The certificate shall be in such form and style as the TIEZA may determine and shall state, among other things:

- a. The name of the designated TEZ;
- b. The preferred area of investment in which the TEZ is proposing to develop; and
- c. The other terms and conditions to be observed by the TEZ by virtue of the designation.

SECTION 12. Timetable of Development. Unless a different period is required and duly approved by the Board, the development of the whole TEZ must be completed within a maximum period of five (5) years. The phasing development of the area may be allowed in the following manner unless otherwise provided by the Board:

- a. Phase I - 30% of the area
- b. Phase II - 30% of the area
- c. Phase III - 20% of the area
- d. Phase IV - 10% of the area
- e. Phase V - 10% of the area

At the end of each phase, TEZ operator must provide the basic infrastructure facilities and utilities ready for immediate use and occupancy by prospective investor enterprises. Failure to develop and/ or complete within the approved period, unless extended by the Board for good cause, shall subject the TEZ Operator to the appropriate penalties provided for under Rule XIV of these Rules. Areas that are not developed and completed within the approved period shall be restored to

their original land use at the expense of the TEZ Operator, unless the Board provides otherwise.

SECTION 13. Finality of Decision on Designation. The decision of the TIEZA Board in designating a particular area as a TEZ is final and non-appealable.

Rule III.

TEZ Administration

SECTION 1. TEZ Operator. An entity duly incorporated under Batas Pambansa Blg. 68, otherwise known as "The Corporation Code of the Philippines", and other relevant laws, unless the TEZ Operator is an LGU or any other instrumentalities of the government in the pursuit of their mandate, where capital maybe provided by the LGUs and/ or jointly with private entities may qualify as a TEZ operator.

There shall be no restrictions on the extent of foreign ownership, except as provided for under the Constitution and the Foreign Investment Act (Republic Act No. 7042, as amended).

In case of joint venture agreements between government and private entities, the same must comply with the Guidelines and Procedures for Entering into Joint Venture Agreements of the National Economic Development Authority (NEDA).

SECTION 2. Board of Directors and Consultative Bodies of TEZ Operators

- a) The seats of the Board of Directors of a TEZ Operator shall be allocated pro-rata according to the respective capital contributions of the TEZ Operator's shareholders.
- b) TEZ Operators are encouraged to reserve seats for independent directors on their Boards for special interest groups, such as those representing environmental, religious, and cultural interests, TEZ investors, TEZ residents and other interests. In any case, TEZ Operators may form consultative bodies, that will convene on a regular basis, for such special interest groups to assist them in the formulation and implementation of their policies, plans , programs and projects.

SECTION 3. TEZ Administrator

- a) The Board of Directors of each TEZ Operator shall appoint its TEZ

Administrator, who shall be responsible for implementing the policies, plans, programs and projects of the TEZ Operator's Board of Directors. The minimum qualifications required of a TEZ Administrator are as follows:

1. Must have a bachelor's degree in any of the following fields: business, law, tourism, public administration, urban or environmental planning, real estate management or other relevant fields and have demonstrated expertise therein;
2. Must have served in a managerial capacity for at least three (3) years prior to his or her appointment; and
3. Must possess such other qualifications as may be prescribed by the TEZ Operator's Board of Directors.

b) In addition to such qualifications, all TEZ Administrators must undergo and pass a training program of the Department to provide them with knowledge and skills in the operation of a TEZ.

SECTION 4. Designation and Operation of TEZs. The designation of a TEZ does not require ownership of the area to be organized as a TEZ. A TEZ Operator should possess rights to use, develop, improve, acquire, administer, deal in, subdivide, dispose, lease or sell, and to the fruits of one or more parcels of land within the area in organizing a TEZ by virtue of ownership, lease or other agreements.

The designation of a TEZ does not vest ownership of the resources located therein or the area itself on the TEZ operator.

The rights of a third party to land or resources within the zone shall be respected. The TEZ Operator shall encourage such third party rights holders to participate in policy making, planning and program development and implementation through any of the following, as may be appropriate:

- (a.) Participation in the consultative bodies to be created by the TEZ Operator among special interest groups as provided in Rule III, Section 2 of these rules.
- (b.) Organization and registration as a Tourism Enterprise; or
- (c.) Other mechanisms and agreements between relevant parties that recognize the common interests of the parties in the management of the zone and respect of such third parties.

SECTION 5. Operation of Utilities. TIEZA shall grant franchises for, or supervise or operate, public utilities within TEZs in coordination with the LGU or government agency concerned.

TIEZA shall however encourage, facilitate and provide incentives for private sector participation in the construction and operation of public utilities and infrastructure in the TEZs using any of the schemes allowed under Republic Act No. 6957, as amended, otherwise known as the Build-Operate-and-Transfer Law.

SECTION 6. Acts of Development and Disposition. All activities to further develop an area already declared as a TEZ or further acts of disposition of resources within a TEZ shall be consistent with the Development Plan approved by TIEZA. There shall be no deviation and/ or modification of the development plan without prior authorization by TIEZA.

Rule IV.

Registration of Tourism Enterprises Within Tourism Enterprise Zones

SECTION 1. Jurisdiction. The TIEZA shall have sole and exclusive jurisdiction in the registration of Tourism Enterprises. It shall not be impliedly repealed or modified.

SECTION 2. Qualification of Applicants. Any person, firm, association, partnership, corporation, or any other form of business organization may apply for registration as a tourism enterprise to avail of incentives and benefits. Applications for registration shall comply with the applicable nationality, control and/ or ownership requirements of the working capital thereof in accordance with the pertinent provisions of the Philippine Constitution, Foreign Investments Act of 1991 as amended and other relevant existing laws and regulations.

SECTION 3. Forms. All applications shall be submitted in the forms prescribed by the TIEZA duly accomplished and submitted in three (3) copies.

SECTION 4. Documentary Requirements. The applicant for a Registered Tourism Enterprise shall submit the following documents:

- a. Duly accomplished Application Form;
- b. Securities and Exchange Commission's Registration Certificate/Business Permit;
- c. Company Profile, containing basic data/ information on their technical, financial, marketing and management capability/ competence to undertake the proposed project or business within the tourism enterprise zone;
- d. Copies of articles of incorporation and by-laws;

- e. Resolution of the applicant's board of directors authorizing the filing of the application; list of its directors, principal officers, and major stockholders, including their respective bio-data;
- f. List of machinery and equipment to be used by the applicant with a statement of their capacity, ownership and/ or mode of procurement;
- g. Endorsement from the TEZ Operator;
- h. Proposed site development plan and location map accompanied by a perspective drawing; construction timetable/ financial schedule; detailed architectural and engineering plan; cost estimates and specifications;
- i. Clearance/ Permit from the concerned Protected Area Management Board if the proposed business area is within a Protected Area; and
- j. Other supporting documents/ papers/ clearances as may be required by the TIEZA depending upon the nature of the business and the type of business organization of the applicant.

SECTION 5. Filing of Application. The application shall be filed with the TIEZA upon payment of the corresponding non-refundable filing fee.

SECTION 6. Incomplete Papers. Within fifteen (15) days from receipt of the application, TIEZA shall notify the applicant of all pertinent requirements not complied with. The applicant shall have thirty (30) days from receipt of such notice to comply with the said requirements. Only upon compliance will the application be recorded/ processed. In this case, the date of compliance shall be deemed the date of filing.

Applicant's non-compliance within the said period shall be construed as an abandonment of the application, unless upon written request, TIEZA extends the said period.

SECTION 7. Publication. Applications for registration of a tourism enterprise will be subject to publication requirement and payment of publication fee.

SECTION 8. Evaluation and Recommendation for Board Action. Upon submission of all requirements and payment of the filing fee, TIEZA shall evaluate the registration application of a tourism enterprise and if found viable in its technical, financial, marketing and management aspects, the same shall be forwarded to the Board for action.

SECTION 9. Board Action. Approval of the application shall be by resolution of the Board. The action taken thereon together with the terms and conditions of registration shall be communicated in writing to the applicant.

Within fifteen (15) calendar days from receipt of the notice of board approval of the application, a formal acceptance of the terms and conditions of registration shall be submitted by the applicant. Only upon acceptance of these conditions and satisfactory compliance with the pre-registration requirement therein stated, if any, shall such approval be effective. Failure to accept within said period shall invalidate the approval.

SECTION 10. Certificate of Registration. The Certificate of Registration shall be issued by the TIEZA upon payment of the registration fee and the applicant has submitted:

- a) A sworn statement that, with the exception of those which the TIEZA has been duly advised, all information/ data previously submitted to TIEZA are still correct;
- b) Statement of compliance with the pre-registration requirements, if any;
- c) Sworn acceptance of the proposed terms and conditions of registration; and
- d) Tax clearance certificate from the Bureau of Internal Revenue

SECTION 11. One-Stop Shop. The TIEZA shall establish a One-Stop Shop where prospective TEZ investors and tourism enterprises can register under a single window system to avail of the incentives and benefits under the Act, including the issuance of all permits and visas. All government agencies involved shall assign their respective representatives for this purpose. The TIEZA shall collect fees necessary for the issuance of these permits and licenses.

SECTION 12. Finality of Decision on Registration. The decision of the TIEZA Board on the registration application of a tourism enterprise is final and non-appealable.

Rule V.

Permits and Other Requirements

SECTION 1. Permits. The following permits shall be issued by the TIEZA to TEZ Operators and Registered Tourism Enterprises:

- a. Building permit;
- b. Occupancy permit;
- c. Business permit;
- d. Import permits; and
- e. Such other permits necessary for the proper operation of the TEZ, as may be required by the TIEZA Board

SECTION 2. Submission of Requirements. Any registered tourism enterprise intending to construct its own building or other structures, facilities and utilities within a TEZ shall, before proceeding with the work, submit to the TIEZA all the documentary requirements as herein below enumerated within forty-five (45) days from its date of registration.

These documentary requirements are as follows:

1. Duly accomplished application form to be submitted to the TIEZA together with the following documents:
 - a. In case the applicant is a registered owner of the lot:
 1. Certified True Copy of Transfer Certificate of Title
 2. Tax Declaration
 3. Current Real Property Tax Receipt
 4. Certificate of registration and business permit/ license issued by the TIEZA
 5. Three (3) sets of plans, specifications and bill of quantities prepared, signed and sealed by duly licensed architects/ engineers
 - b. In case the applicant is not the registered owner of the lot, aside from the aforementioned documents, the duly notarized copy of the contract of lease or other pertinent contracts shall also be submitted.
 - c. PAMB Clearance/Permit and Eco-Tourism Plan if the building or structure is inside a protected area.

SECTION 3. Collection of Fees/ Charges. The TIEZA shall collect such reasonable fees and charges in connection with the application, processing and issuance of all the permits required and performance of other regulatory functions. TIEZA shall set the rates of such fees and charges taking into consideration the rates for similar regulatory functions performed by other agencies of government. All fees and dues collected shall accrue to TIEZA.

SECTION 4. Use of Structures/ Roads. If the use of any structure or road inside the TEZ or the excavation of the same is required by the registered TEZ operator/ tourism enterprise to meet its building construction requirements, an application for such purpose shall first be submitted to TIEZA. The public grounds, structures or roads shall be restored to their original shape and condition immediately after completion of the construction work at the expense of the TIEZA registered enterprise/ TEZ operator.

SECTION 5. Building Inspection. A completed building/ structure/ facility/ utility and newly installed equipment and machinery shall be inspected by the TIEZA to determine whether it has complied with the approved building specifications and plant layout.

If the inspection indicates that the building was constructed in accordance with the approved building specifications and plant layout and satisfies health, safety, cultural and environmental requirements, then the TIEZA shall issue the corresponding occupancy permit and/ or permit to operate the equipment and machineries after payment of the fees by the registered enterprise prior to the start of operation.

If the inspection shows that health, safety and environmental requirements have not been met or that there have been deviations from the approved plans and plant layout, the TIEZA may withhold the grant of the occupancy permit or the permit to operate equipment and machineries until the necessary adjustments shall have been made within a reasonable period of time as determined by the TIEZA.

SECTION 6. Temporary Permit to Operate. If the deficiencies noted during the inspection do not endanger life and property, a temporary permit to start operation may be granted: Provided, that the TIEZA shall furnish the registered enterprise with a detailed listing of the improvements required and shall set a deadline of not more than six (6) months, for the registered enterprise to carry-out such improvements: Provided further, that the registered enterprise shall report to the TIEZA within the prescribed deadline the results of adjustments made and shall request the TIEZA to re-inspect the plant for final approval.

SECTION 7. Occupational Safety. The TIEZA, in coordination with the Department of Labor and Employment (DOLE), shall conduct periodic inspection of facilities and installations within the TEZ to check on health, medical, occupational and safety standards of the buildings, structures and equipment and machineries and the general conditions and maintenance of the facility. The registered enterprise shall correct any deficiency or violations of pertinent regulations noted in such inspection within a reasonable period of time to be determined by the TIEZA.

SECTION 8. Inspection. The TIEZA shall conduct regular inspection of the facilities within the TEZ.

Rule VI.

Coordination with Local Government Units on Governance within TEZs

SECTION 1. Role of the Local Government Units (LGUs). The LGUs shall retain their basic autonomy and identity in accordance with the Local Government Code. No TEZ shall be designated without a development plan duly approved by TIEZA and without the subsequent approval, by resolution, by the LGU concerned. Upon approval by the concerned LGU of the development plan, and the subsequent designation of a TEZ, TIEZA shall have sole authority to regulate and supervise the operations within the TEZ including the issuance of permits and licenses.

LGUs are encouraged to provide incentives for registered tourism enterprises inside and outside the TEZ through, among others, reduction in applicable real estate taxes.

SECTION 2. Agreements. TIEZA shall execute a Memorandum of Agreement with the concerned LGU to define the framework on their verification and receipt of the one third (1/3) share from remittances collected by TIEZA from the Gross Income Taxes.

Rule VII.

Guiding Environmental Policies and Regulations

SECTION 1. Environmental Standards - The TIEZA, in coordination with the Department of Environment and Natural Resources (DENR), shall implement established policies and guidelines to ensure environmentally and socially acceptable development of TEZs and registered tourism enterprises under its jurisdiction. TIEZA regulations to protect and conserve environmental quality in TEZ shall be consistent with national standards set by the DENR.

SECTION 2. Pre-Designation Requirement - As a pre-designation requirement, an applicant TEZ Operator shall comply with the procedures of the Environmental Impact Statement (EIS) system under Presidential Decree 1586 and to secure an Environmental Compliance Certificate (ECC).

SECTION 3. Regulatory Functions - The TIEZA shall formulate and implement environmental policies and regulations, issue permits and/ or clearances and grant franchises to entities that will engage in environmental management within the TEZ.

TIEZA shall monitor compliance in the area based on the limits set in the respective ECC's and conduct or cause to be conducted regular sampling and testing of regulated emissions, dusts, particulates, effluents, sludge, noise levels and other concerns.

SECTION 4. Waste Management Program - Each TEZ and registered tourism enterprise shall be required to establish and adopt a sound waste management program specifically but not limited to solid waste, sludge and effluents. Said program shall be monitored and validated on a periodic basis.

SECTION 5. Environmental Management Services – The TIEZA shall have the option to develop, establish, manage and operate, or to privatize, through the grant of franchise or under a build-operate-transfer scheme under Republic Act 6957, as amended, with private companies, developers or practitioners, services and physical infrastructure related to environmental management. This shall include among others, wastewater and sludge sampling and testing, wastewater treatment facilities, incinerators, sanitary landfills, environmental laboratories, and other waste treatment facilities (WTF).

In no case, however, shall any WTF operator be allowed to bring into the TEZ for treatment, sorting, recycling or any other process industrial wastes from other industries operating outside the jurisdiction of the TEZ.

SECTION 6. Agreements – Within thirty (30) days from promulgation of these Rules, the TIEZA shall enter into a Memorandum of Agreement with the DENR and other concerned government agencies for an integrated and simplified implementation of environmental standards within TEZs and by registered tourism enterprises outside of the zone.

The TIEZA in coordination with the Department shall also execute the appropriate agreement with the DENR to define the policy framework and implementing guidelines on the possible declaration of existing areas that are already covered by the National Integrated Protected Areas System (NIPAS) with ecotourism potentials to TEZ.

SECTION 7. Adoption of Environmental Laws and Regulations - All Philippine environmental laws particularly Presidential Decrees 984, 1151, 1152, 1586, as well as Republic Act Nos. 6969 and 7526, including laws concerning biodiversity conservation and environmental protection and the corresponding implementing guidelines relevant to the operation of a TEZ are hereby adopted without prejudice to other rules and regulations that may be prescribed by the TIEZA on environmental protection.

Rule VIII.

Labor and Management Relations

SECTION 1. Labor Dispute Resolution Office. TIEZA adheres to the policy that industrial peace and harmony can only be achieved through compliance with labor laws and standards and through effective enforcement mechanism by concerned agencies. It shall, in coordination with the DOLE establish a labor dispute resolution office to mediate between workers and employers.

SECTION 2. Agreement. The DOLE and TIEZA shall execute a Memorandum of Agreement to formulate the specific guidelines, rules and regulations on the following:

1. Maintenance of Industrial Peace in areas to be designated as TEZ and registered tourism enterprises;
2. Conduct of Labor Education Program; and
3. Enforcement of Labor Standards rules in areas to be designated as TEZ and registered tourism enterprises.

Rule IX.

Grant and Administration of Incentives

SECTION 1. Entitlement to Incentives. TIEZA may grant incentives to registered TEZ Operators and tourism enterprises. TIEZA shall encourage the dispersal of economic activities in the countryside, particularly in the least developed areas identified in the annual Investment Priorities Plan (IPP).

The grant of certain incentives to tourism enterprises outside TEZs shall be governed by Rule XIII of these Rules.

SECTION 2. Application for Availment of Incentives. All applications for availment of incentives under the Act shall be filed with TIEZA.

SECTION 3. Grant and Administration of Incentives. Incentives may be granted by TIEZA within ten years from effectivity of this Act. Incentives thus granted shall thereafter be administered by TIEZA pursuant to these rules.

Rule X.

General Conditions for Availment of Incentives and Other Privileges

SECTION 1. Compliance with Obligations. The TEZ Operator and/ or the Registered Tourism Enterprise shall observe and abide by the provisions of the Act, its Implementing Rules and Regulations, the terms and conditions for its designation and/ or registration and take adequate measures to ensure that its obligations hereunder as well as those of its officials, employees and stockholders are faithfully discharged.

SECTION 2. Compliance with Directives. The TEZ Operator and Registered Tourism Enterprise shall comply with the directives and circulars which TIEZA may issue from time to time pursuant to its powers under the Act.

SECTION 3. Visitorial Powers. The TEZ Operator/ Registered Tourism Enterprise shall allow the duly authorized representative(s) of TIEZA to examine its books of accounts and other pertinent records and documents to ascertain compliance with this Act, its implementing guidelines, and the terms and conditions of its designation/ registration.

SECTION 4. Delinquent TEZ Operator/ Registered Tourism Enterprise. No availment of incentives may be allowed a TEZ Operator/ Registered Tourism Enterprise that is found delinquent in compliance with any of the terms and conditions for its designation/registration including such reports and statistical data TIEZA may require.

SECTION 5. Non-registered Activities. TEZ Operator/ Registered Tourism Enterprise engaged or proposing to engage in non-registered activities shall install an adequate accounting system segregating investments, revenues, costs and profits or losses of the registered operations.

SECTION 6. Compliance with Reportorial Requirements. A TEZ Operator or Registered Tourism Enterprise shall maintain distinct and separate books of

accounts for its registered operations and shall submit financial and other reports/ documents to TIEZA on or before their respective due dates as follows:

Reports Due Date

- A. Copies of Audited Financial Statements – fifteen (15) calendar days from the date of filing with the Bureau of Internal Revenue
 - Balance Sheet
 - Income Statement
 - Statement of Cost of Sales
 - Statement of Operating & Administrative Expenses
- B. Income Tax Returns - fifteen (15) calendar days from filing thereof;
- C. Amendment to the Articles of Incorporation and/ or by-laws - thirty (30) calendar days from the date of registration of said amendments with the Securities and Exchange Commission;
- D. Replacement of any director or other principal officer - thirty (30) calendar days after said replacement with an indication of the nationality of the officer and accompanied by a copy of his/ her certificate of citizenship, if a naturalized Filipino;
- E. Any change in equity ownership - thirty (30) calendar days after said change;
- F. Change of address or principal place of business – within ten (10) calendar days after such change;
- G. Change of its authorized representative to TIEZA – within ten (10) calendar days from such change;
- H. Notice of start of operation - seven (7) days from date of actual start of operations;
- I. Statement of the total peso value of incentives granted under the Act from January one to December thirty-one of the preceding year - not later than January thirty one of the current year; and
- J. Such other reports as may be prescribed/required by TIEZA through appropriate circulars /memoranda in coordination with other agencies.

Rule XI.

Fiscal Incentives to TEZ Operators and Registered Tourism Enterprises within the TEZ

SECTION 1. Income Tax Holiday (ITH)

1. Period of Availment –TEZ Operators or Registered Tourism Enterprises shall be exempt from income taxes levied by the National Government on its registered activities as follows:
 - a. New enterprises in Greenfield and Brownfield Tourism Zones – for six (6) years from start of business operations
 - b. Existing enterprises in Brownfield Tourism Zone – for six (6) years from the time of completion of the expansion or upgrade of its facilities
2. Additional Period of Availment – the income tax holiday incentive may be extended but in no case to exceed a total additional period of six (6) years. Provided, that prior to the expiration of the first six (6) years, the registered enterprise will undertake a significant expansion or upgrade of its facilities amounting to at least fifty percent (50%) of the original investment; Provided, further that for purposes of availment of this incentive, the TEZ Operator or the Registered Tourism Enterprise shall apply in writing to TIEZA for the additional period not later than three (3) months prior to the expiration of the initial Income Tax Holiday and shall submit proof of compliance with the criteria herein; Provided, finally, that the Board may in exceptionally meritorious cases allow an enterprise which will undertake an expansion or upgrade of its facilities for less than fifty per cent (50%) of the original investment to avail of the income tax holiday incentive, but the period of availment shall be prorated to the value of the expansion or upgrade.
3. Conditions for Availment by Existing Enterprises in Brownfield Zones - Existing enterprises in Brownfield Zones may avail of the non-extendible income tax holiday subject to the following conditions:
 - a. The Registered Tourism Enterprise undertakes a substantial expansion or upgrade of its facilities.
 - b. The cost of expansion or upgrade of its physical assets amount to at least 50% of the original investment.

- c. The expansion or upgrade has resulted in an extension of the life of its assets or increase in the capacity or efficiency of the enterprise that benefits the current and future periods.
- d. In appropriate cases, there is a significant change in its category classification under the Department of Tourism's accreditation system

The Board may in exceptionally meritorious cases allow an enterprise which will undertake an expansion or upgrade of its facilities for less than fifty per cent (50%) of the original investment to avail of the income tax holiday incentive, but the period of availment shall be prorated to the value of the expansion or upgrade.

- 4. All TEZ Operators and Registered Tourism Enterprises upon compliance with the terms and conditions for the availment of Income Tax Holiday, shall be issued a Certificate of Entitlement which shall be attached to its Annual Income Tax Return.
- 5. Net Loss Carry Over - The net operating loss of the TEZ Operator or Registered Tourism Enterprise for any taxable year immediately preceding the current taxable year shall be carried over as a deduction from gross income for the next six (6) consecutive taxable years immediately following the year of such loss. Provided, that such loss has not been previously offset as a deduction from gross income.

SECTION 2. Gross Income Taxation (GIT). Except for real estate taxes and such fees as maybe imposed by TIEZA, a new enterprise shall be exempt from the payment of all national internal revenue taxes and all local impost, fees, licenses, assessments and taxes.

- 1. Gross Income Tax Rate - In lieu of all national internal revenue taxes and local taxes, impost, assessments, fees and licenses, registered tourism enterprises shall pay a tax of five percent (5%) on its gross income earned from its registered activities. This shall be directly remitted as follows:
 - a. One - third (1/3) to be proportionately allocated among affected cities or municipalities based on the area occupied by the TEZ Operator/ Registered Tourism Enterprise as determined by TIEZA.
 - b. One - third (1/3) to the national government
 - c. One - third (1/3) to TIEZA
- 2. Endorsement by TIEZA– TIEZA shall issue, on an annual basis, a Certificate of Entitlement (CE) for those enjoying ITH or an Endorsement Letter (for those

enjoying other incentives), to all registered tourism enterprises entitled to tax incentives, and to attach the applicable CE/Endorsement letter to their annual Income Tax Returns (ITRs) upon filing thereof. In its absence, the BIR shall not allow any claim for ITH/5% GIT incentive that is reflected in the annual ITR. For taxpayers filing on-line, submission of CE/endorsement letter shall be done manually until such time that the BIR's Electronic Integrated Tax System (e-ITS) facility is enhanced for this purpose.

3. Allowable Deductions - TIEZA shall in coordination with the Bureau of Internal Revenue formulate the appropriate measure that shall define the allowable deductions of TEZ Operators and registered tourism enterprises.

SECTION 3. Importations of Capital Investment and Equipment. TEZ Operators and Registered Tourism Enterprises shall be entitled to an exemption of one hundred percent (100%) of all taxes and customs duties on the importation of capital investment and equipment subject to the following conditions:

- a) The capital investment and equipment are directly and actually needed and shall be used exclusively by the TEZ Operator and/ or the Registered Tourism Enterprise in its registered activity;
- b) Subject to reasonable allowances, the rated capacity of the capital equipment to be imported shall be within the registered capacity of the TEZ Operator and the Registered Tourism Enterprise.

Any sale, transfer, assignment, donation or other form of disposition of originally imported capital investment and equipment/ machinery, brought into the TEZ duty and tax-free, within five (5) years from date of acquisition shall require prior approval of the Board. Such approval shall be granted only if the sale or other form of disposition is made:

- a) To a TEZ Operator or Registered Tourism Enterprise entitled to duty and tax free importation of machinery or to any other enterprise enjoying similar incentives under existing laws;
- b) For reasons of proven technical obsolescence;
- c) For purposes of replacement to improve and/ or expand the operations of the registered enterprise intending to sell, transfer, assign, donate or otherwise dispose of such machinery or spare parts; and
- d) In cases of withdrawal or cessation from operations of the registered Tourism Enterprise, subject to payment of applicable duties and taxes and such other conditions as may be prescribed by the Board.

If the TEZ Operator or Registered Tourism Enterprise sells, transfers or disposes of this machinery or equipment without prior approval of the Board within five (5)

years from date of acquisition, the Registered Tourism Enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of the tax exemptions granted.

Any sale, transfer, assignment, donation or other form of disposition of capital equipment, brought into the TEZ duty- and tax- free, after five (5) years from date of acquisition shall require prior approval of the TIEZA Chief Operating Officer, subject to the payment of the applicable taxes.

Attached as "Annex A" and forming part of these Rules is a list of capital equipment eligible for tax and duty-free importation incentives.

SECTION 4. Transportation Equipment and Spare Parts. Importation of transportation equipment and the accompanying spare parts of new and expanding registered enterprises shall be exempt from customs duties and national taxes provided that:

- a) They are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;
- b) They are reasonably needed; and
- c) Shall be used exclusively by an accredited tourism enterprise.

SECTION 5. Goods and Services. Subject to rules and regulations which properly define and limit goods actually consumed for services rendered by various registered tourism enterprises within a TEZ shall be entitled to the following:

- a) One hundred percent (100%) exemption from all taxes and customs duties: Provided, however, that no goods shall be imported for the purpose of operating a wholesale or retail establishment in competition with the Duty Free Philippines Corporation (DFPC); and
- b) A tax credit equivalent to all national internal revenue taxes paid on all locally-sourced goods and services directly or indirectly used by the registered enterprise for services actually rendered within the TEZ.

SECTION 6. Social Responsibility Incentive. TEZ Operators and Registered Tourism Enterprises shall be entitled to a tax deduction equivalent to fifty percent (50%) of the cost of environmental protection or cultural heritage, preservation activities, sustainable livelihood programs for local communities which may be chosen from the list of activities identified by the National Anti-Poverty Commission (NAPC), and other similar activities as may be determined by the Board.

The approval of the TIEZA shall be obtained prior to undertaking such activities/ programs.

Rule XII.

Non-fiscal Incentives Available to TEZ Operators and Registered Tourism Enterprises

SECTION 1. Employment of Foreign Nationals.

- a) Entitlement - A TEZ Operator or a Registered Tourism Enterprise may employ foreign nationals in executive, supervisory, technical or advisory positions; Provided, that executive positions shall pertain only to the president, vice-president, treasurer and general manager, or their equivalents: Provided, further, that the total number of foreign nationals employed by the TEZ Operator or Registered Tourism Enterprise in supervisory, technical or advisory positions shall not at any time exceed five percent (5%) of its workforce unless expressly authorized by the TIEZA Board. Subject to regulations issued by the Bureau of Immigration (BI), the TIEZA may issue working visas for periods of up to two (2) years, subject to the foreign national's securing of the appropriate Employment Permits (EP) from the Department of Labor and Employment (DOLE). To ensure proper transfer of technology, the employers of foreign nationals shall provide an Understudy Training Programme (UTP) and designate at least two Filipino understudies. The functions of these employees must be deemed permanent, and they must require skills or expertise that is scarce in the Philippines.
- b) TIEZA may likewise issue Special Work Permits to foreign nationals to perform short-term work of up to three (3) months renewable for a non-extendible period not exceeding three (3) months.
- c) Length of Employment - A TEZ Operator or a Registered Tourism Enterprise may employ foreign nationals for a period not exceeding five (5) years from its registration, unless expressly authorized by the TIEZA Board.
- d) Spouse and Unmarried Minor Children - The spouse and unmarried children under eighteen (18) years of age of the foreign national employed under the provisions of the Act shall also be permitted to enter and reside in the Philippines during the same period of employment.
- e) The EP of a foreign national may be suspended or cancelled/ revoked, after due process, based on any of the following grounds:

1. Continued stay of the foreign national may result in damage to the interest of the industry or country;
2. Non-compliance with any of the requirements or conditions for which the EP was issued;
3. Misrepresentation of facts in the application;
4. Submission of falsified or tampered documents;
5. Derogatory record of foreign national; and
6. Employer has terminated the employment of the foreign national.

SECTION 2. Importation of Professional Instruments and Household Effects. Subject to Section 105 (h) of the Tariff and Customs Code, the professional instruments and implements, tools of trade, occupation or employment, wearing apparel and personal household effects of foreign nationals who shall settle in the Philippines in connection with their registered activity, may be imported exempt from the payment of import duties and taxes.

SECTION 3. Special Investor's Resident Visa. A foreign national who invests at least Two Hundred Thousand Dollars (\$200,000.00) in a TEZ and/ or a Registered Tourism Enterprise, his dependents, spouse and unmarried children under 18 years of age, shall be entitled to a special investor's resident visa enabling the foreign national to reside in the Philippines while his or her investment subsists.

SECTION 4. Foreign Currency Transactions. Subject to the provisions of Section 72 of Republic Act No. 7653, as amended, otherwise known as the New Central Bank Act, the following rights are hereby guaranteed:

1. Repatriation of Investment

In case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation.

2. Remittance of Foreign Exchange

The right to remit earnings from a foreign investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance.

3. Foreign Loans and Contracts

The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from technological assistance contracts.

SECTION 5. Requisition of Investment. There shall be no requisition of the property of the TEZ Operator or the Registered Tourism Enterprise, except in the event of war or national emergency and only for the duration thereof. In such case, the affected person shall be entitled to just compensation, and shall have the right to repatriate such compensation as provided for in Section (3) above.

SECTION 6. Lease and Ownership of Land. Without prejudice to existing laws regulating the ownership of land by individuals and corporations, and consistent with the provisions of Republic Act 7652, otherwise known as the Investor's Lease Act, lands and buildings in each TEZ may be leased to foreign investors for a period not exceeding fifty (50) years, renewable once for a period of not more than twenty-five (25) years.

The leasehold right acquired under long-term contracts may be sold, transferred or assigned, subject to the conditions set forth under the Investor's Lease Act and the approval of the Board which shall ensure continuing compliance with the terms and conditions of designation as a TEZ.

BOOK THREE

TOURISM ENTERPRISES OUTSIDE TOURISM ENTERPRISE ZONES

Rule XIII.

Incentives available to Tourism Enterprises outside of TEZs

SECTION 1. Coverage. Only an existing accommodation establishment not located within a TEZ shall be entitled to claim incentives under this Rule.

SECTION 2. Incentives. In case an enterprise outside the TEZ elects to avail itself of the incentives provided under the Act, it shall do so in writing and file its application for registration and shall be governed by the following provisions:

- i) In the case an existing enterprise outside the zone opts to avail of the Income Tax Holiday incentive under this Act, it shall be entitled to a non-extendible Income Tax Holiday incentive not to exceed six (6) years from the time of completion of the expansion or upgrade and subject further to the following conditions:

- a) The Registered Tourism Enterprise undertakes a substantial expansion or upgrade of its facilities;
 - b) The cost for the expansion or upgrade of its physical assets amounts to at least 50% of the original investment;
 - c) The expansion or upgrade has resulted in an extension of the life of its assets or increase in the capacity or efficiency of the enterprise that benefit current and future periods; and
 - d) In appropriate cases, there is a significant change in its category classification under the Department of Tourism's accreditation system.
- ii. It shall also be entitled to import capital equipment free of taxes and duties when necessary for such expansion, renovation or upgrade. Provided, finally, that the Board may in exceptionally meritorious cases allow an enterprise which will undertake an expansion or upgrade of its facilities for less than fifty per cent (50%) of the original investment to avail of the income tax holiday incentive, but the period of availment shall be prorated to the value of the expansion or upgrade.

The incentives offered under this Act shall be without prejudice to the availment of other incentives under other laws; Provided that there shall be no double availment of same or similar incentives; Provided further, that where such laws provide for similar incentive schemes as those contained in the Act, the enterprise may elect to avail of the scheme provided only under one particular law.

SECTION 3. Tourism enterprises located in special economic zones created under Republic Act 7227, otherwise known as the Bases Conversion and Development Act of 1992, and Republic Act 7916 otherwise known as the Special Economic Zone Act of 1995, and other special laws, shall continue to be governed by the same.

BOOK FOUR

SUSPENSION OR CANCELLATION

Rule XIV.

Suspension or Cancellation of Designation/ Registration and Incentives

SECTION 1. Grounds for Cancellation/ Suspension. TIEZA may suspend/ cancel, wholly or partially, any incentive granted under this Act for any of the following causes:

- a. Any violation of this Act, its implementing guidelines or the terms and conditions of its designation/ registration.
- b. For material misrepresentation or false statements made to TIEZA before or after its designation/ registration.
- c. Whenever the project ceases to be viable and its continued operation would require additional costs to the economy.

SECTION 2. Withdrawal from Registration. Whenever a TEZ operator and/ or a registered enterprise decides to withdraw from business or suspend its registered operations, written notice thereof shall be sent to TIEZA before the decision is implemented.

Withdrawal from business operations shall automatically cancel the certificate of designation/ registration which shall then be turned-over to TIEZA. The enterprise and its stockholders shall cease to be entitled to the incentives provided for in this Act.

SECTION 3. Refund and Penalties. - In case of cancellation of the certificate granted under this Act, TIEZA, may, in appropriate cases, require the refund of incentives availed of under this Act and impose the corresponding penalties.

SECTION 4. Penalty for Violation of Terms and Conditions on Accreditation. Registered Tourism Enterprises availing of incentives under this Act if found to have violated the terms of their accreditation by the Department shall be ordered to pay back taxes in the amount equivalent to the difference between the taxes that they should have paid had they not availed of the incentives under this Act and the amount of taxes being paid by them under the same incentive scheme.

The back taxes shall be computed up to three (3) years directly preceding the date of promulgation of the decision or order finding that the registered tourism enterprise violated the terms of its accreditation. These back taxes shall be collected by TIEZA and distributed as follows:

- a. One-third to the national government;
- b. One-third to the LGUs concerned, to be shared by them equally should there be more than one such LGU; and

c. One-third to TIEZA

The Department and TIEZA shall promulgate the necessary implementing rules and regulations to enforce this provision.

BOOK FIVE

OTHER PROVISIONS

Rule XVI.

Miscellaneous and Transitory Provisions

SECTION 1. Termination of Business. Investors in the TEZ who intend to terminate business or operations shall comply with such requirements and procedures which the TIEZA shall set, particularly those relating to the clearing of debts. The assets of the closed enterprises can be transferred and the funds can be remitted out of the TEZ subject to rules, guidelines and procedures to be prescribed jointly by the Bangko Sentral ng Pilipinas, the Department of Finance and the TIEZA.

SECTION 2. Investigations/ Hearings. The TIEZA shall promulgate rules and procedures governing the conduct of investigations and hearings involving violations of the Act and these Implementing Guidelines.

SECTION 3. Penalties. Fines and penalties for violation of these Rules and pertinent circulars and memoranda shall be defined and promulgated by the TIEZA Board.

SECTION 4. Circulars. The TIEZA shall from time to time, issue relevant memoranda and circulars for proper implementation of the provisions of these Implementing Guidelines.

SECTION 5. Amendments. The TIEZA may amend, suspend or revoke these Rules as may be necessary: Provided, however, that any amendment or any decision taken by the TIEZA in connection thereto shall take effect fifteen (15) days after the date of publication in a newspaper of general circulation in the Philippines.

SECTION 6. Separability Clause. If any clause, sentence, provision or section of these Rules shall be held invalid or unconstitutional, the remaining parts thereof shall not be affected thereby.

SECTION 7. Effectivity. These Rules shall take effect fifteen (15) days after the date of publication in a newspaper of general circulation in the Philippines.

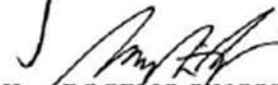
ADOPTED this 14th day of January 2011, City of Manila, Metro Manila, Philippines.

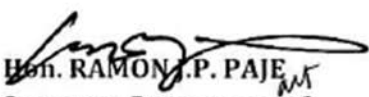

Hon. ALBERTO A. DIM
Chairman & Secretary of Tourism

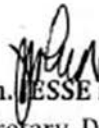


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Hon. MARK T. LAPID
Vice-Chairman and COO

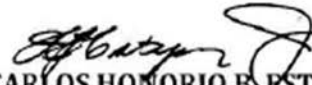

Hon. ROGELIO SINGSON
Secretary, Department of
Public Works and Highways

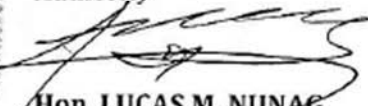

Hon. RAMON P. PAJE
Secretary, Department of
Environment and Natural
Resources

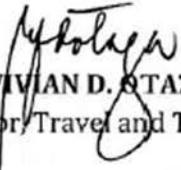

Hon. SESSE M. ROBREDO
Secretary, Department of
Interior and Local Government

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Hon. LUWALHATI R. ANTONINO
Secretary, Mindanao Development
Authority


Hon. CARLOS HONORIO B. ESTEPA JR.
Director, Tourism Estate Development
and Management Services Sector


Hon. LUCAS M. NUNAG
Director, Accommodation Enterprises
Sector


Hon. VIVIAN D. STAZA
Director, Travel and Tours Enterprises
Sector

“ANNEX A”

**List of Capital Equipment for Tourist Facilities
To be Eligible for Tax and Duty Free Importation Incentive**

I. General Building Equipment and Material

- a. Elevators including service elevators, electric dumbwaiters elevators, freight/lift elevators, escalators including instrumentalities.
- b. Air-conditioning systems to include cooling towers, chillers, Air Handling Units with precision temperature and humidity control, VAV controllers including actuators, compliant to non-ozone depleting agent.
- c. Power/electrical supply and distribution system including power generators, transformers, circuit breakers, switch gear, automatic breakers, switch gear including specialized architectural lighting fixtures, dimmers and wiring devices.
- d. Water supply system including tanks, pumps, boilers, valve water pumps, flow meters, fixtures and fittings, desalination plants reverse osmosis and other water treatment facilities.
- e. Waste water treatment facilities including sewage collection systems pumps, aerators, valves, recycled waste water treatment facilities.
- f. Energy saving equipment (e.g. solar panels, wind mills, Building Maintenance System (BMS), co-generation plants, rubber insulation for chilled water piping system an refrigerant piping system)

II. Main Communication Systems

- a. Telephone and other communication equipment, namely, microwave antennas, switching stations, PABX, public address system.

III. Pollution Control Equipment

- a. Environmental equipment (e.g. scrubbers, clarifiers, screens, filters)
- b. Auxiliary equipment consisting of pumps, blowers, tanks

IV. Solid Waste Disposal System

- a. Specialized garbage truck
- b. Compactors and bailers
- c. Auxiliary equipment such as grinders, digesters

V. Fire-fighting and Prevention Systems

- a. Fire truck, pumps and accessories
- b. Fire cabinets, hoses, nozzles, fittings and accessories
- c. Fire alarm and suppression system including screens, switches, sensors and sprinkler head, smoke detectors, including fire pumps and jockey pumps (installed within the building)
- d. Special fire extinguishers for special use (FM 200 or equivalent)
- e. Specialized fire exit door devices and hardware

VI. Centralized Security System

- a. Closed circuit TV monitor/surveillance system/digital video recorder.
- b. Walk-through metal detectors (high-tech) including x-ray machines.
- c. Communication systems (e.g. built-in facility for security purposes (CCTV))
- d. Security system including electronic card key/door access systems

VII. Specialized Maintenance Equipment

- a. Rotaslasher equipment
- b. Mechanical sweeper
- c. Declogging equipment

VIII. Guestroom Equipment

- a. Specialized mini-refrigerator/bar with sensors
- b. Electronic safety deposit boxes

**Annex "A" of the Implementing Guidelines
Tourism Infrastructure and Enterprise Zone Authority**

VII. Specialized Maintenance Equipment

IX. House Keeping Equipment

- a. Heavy duty washing machine equipment
- b. Dry cleaning equipment
- c. Ironing equipment (e.g. steam pressing machine, sheet folders, towel folders, spotting boards)

X. Kitchen Equipment (Heavy Duty)

- a. Refrigeration equipment (e.g. walk-in freezers)
- b. Ovens, broilers, fryers and other cooking apparatus but excluding utensils
- c. Dishwashing equipment
- d. Weighing scale system
- e. Food grater/slicer mince, other food processors
- f. Ice-maker, coffee maker, beverage dispenser
- g. Spiral mixer (heavy duty)

XI. Function/Convention Facilities/Business Center

- a. Simultaneous translator
- b. Teleconference/videoconference facilities
- c. Teleprompters

XII. Recreation/Sports/Special Interest Facilities

- a. Water sports of special interest (e.g. scuba diving equipment, wake boarding equipment, pedalo, etc.)
- b. Spa equipment such as but not limited to sauna, steamer, Jacuzzi
- c. Swimming pool equipment such as water pumps, filters, water treatment systems, non-heat materials/tiles and other specialized materials
- d. Battery operated/electric carts

XIII. Tourist Transport Equipment

- a. Luxury Sedan with seating capacity of not less than five (5), including driver
- b. Mini-bus, tourist bus, limousine, all terrain vehicles, amphibious vehicle
- c. Air transport units to include helicopters and fixed wing aircrafts including its operational instrumentalities and specialized maintenance equipment
- d. Water transport units including its operational instrumentalities, outboard motor and specialized maintenance equipment (e.g. speed boats, jet ski, yachts, cruise ships, sea craft, semi-submersible vessels)

Note: As a general rule, all tourist transport equipment should be brand new except for passenger vessels which should comply with the qualification requirements in R.A. 9295 "The Domestic Shipping Development Act of 2004".

For Imported Tourist Transport Equipment, which will not be used exclusively inside the zone, only duty free importation and VAT Zero rating shall be granted to such equipment, its corresponding excise taxes, if any, shall be paid under the National Internal Revenue Code of 1997 as amended by R.A. 9224, "An Act rationalizing the excise tax on automobiles".

XIV. Medical Equipment

- a. Automated external defibrillators
- b. Search and rescue equipment
- c. Ambulance

In addition, capital equipment for the zone's tourist facilities to be eligible for tax and duty free importation incentive shall conform to the following criteria:

1. As a general rule, all tourist transport equipment should be brand new except for passenger vessels which should comply with the qualification requirements in R.A. 9295 "The Domestic Shipping Development Act of 2004";
2. It is necessary for the technical viability of the TEZ tourist facility;

3. It is not manufactured domestically in sufficient quantity, not of comparable quality and not sold locally at a reasonable price;
4. It is reasonably needed and will be used exclusively by the TEZ tourist facility;
5. The equipment shall be brought directly and physically inside the TEZ restricted area or such area as may be designated by TIEZA for this purpose and in no instance shall these be sold, transferred, assigned, donated or be disposed of in any manner in the customs territory;
6. For tax and duty free importation of tourist transport equipment, prior Board action will have to be sought upon application and submission of documentary requirements including pertinent documents, clearances and permits from appropriate government agencies and instrumentalities; and
7. Application for equipment not in the list shall be subject to a separate TIEZA Board action.