



Republic Act No. 11534, The Corporate Recovery and Tax Incentives for Enterprises Act (CREATE)



Online Briefing
13 April 2021



Salient Provisions

1. Effective July 1, 2020, corporate income tax rate is reduced from 30% to 20% for domestic corporations with net taxable income not exceeding P5million and with total assets not exceeding P100million. All other domestic corporations and resident foreign corporations will be subject to 25% income tax.
2. Effective January 1, 2021 income tax rate for nonresident foreign corporation is reduced from 30% to 25%.
3. MCIT rate reduced from 2% to 1% effective July 1, 2020 to June 30, 2023



Salient Provisions

4. Percentage tax reduced from 3% to 1 % effective July 1, 2020 to June 30, 2023
5. Rate of proprietary educational institutions and hospital reduced from 10% to 1% effective July 1, 2020 to June 30, 2023
6. Imposition of IAET repealed
7. Definition of reorganization for purposes of applying the tax free exchange provision under Section 40(C)(2) is expanded. Prior BIR ruling or confirmation shall not be required for purposes of availing the tax exemption of the exchange.

Salient Provisions

8. Qualified export enterprises shall be entitled to 4 to 7 years ITH to be followed by 10 years 5% SCIT OR Enhanced Deductions (ED).
9. Qualified domestic market enterprises shall be entitled to 4 to 7 years ITH to be followed by 5 years ED.
10. Registered enterprises are exempt from customs duty on importation of capital equipment, raw materials, spare parts, or accessories directly and exclusively used in the registered project or activity.





Salient Provisions

11. VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity by a RBE.
12. For investments prior to effectivity of CREATE: RBEs granted only an ITH - continue with the availment of the ITH for the remaining period of the ITH. RBEs granted an ITH + 5% GIT or currently enjoying 5% GIT - allowed to avail of the 5% GIT for 10 years.



Items vetoed by PRRD

1. Increasing VAT-exempt threshold on sale of residential lot from P1.5million to P2.5million and house and lot from P2.5million to P4.2million. – *The tax exemption is highly distorting and prone to abuse.*
2. 90-day period for the processing of general tax refunds – *May cause damage or more delays to the prejudice of taxpayers. Legislature, DOF and BIR to come up with mechanism to streamline the processing of tax refunds in a separate bill.*

Items vetoed by PRRD



3. Definition of investment capital to exclude land and working capital – *May lead to an underestimation of investment promotion performance.*
4. Redundant incentives for domestic corporations – *The SCIT for domestic enterprise, which is in lieu of all local and national taxes, is redundant, unnecessary, and weakens the fiscal incentives system.*
5. Allowing existing registered activities to apply for further extensions of new incentives for the same activity



Items vetoed by PRRD

6. Limitations on the power of the FIRB – *The oversight functions of the FIRB will ensure the proper grant and monitoring of tax incentives. These powers must remain plenary over those of the investment promotion agencies.*
7. Specific industries mentioned under activity tiers – *The CREATE Act must be kept flexible to be able to keep up with the changing times.*
8. Provision granting the President the power to exempt any IPA from the reform – *Could become a highly political tool.*
9. Automatic approval of applications for incentives – *The FIRB or the IPA should be allowed to carefully review the application for tax incentives since these are privileges granted by the State.*



The law is set to take effect 15 days after its complete publication in the Official Gazette or in a newspaper of general circulation.



Website

Address:

www.bir.gov.ph

Email:

create@bir.gov.ph

