

CongressWatch Report

Towards Greater Voter Involvement

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Attendance and Performance

Since the resumption of Congress on 13 April, only eight weeks remain before the Second Regular Session finally adjourns on 5 June. Speaker Prospero Nograles bared the "initial list" of measures that will be considered by the House during the remaining session days. The list includes 44 measures at various stages in the legislative mill, but the House's quorum problem has been holding back its output.

From 13 April to 5 May, the House conducted 11 sessions:

- 13 April – approved seven national bills on Third Reading. Approved 22 local bills on Second Reading
- 14 April – eventually adjourned for lack of quorum
- 15 April – approved two national and two local bills on Second reading
- 20 April – debates on HR 737 (Amending the Constitution)
- 21 April – debates on HR 737
- 22 April - debates on HR 737, then eventually adjourned for lack of quorum
- 27 April – was spent on privilege speeches
- 28 April – oath taking of additional party-list representatives, then eventually adjourned for lack of quorum
- 29 April – no quorum at all, only 98 members responded to the roll call
- 4 May – no quorum at all, 131 members responded to the roll call. (House membership at present is 265).
- 5 May – approved nine national and four local bills

After two session days without a quorum (29 April and 4 May), the House approved on third reading the following nine bills:

1. Rental Control (HB 6098)
2. Use of biometrics for the automated fingerprint ID system for the elections (HB 6052)
3. The Investments and Incentives Code (HB 5241)
4. Establishing the Philippine Legislative Academy (HB 6101)
5. Release of the retirement benefits of government employees within fifteen days from retirement (HB 6096)
6. Exempting pledge of personal property covering a loan of money not exceeding P10,000 from documentary stamp tax (HB 6097)
7. Foster care for abandoned and neglected children and other children with special needs (HB 263)
8. Promotion of breastfeeding (HB 6076) and
9. Elevating the Philippine Normal University as the country's National University for teacher education (SB 3157 in substitution of HB 6049)

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Other measures that saw movement in the House are the Land Administration Reform Act (HB 6290) and the Recommissioning of the Bataan Nuclear Power Plant (HB 6300) which were already reported out by the Committee.

In spite of the improved output, the House still has a long way to go as other vital measures remain hanging such as the Electric Power Industry Reform Act (EPIRA) Amendments, Reproductive Health, Right of Reply and the Strengthening of Anti-Money Laundering Act.

The Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) bill also remains as unfinished business despite Congress' self-imposed 30 June deadline for its passage. Even if both chambers are able to pass the measure before the *sine die adjournment* on 5 June, they still have to approve and ratify a consolidated version for the President's signature.

House Approves Rationalization of Incentives

The House has finally passed HB 5241, the Investments and Incentives Code. The bill seeks to create a sound national investment policy that will spur investments while addressing the issue of revenue leakages due to overly generous incentives given to investors.

The measure was identified a priority by the Legislative-Executive Development Advisory Council (LEDAC) in their meeting last 7 August 2007. The House originally committed its passage before their October 2008 break, but it was only last 5 May was it finally approved on third reading.

The approved version, however, appears to grant more incentives instead of consolidating them.

Under the proposed measure, the Income Tax Holiday (ITH) is granted to both export and domestic enterprises. Moreso, export, agriculture, infrastructure and shipping activities, projects located in the 30 poorest provinces and "strategic" projects are not covered by the phase-out of the ITH.

HB 5241 proposes a list of fiscal incentives for qualified enterprises:

I. REGISTERED EXPORT ENTERPRISES WHETHER LOCATED INSIDE OR OUTSIDE A SPECIAL ECONOMIC ZONE OR FREEPORT

- a. Income Tax Holiday (ITH) – six years from the start of commercial operations
- b. Reduced Income Tax – preferential tax rate of 15% after ITH
- c. 5% tax rate on Gross Income Earned (GIE) - may be applied for, instead of reduced Income Tax. (*In lieu of all national and local taxes, except real property tax on land owned by private developers*)
- d. Net Operating Loss Carryover (NOLCO) – first five years from start of commercial operation and will be carried over as a deduction for the next 5 consecutive taxable years
- e. Accelerated Depreciation
- f. Double Deduction for Training Expenses
- g. Double Deduction for Research and Development
- h. Capital equipment incentives – tax and duty-free importation of capital equipment including its consignment
- i. Raw material incentives – exemption from customs duties and taxes
- j. 0% rate of VAT on the sale to registered export enterprises
- k. Exemption from wharfage dues and export tax

II. REGISTERED DOMESTIC ENTERPRISES UNDER THE SECTORS OR INDUSTRIES UNDER THE INVESTMENTS PRIORITIES PLAN (IPP):

- a. ITH – four years from start of commercial operations
- b. NOLCO – first five years from start of commercial operation and will be carried over as a deduction for the next 5 years
- c. Accelerated Depreciation
- d. Double Deduction for Training Expenses
- e. Double Deduction for Research and Development
- f. VAT and Duty refund mechanism on importations of capital equipment and raw materials

III. REGISTERED DOMESTIC “STRATEGIC” ENTERPRISES; TO BE AVAILED OF BY DOMESTIC ENTERPRISES ENGAGED IN STRATEGIC PROJECTS, I.E. THOSE WITH HIGH SOCIAL ECONOMIC RETURNS AND REQUIRE LARGE INVESTMENTS

- a. ITH – six years from start of commercial operations
- b. Reduced Income Tax – preferential tax rate of 15% of taxable income, for a period of 8 years
- c. NOLCO - first five years from start of commercial operation and will be carried over as a deduction for the next 8 years
- d. Accelerated Depreciation
- e. Double Deduction for Training Expenses
- f. Double Deduction for Research and Development
- g. VAT and Duty refund mechanism on importations of capital equipment and raw materials

IV. INCENTIVES FOR DOMESTIC ENTERPRISES LOCATED IN THE 30 POOREST PROVINCES AND LESS DEVELOPED AREAS (LDAs)

- a. ITH – six years from start of commercial operations
- b. Reduced Income Tax – preferential tax rate of 15% for 12 years after ITH/NOLCO
- c. NOLCO – first five years from start of commercial operation to be carried over as deduction for the next 5 taxable years

The following incentives can be availed of for a maximum period of 20 years from the start of commercial operation:

- d. Accelerated Depreciation
- e. Double Deduction for Training Expenses
- f. Double Deduction for Research and Development
- g. VAT and duty refund mechanism on importations of capital equipment and raw materials

Meanwhile, Senate Ways and Means Committee Chairman Panfilo Lacson has filed Senate Bill 3136, which is pending in committee along with SB 1640 (Sen. Manuel Villar) and SB 2375 (Sen. Loren Legarda).

SB 3136 proposes a consolidated list of fiscal incentives:

Fiscal Incentives	Registered export enterprises	Registered domestic "strategic" enterprises	Domestic enterprises located in the 30 poorest provinces
Income Tax Holiday (ITH)	from start of commercial operations to be phased-out when the ratio of infrastructure spending to GDP has reached 5%	from start of commercial operations to be phased-out when the ratio of infrastructure spending to GDP has reached 5%	- not applicable -
Preferential tax rate	15% preferential tax rate of taxable income; OR 5% tax on gross income earned (GIE) in lieu of all national and local taxes (to be availed after ITH)	15% preferential tax rate for 8 years ¹	15% preferential tax rate for 5 years
Exemption from VAT and customs duty imposed on imported capital equipment	- applicable -	tax and duty free importation of capital equipment and/or raw materials	- not applicable -

¹ If the domestic strategic enterprise registers within the first six years from the effectivity of this Act, it may opt to avail of the ITH prior to the reduced income tax. Provided, that the ITH together with the reduced income tax shall be availed of for a period of 8 years

Fiscal Incentives	Registered export enterprises	Registered domestic "strategic" enterprises	Domestic enterprises located in the 30 poorest provinces
Net operating loss carry over (NOLCO)	5 years loss, 8 years carry over (not available to enterprises availing the ITH and the 5% tax rate on GIE)	5 years loss, 8 years carry over (not available to enterprises availing the ITH)	5 years loss, 5 years carry over
Accelerated Depreciation	- applicable - (not available to enterprises availing the ITH and the 5% tax rate on GIE)	- applicable - (not available to enterprises availing the ITH)	- applicable -
Tax and Duty Free Importation of Source Documents	- applicable -	- not applicable -	- not applicable -
Double deduction for training	- applicable - (not available to enterprises availing the ITH and the 5% tax rate on GIE)	- applicable - (not available to enterprises availing the ITH)	- applicable -
Double deduction for R&D	- applicable - (not available to enterprises availing the ITH and the 5% tax rate on GIE)	- applicable - (not available to enterprises availing the ITH)	- applicable -
Exemption from Wharfage dues and Export Tax	- applicable -	- not applicable -	- not applicable -
Employment of Foreign Nationals	- applicable -	- applicable -	- not applicable -
Exemption from VAT for sale of goods by a domestic manufacturer	- applicable -	- not applicable -	- not applicable -
Others	Special privilege access to bonded manufacturing warehouse for exporters outside ecozones, export zones and freeports	- not applicable -	- not applicable -

SB 3136 provides private ecozone developers with incentives to be conferred by the Philippine Economic Zone Authority (PEZA) or by the appropriate Investment Promotion Agency (IPA).

Savings collected from the implementation of the rationalization shall be allocated 50% for infrastructure and 50% for education. It also requires a Program for Environmental Protection and Corporate Social Responsibility (CSR) covering the period for entitlement to fiscal incentives. A minimum of one percent (1%) of the total amount of incentives availed during the taxable year is required to be spent for CSR activities.