



MALACAÑANG

Manila

EXECUTIVE ORDER NO. 93

WITHDRAWING ALL TAX AND DUTY INCENTIVES, SUBJECT TO CERTAIN EXCEPTIONS, EXPANDING THE POWERS OF THE FISCAL INCENTIVES REVIEW BOARD AND FOR OTHER PURPOSES

WHEREAS, Presidential Decree Nos. 1931 and 1955 issued on June 11, 1984 and October 14, 1984, respectively, withdrew the tax and duty exemption privileges, including the preferential tax treatment, of government and private entities with certain exceptions, in order that the requirements of national economic development, in terms of fiscal and other resources, may be met more adequately;

WHEREAS, both issuances provided for a review by the Fiscal Incentives Review Board (FIRB) of petitions initiated by affected entities for restoration of withdrawn tax and duty exemption privileges either on a total or partial basis;

WHEREAS, a number of affected entities, government and private were able to get back their tax and duty exemption privileges through the review mechanism implemented by the Fiscal Incentives Review Board (FIRB);

WHEREAS, in addition to those whose tax and duty exemption privileges were restored by the Fiscal Incentives Review Board (FIRB), a number of affected entities, government and private, had their tax and duty exemption privileges restored or granted by Presidential action without benefit of review by the Fiscal Incentives Review Board (FIRB);

WHEREAS, the continued enjoyment of these tax and duty exemption privileges has resulted in serious tax base erosion and considerable distortions in the tax treatment of similarly situated entities;

WHEREAS, these privileges have become convenient opportunities for tax manipulation or avoidance, especially in case of interrelated entities;

WHEREAS, the availability of such privileges makes more difficult the attainment of the overall program for national economic development, considering government's fiscal exigencies;

WHEREAS, private entities whose tax and duty exemption privileges are to be withdrawn may still remain competitive by improving on their operational capacity and competence, rather than by relying on fiscal incentives which create distortions in the overall pricing and market systems;

WHEREAS, assistance to government and private entities may be better provided where necessary by explicit subsidy and budgetary support rather than tax and duty exemption privileges if only to improve the fiscal monitoring aspects of government operations;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:

SECTION 1. The provisions of any general or special law to the contrary notwithstanding, all tax and duty incentives granted to government and private entities are hereby withdrawn, except:

- a) those covered by the non-impairment clause of the Constitution;
- b) those conferred by effective international agreements to which the Government of the Republic of the Philippines is a signatory;
- c) those enjoyed by enterprises registered with:
 - (i) the Board of Investments pursuant to Presidential Decree No. 1789, as amended;
 - (ii) the Export Processing Zone Authority, pursuant to Presidential Decree No. 66, as amended;
 - (iii) the Philippine Veterans Investment Development Corporation Industrial Authority pursuant to Presidential Decree No. 538, as amended;
- d) those enjoyed by the copper mining industry pursuant to the provisions of Letter of Instruction No. 1416;

- e) those conferred under the four basic codes namely:
 - (i) the Tariff and Customs Code, as amended;
 - (ii) the National Internal Revenue Code, as amended;
 - (iii) the Local Tax Code, as amended;
 - (iv) the Real Property Tax Code, as amended;
- f) those approved by the President upon the recommendation of the Fiscal Incentives Review Board.

SECTION 2. The Fiscal Incentives Review Board created under Presidential Decree No. 776, as amended, is hereby authorized to:

- a) restore tax and/or duty exemptions withdrawn hereunder in whole or in part;
- b) revise the scope and coverage of tax and/or duty exemption that may be restored;
- c) impose conditions for the restoration of tax and/or duty exemption;
- d) prescribe the date or period of effectivity of the restoration of tax and/or duty exemption;
- e) formulate and submit to the President for approval, a complete system for the grant of subsidies to deserving beneficiaries, in lieu of or in combination with the restoration of tax and duty exemptions or preferential treatment in taxation, indicating the source of funding therefor, eligible beneficiaries and the terms and conditions for the grant thereof taking into consideration the international commitments of the Philippines and the necessary precautions such that the grant of subsidies does not become the basis for countervailing action.

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SECTION 3. In the discharge of its authority hereunder, the Fiscal Incentives Review Board shall take into account any or all of the following considerations:

- a) the effect on relative price levels;
- b) relative contribution of the beneficiary to the revenue generation effort;
- c) nature of the activity the beneficiary is engaged; and
- d) in general, the greater national interest to be served.

SECTION 4. The Ministry of Finance shall promulgate the necessary rules and regulations and shall establish and maintain a Secretariat for the Fiscal Incentives Review Board to effectively implement the provisions of this Executive Order.

SECTION 5. All laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

SECTION 6. This Executive Order shall take effect upon the promulgation of the rules and regulations stated in Section 4.

Done in the City of Manila, this 17th day of December in the year of Our Lord, nineteen hundred and eighty-six.

Prayon B. Aquino

By the President:

J. P. Arroyo
JOSKER P. ARROYO
Executive Secretary