

[PRESIDENTIAL DECREE NO. 535, August 09, 1974]

PROVIDING FOR A COMPREHENSIVE INVESTMENT INCENTIVE PROGRAM FOR THE TOURISM INDUSTRY.

WHEREAS, there is need to encourage and hasten the establishment of hotel and other tourist oriented facilities necessary to meet the requirements of the tourist traffic;

WHEREAS, there is need to align incentives and requirements of Tourism Projects in line with the specific needs of the tourism industry; and

WHEREAS, it is realized that foreign investment and financing is required to meet the financial requirements of the said industry;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and order as follows:

SECTION 1. *Title.* — This Decree shall be known cited as the "Tourism Incentives Program of 1974"

SEC. 2. *Declaration of Policy.* — It is the policy of the State to encourage and promote tourism in the Philippines, particularly, in providing services to foreign tourist and travellers, in order to increase foreign exchange earnings and to hasten the economic development of the nation.

SEC. 3. *Definition of Terms.* — For purposes of this Decree:

- a. "Philippine Tourism Authority" or simply "Authority" shall mean the Philippines Tourism Authority; as defined in its charter, Presidential Decree 189.
- b. "Registered Tourism Enterprise" shall mean a person, corporation, partnership, or other entity organized and existing under the Philippine Constitution registered with the Authority in accordance with this Decree and engaged in or proposing to engage in rendering services to foreign tourists and travellers covered by the Tourism Priorities Plan, and subject to the guidelines prepared by the Department of Tourism.

SECTION 4. *Tourism Priorities Plan.* — Not later than the end of January of every year the Department of Tourism shall submit to the President through the National Economic and Development Authority a Tourism Priorities Plan setting forth the tourism activities to be encouraged and given priority and the tourism facilities required to supply the needs of foreign tourists and travellers. Incentives shall be made available to these projects.

SEC. 5. *Incentives for Investors.* — In addition to the incentives provided under this Decree, investors in registered tourism enterprises or projects shall enjoy the basic rights and guarantees set forth in Section 4 of Republic Act No. 5186, otherwise known as the Investment Incentives Act.

SEC. 6. *Conditions for Availment of Tourism Incentives.* —

- a. No registered tourism enterprise shall be entitled to any incentive under this Decree until its registration shall have been approved by the Authority, which approval shall retroact to the date of filing of the application for registration.
- b. To be entitled to registration, an applicant must satisfy the Authority—
 - 1. that in case the applicant is a natural person, that he is a citizen of the Philippines; and in case the applicant is a partnership or other association, that it is organized under Philippine laws and that at least 60% of its capital is owned and controlled by citizens of the Philippines; or in case of a corporation or a cooperative, that it is organized under Philippine laws and that 60% of the capital stock outstanding and entitled to vote is owned and held by Philippine nationals as defined in Section 3 (f) of Republic Act No. 5186, and at least 60% of the members of the Board of Directors are citizens of the Philippines;
 - 2. that applicant before engaging in any of the activities reserved by the Constitution or statutes to Filipino citizens or corporations owned and controlled by Filipino citizens applicants shall first comply with the requirements of the Constitution or statutes; and
 - 3. that if the applicant will engage in an activity other than that for which it is registered, it undertakes to install an adequate accounting system to segregate the investments, revenues, sales, receipts, purchases, payrolls, costs, expenses and profits and losses of the registered operations.
- c. In the case of registered tourism enterprises located in or whose sphere of activity is in Greater Manila, an average of seventy percent (70%) of its revenues must be in foreign currency, never falling below fifty percent (50%) in any given year within the period for which the incentives are granted and in the case of registered tourism enterprises located outside Greater Manila, or whose sphere of activity is outside the same, an average of fifty percent (50%) of revenues shall be in foreign currency, never falling below thirty-five percent (35%) in any given year within the period for which incentives are granted.
- d. Upon receipt of the application for registration, the Authority shall, within thirty (30) days, notify the applicant of all pertinent requirements not complied with and it shall act on said application within sixty (60) days after submission thereof.

SEC. 7. Joint Registration. — In cases where the hotel owners are not the hotel operators, both shall be allowed to register on a joint basis: *Provided*, That the hotel operators do not merely lease the hotel building or facilities from the owners: *And provided, further*, That the granting of incentives will not result in additional benefits to both or to one if treated as a single registered tourism enterprise.

SEC. 8. Incentives Available to a Registered Tourism Enterprise. —

- a. Fifty percent (50%) of foreign exchange earned in the first five years from the start of operations shall be deductible from net taxable income, subject to other provisions of Section 10 of Republic Act No. 6135 and rules and regulations to be promulgated by the Authority.
- b. A net operating loss incurred in any of the first ten years of operation shall be carried over as a deduction from taxable income for six years following such loss as provided for in Section 7(c) of Republic Act No. 5186.