

**[ REPUBLIC ACT NO. 6135, August 31, 1970 ]**

**AN ACT TO INVIGORATE THE COUNTRY'S EXPORT TRADE AS A MEANS OF ACCELERATING ECONOMIC GROWTH BY GRANTING CERTAIN INCENTIVES AND EXEMPTIONS TO REGISTERED EXPORT PRODUCERS, EXPORT TRADERS, AND SERVICE EXPORTERS, REPEALING EXPORT INCENTIVES GRANTED UNDER REPUBLIC ACT NUMBERED FIFTY-ONE HUNDRED EIGHTY-SIX, AND FOR OTHER PURPOSES.**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. *Short title.*-This Act shall be known and Cited as the "Export Incentives Act of 1970."

SEC. 2. *Declaration of policy.*-It is the policy of the State to actively encourage, promote, and diversify exports of services and of manufactures utilizing domestic raw materials to the fullest extent possible, and to develop new markets for Philippine products, in order to attain a rising level of production and employment, increase foreign exchange earnings, hasten the economic development of the nation, and assure that the benefits of development accrue to the Filipino people.

SEC. 3. *Definition of terms.*-For purposes of this Act:

- a. "Board of Investments" or simply "Board" shall mean the Board of Investments created by Republic Act Numbered Fifty-one hundred eighty-six, known as the investment Incentives Act.
- b. "Registered export producer" shall mean any person, partnership or other entity organized and existing under Philippine laws, (1) registered the with Board in accordance with this Act, (2) engaged or proposing to engage in the manufacture or processing of export products as hereinbelow defined, and (3) direct exporting its export products, or selling them (a) to a registered export trader that subsequently exports the said products, or (b) to other export producers who utilize said products as direct inputs in products subsequently manufactured or processed by them and thereafter and ported.
- c. "Registered export trader" shall mean any person, corporation, partnership or other entity organized and existing under Philippine laws, (1) registered with, the Board in accordance with this Act and (2) which derived at least fifty per cent (50%) of its gross income for the year in which the incentives are claimed, from the sale abroad of export products bought by it from two or more registered export producers which are not owned, controlled, or managed by the same portion or entity or group of persons or entities: *Provided, That, if the export trader is itself owned, controlled or managed by person or entity, or a group of persons or entities that also own, control or manage another enterprise engaged in manufacturing or processing products*

that are not export products or in buying and selling goods within the Philippines, the percentage of export sales shall be based upon the combined or consolidated gross income of the export track and said other enterprise.

- d. "Registered service exporter" shall mean a person, corporation, partnership or other entity organized and existing under Philippine laws, (1) registered with the Board in accordance with this Act and (2) engaged or proposing to engage in (a) rendering technical, professional other services which are paid for in foreign currency, including, but not limited to, the fields of law, medicine, accounting, management, valuation and appraisals, engineering, construction, geodetics, surveying, teaching, pharmacy, nursing, cultural presentations or promotions, works of arts, and entertainment; or (b) in exporting and television and motion pictures and musical recordings produced in the Philippines, either directly or through a registered export trader.
- e. "Export products" shall mean manufactured or processed products: (1) not more than eighty per cent (80%) whose individual F.O.B. Philippine port value is attributable to imported raw materials, but said maximum percentage may, after three (3) years from the enactment of this Act, progressively be decreased by the Board if Investments at such annual rate as may be warranted by technological advancement, the availability of domestic raw materials, and similar factors; (2) the total F.O.B. Philippine port value of the exports of which did not exceed five million dollars in United States currency in the calendar year 1968; and (3) which meet standards of quality set by the Bureau of Standards or, in default of such standards, by the Board or by such public or private organization, chamber, group or body as the Board may designate.
- f. "Export sales" shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, landing certificates and other commercial documents, of export products exported directly by registered export producer or registered export trader, or the net selling price of export products sold by a registered export producer to a registered export trader who subsequently exports the same; but sales of export products to a registered export trader shall only be deemed export sales when actually exported by the latter as evidenced by landing certificates or similar commercial documents. Exportation of goods on consignment shall not be export sales until the export products consigned are actually sold by the consignee.
- g. "Export fees" shall mean the total foreign exchange charges charged or received by a registered service exporter for furnishing or performing services, or permitting showing or playing, outside of the Philippines, of television or motion pictures or musical recordings.
- h. "Production cost" shall mean the total of the cost of direct labor, raw materials, and manufacturing overhead, determined in accordance with generally accepted accounting principles, which are incurred in manufacture or processing the products of a registered export producer.
- i. "Processing" shall mean converting raw materials into marketable form by a special treatment or a series of actions that results in a change of the nature or state of the products, such as by slaughtering, milling, pasteurizing, drying or desiccating, quick freezing, and the like. Merely packing, packaging, or sorting out and classifying shall not, by themselves, constitute processing.

SEC. 4. *Export priorities plan.*-Within one hundred twenty days after this Act takes effect, and annually thereafter as part of the annual investment priorities plan

provided in Section 18 of Republic Act Numbered Fifty-one hundred eighty-six, known as the Investment Incentives Act, the Board shall submit to the President, through the National Economic Council, an export priorities plan setting forth the export products that should be encouraged with priority, considering:

- a. The comparative advantage they enjoy or could be made to enjoy;
- b. Their potential for earning foreign exchange; and
- c. Their profitability to the national economy.

The export priorities plan shall be acted upon and take effect, and may be amended, following the procedure for and with like effect as, the said investments priorities plan.

SEC. 5. *Incentives for investors.*-In addition to the basic rights and guaranties set forth in Section 4 of Republic Act Numbered Fifty-one hundred eighty-six, known as the Investment Incentives Act, investors in enterprise that are registered as export producers, export traders or service exporters shall enjoy the incentives set in Section 5 of that Act; and Philippine nationals investing in registered export producers that are pioneer enterprises shall also enjoy the incentives set forth in Sec 6 of said Act.

SEC. 6. *Conditions for availment of incentives.*-

- a. No export producer, service exporter or export trader shall be entitled to any incentive under this Act until its registration shall have been approved by the Board, 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 Board that (1) he is a citizen of the Philippines, in case the applicant is a natural person; or that at least sixty per cent of its capital is owned and controlled by citizens of the Philippines, in case the applicant is a corporation, partnership or other entity; (2) that it is engaged or proposes to engage in manufacturing, processing or exporting export products listed in the export priorities plan or if not so listed, that at least fifty per cent of its sales are export sales; or in case of a service exporter, that it is engaged or proposes to engage in rendering services payable in foreign currency, or in exporting television or motion pictures or musical recordings produced or made in the Philippines; (3) that it is not engaged and will not engage in any of the activities reserved by the Constitution or the laws of the Philippines to Filipino citizens or corporations owned and controlled by Filipino citizens, unless and until the applicant fulfill the requirements of the Constitution or said laws; and (4) that if the applicant is engaged or proposes to engage in activities other than the manufacture, processing and exportation of export products, or in rendering services other than export services, it has installed undertakes to install an adequate accounting system segregate the investments, revenues, sales, receipts, charges, payrolls, costs, expenses, and profits and losses export operations from those of its domestic operations; *Provided*, That in the case of a pioneer enterprise registered or that may hereafter be registered under public Act Numbered Fifty-one hundred eighty-six, the nationality requirement shall be in accordance with Sec 19 of the said Act instead of Section 6 (b) of this Act: *Provided, further*, That upon receipt of the application for registration, the Board shall, within thirty days, notify the applicant of all pertinent requirements not complied with: *And provided., finally*, That the Board of

Investments shall act on said application within ninety days after submission thereof.

- c. A citizen of the Philippines or a corporation, partnership or other entity organized and existing under Philippine laws, at least seventy per cent (70%) of the capital of which is owned and controlled by citizens of the Philippines, shall also be entitled to registration as an export trader and to enjoy the benefits and incentives for registered export traders under this Act, except exemption from export tax, if it is engaged or proposes to engage in the exportation of export products the total F.O.B. Philippine port value of the exports of which exceeded five million dollars in United States currency in the calendar year 1968: *Provided, That*; (a) the business of exportation of the said product, at the time the application for registration is filed, is substantially in the hands of persons that are not citizens of the Philippines or entities that are not owned and controlled by citizens of the Philippines; and (b) the applicant fulfills the other requirements, not inconsistent with those set forth in this paragraph, that are set forth in the preceding paragraph and in paragraphs (c) and (e) of Section 3 of this Act.

SEC. 7. *Incentives to registered, export producers.*-Registered export producers unless they already enjoy the same privileges under other laws shall be entitled to the incentives set forth in paragraphs (h), (i) of Section 7 of Republic Act Numbered Fifty-one hundred eighty-six, known as the Investment Incentives Act; and registered export producers that are pioneer enterprises shall be entitled also to the incentives set forth in paragraphs (a), (6) and (c) of section 8 the said Act. In addition to the said incentives, and in lieu of other incentives provided in Section 7 and in Section 9 of that Act, registered export producers shall be entitled to benefits and incentives as enumerated hereunder:

- a. Tax credit.-Every registered export producer shall enjoy, for a period of ten (10) years from its registration a tax credit equivalent to the sales, compensating and specific taxes and duties on the supplies, raw materials and semi-manufactured products used in the manufacture, processing or production of its export products and forming part thereof, whether exported directly by the registered export producer or sold to another port producer, which uses such sold product as a direct input in export products manufactured or processed by it and subsequently exported, or to a registered export trader: *Provided, That* the tax credit shall accrue to the registered export producer only after the other export producer or registered export trader has in fact exported the products of the export producer or those in the manufacture or processing of which the former were used. The tax credit shall be issued by the Secretary of Finance upon presentation of the export documents, and shall be in lieu of refunds. It may be used to pay taxes, duties, charges and fees due to the national government in connection with its operations. A tax credit shall be non-transferable, except when such transfer is by hereditary succession or occurs by operation of law; it may be used by the person or entity to whom it is issued only for as long as it enjoys the benefits and incentives provided for in this Act; and may not be used so as to result in a refund.
- b. Reduced income tax.-Every registered export producer shall be entitled for the first five years from its registration, to deduct from its taxable income an amount equivalent to a portion of the total export revenue for a particular year, computed in accordance with following tax incentive formula:

Total export revenue multiplied by the product of the labor component, the domestic raw material component, and five: *Provided*, That (1) the total export revenue shall be F.O.B. Philippine port; and shall be the increment of its export sale over its sale for the year 1968; (2) the labor component shall be the total direct labor wage bill divided by the total production cost of the firm-the domestic raw material component shall be the difference between one unit of production and the ratio of the total value of imported raw materials and supply to the total production cost of the firm: *Provided, further*, That the reduction from taxable income shall not exceed one hundred per cent (100%) of its total export revenue for each particular year during the first three (3) years and fifty per cent (50%) during the succeeding two (2) years.

- c. Tax exemption on imported capital equipment.-Within five years from registration of the export producer, importations of machinery and equipment and spare parts shipped with such machinery and equipment shall not be subject to tariff duties and compensating tax: *Provided*, That, (1) said machinery, equipment and immediate component spare parts are not manufactured domestically in commercial quantity and quality or sold at reasonable prices; (2) are directly and actually needed and will be used by the registered export producer in the manufacture, processing, handling and storage of its export products; (3) are covered by shipping document in the name of the registered export producer to whom the shipment will be delivered direct by customs authorities; (4) the prior approval of the Board was obtained by the registered export producer before placing the order for the importation of such machinery, equipment and immediate component spare parts; and (5) the registered export producer chooses not to avail of the privileges granted by Republic Act Numbered Thirty-one hundred twenty-seven, as amended. In granting approval of importations under this paragraph, the Board shall require international bidding to be conducted by the end-user in Manila under its supervision; however, the Board may in its discretion, dispense with this requirement if (a) there is, to the knowledge of the Board, only one manufacturer of the machinery, equipment and spare parts to be imported, or (b) the importation is caused by the expansion of the registered export producer and such imports shall be acquired from the same manufacturer who supplied the machinery, equipment and spare parts being used by the registered export producer or (c) the total cost of importation is less than one million dollars (\$1,000,000.00). If the registered export producer does not bring into the country, the proceeds of export sales equivalent to at least the cost of the imported machinery, equipment and spare parts within five (5) years after delivery of the same to it, or if it sells, transfers, or disposes of the machinery and equipment and spare parts Imported under this paragraph without the prior approval of the Board within the said five (5) years, the registered export producer shall pay twice the amount of exemption given it, together with the penalty and interest thereon, computed from the date of acquisition, fixed by the Tariff and Customs Code and the National Internal Revenue Code for delinquency in the payment of said duties and taxes. However, the Board shall allow and approve the sale, transfer, or disposition of the said items within the said period of five (5) years if made: (1) to another registered export producer; (2) for reasons of proven technical obsolescence; or (3) for purposes of replacement to improve or expand the operations of the registered export producer.
- d. Tax credit on domestic capital equipment.-A tax credit equivalent to one hundred per cent (100%) of the value of the compensating tax and customs