

[BIR REVENUE REGULATIONS NO. 12-97, August 07, 1997]

**REGULATIONS IMPLEMENTING SECTIONS 12(C) AND 15 OF
REPUBLIC ACT NO. 7227 AND SECTIONS 24(B) AND (C) OF
REPUBLIC ACT NO. 7916 ALLOCATING TWO PERCENT (2%) OF
THE GROSS INCOME EARNED BY ALL BUSINESSES AND
ENTERPRISES WITHIN THE SUBIC, CLARK, JOHN HAY, PORO
POINT SPECIAL ECONOMIC ZONES AND OTHER SPECIAL
ECONOMIC ZONES UNDER PEZA TO ALL LGUS CONCERNED**

SECTION 1. Scope. — Pursuant to the provisions of Section 245 of the National Internal Revenue Code, as amended, in relation to Sections 5 (m), 13 (b) and 15 of Republic Act No. 7227 and Section 55 of Republic Act No. 7916, these Regulations are hereby promulgated to implement Sections 12 (c) and 15 of RA 7227 and Section 24 (b) and (c) of RA 7916 regarding the sharing, distribution and manner of disposition of the share of the local government units affected by the declaration of the ECOZONES from the collection of two percent (2%) of the gross income earned by the businesses and enterprises from their registered activities within the Subic, Clark, John Hay, Poro Point Special Economic and Free Port Zones and other ECOZONES under the Philippine Economic Zone Authority (PEZA).

SECTION 2. Definition of Terms. — For purposes of this Regulation, the terms as used herein shall have the following meaning:

a. **"ECOZONES"** or "Special Economic Zones" (SEZ) shall refer to selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are more particularly fixed or delineated by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.

a.1. *"Industrial Estate (IE)"* shall refer to a tract of land subdivided and developed according to a comprehensive plan under a unified continuous management and with provisions for basic infrastructure and utilities, with or without pre-built standard factory buildings and community facilities for the use of a community of industries.

a.2. *"Export Processing Zone (EPZ)"* shall refer to a specialized industrial estate located physically and/or administratively outside the customs territory and predominantly oriented to export production. Enterprises located in export processing zones are allowed to import capital equipment and raw materials free from duties, taxes and other import restrictions.

a.3. *"Free Trade Zone"* shall refer to an isolated policed area adjacent to a port

of entry (such as seaport and/or airport) where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, or otherwise manipulated without being subject to import duties. However, movement of these imported goods from the free-trade area to a non-free-trade area in the country shall be subject to customs and internal revenue rules and regulations.

a.4. *"Tourist/recreational center"* shall refer to an area within the ECOZONE where tourist accommodation facilities such as hotels, apartelles, tourists inns, pension houses, resorts, sports and/or recreational facilities are provided to render tourism services for both local and foreign tourists, travellers and investors in accordance with the guidelines issued by the PEZA.

b. *"Gross Income"* shall refer to gross sales or gross revenues derived from the registered business activities within the ECOZONE, net of sales discounts, sales returns and allowances and minus costs of sales, cost of production or direct costs of services (depending on the nature of business) but before any deduction is made for administrative expenses or incidental losses during a given taxable period.

c. *"LGUs affected by the Declaration of the ECOZONES"* shall refer to municipalities and cities within the metes and bounds of the ECOZONES as identified by Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Poro Point Development Corporation (JHPPDC) and PEZA in coordination with the Department of Interior and Local Government (DILG) entitled to receive a certain share in the amount equivalent to 1% of the gross income earnings (GIE) paid by registered enterprises within and operating inside the secured area of the ECOZONES.

d. *"LGUs Outside and Contiguous to the ECOZONES"* shall refer to municipalities and cities situated outside and contiguous to the ECOZONES entitled to receive a share in the development fund based on a sharing formula provided under RA 7227 and RA 7916. The SBMA, CDC, JHPPDC and PEZA in coordination with the DILG shall identify the LGUs outside and contiguous to the ECOZONES within 30 days from the effectivity of these Regulations.

e. *"Development Fund"* shall refer to the amount equivalent to 1% of the gross income earnings paid by registered enterprises inside the ECOZONES to be used by and for the development of the municipalities and cities outside of and contiguous to the ECOZONES.

f. *"Subic, Clark, John Hay, Poro Point ECOZONE Operating Enterprise"* shall refer to any enterprise within the ECOZONE engaged in export, free trade, industrial, commercial, financial, tourism and recreational activities registered with fiscal incentives under Sections 12(b) and (c) and 15 of RA 7227.

g. *"PEZA ECOZONE Operating Enterprise"* shall refer to any enterprise within the ECOZONE engaged in export, free trade, domestic market, pioneer, facilities/utilities, tourism and development and operation of economic areas which are registered with fiscal incentives under Section 23 of RA 7916. It shall not include persons and service enterprises referred to under Section 25 of RA 7916.

h. *"National Taxes"* shall refer to all internal revenue taxes, including the regular income taxes, otherwise due and collectible from a registered ECOZONE enterprise

under the National Internal Revenue Code and customs duties and import charges under the Tariff and Customs Code. National taxes shall, however, not include withholding taxes on salaries of employees or on income payments to persons other than a registered ECOZONE enterprise, subject to the withholding tax at source under Section 50(b) of the Tax Code, as amended.

i. *"Local Taxes"* shall refer to all local taxes, business taxes, real estate taxes, and other taxes, fees and charges imposed by Local Government Units pursuant to the Local Government Code of 1991, as amended.

SECTION 3. Sharing and Distribution of the Proceeds From the 5% Gross Income Earnings Paid by Registered Enterprises Pursuant to RA 7227 and RA 7916.

3.1. Pursuant to Section 12(c) of RA 7227 in relation to Section 3 of Presidential Proclamation No. 420 series of 1994, Section 5 of Executive Order No. 80 and Section 2, par. 2.1.2 of Executive Order No. 62, registered enterprises within the Subic, Clark, John Hay and Poro Point Special Economic Zones, shall, in lieu of paying local and national taxes, pay five percent (5%) of their gross income earnings, which shall be distributed as follows:

(a) To the National Government 3%

(b) To the Local Government Units affected by the declaration of the ECOZONE, to be distributed in the manner set forth under Sec. 5.4.1.1 herein 1%

(c) To the Special Development Fund of each concerned LGU of municipalities/ cities contiguous to the base/ecozone areas and, for the SBMA, for such LGUs located outside and contiguous to the City of Olongapo and the Municipality of Subic, to be utilized for their development, and to be distributed in the manner set forth under Sec. 5.4.1.2 herein 1%

3.2. Pursuant to Section 24 of RA 7916, PEZA-registered enterprises, except persons and service enterprises referred to under Section 25 of said Act shall, in lieu of paying national and local taxes, pay five per cent (5%) of their gross income earnings which shall be distributed as follows:

(a) To the National Government 3%

(b) To the Local Government Units affected by the declaration of the ECOZONE to be distributed in proportion to their population, land area, and equal sharing factors; and 1%

(c) To the Special Development Fund of the concerned LGU to be utilized by and for the development of municipalities outside and contiguous to each ECOZONE. Provided,

That the respective share of the affected local government unit shall be determined on the basis of the following formula: 1%

Population	—	50%
Land area	—	25%