

**[DOF LOCAL FINANCE CIRCULAR NO. 5-93,
October 21, 1993]**

**PRESCRIBING THE GUIDELINES GOVERNING THE POWERS OF
CITIES AND MUNICIPALITIES TO IMPOSE BUSINESS TAX ON
BOI-REGISTERED ENTERPRISES PURSUANT TO SEC. 133(G) OF
REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL
GOVERNMENT CODE OF 1991 (LGC), AND ITS IMPLEMENTING
RULES AND REGULATIONS (IRR)**

Pursuant to Section 133(g) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (LGC), the exercise of the taxing powers of the Local Government Units (LGUs) shall not extend to the levy of local business tax (LBT) on business enterprises certified to by the Board of Investments as pioneer or non-pioneer for a period of six (6) and four (4) years, respectively, from the date of registration;

Accordingly, the following guidelines are hereby issued in accordance with Art. 287 of the IRR, to prescribe the limitations, manner, and procedures for the imposition of local business taxes on BOI-registered enterprises and to supplement Article 221(g) of the IRR with a view of further clarifying the implementation of said provision consistent with Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, Republic Act No. 7042, otherwise known as the Foreign Investment Act of 1991 and other related laws and national policies;

SECTION 1. Coverage. - This Circular prescribes the guidelines governing the powers of cities and municipalities to impose business taxes on BOI-registered enterprises as provided for in Sec. 133(g) of the LGC.

SECTION 2. Definitions of Terms. - As used herein, the following terms shall mean -

(a) Registered Enterprise - shall mean any individual, partnership, cooperative, corporation or other entity incorporated and/or organized and registered with the Board of Investments (BOI) in accordance with Book I of Executive Order No. 226; Provided, however, that the term "registered enterprise" shall not include commercial banks, savings, and mortgage banks, rural banks, savings and loan associations, development banks, trust companies, investments banks, finance companies, brokers and dealers in securities, consumer cooperatives and credit unions and other business organizations whose principal purpose or principal source of income is to receive deposits, lend or borrow money, buy and sell or otherwise deal, trade or invest in common or preferred stocks, debentures, bonds or other marketable instruments generally recognized as securities, or discharge other similar intermediary, trust or fiduciary functions. {Art. 11, E.O. 226}

(b) Pioneer enterprise shall mean a BOI-registered enterprise (i) engaged in the

manufacture, processing or production, and not merely in the assembly or packaging of goods, commodities or raw materials that have not been or are not being produced in the Philippines on a commercial scale, or (ii) which uses a design, formula, scheme, method, process or system of production or transformation of any element, substance or raw materials into another raw materials or finished goods which is new and untried in the Philippines, or (iii) engaged in the pursuit of agricultural, forestry and mining activities and/or services including the industrial aspects of food processing whenever appropriate, pre-determined by the BOI to be feasible and highly essential to the attainment of the national goal, in relation to a declared specific national food and agricultural program for self-sufficiency and other social benefits of the project, or (iv) which produces non-conventional sources of energy or uses or converts to coal or other non-conventional fuels or manufacturers equipment which utilize non-conventional fuels or sources of energy in its production, manufacturing or processing operations: Provided, that the final product in any of the foregoing instances, involves or will involve substantial use and processing of domestic raw materials, whenever available; taking into account the risks and magnitude of investment.

(c) Non-pioneer enterprise shall include all BOI-registered producer enterprises other than pioneer enterprises.

(d) Expansion shall include modernization and rehabilitation and shall mean increase of existing volume or value of production or upgrading the quality of the registered product or utilization of inefficient or idle equipment under such guidelines as the BOI may adopt.

SECTION 3. Exemption of pioneer and non-pioneer enterprises. - (a) Pursuant to Sec. 133(g) of the LGC and Art. 221(g) of its IRR, business enterprises certified to and registered with the Board of Investments (BOI) as pioneer or non-pioneer shall be exempt from local business taxes for a period of six (6) and four (4) years respectively, from the date of registration;

(b) Starting January 1, 1992, pioneer and non-pioneer enterprises registered with the BOI prior to the effectivity of the LGC shall be exempt from local business taxes until the end of the remaining period of their six (6) and four (4) years exemption from the date of registration.

(c) Pioneer and non-pioneer enterprises registered with the BOI on or after the effectivity of the LGC shall be exempt from local business taxes for a period of six (6) and four (4) years, respectively, starting from the date indicated in the certificate of registration issued by the BOI; and

(d) In the case of registered expanding firms the gross sales or receipts directly arising from such expansion shall be exempt from local business taxes for a period stated in (a) or (b) above.

SECTION 4. Availment of the Exemption. - (a) Within sixty (60) days -

- (i) from the receipt of the Certificate of Registration from the BOI, or
- (ii) from the effectivity of the tax ordinance or revenue measure imposing a tax on business, or
- (iii) from the effectivity of these guidelines, whichever comes later, the