

Republic Act No. 12066

(Amendments to the CREATE Act)

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Amendments to the **CREATE ACT**

Corporate Income Tax

REDUCTION OF CORPORATE INCOME TAX OF RBEs UNDER ENHANCED DEDUCTION REGIME FROM 25% TO 20%

Exclusion from Gross Income

EXCLUSION FROM GROSS INCOME OF ANY KIND REQUIRED BY ANY TREATY AND AGREEMENT ENTERED INTO BY THE PRESIDENT AND CONCURRED BY THE SENATE

Deduction from Gross Income

TREATMENT OF INPUT TAX PAID ON LOCAL PURCHASES ATTRIBUTABLE TO VAT-EXEMPT SALES AND INPUT TAX OTHERWISE DUE ON VAT ZERO RATED LOCAL PURCHASES AS EXPENSE

Final Withholding Tax

REDUCTION OF CREDITABLE WITHHOLDING TAX AT SOURCE FROM 32% TO NOT MORE THAN 15%

Amendments to the **CREATE ACT**







VAT ZERO RATING

1. SALES OF GOODS TO OR SERVICES PERFORMED FOR EXPORT-ORIENTED ENTERPRISE WHOSE EXPORT SALES IS AT LEAST 70%;
2. SALES OF GOODS AND FUELS USED FOR INTERNATIONAL SHIPPING OR INTERNATIONAL TRANSPORT;
3. SALES TO BONDED MANUFACTURING WAREHOUSE OF EXPORT ORIENTED ENTERPRISES; AND
4. SALES SUBJECT TO ZERO PERCENT VAT UNDER SPECIAL LAWS.

VAT EXEMPTION

INCLUSION OF THE FOLLOWING AS VAT EXEMPT TRANSACTIONS:

1. IMPORTATION OF GOODS BY AN EXPORT-ORIENTED ENTERPRISE WITH EXPORT SALES OF AT LEAST 70%; AND
2. IMPORTATION OF FUEL, GOODS AND SUPPLIES USED FOR INTERNATIONAL SHIPPING OR AIR TRANSPORT OPERATIONS.

Amendments to the **CREATE ACT**







REFUND OR TAX CREDIT OF INPUT TAXES

1. VAT REFUND CENTER THAT WILL HANDLE ELECTRONIC PROCESSING OF CASH REFUNDS SHALL BE ESTABLISHED BY THE DOF IN THE BIR AND BOC
2. COMMISSIONER TO GRANT VAT REFUND FOR CREDITABLE INPUT TAXES WITHIN **90 DAYS** FROM SUBMISSION
3. COMMISSIONER TO COMMUNICATE TO TAXPAYER IN WRITING THE DEFICIENCIES OF THE VAT REFUND CLAIM AND THE LEGAL AND FACTUAL BASIS FOR ITS DENIAL WITHIN THE 90 DAY PERIOD

ELECTRONIC INVOICES

ADDITIONAL ALLOWABLE DEDUCTIONS AVAILED OF ONLY ONCE BY THE TAXPAYER WHO ISSUES ELECTRONIC INVOICES AND ELECTRONICALLY REPORT THEIR SALES DATA TO THE BIR:

a. **100%** OF THE TOTAL COST FOR SETTING UP THE ELECTRONIC SYSTEM FOR **MICRO AND SMALL TAXPAYERS**
b. **50%** OF THE TOTAL COST FOR SETTING UP ELECTRONIC SYSTEM FOR **MEDIUM AND LARGE TAXPAYERS**

Amendments to the CREATE ACT

	CREATE Act	RA No. 12066
CREATE Corporate Income Tax Rate for RBEs under Enhanced Deduction Regime (EDR)	25%	20%
Creditable Withholding Tax	1% to 32%	Max of 15%
Allowable deduction for cost of setting up an electronic sales reporting system	N/A	Micro & small - 100% Medium & large - 50%
Deadline to act on VAT Refund Claims; Excise Tax Refund Claims for Imported Petroleum Products	180 days	90 days

Tax Incentives

Period of Incentives

The period of incentives is longer for projects with investment capital above P15B, which are for FIRB approval

Option on Availment of Incentives

Option to avail of ITH first followed by EDR or SCIT or go straight to EDR or SCIT from actual start of commercial operations

Local Business Tax

Imposition of RBE local tax of not more than 2% of gross income during ITH and EDR, in lieu of all local taxes, fees, and charges imposed under RA No. 7160



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Tax Incentives

Enhanced Deductions

1. Deduction on power expense increased from 50% to 100%
2. Inclusion of tourism industries on deduction for reinvestment allowance until 31 December 2034
3. Inclusion of 50% additional deduction on expenses relating to exhibitions, trade missions or trade fairs
4. Enhanced NOLCO may be carried over as deduction within the next 5 consecutive years immediately following the last year of the ITH entitlement period.



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Incentives for **Domestic Market Enterprise**

Project/Activity	CREATE Act	RA No. 12066	
		Investment Promotion Agency	Fiscal Incentives Review Board
Entirely New	4 to 7 ITH + 5 EDR	a. 4 to 7 ITH; then 10 EDR; or b. 14 to 17 EDR	a. 4 to 7 ITH; then 20 EDR; or b. 24 to 27 EDR
Reapplication (Same Activity)	N/A	Up to 5 EDR (has to maintain at least 10,000 direct employees)	Up to 10 EDR (has to maintain at least 10,000 direct local employees)
Qualified Expansion	3 ITH; then 5 EDR	8 EDR	13 EDR

Incentives for **Registered Export Enterprise**

Project/Activity	CREATE Act	RA No. 12066	
		Investment Promotion Agency	Fiscal Incentives Review Board
Entirely New	4 to 7 ITH + 10 EDR or SCIT	a. 4 to 7 ITH; then 10 EDR or SCIT; or b. 14 to 17 years EDR or SCIT	a. 4 to 7 ITH; then 20 EDR or SCIT; or b. 24 to 27 EDR or SCIT
Reapplication (Same Activity)	N/A	Up to 5 EDR or SCIT (has to maintain at least 10,000 direct employees)	Up to 10 EDR or SCIT (has to maintain at least 10,000 direct local employees)
Qualified Expansion	3 ITH; then 10 EDR/SCIT	8 EDR OR SCIT	13 EDR or SCIT

Tax Incentives: **Enhanced Deductions**

	CREATE Act	RA No. 12066
Additional Deduction on Power Expense	50%	100%
Up to 50% Deduction for Reinvestment Allowance	Limited to Manufacturing Industry	Tourism and Manufacturing Industries (until 31 Dec 2024)
Additional Deduction on Expenses Relating to Exhibitions, Trade Missions, or Trade Fairs	N/A	50%
Availment of Enhanced Deductions	Only after ITH	After ITH or at the onset/SCO

Tax Incentives: Customs Duty Exemption on Importation and VAT Incentives

	CREATE Act	RA No. 12066
Applicability to Importation and Local Purchases	Directly and exclusively used in the registered project or activity	Directly attributable, including goods used for administrative purposes; determination is made by the relevant IPA
VAT Zero-Rating on Local Purchases and VAT Exemption on Importation	REEs only	REE and High-Value DMEs
Period of Availment of VAT Zero-Rating on Local Purchases and VAT Exemption on Importation	For the duration of income-tax based incentives (maximum of 12-17 years)	For *high-value DMEs*, until the expiration of income tax based incentives; For *REEs*, for the entire registration period as an RBE, for as long as conditions of registration are met

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Tax Incentives: Customs Duty Exemption on Importation and VAT Incentives

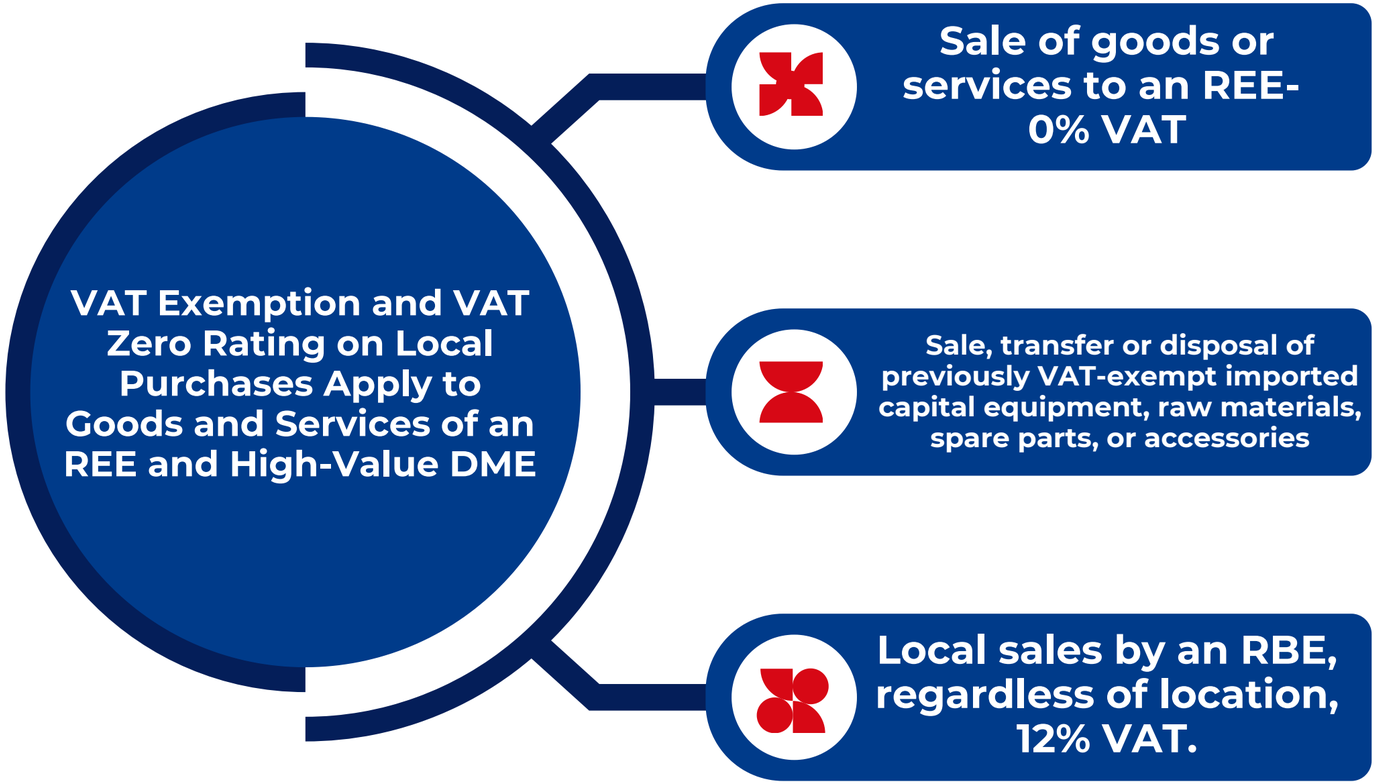
	CREATE Act	RA No. 12066
Duty Exemption on importation	DMEs and REEs	DMEs, REEs, High-Value DMEs
Period of availment for customs duty incentives	For the duration of income-tax based incentives (maximum of 12-17 years)	For *DMEs and high-value DMEs*, until the expiration of income tax based incentives; For *REEs* for the entire registration period, for as long as conditions of registration are met
Tax exemption on donation of capital equipment, raw materials, spare parts, or accessories	If donated to TESDA, SUCs, or DepEd/CHED-accredited schools	If donated to Government or to any agencies or political subdivisions, including GOCCs, TESDA, SUCs, or DepEd/CHED-accredited schools

Tax **Incentives**

DUTY EXEMPTION

The duty exemption shall apply to importation of capital equipment, raw materials, spare parts, or accessories **DIRECTLY ATTRIBUTABLE** to the registered project, including goods used for administrative purposes. The reference to exclusively used is deleted.

VAT ZERO RATING AND EXEMPTION



Other **Incentives**

	CREATE Act	RA No. 12066
RBE Local Tax	N/A (LGU Taxes apply)	Not more than 2% of gross income for RBEs under ITH and EDR
Work-from-Home Arrangements	Not Allowed	Allows up to 50% of total workforce for RBEs under an IPA administering ecozones or freeports
Sunset Period for Incentives Granted to RBEs Prior to CREATE Act	10 years from effectivity of the Act (April 2031)	31 December 2034
Minimum Tax Incentive Availment Period for FIRB-Approved Projects	14-17 years	24-27 years
Maximum ITH Period that the President may grant	8 years	10 years

Powers

IPAs, FIRB, and the President

Investment Promotion Agencies

The concerned IPA shall have the exclusive jurisdiction to register all projects or activities, regardless of the amount of investment capital.

Fiscal Incentives Review Board

Approve grant of incentives for projects with investment capital of above P15B;

Review and audit the compliance of IPA, with respect to the administration and grant of tax incentives, and impose such sanctions such as but not limited to, withdrawal, suspension, or cancellation of their authority to grant tax incentives.

President

The President may grant up to 10 ITH then SCIT or EDR, or SCIT or EDR immediately at SCO.

The President may grant non-fiscal support package limited to the utilization of government resources such as use of land and budgetary support provision under the annual GAA.

Flexible
Work Arrangements



Qualified registered project or activity under an IPA administering an ecozone or freeport shall be exclusively conducted or operated within the geographical boundaries of the zone or freeport being administered by the IPA. RBEs may be allowed to institute “telecommuting” program including WFH arrangements, which shall not cover more than **50%** of the total workforce.

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Formulation of the
Strategic Investment Priority Plan



The BOI, in consultation with the FIRB, IPAs, OGAs administering tax incentives, and private sector, shall formulate the SIPP and **include areas of investment that are specific to an area or region,** taking into consideration the project or activity that the IPA in those area or region deem fit to promote.

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Penalties to Registered Business Enterprises

Reportorial Requirements

An RBE who fails to comply with filing and reportorial requirements with the appropriate IPA or OGAs may be imposed the following:

a. **1st violation:** fine of P100,000
b. **2nd violation:** fine of P500,000
c. **3rd violation:** Cancellation by the IPA of RBE registration

Other Penalties

IPA, instead of the FIRB, shall impose penalties to RBEs for:

a. any willful and material misrepresentation of information or submission of falsified or misleading information or documents for the purpose of availing of more incentives than what the RBE is entitled; and

b. violation of Title VI (Excise Taxes on Certain Goods) and Title X (Statutory Offenses and Penalties)

Transitory **Provisions**

Prior to the CREATE Act

- RBEs granted ITH prior to CREATE: subject to incentives granted in their COR or CRTE.
- RBEs granted ITH and are entitled to 5% GIE: 5% GIE, including all corresponding exemptions from national and local taxes, fees, and charges until 31 December 2034;
- RBEs currently availing of 5% GIE: continue 5% GIE, including all corresponding exemptions from national and local taxes, fees, and charges until December 31, 2034;
- RBEs currently availing duty exemption on importation, VAT exemption on importation, and VAT-zero rating on local purchases prior to effectivity of this Act: continue availing the said tax incentives until December 31, 2034.

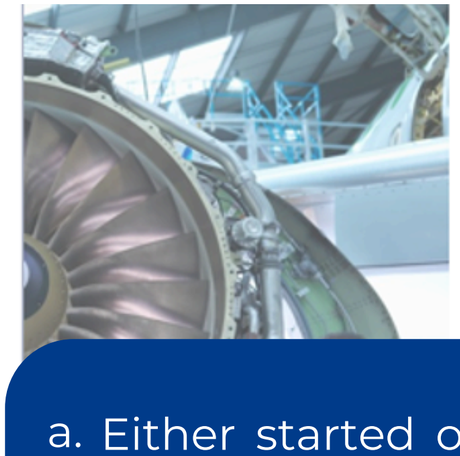
Under CREATE Act

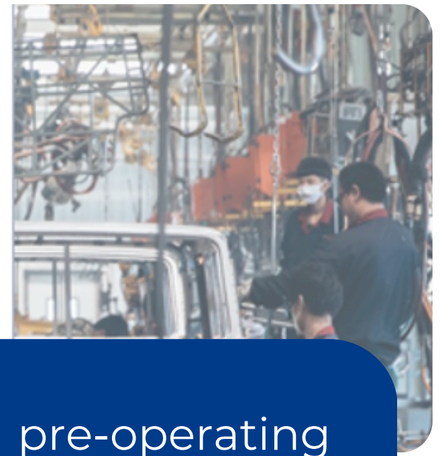
The following shall apply to CREATE RBEs prospectively:

- Exemption from national and local taxes, including local fees and charges for projects or activities availing SCIT;
- Availment of additional ED;
- 20% CIT tax rate upon the taxable income of RBEs under EDR;
- 2% RBE local tax to RBEs under ITH or EDR; and
- Conditions on the availment of duty and VAT exemption on importation and VAT zero rating on local purchases.

Transfer of **Incentive Regime**







PRE-CREATE

CREATE

CREATE | >15 Billion

RA No. 12066

a. Either started operating or is in the pre-operating stage but has not availed of any income tax-based incentives
b. Meets the qualifications for registration as prescribed under Part III, Rule 6, Section 2 of the IRR of CREATE Act
c. Not an excluded service activity as defined under Part I, Rule I, Section 4(w) of the IRR of the CREATE Act
d. Complies with the conditions and requirements set forth in the SIPP

Transfer of **Incentive Regime**







Submit an **Affidavit of Intent** to the concerned IPA **on or before 31 December 2024**

Submit an **Application for Transfer** using the prescribed application form under Part III, Rule 6 of the IRR of the CREATE Act

- **Evaluation of the application:** within 20 working days from receipt of complete submission
- **Action:** within 30 days from the effectivity of the IRR of RA No. 12066
- Approval or disapproval of the application for transfer of RBEs covered under this Rule shall be made in accordance with the investment capital threshold as provided under Section 297(b) of the NIRC of 1997, as amended
- **Reckoning period of income tax-based incentives:**
  - **Operating RBEs** - 1 January 2025
  - **Pre-operating RBEs** - terms and conditions provided under the Certificate of Registration

Thank You



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