

REPUBLIC OF THE PHILIPPINES }
CONGRESS OF THE PHILIPPINES }
 Second Regular Session

H. No. 7550
S. No. 1591

REPUBLIC ACT NO. 8756

AN ACT PROVIDING FOR THE TERMS, CONDITIONS AND LICENSING REQUIREMENTS OF REGIONAL OR AREA HEADQUARTERS, REGIONAL OPERATING HEADQUARTERS, AND REGIONAL WAREHOUSES OF MULTINATIONAL COMPANIES, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987

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

SECTION 1. The title of Book III of Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, is hereby amended as follows:

"BOOK III

"INCENTIVES TO MULTINATIONAL COMPANIES
ESTABLISHING REGIONAL OR AREA
HEADQUARTERS AND REGIONAL OPERATING
HEADQUARTERS IN THE PHILIPPINES"

SEC. 2. *Definition of Terms.* – For purposes of this Act, the term:

(1) *Multinational Company* shall mean a foreign company or a group of foreign companies with business establishments in two or more countries;

(2) *Regional or Area Headquarters (RHQ)* shall mean an office whose purpose is to act as an administrative branch of a multinational company engaged in international trade which principally serves as a supervision, communications and coordination center for its subsidiaries, branches or affiliates in

the Asia-Pacific Region and other foreign markets and which does not earn or derive income in the Philippines; and

(3) *Regional Operating Headquarters (ROHQ)* shall mean a foreign business entity which is allowed to derive income in the Philippines by performing qualifying services to its affiliates, subsidiaries or branches in the Philippines, in the Asia-Pacific Region and in other foreign markets.

SEC. 3. The Title and Article 58 of Chapter I of the same Code are hereby amended as follows:

"CHAPTER I

LICENSING OF REGIONAL OR AREA HEADQUARTERS

Art. 58. *Qualification of Regional or Area Headquarters.*
– Any foreign business entity formed, organized and existing under any laws other than those of the Philippines whose purpose, as expressed in its organizational documents or by resolution of its Board of Directors or its equivalent, is to supervise, superintend, inspect or coordinate its own affiliates, subsidiaries or branches in the Asia-Pacific Region and other foreign markets may establish a regional or area headquarters in the Philippines, by securing a license therefor from the Securities and Exchange Commission, upon the favorable recommendation of the Board of Investments.

The Securities and Exchange Commission shall, within thirty (30) days from the effectivity of this Code, issue the implementing rules and regulations. The following minimum requirements shall, however, be complied with by the said foreign entity:

(a) A certification from the Philippine Consulate/Embassy, or a duly authenticated certification from the Department of Trade and Industry or its equivalent in the foreign firm's home country that said foreign firm is an entity engaged in international trade with affiliates, subsidiaries or branch offices in the Asia-Pacific Region and other foreign markets.

(b) A duly authenticated certification from the principal officer of the foreign entity to the effect that the said foreign entity has been authorized by its Board of Directors or governing body to establish its regional or area headquarters in the Philippines, specifying that:

(1) The activities of the regional or area headquarters shall be limited to acting as a supervisory, communications and coordinating center for its subsidiaries, affiliates and branches in the region;

(2) The regional or area headquarters will not derive any income from sources within the Philippines and will not participate in any manner in the management of any subsidiary or branch office it might have in the Philippines nor shall it solicit or market goods and services whether on behalf of its mother company or its branches, affiliates, subsidiaries or any other company; and

(3) The regional or area headquarters shall notify the Board of Investments and the Securities and Exchange Commission of any decision to close down or suspend operations of its headquarters at least fifteen (15) days before the same is effected.

(c) An undertaking that the multinational company will remit into the country such amount as may be necessary to cover its operations in the Philippines but which amount will not be less than Fifty thousand United States dollars (\$50,000) or its equivalent in other foreign currencies annually. Within thirty (30) days from receipt of certificate of registration from the Securities and Exchange Commission, the multinational company will submit to the Securities and Exchange Commission a certificate of inward remittance from a local bank showing that it has remitted to the Philippines the amount of at least Fifty thousand United States dollars (\$50,000) or its equivalent in other foreign currencies and converted the same to Philippine currency. Annually, within thirty (30) days from the anniversary date of the multinational company's registration as a regional or area headquarters with the Securities and Exchange Commission, it will submit proof to the Securities and Exchange Commission of inward remittance amounting to at least Fifty thousand United

States dollars (\$50,000) or its equivalent in other foreign currencies during the past year.

(d) Any violation by the regional or area headquarters of a multinational company of any of the provisions of this Code, or its implementing rules and regulations, or other terms and conditions of its registration, or any provision of existing laws, shall constitute a sufficient cause for the cancellation of its license or registration.

SEC. 4. Book III of the same Code is hereby further amended by adding a new chapter designated as Chapter II to read as follows:

"CHAPTER II

"LICENSING OF REGIONAL OPERATING HEADQUARTERS

"Art. 59. *Qualification of Regional Operating Headquarters (ROHQs)*. – Any foreign business entity formed, organized and existing under any laws other than those of the Philippines may establish a regional operating headquarters in the Philippines to service its own affiliates, subsidiaries or branches in the Philippines, in the Asia-Pacific Region and other foreign markets. ROHQs will be allowed to derive income by performing the qualifying services enumerated under paragraph (b) 1 hereunder. ROHQs of non-banking and non-financial institutions are required to secure a license from the Securities and Exchange Commission, upon the favorable recommendation of the Board of Investments. ROHQs of banking and financial institutions, on the other hand, are required to secure licenses from the Securities and Exchange Commission and the Bangko Sentral ng Pilipinas, upon the favorable recommendation of the Board of Investments.

"The Securities and Exchange Commission and the Bangko Sentral ng Pilipinas shall, within thirty (30) days from the effectivity of this Code, issue the implementing rules and regulations.

"The following minimum requirements shall be complied with by the said foreign entity:

"(a) A certification from the Philippine Consulate/ Embassy, or a duly authenticated certification from the Department of Trade and Industry or its equivalent in the foreign firm's home country that said foreign firm is an entity engaged in international trade with affiliates, subsidiaries or branch offices in the Asia-Pacific Region and other foreign markets.

"(b) A duly authenticated certification from the principal officer of the foreign entity to the effect that the said foreign entity has been authorized by its Board of Directors or governing body to establish its regional operating headquarters in the Philippines, specifying that:

"(1) The regional operating headquarters may engage in any of the following qualifying services:

- General administration and planning;
- Business planning and coordination;
- Sourcing/procurement of raw materials and components;
- Corporate finance advisory services;
- Marketing control and sales promotion;
- Training and personnel management;
- Logistics services;
- Research and development services, and product development;
- Technical support and maintenance;
- Data processing and communication; and
- Business development.

"ROHQs are prohibited from offering qualifying services to entities other than their affiliates, branches or subsidiaries, as declared in their registration with the Securities and Exchange Commission nor shall they be allowed to directly and indirectly solicit or market goods and services whether on behalf of their mother company, branches, affiliates, subsidiaries or any other company.

"(2) The regional operating headquarters shall notify the Board of Investments, the Securities and Exchange Commission and the Bangko Sentral ng Pilipinas, as the case may be, of any decision to close down or suspend operations of its headquarters at least fifteen (15) days before the same is effected.

"(c) An undertaking that the multinational company will initially remit into the country such amount as may be necessary to cover its operations in the Philippines but which amount will not be less than Two hundred thousand United States dollars (\$200,000) or its equivalent in other foreign currencies.

"Within thirty (30) days from receipt of certificate of registration, the multinational company will submit to the Securities and Exchange Commission a certificate of inward remittance from a local bank showing that it has remitted to the Philippines the amount of at least Two hundred thousand United States dollars (\$200,000) or its equivalent in other foreign currencies and converted the same to Philippine currency.

"(d) Any violation by the regional operating headquarters of a multinational company of the provisions of this Code, or its implementing rules and regulations, or other terms and conditions of its registration, or any provision of existing laws, shall constitute a sufficient cause for the cancellation of its license or registration."

SEC. 5. Chapter II of the same Code is hereby amended and designated as Chapter III. Articles 59, 60, 61 and 62 under the same Chapter are hereby amended as follows:

"CHAPTER III

"INCENTIVES TO EXPATRIATES

"Art. 60. *Multiple Entry Visa.* – Foreign personnel of regional or area headquarters and regional operating headquarters of multinational companies, their respective spouses and unmarried children under twenty-one (21) years of age, if accompanying them or if following to join them after their admission into the Philippines as non-immigrant shall be issued a multiple entry special visa within seventy-two hours upon

submission of all required documents, and which shall be valid for a period of three (3) years to enter the Philippines: *Provided*, That a responsible officer of the applicant company submits a duly authenticated certificate to the effect that the person who seeks entry into the Philippines is an executive of the applicant company and will work exclusively for applicant's regional or area headquarters or regional operating headquarters which is duly licensed to operate in the Philippines, and that he will receive a salary and will be paid by the headquarters in the Philippines an amount equivalent to at least Twelve thousand United States dollars (\$12,000), or the equivalent in other foreign currencies *per annum*.

"The admission and stay shall be coterminous with the validity of the multiple entry special visa. The stay, however, is extendible for three years upon submission to the Bureau of Immigration of a sworn certification by a responsible officer of the regional or area headquarters or regional operating headquarters: that its license to operate remains valid and subsisting and that the regional or area headquarters or regional operating headquarters has withheld tax due on compensation and the same has been paid to the Bureau of Internal Revenue.

"Non-immigrants who have been admitted under the multiple entry special visa, as well as their respective spouses and dependents, shall be exempt from: the payment of all fees due under the immigration and alien registration laws; securing alien certificates of registration; and obtaining emigration clearance certificates, and all types of clearances required by any government department or agency, except that upon final departure from the Philippines the employer of the said non-immigrants shall so advise in writing the Bureau of Immigration at least five (5) working days prior to the non-immigrant's departure, and the finally departing non-immigrant employee shall be required to submit to the said office a tax clearance from the Bureau of Internal Revenue.

"Art. 61. *Withholding Tax of 15% on Compensation Income.*
– Aliens employed by the regional or area headquarters and regional operating headquarters of multinational companies shall

be subject for each taxable year upon their gross income received as salaries, wages, annuities, compensations, remuneration and emoluments to a tax equal to fifteen *per centum* (15%) of such gross income. The same tax treatment is applicable to Filipinos employed and occupying the same positions as those aliens employed by multinational companies: *Provided*, That said Filipinos shall have the option to be taxed at either 15% of gross income or at the regular tax rate on their taxable income in accordance with the National Internal Revenue Code, as amended by Republic Act No. 8424.

"Art. 62. *Tax and Duty Free Importation.* – An alien executive of the regional or area headquarters and regional operating headquarters of a multinational company shall enjoy tax and duty free importation of personal and household effects as provided for under Section 105(h) of the Tariff and Customs Code, as amended, and Section 109(I) of the National Internal Revenue Code, as amended: *Provided*, That the personal and household effects shall arrive in the Philippines within ninety (90) days before or after conversion of the alien executive's admission category to multiple entry visa issued under this Act.

"Art. 63. *Travel Tax Exemption.* – Personnel of regional or area headquarters and regional operating headquarters of multinational companies and the dependents of such foreign personnel if joining them during the period of their assignment in the Philippines, as certified by the Board of Investments, shall be exempted from the payment of travel tax imposed under Section 1 of Presidential Decree No. 1183, as amended."

SEC. 6. Chapter III of the same Code is hereby amended and designated as Chapter IV. Articles 63, 64, 65, 66 and 67 are hereby amended to read as follows:

"CHAPTER IV

"INCENTIVES TO REGIONAL OR AREA HEADQUARTERS AND REGIONAL OPERATING HEADQUARTERS

"Art. 64. *Corporate Income Tax Incentive to Regional or Area Headquarters and Regional Operating Headquarters.* – Regional or area headquarters established in the Philippines by

multinational companies and which headquarters do not earn or derive income from the Philippines and which act as supervisory, communications and coordinating centers for their affiliates, subsidiaries, or branches in the Asia-Pacific Region and other foreign markets shall not be subject to income tax. Regional operating headquarters shall be subject to a tax rate of ten percent (10%) of their taxable income as provided for under the National Internal Revenue Code, as amended by Republic Act No. 8424: *Provided*, That any income derived from Philippine sources by the ROHQ when remitted to the parent company shall be subject to the tax on branch profit remittances as provided for in Section 28(a)(5) of the National Internal Revenue Code.

"Art. 65. *Value-Added Tax.* – The regional or area headquarters established in the Philippines by multinational companies shall be exempted from the value-added tax. In addition, the sale or lease of goods and property and the rendition of services to regional or area headquarters shall be subject to zero percent (0%) VAT rate as provided for in the National Internal Revenue Code, as amended.

"Regional operating headquarters shall be subject to the ten percent (10%) value-added tax as provided for under the National Internal Revenue Code, as amended.

"Art. 66. *Exemption From All Kinds of Local Taxes, Fees, or Charges.* – The regional or area headquarters and regional operating headquarters of multinational companies shall be exempt from all kinds of local taxes, fees, or charges imposed by a local government unit except real property tax on land improvements and equipment.

"Art. 67. *Tax and Duty Free Importation of Training Materials and Equipment; Importation of Motor Vehicles.* – Regional or area headquarters and regional operating headquarters shall enjoy tax and duty free importation of equipment and materials for training and conferences which are needed and used solely for their functions as regional or area headquarters or regional operating headquarters and which are not locally available subject to the prior approval of the Board of Investments.

"The sale or disposition of equipment within two (2) years after importation, entered tax and duty free, shall require prior approval of the Board of Investments and prior payment of applicable taxes and duties waived in favor of RHQ/ROHQ.

"Regional or area headquarters and regional operating headquarters shall be entitled to the importation of new motor vehicles subject to the payment of the corresponding taxes and duties.

"BOOK IV

"INCENTIVES TO MULTINATIONAL COMPANIES ESTABLISHING REGIONAL WAREHOUSES TO SUPPLY SPARE PARTS, COMPONENTS, SEMI-FINISHED PRODUCTS AND RAW MATERIALS TO THE ASIA-PACIFIC REGION AND OTHER FOREIGN MARKETS"

SEC. 7. Articles 68, 69, 70, 71 and 72 of the same Code are hereby amended to read as follows:

"Art. 68. *Qualifications.* – A multinational company organized and existing under any laws other than those of the Philippines which is engaged in international trade and supplies spare parts, components, semi-finished products and raw materials to its distributors or markets in the Asia-Pacific area and other foreign areas and which has established or will simultaneously establish a regional or area headquarters and/or regional operating headquarters in the Philippines in accordance with the provisions of Book III of this Code and the rules and regulations implementing the same may also establish a regional warehouse or warehouses in ecozones in the Philippines, after securing a license therefor from the Philippine Economic Zone Authority (PEZA). With respect to regional warehouses located or will locate in ecozones with special charters, such license shall be secured from the concerned ecozone authorities. For existing regional warehouses, said license shall be secured from the Board of Investments unless they choose to relocate inside ecozones: *Provided, That:*

"(1) The activities of the regional warehouse shall be limited to serving as a supply depot for the storage, deposit,

safekeeping of its spare parts, components, semi-finished products and raw materials including the packing, covering, putting up, marking, labelling and cutting or altering to customer's specification, mounting and/or packaging into kits or marketable lots thereof, to fill up transactions and sales made by its head offices or parent companies and to serving as a storage or warehouse of goods purchased locally by the home office of the multinational for export abroad. The regional warehouse shall not directly engage in trade nor directly solicit business, promote any sale, nor enter into any contract for the sale or disposition of goods in the Philippines: *Provided*, That a regional warehouse may be allowed to withdraw imported goods from said warehouse/s for delivery to an authorized distributor in the Philippines: *Provided, however*, That the corresponding taxes, customs duties and charges under the Tariff and Customs Code have been paid by the headquarters of the said multinational upon arrival of such goods: *Provided, further*, That the delivery of said goods to the aforesaid distributor in the Philippines shall be treated as a sale made by the headquarters rather than that of its head office, and shall be reflected in a separate book of accounts, any representation as to who is the seller to the contrary notwithstanding: *Provided, furthermore*, That the aforementioned sale shall be governed by the provisions on value-added tax in accordance with the National Internal Revenue Code, as amended by Republic Act No. 8424: *Provided, finally*, That the income from the aforementioned sale to said distributor shall be treated as income derived by the said headquarters from sources within the Philippines and shall be subject to the corporate income tax of a resident foreign corporation under the National Internal Revenue Code, as amended, the provision of any law to the contrary notwithstanding.

"(2) The personnel of a regional warehouse will not participate in any manner in the management of any subsidiary, affiliate or branch office it might have in the Philippines other than the activities allowed under this Act.

"(3) The personnel of the regional or area headquarters or regional operating headquarters shall be responsible for the operation of the regional warehouse subject to the provisions of this Code.

"(4) The multinational company shall pay the Board of Investments, the PEZA or concerned ecozone authorities, as the case may be, and the appropriate Collector of Customs concerned the corresponding license fees and storage fees to be determined by said offices.

"(5) An application for the establishment of a regional warehouse located outside an ecozone shall be made in writing to the Board of Investments, to the PEZA, or to concerned ecozone authorities in the case of regional warehouses located in ecozones. The application shall describe the premises, the location and capacity of the regional warehouse and the purpose for which the building is to be used.

"The jurisdiction and responsibility of supervising the regional warehouses located outside ecozones shall be vested on the Bureau of Customs, and the Board of Investments, or the PEZA or concerned ecozone authorities for warehouses within ecozones.

"The Board of Investments, the PEZA or concerned ecozone authorities, in consultation with the Regional Director of Customs of the district where the warehouse will be situated shall cause an examination of the premises to be made and if found satisfactory, it may authorize its establishment without complying with the requirements of any other government body, subject to the following conditions:

"(1) That the articles to be stored in the warehouse are spare parts, components, semi-finished products and raw materials of the multinational company operator for distribution and supply to its Asia-Pacific and other foreign markets including packaging, coverings, brands, labels and warehouse equipment as provided in Article 69(a) hereof;

"(2) That the entry or importation, storage or re-export of the goods destined for or to be stored in the regional warehouse will not involve any dollar outlay from Philippine sources;

"(3) That they are of such character as to be readily identifiable for re-export; and in case of local distribution they shall be subject to Article 68(1), Article 69 paragraph (b) and the guidelines implementing Book IV of this Code;

"(4) That it shall file an ordinary warehousing bond in an amount equal to one hundred percent (100%) of the ascertained customs duties on the articles imported without prejudice to its filing a general warehousing bond in lieu of the ordinary warehousing bond;

"(5) The percentage of annual allowable withdrawal from warehouses located outside ecozones for domestic use shall be subject to the approval of the Board of Investments, or of the PEZA or concerned ecozone authorities with respect to warehouses located within the ecozones of their jurisdiction: *Provided, however,* That in the case of existing warehouses, in no case shall their withdrawals exceed thirty percent (30%) of the value of goods they have brought in for any given year and the payment of the corresponding taxes and duties shall have been made upon the arrival of such goods imported: *Provided, further,* That the PEZA or concerned ecozone authorities may allow withdrawal exceeding thirty percent (30%) of the value of goods under such terms and conditions the PEZA or concerned ecozone authorities may impose.

"Art. 69. Tax Treatment of Imported Articles in the Regional Warehouse. –

"(a) Tax Incentives for Qualified Goods Destined for Reexportation to the Asia-Pacific and Other Foreign Markets. – Except as otherwise provided in this Code, imported spare parts, components, semi-finished products, raw materials and other items including any packages, coverings, brands and labels and warehouse equipment as may be allowed by the Board of Investments, the PEZA or concerned ecozone authorities, as the case may be, for use exclusively on the goods stored, except those prohibited by law, brought into the regional warehouse from abroad to be kept, stored and/or deposited or used therein and re-exported directly therefrom under the supervision of the Collector of Customs concerned for distribution to its Asia-Pacific and other foreign

markets in accordance with the guidelines implementing Book IV of this Code including to a bonded manufacturing warehouse in the Philippines and eventually re-exported shall not be subject to customs duty, internal revenue tax, export tax nor to local taxes, the provisions of law to the contrary notwithstanding.

*"(b) Payment of Applicable Duties and Taxes on Qualified Goods Subject to Laws and Regulations Covering Imported Merchandise if Destined for the Local Market. – Any spare parts, components, semi-finished products, raw materials and other items sent, delivered, released or taken from the regional warehouse to the local market in accordance with the guidelines implementing Book IV of this Code shall be subject to the payment of income taxes, customs duties, taxes and other charges provided for under Section 68 hereof and for which purpose, the proper commercial invoice of the head offices or parent companies shall be submitted to the Collector of Customs concerned; and shall be subject to laws and regulations governing imported merchandise: *Provided*, That in case any of the foregoing items are sold, bartered, hired or used for purposes other than they were intended for without prior compliance with the guidelines implementing Book IV of this Code and without prior payment of the duty, tax or other charges which would have been due and payable at the time of entry if the articles had been entered without the benefit of this Order, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs revenue punishable under Section 3602, as amended, of the Tariff and Customs Code of the Philippines: *Provided, further*, That a sale pursuant to a judicial order shall not be subject to the preceding *proviso* without prejudice to the payment of duties, taxes and other charges.*

"Art. 70. Exemption From the Maximum Storage Period Under the Tariff and Customs Code; Period of Storage in the Regional Warehouse. – The provision of the law in Section 1908 of the Tariff and Customs Code of the Philippines, as amended, to the contrary notwithstanding, articles duly entered for warehousing may remain in the regional warehouses for a period of two (2) years from the time of their transfer to the regional warehouse, which period may be extended with the approval of the Board of Investments for an additional period of one (1) year

upon payment of the corresponding storage fee on the unexported articles, as provided for under Article 68(4) for each extension until they are re-exported in accordance with the guidelines implementing Book IV of this Code. Any articles withdrawn, released or removed contrary to the provisions of said guidelines shall be forfeited pursuant to the provisions of Article 69, paragraph (b) hereof.

"Art. 71. *Rules and Regulations on the Jurisdiction, Operation and Control Over Qualified Goods in the Regional Warehouse.* – The Board of Investments, the PEZA, concerned ecozone authorities and the Bureau of Customs shall jointly issue special rules and regulations on the receiving, handling, custody, entry, examination, classifications, delivery, storage, warehousing, manipulation and packaging, release for reexportation or for importation and delivery to a Philippine distributor and for the safekeeping, recording, inventory and liquidation of said qualified goods, any existing law notwithstanding. Such rules and regulations shall be formulated in consultation with the applicants/operators of regional warehouses.

"Art. 72. *Cancellation of License or Registration.* – Any willful violation by the regional or area headquarters or regional operating headquarters of a multinational company which has established a regional warehouse or warehouses contrary to or in violation of the provisions of existing laws and the implementing guidelines of Book IV of this Code shall constitute a sufficient cause for the cancellation of its license or registration in addition to the penalties hereinabove provided in Article 69, paragraph (b) hereof.

"The Board, the PEZA or concerned ecozone authorities, as the case may be, shall have the authority to impose such fines in amounts that are just and reasonable in cases of late submission or non-compliance on the part of registered enterprises, with reporting and other requirements under this Code and its implementing rules and regulations."

SEC. 8. Article 73 of the same Code is hereby repealed.

SEC. 9. A new article is hereby inserted to read as follows:

"Art. 73. *Implementing Rules and Regulations.* – To implement the provisions of Books III and IV of this Code, the Department of Trade and Industry, in coordination with the Department of Foreign Affairs, the Board of Investments, the Philippine Economic Zone Authority, the ecozone authorities with special charters, the Securities and Exchange Commission, the Bureau of Internal Revenue, the Bureau of Customs, Bangko Sentral ng Pilipinas, Philippine Tourism Authority, and the Bureau of Immigration shall jointly promulgate such rules and regulations which shall take effect thirty (30) days after their publication in at least two (2) national newspapers of general circulation in the Philippines."

SEC. 10. *Separability Clause.* – If any part or section of this Act is declared unconstitutional for any reason or whatsoever, such parts not so declared shall remain in full force and effect.

SEC. 11. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 12. *Effectivity Clause.* – This Act shall take effect after thirty (30) days following its full publication in at least two (2) newspapers of general circulation in the Philippines.

Approved, November 23, 1999.