REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

REVENUE MEMORANDUM CIRCULAR NO. **27 - 2007**

SUBJECT : **Publishing the Full Text of Republic Act No. 9400 Entitled an Act Amending Republic Act No. 7227, as Amended, Otherwise Known as the Bases Conversion and Development Act of 1992, and for Other Purposes**

TO : **All Internal Revenue Officials, Employees and Others Concerned**

For the information and guidance of all internal revenue officials, employees and others concerned, quoted hereunder is the full text of REPUBLIC ACT NO. 9400, AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992, AND FOR OTHER PURPOSES, as follows:

" [REPUBLIC ACT NO. 9400]

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

SECTION 1. Section 12 of Republic Act No. 7227, as amended, otherwise known as the Bases Conversion and Development Act of 1992, is hereby amended to read as follows:

"SEC. 12. *Subic Special Economic Zone*. – x x x

"(a) x x x

"(b) The Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines;

"(c) The provision of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed within the Subic Special Economic Zone.

In lieu of said taxes, a five percent (5%) tax on gross income earned shall be paid by all business enterprises within the Subic Special Economic Zone and shall be remitted as follows: three percent (3%) to the National Government, and two (2%) percent to the Subic Bay Metropolitan Authority (SBMA) for distribution to the local government units affected by the declaration of and contiguous to the zone, namely: the City of Olongapo and the municipalities of Subic, San Antonio, San Marcelino and Castillejos of the Province of Zambales; and the municipalities of Morong, Hermosa and Dinalupihan of the Province of Bataan, on the basis of population (50%), land area (25%), and equal sharing (25%).

"x x x."

SEC. 2. Section 15 of the Republic Act No. 7227, as amended, is hereby amended to read as follows:

"SEC. 15. *Clark Special Economic Zone (CSEZ) and Clark Freeport Zone (CFZ)*. – Subject to the concurrence by resolution of the local government units directly affected, the President is hereby authorized to create by executive proclamation a Special Economic Zone covering the lands occupied by the Clark military reservations and its contiguous extensions as embraced, covered and defined by the 1947 Military Bases Agreement between the Philippines and the United States of America, as amended, located within the territorial jurisdiction of Angeles City, municipalities of Mabalacat and Porac, Province of Pampanga, and the municipalities of Capas and Bamban, Province of Tarlac, in accordance with the provision as herein provided insofar as applied to the Clark military reservations. The Clark Air Base proper with an area of not more than four thousand four hundred hectares (4,400 has.), with the exception of the twenty-two-hectare commercial area situated near the main gate and the Bayanihan Park consisting of seven and a half hectares (7.5 has.) located outside the main gate of the Clark Special Economic Zone, is hereby declared a Freeport zone.

"The CFZ shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital equipment within, into and exported out of the CFZ, as well as provide incentives such as tax and duty-free importation of raw materials and capital equipment. However, exportation or removal of goods from the territory of the CFZ to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines.

"The provisions of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be

imposed on registered business enterprises within the CFZ. In lieu of said taxes, a five percent (5%) tax on gross income earned shall be paid by all registered business enterprises within the CFZ and shall be directly remitted as follows: three percent (3%) to the National Government, and two percent (2%) to the treasurer's office of the municipality or city where they are located.

"The governing body of the Clark Special Economic Zone shall likewise be established by executive proclamation with such powers and functions exercised by the Export Processing Zone Authority pursuant to Presidential Decree No. 66, as amended: Provided, That it shall have no regulatory authority over public utilities, which authority pertains to the regulatory agencies created by law for the purpose, such as the Energy Regulatory Commission created under Republic Act No. 9136 and the National Telecommunications Commission created under Republic Act No. 7925.

"x x x

"Subject to the concurrence by resolution of the local government units directly affected and upon recommendation of the Philippine Economic Zone Authority (PEZA), the President is hereby authorized to create by executive proclamation Special Economic Zones covering the City of Balanga and the municipalities of Limay, Mariveles, Morong, Hermosa, and Dinalupihan, Province of Bataan.

"Subject to the concurrence by resolution of the local government units directly affected and upon recommendation of the PEZA, the President is hereby authorized to create by executive proclamation Special Economic Zones covering the municipalities of Castillejos, San Marcelino, and San Antonio, Province of Zambales.

"Duly registered business enterprises that will operate in the Special Economic Zones to be created shall be entitled to the same tax and duty incentives as provided for under Republic Act No. 7916, as amended: Provided, That for the purpose of administering these incentives, the PEZA shall register, regulate, and supervise all registered enterprises within the Special Economic Zones."

SEC. 3. A new Section 15-A is hereby inserted, amending Republic Act No. 7227, as amended, to read as follows:

"SEC. 15-A. *Poro Point Freeport Zone (PPFZ)*. – The two hundred thirty-six and a half-hectare (236.5 has.) secured area in the Poro Point Special Economic and Freeport Zone created under Proclamation No. 216, series of 1993, shall be operated and managed as a freeport and separate customs

territory ensuring free flow or movement of goods and capital equipment within, into and exported out of the PPFZ. The PPFZ shall also provide incentives such as tax and duty-free importation of raw materials and capital equipment. However, exportation or removal of goods from the territory of the PPFZ to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines.

"The provisions of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed on registered business enterprises within the PPFZ. In lieu of said taxes, a five percent (5%) tax on gross income earned shall be paid by all registered business enterprises within the PPFZ and shall be directly remitted as follows: three percent (3%) to the National Government, and two percent (2%) to the treasurer's office of the municipality or city where they are located.

"The governing body of the PPFZ shall have no regulatory authority over public utilities, which authority pertains to the regulatory agencies created by law for the purpose, such as the Energy Regulatory Commission created under Republic Act No. 9136 and the National Telecommunications Commission created under Republic Act No. 7925."

SEC. 4. A new Section 15-B is hereby inserted, amending Republic Act No. 7227, as amended, to read as follows:

"SEC. 15-B. *Morong Special Economic Zone (MSEZ).* – Duly registered business enterprises operating within the MSEZ created under Proclamation No. 984, series of 1997, shall be entitled to tax and duty-free importation of raw materials and capital equipment. In lieu of all national and local taxes except real property tax on land, a five percent (5%) tax on gross income earned shall be paid by all registered business enterprises which shall be directly remitted as follows: three percent (3%) to the National Government, and two percent (2%) to the treasurer's office of the municipality or city where they are located."

SEC. 5. A new Section 15-C is hereby inserted, amending Republic Act No. 7227, as amended, to read as follows:

"Sec. 15-C. *John Hay Special Economic Zone (JHSEZ).* – Registered business enterprises which will operate after the effectivity of this Act, within the JHSEZ created under Proclamation No. 420, series of 1994, shall be entitled to the same tax and duty incentives as provided for under Republic Act

No. 7916, as amended: Provided, That for the purpose of administering these incentives, the PEZA shall register, regulate, and supervise all registered enterprises within the JHSEZ: Provided, further, That the Conversion Authority and the John Hay Management Corporation (JHMC) shall only engage in acquiring, owning, holding, administering or leasing real properties, and in other activities incidental thereto."

SEC. 6. In case of conflict between national and local laws with respect to the tax exemption privileges in the CFZ, PPFZ, JHSEZ and MSEZ, the same shall be resolved in favor of the aforementioned zones: Provided, That the CFZ and PPFZ shall be subject to the provisions of paragraphs (d), (e), (f), (g), (h), and (i) of Section 12 of Republic Act No. 7227, as amended.

SEC. 7. Business enterprises presently registered and granted with tax and duty incentives by the Clark Development Corporation (CDC), Poro Point Management Corporation (PPMC), JHMC, and Bataan Technological Park Incorporated (BTPI), including such governing bodies, shall be entitled to the same incentives until the expiration of their contracts entered into prior to the effectivity of this Act.

SEC. 8. *Administration, Implementation and Monitoring of Incentives.* – The governing authorities shall be responsible for the administration and implementation of the incentives granted to their respective registered enterprises. They shall submit to the Department of Finance (DOF) their respective annual tax expenditures based on the computed costs in terms of revenue forgone on the tax incentives granted to their registered enterprises. For proper monitoring, the DOF shall create a single database of all incentives provided by all these authorities. The DOF shall monitor and review the incentives granted and submit an annual report to the President.

SEC. 9. *Penal Provision.* –Any registered business enterprise found guilty of smuggling by final judgment, either as principal, accomplice or accessory shall be perpetually barred from doing business in any freeport and special economic zone, in addition to the penalties and sanctions imposed by existing laws.

SEC. 10. *Implementing Rules and Regulations.* – The DOF, in coordination with the PEZA, the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC), and in consultation with the Bases Conversion Development Authority (BCDA), the SBMA, the CDC, the JHMC, the PPMC, and the BTPI, shall promulgate and publish the necessary rules and regulations for the effective implementation of this Act within two months from the date of effectivity of this Act.

SEC. 11. *Separability Clause*. – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SEC. 12. *Repealing Clause*. – All laws, decrees, orders, proclamations, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

The provision of Section 50 of Republic Act No. 7916, as amended, is hereby repealed.

The provisions of Section 13(b)(3) of Republic Act No. 7227, as amended, with respect to public utilities engaged in the provision of electric power and telecommunications services are hereby repealed.

SEC. 13. *Effectivity*. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two newspapers of general circulation, whichever comes earlier.

Approved,

(Original Signed)
MANNY VILLAR
President of the Senate

(Original Signed)
JOSE DE VENECIA, JR.
Speaker of the House
of Representatives

This Act which is a consolidation of House Bill No. 5064 and Senate Bill No. 2260 was finally passed by the House of Representatives and the Senate on January 31, 2007 and February 5, 2007, respectively.

(Original Signed)
OSCAR G. YABES
Secretary of the Senate

(Original Signed)
ROBERTO P. NAZARENO
Secretary General
House of Representatives

Approved:

(Original Signed)
GLORIA MACAPAGAL-ARROYO
President of the Philippines"

All concerned are hereby enjoined to be guided accordingly and give this circular a wide publicity as possible.

(Original Signed)
JOSE MARIO C. BUÑAG
Commissioner or Internal Revenue