



# **INCENTIVES**

**Merian Mani**



# ***Mining contractors***

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- Under the Mining Act, contractors under **mineral agreements** are given the following investment guarantees:
    - Repatriation of Investments;
    - Remittance of Earnings;
    - Foreign Loans and Contracts;



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- Freedom from Expropriation;
  - Requisition of Investment; and
  - Confidentiality



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- The contractors in **mineral agreements** and **FTAAs** shall be entitled to the applicable **fiscal and non-fiscal** incentives as provided for under the Omnibus Investments Code (“OIC”).





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- Holders of exploration permits may be entitled to the fiscal incentives granted under the OIC for the duration of the permits or extensions thereof.
  - To avail of the incentives, mining companies must register with the Board of Investments (“BOI”).



# FTAA Contract Incentives

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- Incentives for Pollution Control Devices;
- Incentive for Income Tax-Carry Forward of Losses;
- The incentive on income tax-carry forward of losses ;
- Incentive for Income Tax-Accelerated Depreciation;



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- Amortization of Exploration and Development Expenses;
  - Investment Guarantees; and
  - Incentives for Expansions and Modifications to Existing Facilities and for Development of New Mineral Resources





# ***BOI Tax Incentives***

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- Income tax holiday;
- Exemption from taxes and duties on imported spare parts and consumable supplies;
- Additional deduction from taxable income of 50% of the wages of workers in the labor force for the first five years;



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- Exemption from taxes and duties on the importation of breeding stocks and genetic materials;
  - Tax credit for taxes and duties on raw materials, supplies and semi-manufactured products used in the manufacture of export products;



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- Exemption from the wharfage duties and any export tax, duty, impost and fees within ten (10) years from date of registration; and
  - Exemption from local taxes for six (6) years from date of registration for pioneer enterprises and for four (4) years from registration for non-pioneer enterprises.



# ***BOI Non-Tax Incentives***

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- Simplified customs procedures
- No restrictions for the use of consigned equipment



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- Employment of foreign nationals in supervisory, technical, or advisory positions for five (5) years from registration, extendible for limited periods
  - The privilege to operate bonded manufacturing/trading warehouses subject to customs rules and regulations





# ***Oil and gas contractors***



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- A Filipino Participation Incentive Allowance (FPIA) of up to 7.5% of gross revenues is given to encourage indigenous participation in the petroleum sector;



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- The maximum 7.5% FPIA is awarded:
    - If Filipino participation is at least 15% and the SC stipulated is at least 85% of SC area in depths more than 200 meters, or
    - If Filipino participation is at least 15% and the well drilled is in waters more than 200 meters deep, even if outside the deepwater area.



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- Exemption from all national taxes, except income tax;
  - Exemption from all levies, tariffs, duties, compensating tax and VAT on the importation of all machinery, equipment, spare parts, and all materials to be used exclusively in operations subject to conditions;



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- Exemption from posting of performance or surety bond;
  - Exemption, upon approval by the Department, from laws, regulations and/or ordinances restricting the exportation of machinery, equipment, spare parts and materials which were imported when no longer needed;



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- Exemption from publication requirements under R.A. 5455 and of R.A. 6173;
  - Entry of alien technical and specialized personnel (including the immediate members of their families);
  - Have at all times the right of to enter or to leave from the Contract Area and to and from facilities wherever located.



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- Subject to the regulations of the Bangko Sentral ng Pilipinas, be entitled to:
    - Repatriation of capital investment;
    - Retention abroad all proceeds arising from exports accruing to the Contractor and/or its designated Operator;





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- Conversion into Foreign Exchange and remittance abroad any excess balances of the Contractor's peso earnings ; and,
  - Conversion into Philippine currency at prevailing rates which are favorable to the Contractor;



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- Exemption from the investment requirements of foreign corporations;
  - May block off any delineated structure that straddles or adjoins a portion of the Contract Area and a free area.





***Coal operators***

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- Exemption from all national taxes except income tax;



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- Exemption from payment of tariff duties, compensating tax and VAT on importations of machinery and equipment, spare parts and materials required for operation subject to the following conditions;
    - These are not manufactured in the Philippines



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- These are directly and actually needed and will be used exclusively by the Operator in its operations;
  - These are covered by shipping documents in the name of the Operator; and
  - The prior approval of the Department was obtained by the Operator before the importation





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- The entry of alien technical and specialized personnel (including the immediate members of their families);
  - Have at all times the right to enter or leave from the Coal Contract Area and to and from facilities wherever located.

