



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia

Crash Course on Starting a Business in the Philippines 2021

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April 21, 2021



WHY INVESTING IN THE PHILIPPINES?

- By 2050, the population is expected to grow from **108 to about 150 million inhabitants**.
- By 2050, The Philippines is set to be **second largest domestic** market in ASEAN after Indonesia.
- The Philippines counts with the largest generation of young people in its history with 30 million people between 10-24 years old, or **28% of its population**.
- The Philippines is a global leader in **Business Process Outsourcing (BPO)**, including engineering, financial and IT programming services.
- Filipino consumers are rated as the second **most confident consumers** in the world, according to the AC Nielson Global Consumer survey. It is also one of the world's **fastest growing middle-class**.
- Growing infrastructure. **5.4% of the GDP** has been allocated towards public investments.
- The Philippines has been **relaxing the laws related to foreign investment**, making easier to invest in the country.
- **English-speaking** country



A scenic view of a harbor at sunset. In the foreground, a white sailboat is docked, with its reflection clearly visible in the calm water. A buoy is also visible in the water. In the background, a city skyline with several high-rise buildings is visible, their lights and structures reflected in the water. The sky is a mix of blue and orange, indicating the time is either dawn or dusk. A semi-transparent dark blue banner is overlaid across the middle of the image, containing white text.

SETTING UP A COMPANY IN PHILIPPINES

Foreign Negative Investment List

Foreign Investment Negative List

The Negative List regulates the economic sectors where foreign ownership is limited. Prior to setting up a company in the Philippines, it is very important if your business sector is open to foreign investment.

The negative list is divided into two lists:

- **List A** refers to business sectors where foreign ownership is limited by the Philippine Constitution or specific laws.
- **List B** refers to areas of investment where foreign ownership is limited for reasons of security, defense, risk to health and morals, as well as SMEs protection.



LIST A (Part 1)

No Foreign Equity

- **Mass media, except recording and internet business**
- **Practice of professions**, including radiologic and x-ray technology, law, criminology, and marine deck officers and marine engine officers
- Subject to the Annex on Professions indicating professions where foreigners are allowed to practice in the Philippines subject to reciprocity and where corporate practice is allowed; and
- Foreigners may teach at higher education levels if subject being taught is not a professional subject (included in a government board or bar examination).
- **Retail trade enterprises with paid-up capital of less than US\$2.5 million**
- Cooperatives
- Organization and operation of private detective, watchmen or security guards agencies
- Small-scale mining
- Utilization of marine resources in archipelagic waters, territorial sea, and exclusive economic zone as well as small-scale utilization of natural resources in rivers, lakes, bays, and lagoons
- Ownership, operation, and management of cockpits
- Manufacture, repair, stockpiling, and/or distribution of nuclear weapons
- Manufacture, repair, stockpiling, and/or distribution of biological, chemical, and radiological weapons and anti-personnel mines
- Manufacture of firecrackers and other pyrotechnic devices



LIST A (Part 2)

Up to 25% Foreign Equity

- Private recruitment, whether for local or overseas employment
- Contracts for the construction of defense-related structures

Up to 30% Foreign Equity

- Advertising

Up to 40% Foreign Equity

- Contracts for the construction and repair of locally-funded public works, except:
 - Infrastructure/development projects covered in Republic Act (RA) No. 7718; and
 - Projects which are foreign-funded or assisted and required to undergo international competitive bidding.
- **Exploration, development, and utilization of natural resources**
- **Ownership of private lands**
- Operation of public utilities, except power generation and the supply of electricity to the contestable market and similar businesses or services not covered by the definition of public utilities
- **Educational institutions** other than those established by religious groups and mission boards, for foreign diplomatic personnel and their dependents and other foreign temporary residents, or for short-term high-level skills development that do not form part of the formal education system as defined in Section 20 of Batas Pambansa (BP) No. 232 (1982)
- Culture, production, milling, processing, trading except retailing, of rice and corn and acquiring, by barter, purchase or otherwise, rice and corn and the by-products thereof
- Contracts for the supply of materials, goods, and commodities to Government-Owned and Controlled Corporation (GOCC), company, agency or municipal corporation
- Operation of deep-sea commercial fishing vessels
- **Ownership of condominium units**
- Private radio communications network

LIST B

Up to 40% Foreign Equity

Manufacture, repair, storage, and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) clearance:

- Firearms (handguns to shotguns), parts of firearms and ammunition therefor, instruments or implements used or intended to be used in the manufacture of firearms;
- Gunpowder;
- Dynamite;
- Blasting supplies;
- Ingredients used in making explosives:
 - Chlorates of potassium and sodium;
 - Nitrates of ammonium, potassium, sodium barium, copper (11), lead (11), calcium, and cuprite;
 - Nitric acid;
 - Nitrocellulose;
 - Perchlorates of ammonium, potassium, and sodium;
 - Dinitrocellulose;
 - Glycerol;
 - Amorphous phosphorus;
 - Hydrogen peroxide;
 - Strontium nitrate powder;
 - Toluene; and
- Telescopic sights, sniper scope, and other similar devices.



A scenic view of a harbor at sunset. In the foreground, a white sailboat is docked, with its reflection clearly visible in the calm water. A black buoy is attached to the boat's line. In the background, a city skyline with several high-rise buildings is visible, their lights and structures reflected in the water. The sky is a mix of blue and orange, indicating the time is either dawn or dusk. A semi-transparent dark blue banner is overlaid across the middle of the image, containing the title text.

SETTING UP A COMPANY IN PHILIPPINES Limited Liability Company

SHARE CAPITAL REQUIREMENTS

Type of entity	% Foreign-Ownership	Capital Investment	Comments
Local Company	40%	PHP 5,000 (approximately USD 100)	Foreign ownership up to 40%
Foreign-Owned Company	100%	USD 200,000 or USD 100,000	involve advanced technology or employ at least 50 direct employees with paid-in equity capital of less than the equivalent of USD 100,000
Export-Enterprise	100%	PHP 5,000 (approximately USD 100)	A company that exports at least 70% of its products and services qualifies as an export enterprise.

ONE PERSON CORPORATION (OPC)

An OPC is a limited liability company which only has one shareholder. It promotes FDI by enabling the owner of the company to act as sole shareholder, director and president of the corporation. It is possible to establish the entity as a foreigner as long as the business sector allows full foreign ownership.

The shareholder can be any one of the following:

- Natural person
- Trust
- Estate

The **minimum capital requirement** for a foreign-owned OPC is **USD 200,000**. However, this can be reduced to **USD 100,000** if the OPC employs 50 Filipino citizens or uses advanced technology.

If the OPC exports at least 70% of its products/services, the minimum capital requirement is **PHP 5,000** (approx. USD 100).



ONE PERSON CORPORATION (OPC) – Corporate Officers

An OPC must appoint the following corporate officers:

President

The president acts as the company's signatory. A foreigner can hold this position.

Corporate Secretary

The corporate secretary is a natural person and Filipino citizen who is responsible for the company's administrative work including the handling and keeping of company records, documents, and meetings minutes.

Treasurer

The treasurer is responsible for the business' financial affairs including annual statements, financial reports, and funds among others. The treasurer must be a natural person who resides in the Philippines.



Domestic Corporation

A domestic corporation is the most common structure among foreign investors in the Philippines. The shareholder can be:

- Person
- Partnership
- Association
- Corporation

A domestic corporation must have **2 to 15 directors or shareholders**.

The **minimum capital investment** for a foreign-owned domestic corporation with over 40% of foreign ownership is **USD 200,000**.

This investment can be reduced to **USD 100,000** if the company is employing at least **50 Filipino citizens** or uses **advanced technology** as approved by the Department of Science and Technology.

The minimum capital requirement is only **PHP 5,000** (approx. USD 100) if the following requirements are met:

- A local partner holds at least 60% of the company
- 70% of the products or services are exported



Domestic Corporation – Corporate Officers

A domestic corporation must appoint the following corporate officers:

President

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Corporate Secretary

The corporate secretary is a natural person and Filipino citizen who is responsible for the company's administrative work including the handling and keeping of company records, documents, and meetings minutes.

Treasurer

The treasurer is responsible for the business' financial affairs including annual statements, financial reports, and funds among others. The treasurer must be a natural person who resides in the Philippines.





SETTING UP A COMPANY IN PHILIPPINES Representative Office

Representative Office

A **Representative Office** acts as a local liaison office for a foreign corporation. It does not have any separate legal identity from its parent company and cannot engage in any income-generating activities.

The parent company is required to remit at least **US\$30,000** every year to cover operations.

Under Philippine laws, a representative office is only allowed to engage in the following activities:

- Facilitate orders of customers or clients from its head office;
- Disseminate information and conduct promotional activities about the products of its head office;
- Undertake quality control of products from its head office; and
- Undertake other related administrative activities for its head office.

Since none of its income is generated in the Philippines, it is exempted from paying income and value-added taxes to the taxing authority in the country. It is also not qualified for PEZA or BOI incentives.





SETTING UP A COMPANY IN PHILIPPINES Branch Office

Branch Office

A **Branch Office** is an extension of a foreign corporation that carries out the business activities of its head office in the Philippines.

- It does not have a separate legal personality from the parent company. Therefore, any liabilities that it will incur are considered liabilities of the head office of its parent company.
- Branch Offices can derive income from its activities in the Philippines and conduct business as its head office.
- The minimum paid-up capital investment is **USD 200,000** but can be reduced to **USD 100,000** if it will engage in activities involving advanced technology or will employ at least fifty (50) employees.
- On the other hand, if it seeks to be an export-oriented enterprise that exports goods and services amounting to 70% or more of its gross sales, the share capital can be reduced to just **PHP5,000** (around USD 100)
- As an income-generating business entity, a Branch Office is subject to 30% income tax and 12% value-added tax (VAT) on its local sales. Profits remitted to the parent company will be taxed at 15%, unless there is a tax treaty.



A scenic view of a marina at sunset. In the foreground, a white sailboat is docked, with its reflection clearly visible in the calm water. A black buoy is attached to the boat's line. The background features a city skyline with several high-rise buildings, some of which are under construction, as indicated by a red crane. The sky is a mix of blue and orange, and the water reflects the colors of the sky and the buildings. A semi-transparent dark blue banner is overlaid across the middle of the image, containing the text 'PEZA & BOI INCENTIVES' in white, bold, sans-serif font.

PEZA & BOI INCENTIVES

PEZA Incentives

100% foreign-owned companies, from specific sectors, may be able to benefit from the incentives granted by the **Board of Investments (BOI)** and the **Philippine Economic Zone Authority (PEZA)**. The PEZA incentives are as follows:

- Profits remitted offshore by a PEZA-registered branch of a foreign corporation are not subject to branch profits remittance tax.
- Income Tax Holiday for four years for Non-Pioneer IT Enterprises, or six years for Pioneer IT Enterprises;
- After the ITH period, the option to pay a special 5% tax on gross income earned, in lieu of all national and local taxes, except real property taxes on land owned by developers;
- Exemption from payment of import duties and taxes on imported machinery, raw materials and equipment;
- Additional deduction equivalent to 50% of training expenses, chargeable against the 3% share of the national government in the special 5% tax on gross income;
- Permanent resident status for foreign investors with initial investments of US\$ 150,000 or more;
- Employment of non-resident aliens required in the operation of IT Enterprises;
- Special tax rate of 5% of gross income (measured as sales less direct costs) in lieu of all Philippine taxes after the ITH;
- Exemption from Branch Profit Remittance tax for PEZA-registered branches of foreign corporations; and
- The PEZA board may grant other incentives

PEZA incentives are usually focused on export manufacturing, IT and Tourism companies, while **BOI** benefits are more focused on IT-BPO Research and Development. In order to register with PEZA, the company must be in one of the PEZA assigned areas as opposed to BOI.





CORPORATE TAX

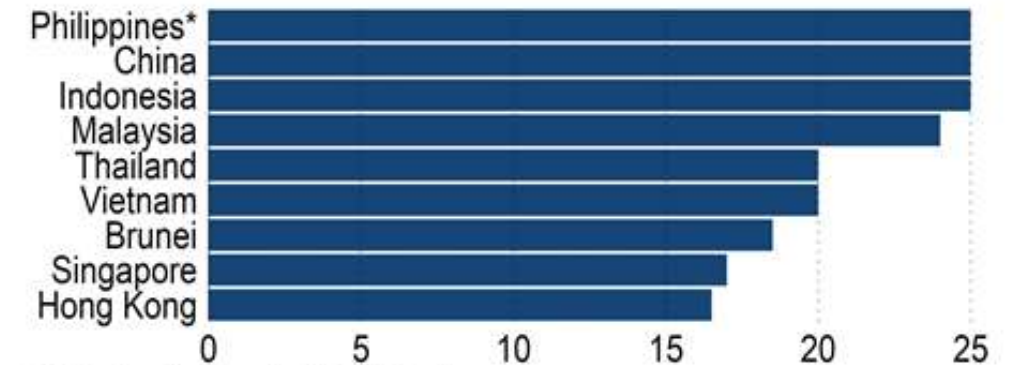
Corporate Tax Philippines

- The *Corporate Recovery and Tax Incentives for Enterprises Act*, or CREATE, which became law on 26 March 2021, reduces the income tax rate to 25% for big companies and 20% for smaller enterprises from 30%.
- The corporate tax rate applies to both foreign-owned LTDs and Branches. Dividends to non-resident foreign corporations are usually taxed at 30%.
- A Philippine representative office is considered a cost center and not allowed to earn income in the Philippines. Therefore, it is exempted from 30% income tax and 12% value added tax.



Corporate income tax of major Asian economies

(In percent)



* Philippines' refers to CREATE rate

Source: OECD, Philippine government

Graph by Nikkei



SOCIAL CONTRIBUTIONS

Social contributions in Philippines

The Philippine Social Security System consists of the following bodies:

Social Security System (SSS) – In order to provide private employees and their families protection against disability, sickness, old age, and death.

Home Development Mutual Fund (HDMF) – The HDMF, also known as the Pag-IBIG Fund, is a provident savings system supplying housing loans to private and Philippine government employees, and to self-employed persons who elect to join the Fund.

Philippine Health Insurance Corporation (PhilHealth) – In order to provide employees with a practical means of paying for adequate medical care in the Philippines.

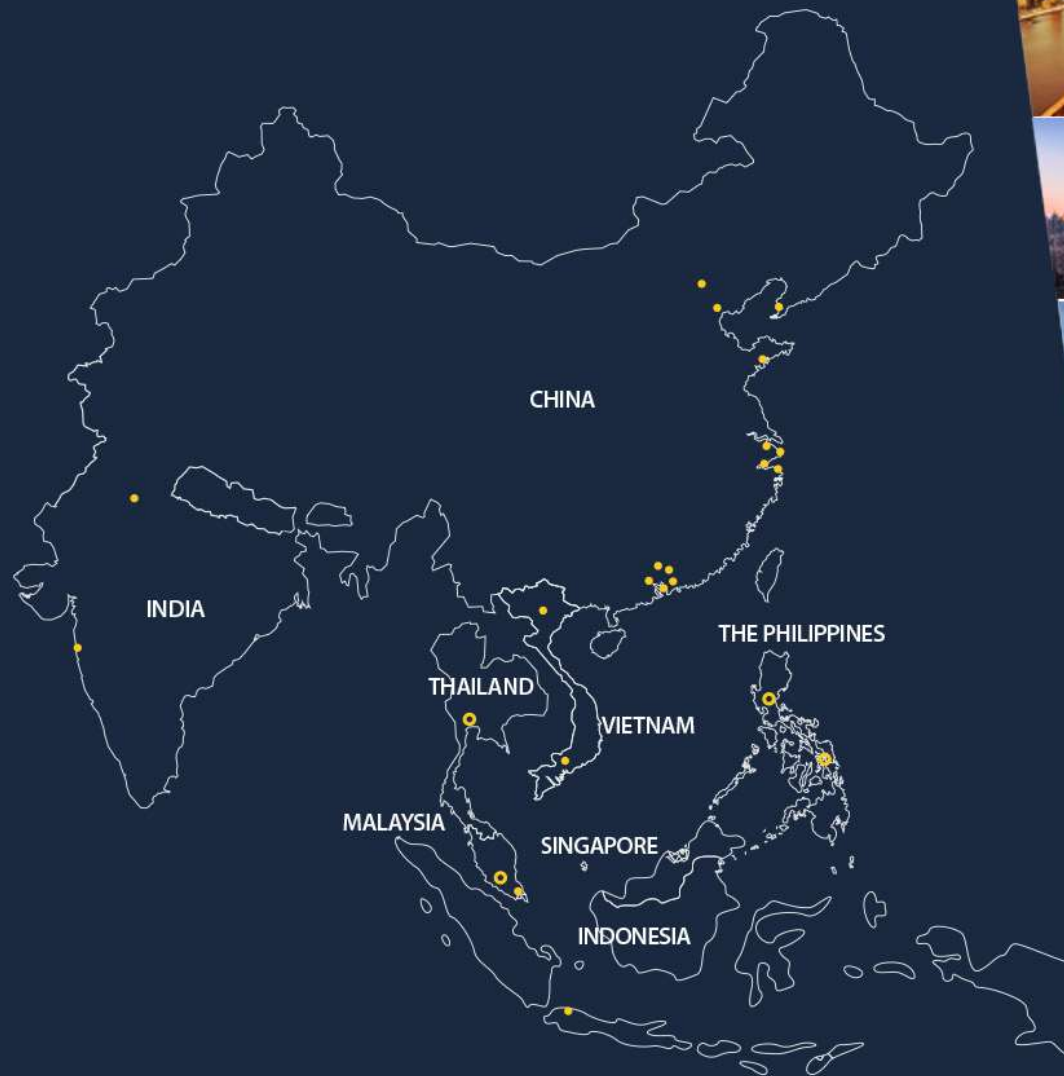


Mandatory Contributions	Employer's Contribution
Social Security (SSS)	7.37%
Health Insurance (PHIC)	1.375%
Home Development Mutual Fund (HDMF)	2%
Employment Cost = 3.375% + SSS	



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