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Clark Freeport Zone Quick Guide

Clark Freeport Zone Investor's Guide

QUICK GUIDE

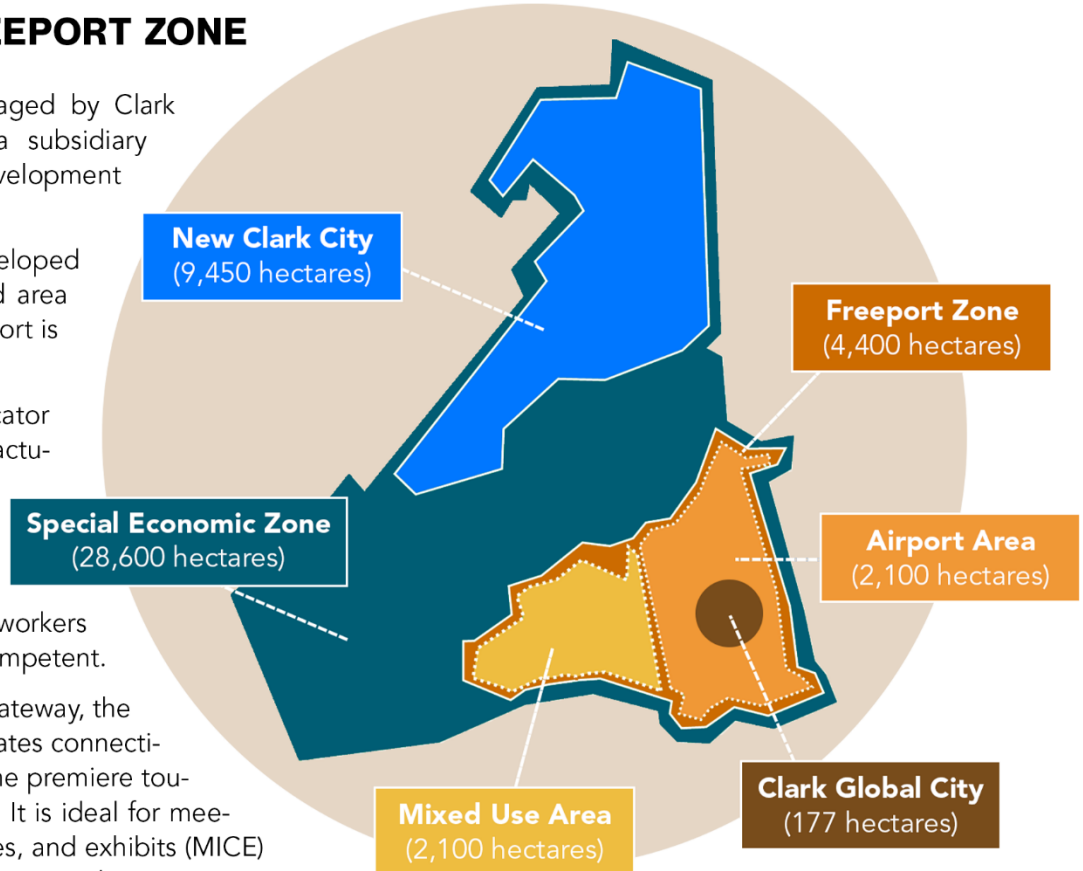
ABOUT CLARK FREEPORT ZONE

Clark Freeport Zone is managed by Clark Development Corporation, a subsidiary of Bases Conversion and Development Authority.

The main zone is a fully developed 4,400-hectare mixed use land area where Clark International Airport is also located.

Currently, it is host to 1,260 locator companies engaged in manufacturing, information-communication technology, tourism, and aviation-related industries that employ a total of 135,114 skilled and talented workers who are highly efficient and competent.

The Freeport's own aviation gateway, the Clark International Airport creates connectivity and makes Clark one of the premiere tourist destinations in the region. It is ideal for meetings, investments, conferences, and exhibits (MICE) as well as sports and other recreational activities.



ECONOMIC INDICATORS

LOCATORS
1,260

EXPORTS
US\$4.85B

WORKERS
135,114

TOTAL INVESTMENTS
Php240B



CLARK DEVELOPMENT CORPORATION

A proud member of the BCDA group

INVESTMENT PROMOTIONS DIVISION II

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Clark Freeport Zone

Investor's Guide

Thank you for choosing Clark Freeport Zone
as your preferred business destination!

In this guide, you will find the basic information
you need to know about investing in Clark.

We look forward to having a successful and
meaningful partnership with you. Here in Clark,
work is done and dreams are promised!



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Procedures in Approving Project Proposals Under Direct Lease

1

Investor submits **required documentation** detailing company profile, project features, and project requirements

2

CDC identifies potential project site(s) and provides **Terms of Contract** for review of investor

3

If the agreed Terms of Contract is approved by CDC, a **Lease Agreement** is signed and a **Certificate of Registration with Tax Exemption (CRTE)** is issued

Tax- and Duty-Free Incentives

Investors in Clark Freeport Zone enjoy investment incentives designed to be highly competitive with the freeport zones in the world.

1 5% TAX ON GROSS INCOME EARNED (GIE)

In lieu of all national and local taxes, a qualified Ecozone or Freeport enterprise may avail of the special tax rate of 5% based on the Gross Income Earned (gross sales less allowable deductions) if 70% of the GIE was generated from foreign sources consisting of direct and constructive export.

2 CUSTOMS DUTIES AND TAXES

Entitlement to tax exemption and duty-free importation of capital equipment and raw materials

3 OTHER INCENTIVES

- a. Exemption from Real Property Tax
- b. Free flow or movement of goods and capital equipment within, into, and exported from the Ecozone or Freeport
- c. Chance to generate income from sources within the customs territory of up to 30% of its total income from all sources
- d. Special visa for foreign nationals
- e. Up to 100% foreign ownership, as may be allowed under the 11th Foreign Investment Negative List

Allowable Deductions by Industry

Gross Income Earned (GIE) shall refer to gross sales or gross revenues derived from business activities within the subject Ecozone or Freeport; net of sales discounts; sales returns; and allowances minus cost of sales or direct costs but before any deduction for administrative, marketing, selling and/or operating expenses or incidental losses during a given taxable year. In the case of financial enterprises within freeports, gross income shall include interest income, gains from sales and other income, and net of cost of funds.

The following cost of sales or direct cost shall be allowed as deductions for purposes of calculating the GIE for the following Ecozone or Freeport enterprises or industries, to wit:

1 TRADING ENTERPRISES

- cost of sales (beginning inventory plus purchases, minus ending inventory of goods)

2 MANUFACTURING ENTERPRISES

- direct salaries, wages, or labor expenses, inclusive of training directly related to the registered activity
- production supervision salaries
- raw materials used in the manufacture of products
- decrease in goods in the process amount (intermediate goods)
- decrease in finished goods amount
- depreciation of machinery and equipment used in production and of the portion of the building owned or constructed by the registered enterprise used exclusively to produce goods
- financing charges associated with fixed assets used in production, the amount of which was not previously capitalized

3 SERVICE ENTERPRISES

- direct salaries, wages, or labor expenses, inclusive of training directly related to the registered activity
- service supervision salaries
- direct materials and supplies used
- depreciation of machinery and equipment used in the rendition of registered services and of the portion of the building owned or constructed by the registered enterprise used exclusively to render the registered services
- financing charges associated with fixed assets used in the registered service business, the amount of which was not previously capitalized

4 FINANCIAL INSTITUTIONS

- none

PAYMENT AND REMITTANCE OF THE 5% TAX ON GIE

The 5% tax on Gross Income Earned shall be paid and remitted by Ecozone enterprises and Freeport enterprises as follows:

- a. 3% to the national government
- b. 2% to the local government units (LGUs) through the treasurer's office of the municipality or city where the Ecozone enterprise or Freeport enterprise is located

Lease Rates*

Lease rates applicable for industrial, ICT, commercial, institutional, and tourism industries shall be on the **best offer** for land or open space and building or structure.

Escalation: Fixed for the first three (3) years with 10% compounded increase starting from the fourth year and every three (3) years thereafter.

Note: Rate shall depend on its location, available infrastructure, and committed investment and employment.

- **Rental Scheme for industrial projects:** straight lease only or monthly Minimum Guaranteed Lease (MGL) for land and building
- **Rental scheme for commercial- and tourism-related projects:** monthly MGL for land and building *plus* percentage of gross revenues *plus* percentage of gross rental revenues from sublease, if applicable

**subject to CDC Board Approval*

CDC SHARE ON GROSS REVENUES			
FROM OPERATIONS		FROM RENTAL REVENUES	
		For Industrial Estate Developers:	
Year 1 to 5	3%	Year 1 to 5	3%
Year 6 to 10	5%	Year 6 to 10	5%
Year 11 to 15	7%	Year 11 to 15	7%
Year 16 onwards	10%	Year 16 onwards	10%
		Others:	
		Year 1 to 7	5%
		Year 8 to 15	7%
		Year 16 onwards	10%

**prices and conditions subject to change without prior notice*



Business Permits

WITH INCENTIVES

Certificate of Registration with Tax Exemption

1

Locator's submission and completion of requirements

2

CDC-Marketing Department's evaluation and verification

3

CDC Management's deliberation and approval

4

Processing and release of permit

WITHOUT INCENTIVES

Certificate of Registration

1

Locator's submission and completion of requirements

2

CDC-Marketing Department's evaluation and verification

3

Processing and release of permit

Salient Features on the Terms and Conditions of a Standard CDC Lease Agreement

1 “AS IS” BASIS

The LESSOR leases the leased property to the LESSEE on an “AS IS” basis. The demolition, clearing, and disposition of scrap and debris will be the responsibility and to the account of the LESSEE.

2 PERFORMANCE SECURITY

Performance security is non-interest-bearing, equivalent to six (6) to twelve (12) months rental, depending on the lease term. It is in the form of a manager's check, cashier's check, wire transfer, bank draft or guarantee confirmed by a local bank, irrevocable letter of credit issued by a universal bank, or a surety bond callable upon demand issued by the Government Service Insurance System (GSIS). It is refundable upon the expiration of the Lease Agreement given that the lessee has fully and faithfully performed or complied with any and all its obligations in the Agreement.

3 SECURITY DEPOSIT

Security deposit is non-interest-bearing, payable upon signing of the Lease Agreement which is equivalent to three (3) to six (6) months rental, depending on the lease terms. It is in the form of cash, manager's check, bank draft or guarantee confirmed by a local bank, or wire transfer only. It is refundable at the time of termination of the Lease Agreement less payment of unpaid utility bills, rentals, damages, and others.

4 ADVANCE PAYMENT

Advance payment is non-interest-bearing, equivalent to three (3) to six (6) months rental, depending on the lease term. It is in the form of cash, manager's check, bank draft or guarantee confirmed by a local bank, or wire transfer only. It shall be applied to the remaining months prior to the expiration of the Agreement.

5 GRACE PERIOD

A lessee is entitled to the non-payment of rent of up to twelve (12) months in consideration to the construction period.

6 SUB-LEASE

Subleasing is not allowed unless necessary to the business activity. If allowed, it requires the prior written consent of the LESSOR and with purposes similar to that in the original Lease Agreement.

7 INSURANCE

The LESSEE shall obtain insurance coverage for the leased property in the amount equal to the maximum insurable cost from GSIS or any GSIS-accredited insurance agency with the LESSOR as the beneficiary. In case of loss or damage, the LESSOR shall use insurance proceeds to reconstruct or restore the damaged properties for the continued lease and use of the LESSEE.

8 ASSIGNMENT OR TRANSFER OF RIGHTS

The LESSEE and SUBLESSEE, if any, shall have no right to sell, mortgage, assign, transfer, or otherwise encumber its leasehold rights, interests, and/or obligations under this Agreement without the prior written consent of the LESSOR.

9 GROUNDS FOR CANCELLATION

The LESSOR shall have the right to pre-terminate the Lease Agreement for any of the following reasons:

- failure of the LESSEE to pay their monthly rent
- use of the leased property other than agreed upon
- failure of the LESSEE to generate employment and commence its business activities within the specified time
- violation of any of the provisions of the Lease Agreement
- declaration by the LESSEE of bankruptcy

Clark Investment Priority List (CY 2017)

MANUFACTURING ENTERPRISES

- electronic and semi-conductor
- textiles, wearing apparel, leather, and related products
- aircraft and aircraft parts and accessories
- automotive, other transport equipment, and automotive parts/accessories
- agro-industrial export manufacturing (food, beverage, and tobacco)
- avionics
- pharmaceutical and medical products/devices
- machinery and equipment
- other light industries (paper products, furniture, personal/home care products, and other chemical products)
- rubber and plastic products
- basic and non-metallic mineral products

SERVICE ENTERPRISES

- **Information and Communication**
telecom, IT-BPM (e.g., call centers, knowledge process outsourcing, IT & software development, etc.)
- **Aviation-Related**
air transport, MRO (maintenance, repair, and overhaul) of aircraft engines, cargo handling and other investment priority establishments as may be approved and submitted by CIAC
- **International and Domestic Air Carriers**
international and domestic air carriers for passengers and cargo (including express freight), cargo handling, ground handling, in-flight catering, line maintenance, base/heavy maintenance or MROs, fixed-base operators, aircraft refueling (supply, storage, and into-plane), and other investment priority establishments as may be submitted and approved by CIAC
- **Utilities-Related**
electric, water, renewable energy, and transportation
- **Research and Development**
- **Tourism-Related**
hotel and casino/integrated resort complex (sports and recreation centers, accommodation, water theme park, convention and cultural facilities, and special interest attraction activities)
- **Educational institutions** offering K-to-12 programs, college and post-graduate degrees, as well as training institutions designed to accelerate and enhance the skills of the local labor force

TRADING ENTERPRISES

- **Vendor Management Inventory (VMI) and/or Integrated Logistics Operations**
warehousing-distribution-transportation operations catering to freeports and ecozones where Clark is the hub
- **Other Trading Companies**
supporting the requirements of Tier 1 subject to CDC's evaluation (distributors/suppliers/wholesalers)
- **Duty-Free Shops**
subject to Malacañang clarificatory letter allowing renewal of existing duty-free locators in Clark; DTI implementing rules and regulations on EO 303 & 304 and pertinent legal issuances and subject further to standards and criteria of CDC

Utilities Rate

POWER

Clark's power supply is sourced directly from the Luzon grid through the San Miguel Energy Corporation via the National Grid Corporation of the Philippines. It is connected at 69KV level in Mexico Pampanga's grid substation with the capacity of 80MW and a Mexico-Clark line with a capacity of 230KV.

TELECOMMUNICATIONS

Telecommunication facilities are kept at the highest efficiency level by creating liberal business environment open to telecom providers that can extend the best information communication services. These include dual fiber optic backbone and digital exchange system for advanced telephony and cellular and internet connectivity. Our service providers have an extensive network infrastructure, connecting to more than 200 countries and territories worldwide through their international gateway facilities and major cable systems.

WATER AND SEWERAGE SYSTEM

Clark has a well-maintained water infrastructure system which is provided by Clark Water Corporation, an Ayala-led subsidiary. Water supply facilities consist of 25 deep wells that can produce 35 million liters per day (MLD) and five reservoirs that can store 12 million liters, ensuring the supply of safe and reliable water. At present, the Used Water Treatment plant with a production capacity of 7MLD is processing only 18MLD and is therefore capable of accommodating future requirements.

WASTE DISPOSAL SYSTEM

Clark Development Corporation, through a service contract with the Metro Clark Waste Management Corporation, manages and operates the Clark Integrated Solid Waste Management Facility for CFZ. It is the first and only real sanitary landfill in the Philippines to date. All investors in Clark are assured of proper management and safe disposal of their garbage and can boast of full compliance to the national environmental regulatory and international certification requirements.

Manpower Rate*

FOR NON-AGRICULTURAL FIRMS (manufacturing firms, commercial establishments, hotels, recreational-related)

- Minimum of **Php400.00** per day for those employed in establishments with 10 or more workers
- Minimum of **Php393.00** per day for those employed in establishments with less than 10 workers

FOR AGRICULTURAL FIRMS

- Minimum of **Php370.00** per day for those employed in plantations
- Minimum of **Php375.00** per day for those employed in non-plantations

FOR RETAIL/SERVICE ESTABLISHMENTS (small firms only)

- Minimum of **Php398.00** per day for those employed in establishments with 10 or more workers
- Minimum of **Php375.00** per day for those employed in establishments with less than 10 workers

**effective August 1, 2018 of DOLE-NWPC (Wage Order No. RBIII-21 (New))*

Summary of Philippine Labor Standards

Foreign investors shall abide by the Philippine Labor Code and Labor Standards. A brief summary of which is as follows:

1 WORKING HOURS

- Normal hours of work per day is eight hours (not including one-hour break for meals)
- Normal number of workdays per week is six days (24 hours rest required after six consecutive workdays)
- Compulsory overtime or rest day work is allowed under certain circumstances (ex., non-hazardous work, work with perishable goods, etc.)

2 COMPRESSED WORK WEEK

- The usual six-day (48-hour) work week may be compressed to a maximum of 12 hours per day without needing to pay for overtime (upon approval of DOLE). This is intended to reduce the number of workdays to save on utilities and other operational costs.

3 NIGHT WORK PROHIBITION

- Female workers in hazardous industries may not be required to undergo night work.

4 CHILD LABOR PROHIBITION

- No child of schooling age shall be employed as worker in any establishment without proper parental consent and DOLE permit. In no case shall a minor be employed in a hazardous workplace.

5 MINIMUM WAGE

(as mentioned in Manpower Rate)

6 MINIMUM WAGE EXEMPTIONS

- Qualified establishments may apply for exemption under Sec. 9 of Minimum Wage Order No. RBIII-17 approved on September 11, 2012 through the Regional Wage Board.

7 APPRENTICE RATES

- Apprentice rates of 75% of the minimum wage may be provided upon approval of the Apprenticeship Program by DOLE-TESDA.

8 OVERTIME PREMIUM PAY & NIGHT DIFFERENTIAL

- Overtime pay for work beyond eight hours a day is 25% of the daily rate or 30% during holidays and rest days
- Premium pay for rest day work is 30% of the daily rate
- Night shift differential of 10% of daily rate for work between 10:00PM to 6:00AM

9 EXEMPTION FROM OVERTIME PAY & PREMIUM PAY

- Managerial and supervisory employees
- Piece-rate workers (piece rate order may be applied with DOLE)
- Field workers

10 HOLIDAY PAY

- 100% of daily rate for legal holidays
- 30% of daily rate for special holidays
- Average salary for the last seven days (for piece-rate workers)

11 THIRTEENTH MONTH PAY

- 13th month pay is equivalent to 1/12 of the total earned basic salaries per year
- Due on or before December 24 of each year

11th Regular Foreign Investment Negative List

List A: Foreign ownership is limited by mandate of constitution and specific laws

No Foreign Equity

1. Mass media, except recording (Art. XVI, Sec. 11 of the 1987 Constitution; Presidential Memorandum dated 05 May 1994) and internet business (DOJ Opinion No. 40, s. 1998)¹
2. Practice of professions² (Art. XII, Sec. 14 of the Constitution, Sec. 1 of RA No. 5181, Sec. 7[j] of RA No. 8981), including radiologic and x-ray technology (RA No. 7431), criminology (RA No. 6506), law (Art. VIII, Sec. 5 of the Constitution; Rule 138, Sec. 2 of the Rules of Court of the Philippines), marine deck officers and marine engine officers (RA No. 10635), subject to the Annex on the Professions attached herewith and forming an integral part of this document, indicating the professions where (a) foreigners are allowed to practice is allowed. Foreigners may teach at higher education levels (RA No. 8292), provided the subject being taught is not a professional subject (i.e. included in a government board or bar examination).
3. Retail trade enterprises with paid-up capital of less than US\$2,500,000 (Sec. 5 of RA No. 8762)³
4. Cooperatives (Ch. III, Art. 26 of RA No. 6938, as amended by Ch. II, Art. 10 of RA No. 9520)
5. Organization and operation of private detective, watchmen, or security guards agencies (Sec. 4 of RA No. 5487)
6. Small-scale mining (Sec. 3 of RA No. 7076)
7. Utilization of marine sources in archipelagic waters, territorial sea, and exclusive bays and lagoons (Art. XII, Sec. 2 of the Constitution)
8. Ownership, operation, and management of cockpits (Sec. 5 of PD No. 449)
9. Manufacture, repair, stockpiling, and/or distribution of nuclear weapons (Art. II, Sec. 8 of the Constitution)
10. Manufacture, repair, stockpiling, and/or distribution of biological, chemical, and radiological weapons and anti-personnel mines (various treaties to which the Philippines is a signatory and conventions supported by the Philippines.)³
11. Manufacture of firecrackers and other pyrotechnic devices (Sec. 5 of RA No. 7183)

Up to 25% Foreign Equity

12. Private recruitment, whether for local or overseas employment (Art. 27 of PD No. 442)
13. Contracts for the construction of defense-related structures (Sec. 1 of Commonwealth Act No. 541)

Up to 30% Foreign Equity

14. Advertising (Art. XVI, Sec. 1 of the Constitution)

Up to 40% Foreign Equity

15. Subject to applicable regulatory frameworks, contracts for the construction and repair of locally-funded public works (Sec. 1 of CA No. 541, Letter of Instruction No. 630), except:
 - a. Infrastructure/development projects covered in RA No. 7718; and
 - b. Projects which are foreign-funded or assisted and required to undergo international competitive bidding (Sec. 2[a] of RA No. 7718)⁶
16. Exploration, development, and utilization of natural resources (Art. XII, Sec. 2 of the Constitution)⁷
17. Ownership of private lands (Art. XII, Sec. 7 of the Constitution; Sec. 22 of CA No. 141; Sec. 4 of RA No. 9182)
18. Operation of public utilities (Art. XII, Sec. 11 of the Constitution; Sec. 16 of CA No. 146; Sec 2[a] of RA No. 7718)⁸, except power generation and the supply of electricity to the contestable market (Sec. 6 and Sec. 29, respectively, of RA No. 9136) and such other like businesses or services not covered by the definition of public utilities⁹
19. Educational institutions other than those established by religious groups and mission boards, for foreign diplomatic personnel and their dependents, and other foreign temporary residents (Art. XIV, Sec. 4 of the Constitution)¹⁰, or for short-term high-level skills development that do not form part of the formal education system as defined in Sec. 20 of the Batas Pambansa No. 232 (1982)

20. Culture, production, milling, processing, and trading (except retailing) of rice and corn and acquiring, by barter, purchase, or otherwise rice and corn and the by-products thereof (Sec. 5 of PD No. 194)¹¹
21. Contracts for the supply of materials, goods, and commodities to government-owned or controlled corporation, company, agency, or municipal corporation (Sec. 1 of RA No. 5183)¹²
22. Operation of deep sea commercial fishing vessels (Sec. 27 of RA No. 8550, as amended by RA No. 10654)
23. Ownership of condominium units (Sec. 5 of RA No. 4726)
24. Private radio communications network (Art. XII, Sec. 11 of the Constitution, NTC Memorandum Circular No. 10-8-91)

List B: Foreign ownership is limited for reasons of security, defense, risk to health and morals, and protection of small and medium scale enterprises

Up to 40% Foreign Equity

1. Manufacture, repair, storage, and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) clearance:
 - a. Firearms (handguns to shotguns), parts of firearms and ammunition, therefore, instruments or implements used or intended to be used in the manufacture of firearms;
 - b. Gunpowder;
 - c. Dynamite;
 - d. Blasting supplies;
 - e. Ingredients used in making explosives:
 - i. Chlorates of potassium and sodium;
 - ii. Nitrates of ammonium, potassium, sodium barium, copper (11), lead (11), calcium and cuprite;
 - iii. Nitric acid;
 - iv. Nitrocellulose;
 - v. Perchlorates of ammonium, potassium, and sodium;
 - vi. Dinitrocellulose;
 - vii. Amorphous phosphorus;
 - viii. Hydrogen peroxide;
 - x. Strontium nitrate powder;
 - xi. Toluene; and
 - f. Telescopic sights, sniper scope, and other similar devices;

However, the manufacture or repair of these items may be authorized by the Chief of the PNP to non-Philippine nationals; provided that a substantial percentage of output, as determined by the said agency, is exported. Provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA No. 7042 as amended by RA No. 8179).
2. Manufacture, repair storage and/or distribution of products requiring the Department of National Defense (DND) clearance:
 - a. Guns and ammunition for warfare;
 - b. Military ordinance and parts thereof (e.g., torpedoes, depth charges, bombs, grenades, missiles);
 - c. Gunnery, bombing, and fire control systems and components;
 - d. Guided missiles/missile system and components;
 - e. Tactical aircraft (fixed and rotary-winged), parts and components thereof;
 - f. Space vehicles and component systems;
 - g. Combat vessels (air, land, and naval) and auxiliaries;
 - h. Weapons repair and maintenance equipment;
 - i. Military communications equipment;
 - j. Night vision equipment;
 - k. Stimulated coherent radiation devices, components, and accessories;
 - l. Armament training devices; and

- m. Others as may be determined by the Secretary of the DND. However, the manufacture or repair of these items may be authorized by the Secretary of National Defense to non-Philippine nationals, provided that a substantial percentage of output, as determined by the said agency, is exported; provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA No. 7042 as amended by RA No. 8179).
- 3. Manufacture and distribution of dangerous drugs (RA No. 7042 as amended by RA No. 8179)
- 4. Sauna and steam bathhouses, massage clinics, and other like activities regulated by law because of risks posed to public health and morals, except wellness centers (RA No. 7042, as amended by RA No. 8179)
- 5. All forms of gambling (RA No. 7042 as amended by RA No. 8179) except those covered by investment agreements with PAGCOR (PD No. 1869, as amended by RA No. 9487)
- 6. Domestic market enterprises with paid-in equity capital of less than the equivalent of US\$200,000 (RA No. 7042, as amended by RA No. 8179)
- 7. Domestic market enterprises which involve advanced technology or employ at least fifty (50) direct employees with paid-in equity capital of less than the equivalent of US\$100,000 (RA No. 7042, as amended by RA No. 8179)

Footnotes:


- ¹ DOJ Opinion No. 40 (s. 1998) uses the term "Internet Business" to refer to internet access providers that merely serve as carriers for transmitting messages, rather than being the creator of messages or information.
- ² Section 1(b) of Professional Regulation Commission Resolution No. 2012-668 defines "practice of a profession" as an "activity or undertaking rendered by a registered and licensed professional or a holder of a Special Temporary Permit as defined in the scope of practice of a professional regulatory law."
- ³ Full foreign participation is allowed for retail trade enterprises: (a) with paid-up capital of US\$2,500,000 or more provided that investments for establishing a store is not less than US\$830,000; or (b) specializing in high-end or luxury products, provided that the paid-up capital per store is not less than US\$250,000 (Sec. 5 or RA No. 8762).
- ⁴ Domestic investments are also prohibited (Art II, Sec. 8 of the Constitution; Conventions/Treaties to which the Philippines is a signatory).
- ⁵ Domestic investments are also prohibited (Art. II Sec. 8 of the Constitution; Conventions/Treaties to which the Philippines is a signatory).
- ⁶ Section 2(a) of RA No. 7718 states that "for the construction stage of these infrastructure projects, the project proponent may obtain financing from foreign and/or Filipino contractor. Provided, that, in case an infrastructure or a development facility's operation requires a public utility franchise, the facility operator must be Filipino or if a corporation, it must be duly registered with the Securities and Exchange Commission and owned up to at least sixty percent (60%) by Filipinos; provided, further, that in the case of foreign contractors, Filipino labor shall be employed or hired in the different phases of the construction where Filipino skills are available."
- ⁷ Full foreign participation is allowed through financial or technical assistance agreements entered into with the President (Art. XII, Sec. 2 of the Constitution).
- ⁸ The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines (Art. XII, Sec. 11 of the Constitution).
- ⁹ A "public utility" is a business or service engaged in regularly supplying the public with some commodity or service of consequence such as electricity, gas, water, transportation, telephone, or telegraph service (Supreme Court ruling in JG Summit Holdings v. Court of Appeals, et al., September 24, 2003).
- ¹⁰ Control and administration of educational institutions shall be vested in citizens of the Philippines (Art. XIV, Sec 4[2] of the Constitution).
- ¹¹ Full foreign participation is allowed provided that within the 30-year period from start of operation, the foreign investor shall divest a minimum of sixty percent (60%) of their equity to Filipino citizens (Sec. 5 of PD No. 194; NFA Council Resolution No. 193, s. 1998)
- ¹² A contract may be awarded to any contractor or bidder who is a citizen, corporation, or association of a foreign country the laws or regulations of which grant similar rights or privileges to citizens of the Philippines (Sec. 1 of RA No. 5183).



Annex on Professions

A. Foreigners are allowed to practice the following professions in the Philippines provided that their home country allows Filipinos to be admitted to the practice of these professions:

- Accountancy (Sec. 34, RA No. 9298)
- Aeronautical engineering (Sec. 14, PD No. 1570)
- Agricultural and biosystems engineering (Sec. 15 and 31, RA No. 10915)
- Agriculture (Sec. 27, PRC Resolution No. 2000-663)
- Architecture (Sec. 13 and 27, RA No. 9266)
- Chemical engineering (Sec. 30, RA No. 9297)
- Chemistry (Sec. 16, 18, and 34, RA No. 10657)
- Civil engineering (Sec. 25, RA No. 544, as amended)
- Customs brokers (Sec. 25, RA No. 9280)
- Dentistry (Sec. 14 and 31, RA No. 9484)
- Electrical engineering (Sec. 38, RA No. 7920)
- Electronics engineering (Sec. 13 and 33, RA No. 9292)
- Electronics technician (Sec. 13 and 33, RA No. 9292)
- Environmental planning (Sec. 18 and 28, RA No. 10587)
- Fisheries (Sec. 27, PRC Resolution No. 2000-664)
- Forestry (Sec. 14 and 27, RA No. 10690)
- Geodetic engineering (Sec. 26, RA No. 8560)
- Geology (Sec. 17 and 33, RA No. 10166)
- Guidance and counseling (Sec. 13 and 29, RA No. 9258)
- Interior design (Sec. 15 and 29, RA No. 10350)
- Landscape architecture (Sec. 13 and 29, RA No. 9053)
- Librarianship (Sec. 15 and 28, RA no. 9246)
- Master plumbing (Sec. 21, RA No. 1378)
- Mechanical engineering (Sec. 39, RA No. 8495)
- Medical technology (Sec. 27, RA No. 5527, as amended)
- Medicine* (Section 9, RA No. 2382, as amended)
- Metallurgical engineering (Sec. 17 and 34, RA No. 10688)
- Midwifery (Sec. 22, RA No. 7392)
- Mining engineering (Sec. 15, 16, and 28, RA No. 4274)
- Naval architecture (Sec. 13 and 20, RA No. 9173)
- Nutrition and dietetics (Sec. 15 and 31, RA No. 10862)
- Optometry (Sec. 34, RA No. 8050)
- Pharmacy (Sec. 14 and 21, RA No. 10918)
- Physical and occupational therapy (Sec. 15 and 21, RA No. 5680)

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- Real estate service (real estate consultant, real estate appraiser, real estate assessor, real estate broker, and real estate salesperson) (Sec. 24, RA No. 9646)
 - Respiratory therapy (Sec. 13 and 34, RA No. 10024)
 - Sanitary engineering (Sec. 32, RA No. 1364)
 - Social work (Sec. 18, RA No. 4373, as amended)
 - Teaching at elementary and secondary levels (Sec. 15 and 24, RA No. 7836, as amended)
 - Veterinary medicine (Sec. 15 and 31, RA No. 9268)
 - Other professions as may be provided by law or by treaty where the Philippines is a party

B. Corporate practice is allowed in the following professions, subject to the requirements and conditions under the pertinent professional regulatory law:

- Aeronautical engineering (Sec. 28, PD No. 1570)
- Agricultural and biosystems engineering (Sec. 29, RA No. 10915)
- Chemistry (Sec. 35, RA No. 10657)
- Electronics engineering (Sec. 28, RA No. 9292)
- Environmental planning (Sec. 25, RA No. 10587)
- Forestry (Sec. 25, RA No. 10690)
- Guidance and counseling (Sec. 27, RA No. 9258)
- Interior design (Sec. 26, RA No. 10350)
- Landscape architecture (Sec. 26, RA No. 10698)
- Naval architecture (Sec. 30[g], RA No. 10698)
- Psychology (Sec. 33, RA No. 10029)
- Real estate service (real estate consultant, real estate appraiser, real estate assessor, real estate broker, and real estate salesperson) (Sec. 32, RA No. 9646)
- Sanitary engineering (Sec. 30, RA No. 1364)
- Social work (Sec. 1[e], RA No. 4373, as amended)

Footnote:

- ¹ For purposes of the Revised Foreign Investment Negative List, ergotherapy, speech therapy, homeopathy, and acupuncture are not considered part of the medical profession and are therefore open to foreigners.

Reference: Executive Order No. 65, 11th Regular Foreign Investment Negative List signed on the 29th day of October 2018

Policy on the Grant of Incentives in the Clark Freeport Zone

(CDC Board Resolution No. RM-08-07, Series of 2017)

POLICY DECLARATION

The Clark Development Corporation (CDC), in exercising its mandate¹ as the Incentives Administration Authority, Zone Management Authority², and implementing arm of the Bases Conversion & Development Authority (BCDA)³ of the Clark Freeport Zone has bested powers and authority to establish, amend, and implement policies and standards in regulating the grant of incentives, particularly the:

1 FISCAL INCENTIVES

which pertain to tax entitlements embodied in the Certificate of Registration & Tax Exemption (CRTE)⁴ approved and issued by CDC, as well as

2 NON-FISCAL INCENTIVES

which pertain to special visas that may be availed by qualified foreign employees⁵ of registered enterprises endorsed by CDC.

The exercise of CDC's authority is pursuant to its development mandate to:

1. attract preferred investments and sustain economic growth and competitiveness in the Freeport;
2. create more jobs for the local labor force through technology transfers and skills development;
3. promote exports of products and services;
4. enable parallel development for nearby towns and cities; and
5. generate government revenues to support infrastructure development and ensure sustainability of CDC's mission and vision for the Clark Freeport Zone.

Footnotes:

- 1 BIR letter dated October 24, 2011
- 2 Section 3.d. of the Department of Finance Department Order No. 3-08 (*Operation, Management and Administration of Tax Incentives of Ecozones and Freeport Zones*)
- 3 EO 80 s. 1993
- 4 Section 6. 3. D. of the Department of Finance Department Order No. 3-08
- 5 Section 8 of EO 464 s. 1998

Fiscal Incentives

TAX INCENTIVES

For reference in applicability of fiscal incentives pursuant to law, CDC shall use the terms “Full” and “Limited” as illustrated below:

	Full	Limited
5% on Gross Income Earned in lieu of local and national taxes	✓	✓
Duty-Free Importation	✓	none

CRITERIA IN THE GRANT OF FISCAL INCENTIVES

a. Clark Investment Priority List (CIPL)

- CDC determines and approves the CIPL.
- The CIPL is dynamic and responsive to the changing business environment and market forces globally and locally, supportive and consistent with the development mandate of CDC as enumerated above as it shall also be consistent with the economic policies of the national government.
- The Department of Finance Department Order No. 3-08 which enumerates the implementing rules of RA 9400 distinguishes three (3) types of industries which are: (1) Manufacturing Enterprises; (2) Trading Enterprises; and (3) Service Enterprises.

b. 2-Tier Investment Preference

- Determines locator's eligibility to certain fiscal and non-fiscal incentives

2-TIER INVESTMENT PREFERENCE CRITERIA

Tier			Incentive
Tier 1	A. Targeted Global Brands	1. Top 1000 corporations in the world in terms of assets, market share, and sales 2. Presence adds premium to property and image of CFZ and CSEZ as a competitive Freeport that will attract more investors 3. No minimum contractual term. Minimum employment or investment required.	Full
	B. Highly Preferred Industries	1. Global Value Chain players: product or service contractors, suppliers, affiliates of global brands; companies and those types of industries which shall enjoy zero or preferential tariff rates under the Generalized System of Preferences (GSP) granted to the manufacturers in the Philippines 2. Will generate at least 100 workers or an investment of Php200 million or more or directly contribute to the full development and operation of Clark International Airport (CRK) as an international and domestic gateway for passengers and cargo	Full
Tier 2	Small and Medium Enterprises	1. Identified to be the supply chain support for Tier 1 companies and may potentially grow as Tier 1-B 2. Will generate at least 20 workers or an investment of Php15 million or 100sqm floor area plus minimum term of three (3) years	Limited

Eligible Locators

Per CIPL and 2-Tier Investment Preference Criteria

2017 CIPL	Tier 1		Tier 2	Conditions
	A (Target Global Brands)	B (Highly Preferred Industries)	SMEs	
I. Manufacturing Enterprises				
• electronic and semi-conductor	Full	Full	Limited	a. Importations are limited to raw materials, capital equipment, peripherals and supplies, plus construction materials in case of direct lease with CDC. b. Subject to evaluation of CDC-EPD to determine environmental impact, including but not limited to water, air, soil, and other pollutants c. With ready target market d. Single proprietorship not allowed
• textiles, wearing apparel, leather and related products	Full	Full	Limited	
• aircraft, aircraft parts and accessories	Full	Full	Limited	
• automotive, other transport equipment, and automotive parts/accessories	Full	Full	Limited	
• agro-industrial export manufacturing (food, beverage, and tobacco)	Full	Full	Limited	
• pharmaceutical and medical products/devices	Full	Full	Limited	
• machinery and equipment	Full	Full	Limited	
• other light industries (paper products, furniture, personal/home care products, and other chemical products	Full	Full	Limited	
• rubber and plastic products	Full	Full	Limited	
• basic and non-metallic mineral products	Full	Full	Limited	
II. Service Enterprises				
• Information & Communication telecom, IT-BPM (e.g., call centers, knowledge process outsourcing, IT & software development, etc.	Full	Full	Limited	a. Importations are limited to raw materials, capital equipment, peripherals and supplies, plus construction materials if direct lease. b. With ready target market c. Single proprietorship not allowed d. For IT-BPM <ul style="list-style-type: none">• business language is English• full incentives if minimum term is five (5) years• limited incentives if term is less than five (5) years e. No Incentive for Co-Location Agreement or Antenna Agreement of Telecom

2017 CIPL	Tier 1		Tier 2	Conditions
	A (Target Local Brands)	B (Highly Preferred Industries)	SMEs	
II. Service Enterprises (continuation)				
<ul style="list-style-type: none">restaurants	Full	Full	Limited*	<ul style="list-style-type: none">a. Importations limited to capital equipment, peripherals and supplies, plus construction materials if direct leaseb. With ready target marketc. Single proprietorship not allowedd. No vat on receipte. *Full, if subject to CDC Board Approved Policy for restaurants dated 2014 Jan 14 (Resolution No. RM 01-09, Series of 2014)f. No selling of retail products in the restaurant (e.g., meat products, sausages, vegetables, etc.)g. For food chains, importation of construction materials and capital equipment during start-up operation only
<ul style="list-style-type: none">Vendor Management Inventory (VMI) and/or Integrated Logistics Operations Warehousing-Distribution-Transportation Operations catering to freeports and ecozones where Clark is the hub.	Full	Full		<ul style="list-style-type: none">a. Importations limited to capital equipment, peripherals and supplies, plus construction materials if direct leaseb. With ready target marketc. Single proprietorship not allowedd. Subject to CDC Board-approved policies:<ul style="list-style-type: none">Guidelines for logistics services dated 2008 April 29, Resolution No. RM 04-04, Series of 2008 (minimum area of 500sqm, paid up capitalization of US\$200,00.00)Revised policy on volume control dated 2005 April 5, Resolution No. SM 03-06, Series of 2005Payment of 3% volume controle. For VMI and/or Integrated Logistics, Tier 2 not applicable

2017 CIPL	Tier 1		Tier 2	Conditions
	A (Target Local Brands)	B (Highly Preferred Industries)	SMEs	
III. Trading Enterprises				
<ul style="list-style-type: none">other trading companies supporting the requirements of Tier 1 subject to CDC's evaluation (distributor/supplier/wholesaler)	Full	Full	Limited	<ul style="list-style-type: none">a. Full incentives if list of importables are included in the supply agreementb. Importations are limited to capital equipment, peripherals and supplies, plus construction materials if direct leasec. With ready target marketd. Single proprietorship not allowede. Subject to revised policy on volume control dated 2005 April 5, Resolution No. SM03-06, Series of 2005
<ul style="list-style-type: none">Duty-Free Shops <i>Subject to Malacañang clarificatory letter allowing renewal of existing duty free locators in Clark; DTI implementing rules and regulations on EO 303 & 404 and pertinent legal issuances and subject further to standards and criteria of CDC.</i>	Full	Full	Limited	<ul style="list-style-type: none">a. Importations are limited to capital equipment, peripherals and supplies, plus construction materials in case of direct lease.b. With ready target marketc. Single proprietorship not allowed

All other industries not listed above and which may not qualify to the CDC 2-Tier system at the time of application may still locate in the Clark Freeport Zone, but as regular taxpayers only and provided further, that they are not included in the Negative List.

2017 NEGATIVE LIST

1. Pollutive industries as classified per the DENR checklist
2. Recycling activities that will require recyclable materials to be imported, or brought into the Freeport or brought out to the customs territory as scrap or articles of value
3. Restoration, re-manufacturing, and/or repair of used motor vehicles, machines, and electronic appliances or devices

Non-Fiscal Incentives

SPECIAL WORK VISAS

The grant of Subic-Clark Working Visa (SCWV) is an incentive regarded to work as a catalyst in promoting technology transfers and capability-building through skills training and other modalities to ensure the readiness and the qualification of the Filipino labor force to every job opportunity in Clark Freeport Zone.

With the authority of CDC to issue mandatory endorsement letters to the Department of Labor and Employment (DOLE) to process the application for Alien Employment Permits (AEP), and applications for the Bureau of Immigration's (BI) Provisional Permit to Work (PPW), Special Work Permit (SWP), Special Clark Working Visa (SCWV), it is inherent to CDC's authority to establish parameters and standards to accomplish the goals of such privileges issued to qualified availers.

This policy supplements the Joint Management Order No. 001-2014⁶ on pertinent policies, rules, and regulations governing the employment of foreign nationals and seeks to:

1. Impose an Alien-Filipino work ratio to address peculiar and specific manpower needs of various industries in the CFZ where certain skillsets are scarce or are not locally available; and
2. Ensure business continuity, growth, and profitability of locators, while government addresses skills mismatch to create more job opportunities for Filipinos.

REQUIREMENTS

For CFZ Locators

1. Must be a holder of Certificate of Tax Exemption (CRTE) or qualified to CFZ incentives but have elected to avail of the regular corporate tax regime
2. Locator exclusively operates in the CFZ:
 - It is not a branch of an entity principally domiciled in the customs territory
 - It has no branch in the customs territory
3. Term of lease or sublease has a remaining life of at least one (1) year at the time of visa application
4. Minimum committed or actual Filipino employment is at least 20 Filipinos
5. Locators acquiring machines or equipment overseas may sponsor the temporary employment of foreign nationals needed to install such equipment as part of their supply/purchase deal, provided that the engagement shall have a maximum period and subject to the conditions of a Special Work Permit only

For Foreign Employees

1. Job to be performed as written in the job description shall be necessary, or shall be part of the business operations of the locator as indicated in the current CRTE or CR
2. Foreign nationals availing of special Clark visas have no business interests and/or is not presently engaged in employment outside the CFZ, whether with financial consideration or not
3. Good standing: religious payment of income taxes, if applicable
4. No pending administrative or criminal case or derogatory record

ALIEN-FILIPINO LABOR RATIO

For purposes of computing the ratio, the following shall be adopted:

$$\frac{\text{no. of foreign nationals [divided by]}}{\text{total labor force (alien and Filipino)}}$$

Excluded from the limits:

- **Elective officers** - those who have been elected by the stockholders of a corporation
- **Permanent residents** - those who have been granted permanent resident visas by the Bureau of Immigration

INDUSTRY-BASED LIMITS

Qualified locators as defined herein shall be allowed a **maximum limit of 5%**⁷ except if they meet the criteria enumerated below:

Hotel/Tourism Complex: 20% limit provided that

1. Minimum committed or actual Filipino employment is 200 for the entire term of the lease/sublease **or**
2. Minimum committed or actual investment is Php1 billion

ICT BPO: 20% limit provided that

1. Minimum committed or actual Filipino employment is 200 for the entire term of the lease/sublease **or**
2. Minimum committed or actual investment is Php100 million

Requests for additional foreign nationals beyond the limit shall be subject to MANCOM approval provided that the engagement of the foreign nationals shall be strictly for training/transfer or technology to the Filipino labor force supported by a training and recruitment plan and other justifiable reasons.

If existing national laws, rules, and regulations governing certain industries or businesses whether such national laws shall be lower or exceed limitations than those prescribed in this policy, it is understood that national laws shall prevail.

Footnotes:

6 JMO signed by SCADC, SBMA, CDC, DOLE, BI

7 Adopting RA 7916 PEZA law

Primer on Applications for Visas

INTRODUCTION

The **Subic-Clark Investor's Visa (SCIV)** and **Subic-Clark Working Visa (SCWV)** are visas pursuant to Republic Act No. 7227, Section 5 of Executive Order No. 80 and Executive Order No. 646, and the Memorandum of Agreement between CDC and the Bureau of Immigration (BI). These visas shall apply to foreigners who shall perform line functions or assume jobs and responsibilities necessary to operate the business of a registered enterprise in the Clark Freeport Zone (CFZ).

VISA FEATURES AND INCENTIVES

• Subic-Clark Investor's Visa (SCIV)

The Subic-Clark Investor's Visa (SCIV) has the following features:

1. Multiple entry privilege with exemption from:
 - exit clearance certificate;
 - re-entry permit; and
 - special return certificate.
2. **Indefinite validity period**, unless sooner revoked and subject to the condition that the grantee's continuing investment within the CFZ is equivalent to not less than two hundred fifty thousand US Dollars (US\$250,000.00).

• Subic-Clark Working Visa (SCWV)

The Subic-Clark Working Visa (SCWV) has the following features:

1. Multiple entry privilege with exemption from:
 - exit clearance certificate;
 - re-entry permit; and
 - special return certificate.
2. **Two years maximum validity period (renewable thereafter)**, subject to the validity period of the Alien Employment Permit (AEP) as approved by the Department of Labor and Employment (DOLE).

ALIEN EMPLOYMENT PERMIT

¹An Alien Employment Permit (AEP) and an investor's or working visa are the general requirements for aliens seeking admission to the Philippines, specifically in the Clark Freeport Zone and Special Economic Zone, for the purpose of employment.

The DOLE AEP shall serve as one of the prerequisites in the application for either SCWV or SCIV. **The AEP, therefore, is not a sufficient document to allow the legitimate employment of any foreign national here in the Philippines.**

Footnote:

- 1 An alien assuming a line function in an enterprise or is receiving any form of remuneration from the same is deemed to be an employee of that enterprise regardless of the source of compensation and duration of employment, whether the employment is temporary or part-time.

Fees and Charges

ONE-TIME FEES (PhP)

1. Registration of Enterprises	
a. Application/Processing Fee	2,000.00
b. Certification of Registration and Tax Exemption (CRTE) per year	2,000.00
2. Processing and Issuance of Environmental Compliance Certificate (DENR)	
a. Certificate of Environmental Compliance	500.00
b. Special Exit Pass (Hazardous Waste)	500.00
c. Exit Pass for Recyclable/Scrap Materials	50.00

REGULAR FEES (PhP)

1. Import Permit (Regular Fee)	
a. No commercial value	50.00
b. With commercial value	
• up to \$1,000	100.00
• \$1,001 to \$10,000	150.00
• \$10,001 to \$50,000	300.00
• \$50,001 to \$100,000	350.00
• \$100,001 to \$500,000	500.00
• Over \$500,000	700.00
c. Temporary transfer	50.00
d. Vehicle Importation of Tax-Exempt Vehicles (TEV)	US\$100.00
2. Bring-In Permit (Per Transaction)	
a. For commercial use	500.00
b. For non-commercial use	500.00
3. Direct Export Clearance (Regular Fee)	none
4. Bring-Out Permits (Regular Fee)	
a. Samples (NCV)	50.00
b. Local Sale	
• \$10,000 and below	500.00
• Above \$10,000	1,000.00

c. Constructive Export	
• \$10,000 and below	200.00
• Above \$10,000	300.00
d. Return to source	50.00
e. Scrap/Waste, per permit	200.00
f. Temporary transfer to CBW/Non-CBW	50.00
g. Imported Vehicle	50.00
5. Other TFD Forms/Permits (Regular Fee)	
a. Container Security Seal	30.00
b. Gate Pass (Coastal/PTT Phils.)	100.00
c. CCA Gate Pass	none
d. Lubwell (gate pass for bring-in)	100.00
e. CDC sticker for tax exempt vehicle	150.00
f. Certified True Copy/Certification Request	50.00
g. Amendment of Permits:	
• 1st Amendment	none
• 2nd Amendment	1,000.00

In US Dollars

6. Fees Related to Working Visa of Expats	
DOLE - Alien Employment Permit (AEP)	US\$20.00
• Renewal regardless of the number of year(s)	US\$20.00
Bureau of Immigration - Subic-Clark Working Visa Endorsement	US\$100.00
• Renewal for one (1) year	US\$50.00
Subic-Clark Investor's Visa	US\$50.00
Dependent Visa (DV)	US\$75.00
• Renewal	US\$75.00
Provisional Permit to Work (PPW)	US\$30.00
Special Working Permit (SWP)	US\$30.00

**fees and charges are subject to change without prior notice*

