

Primer on Immigration to the Philippines

2016



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The law is stated as of December 2015.

Introduction

The Philippine economy is powering into 2016.

The economy has outperformed most ASEAN countries in the past few years and will be a major player in the envisaged ASEAN Economic Community (AEC). Over the past five years, the Philippines has become one of the fastest growing economies in the world due to rising investments and consumption as a result of improved fundamentals and better governance. The Philippines jumped five places in the World Economic Forum (WEF) Global Competitiveness Index 2015-2016, placing in the top third of the rankings. Improving 38 spots in five years (85th in 2010), the Philippines continues to have the largest improvement in both the ASEAN and the world for the period. Philippine Credit Ratings remain stable and positive after being significantly upgraded within the past three years by the world's major credit rating agencies – Fitch Ratings, Standard & Poor's and Moody's.

Gross Domestic Product (GDP) grew at an average of 5.9 percent¹ over the last three years amid a lingering global economic slowdown and natural disasters. *Asian Development Bank*, in an update of its flagship annual economic publication, *Asian Development Outlook 2015*, projects GDP growth of 6.3 percent for the country in 2016.

Experts say the Philippine economy potentially faces an even faster, sustained and more inclusive growth, as the country enters its "demographic sweet spot" which is expected to last until 2050. During this window, a great majority of the population will be of working age, propelling the accelerated productivity of the nation.

Indeed, the Philippines is set to reap immense benefits in the coming years as it continues to be in a strong and enviable position to benefit from upcoming developments in the Asian regional landscape.

¹ www.nscb.gov.ph

I. Work / Employment Requirements

Subject to other legal requirements, foreigners who come to the Philippines to work must obtain the proper work visa and/or permit from the relevant government agencies (i.e., Bureau of Immigration ["BI"], Department of Labor and Employment ["DOLE"]).

In cases of short-term employment (i.e., less than 6 months) for positions that are temporary in nature (i.e., consultancy), a foreigner will only be required to apply for a Special Work Permit from the BI.

For long-term employment (i.e., beyond 6 months), the foreigner will be required to obtain a proper work visa and an Alien Employment Permit ("AEP").

If the foreigner intends to work during the pendency of his work visa and AEP applications, a Provisional Permit to Work ("PPW") must be obtained for him. The PPW, together with the filed AEP application, will allow the foreigner to work during the pendency of the visa application.

Entities engaged in nationalized or partly-nationalized industries (industries where foreign ownership / control is limited) can only employ foreign nationals as technical personnel and subject to issuance by the Department of Justice ("DOJ") of an Authority to Employ.

The following are the more common types of work visas:

1. Multiple Entry Special Visa

This visa is available to: (a) foreign personnel of offshore banking units of foreign banks duly licensed by the Central Bank of the Philippines to operate as such; and (b) foreign personnel of regional or area headquarters of multinational companies which are officially recognized by the Philippine Government.

2. Special Non-Immigrant or 47(a)(2) Visa

This visa is granted under Section 47(a)(2) of the Philippine Immigration Act that allows the President to issue such visas when public interest so warrants, subject to such conditions as he may prescribe. The President, acting through the appropriate government agencies, has exercised this authority by allowing the entry of foreign personnel employed in supervisory, technical or advisory positions in Export Processing Zone Enterprises, Board of Investments registered enterprises, and Special Government Projects (e.g. MRT, Skyway).

3. Pre-Arranged Employment or 9(g) Visa

This visa is available to foreigners who will be occupying an executive, technical, managerial or highly confidential position in a Philippine company and who are proceeding to the Philippines to engage in any lawful occupation, whether for wages or salary or for other forms of compensation, where a bona fide employer-employee relationship exists.

4. Treaty Trader's or Investor's Visas

A foreigner is entitled to enter the Philippines as a treaty trader or investor only if he or she is a national of the USA, Germany or Japan, countries with which the Philippines has concluded a reciprocal agreement for the admission of treaty investors or traders. The local petitioning company must be majority-owned by US, German or Japanese interests. The nationality of the foreigner and the majority of the shareholders of the employer company must be the same.

The foreigner must be employed in a supervisory or executive capacity.

5. Subic Bay Freeport Work Visas

A foreign national who possesses executive or highly technical skills, which no Filipino citizen within the Subic Bay Freeport possesses, as certified by the DOLE, may apply for this visa with the Subic Bay Metropolitan Authority.

II. Special Resident Visas

In addition to work visas, a foreigner may also apply for special resident visas.

These visas also allow a foreigner to work in the Philippines, subject to other requirements or limitations imposed by law.

The following are the different types of special resident visas.

1. Special Resident Retiree's Visa ("SRRV")

The SRRV program is available to foreigners and former Filipinos at least 35 years of age (may be waived in exceptional cases), who deposit the minimum amount required by law with a bank accredited by the Philippine Leisure and Retirement Authority.

The holder of an SRRV may stay in the Philippines indefinitely or visit the country at any time. The holder may also invest in or establish a business in the Philippines. The following, among others, are the benefits accorded to an SRRV holder:

- Right to reside permanently in the Philippines;
- Multiple entry privileges;
- Exemption from the exit clearance and re-entry requirements of the BI;
- Exemption from travel tax, provided the SRRV holder has not stayed in the Philippines for more than a year from date of last entry;
- Tax-free importation of household goods/personal effects worth US\$7,000.00;
- Exemption from the special study permit;
- Privilege to work in the Philippines upon issuance of the AEP;
- Right to own a condominium unit or townhouse with Condominium Certificate of Title;
- Right to lease a parcel of land for 50 years renewable once for another 25 years; and
- Guaranteed repatriation of the dollar time deposit and/or investment.

2. Special Investor's Resident Visa ("SIRV")

Any foreigner, at least 21 years of age, willing and able to invest at least US\$75,000 in the Philippines, may apply for this visa. An SIRV holder is granted virtual permanent residence status as long as he maintains an investment of at least US\$75,000 in the Philippines.

The following are the benefits of obtaining an SIRV:

- Investment in any business activity (subject to limitation on foreign equity requirements under law for partially nationalized activities) except certain wholly nationalized areas, e.g., retail trade, practice of the licensed professions, rural banking and mass media;

- Investment in a condominium unit provided that the extent of foreign ownership in the condominium building or project does not exceed the level prescribed by law (bank or time deposits are not considered as investments);
- Indefinite stay with multiple entries, together with the spouse and unmarried children;
- Exemption from payment of alien immigration and registration fees; and
- Exemption from securing alien certificates of registration.

3. SIRV for Investors in Tourist-Related Projects and Tourist Establishments

A foreigner who invests the amount of at least US\$50,000 in a qualified tourist-related project or tourism establishment, as determined by a governmental committee, shall be entitled to an SIRV.

4. Subic Bay Freeport Residency Visas

Any investor who has made, and continues to maintain, an investment of not less than US\$250,000 within the Subic Bay Freeport may apply for this visa. Such visa shall be valid for as long as the visa holder maintains the investment.

5. Subic Bay Freeport Residency Visas for Retirees

This visa requires the applicant to be over 60 years old, of good moral character, with no previous conviction of a crime involving moral turpitude, no longer employed or not self-employed, and receiving a pension or passive income which is payable in the Subic Bay Freeport in an amount exceeding US\$50,000 per year.

III. Dual Citizenship

Republic Act No. 9225, otherwise known as “The Dual Citizenship Act of 2003”, allows all former natural-born citizens of the Philippines, who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country, to re-acquire their Philippine citizenship, as well as all the rights and privileges incidental to such citizenship.

Those who reacquire or retain Philippine citizenship under this Act shall enjoy the following rights:

- *Right of suffrage.* - This right is subject to the requirements under Art.V, Sec. 1 of the 1987 Constitution and Republic Act No. 9189, otherwise known as “The Overseas Absentee Voting Act of 2003”.
- *Election/appointment to public office.* - Must meet the qualifications for holding such public office as required by the Constitution and existing laws, and they must renounce their oath of allegiance to the foreign country where they took their oath.
- *Practice of profession.* - This right is subject to the obtainment of the necessary license or permit to engage in the practice of such profession.
- *Ownership of realty in the Philippines.* - This right is subject to prevailing laws on the maximum size of real property that may be acquired by Filipinos.
- *Education/study in Philippine educational institutions.*
- *Engaging in business activities reserved/restricted to Philippine citizens.*

We are Quisumbing Torres.

For more than five decades, we have helped top multinational and domestic companies drive their growth in the country. We provide global reach with deep local roots, delivering exceptional and effective legal advice and assistance to clients across borders seamlessly.

In 1963, the Firm was established as Collas and Guerrero, and later became known as Quisumbing Torres. As part of Baker & McKenzie's global network with more than 12,000 people in 77 offices in 47 countries, we offer market insight and international experience that few firms in the Philippines can match.

With our team of about 50 Philippine lawyers, Quisumbing Torres proactively addresses legal issues that affect our clients' businesses in the country. Toward this end, we organize our lawyers into practice groups, to deal with specific legal issues. Today, Quisumbing Torres lawyers offer seasoned and industry-specific advice in the practice areas of Banking & Finance, Corporate & Commercial, Dispute Resolution, Employment, Immigration, Intellectual Property, and Tax.

Our uncompromising commitment to excellence and the fluency in how we think, work and behave are recognized by legal directories. Our Firm was rated Tier 1 in *The Legal 500 Asia Pacific* from 2008 to 2015, in the areas of Employment, Immigration and Intellectual Property. *The Legal 500 Asia Pacific* also ranked our Aviation and Mining & Natural Resources/Projects & Energy at Tier 1 from 2009 to 2015, and our Real Estate and Construction Practice Tier 1 from 2008 to 2009, and 2012 to 2015. In 2015, our Corporate and M&A is ranked Tier 1.

In *Chambers Asia Pacific*, Quisumbing Torres was ranked Band 1 from 2008 to 2015 in Intellectual Property; from 2008 to 2011/2012 to 2015 in Natural Resources & Mining/Projects, as well as in Infrastructure & Energy. From 2008 to 2011, and 2013 to 2015, *Chambers Asia Pacific* placed our Dispute Resolution: Arbitration practice in Band 1 and, in 2012, distinguished the practice under the category *Spotlight Table*. In 2008 and 2014, *Chambers Asia Pacific* ranked our Real Estate practice in Band 1 and our Tax practice in Band 1 in 2008. Our Firm was adjudged to belong to Band 1 in Corporate / Mergers & Acquisitions (M&A) areas in 2014. Our Banking & Finance is ranked Band 1 in 2015.

Chambers Global placed Quisumbing Torres in Band 1 for its Natural Resources & Mining/Projects, Infrastructure & Energy areas from 2009 to 2011/2012 to 2015.

The *Asian Legal Business (ALB)* distinguished us as a *Spotlight Firm* in 2012 and as a *Leading Firm* in 2014 and has consistently recognized Quisumbing Torres as a Tier 1 firm in the Philippines for M&A Rankings. In 2015, the ALB IP Rankings cited our Intellectual Property practice in Patent / Trademark / Copyright Tier 1.

IFLR1000, guide to the world's leading financial law firms, has consistently recommended Quisumbing Torres' banking and capital markets, M&A, and project finance practices in its guidebooks from 2005 to 2016. We are ranked Tier 1 for our Energy and Infrastructure in 2015.

Quisumbing Torres Immigration Practice Group

The Immigration Practice Group of Quisumbing Torres is composed of several lawyers and paralegals who have had a wide and extensive experience in all immigration related matters. The following are the services usually provided by the group:

- All visa-related procedures
 - Tourist or 9(a) visa extension
 - Visa conversion (i.e., from tourist or 9(a) to other visas [e.g., pre-arranged employment or 9[g] visa, treaty trader's/investor's or 9[d] visa, non-quota immigrant visa by marriage or 13(a) visa), student's visa, immigrant's visa])
 - Visa extension/renewal
 - Exit/re-entry procedures
 - Visa downgrading
- Foreign employment-related procedures
 - Special Work Permit (“SWP”)
 - Provisional Permit to Work (“PPW”)
 - Alien Employment Permit (“AEP”)
 - Authority to Employ
- Naturalization
- Dual citizenship
- Deportation proceedings

Baker & McKenzie Locations

Asia Pacific

Bangkok
 Beijing
 Brisbane
 Hanoi
 Ho Chi Minh City
 Hong Kong
 Jakarta
 Kuala Lumpur
 Manila
 Melbourne
 Seoul
 Shanghai
 Singapore
 Sydney
 Taipei
 Tokyo
 Yangon

Europe, Middle East & Africa

Abu Dhabi
 Almaty
 Amsterdam
 Antwerp
 Bahrain
 Baku
 Barcelona
 Berlin
 Brussels
 Budapest
 Cairo
 Casablanca
 Doha
 Dubai
 Dusseldorf
 Frankfurt/Main
 Geneva
 Istanbul
 Jeddah
 Johannesburg
 Kyiv
 London
 Luxembourg
 Madrid
 Milan
 Moscow
 Munich
 Paris
 Prague
 Rome
 Riyadh
 St. Petersburg
 Stockholm
 Vienna
 Warsaw
 Zurich

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 Guadalajara
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