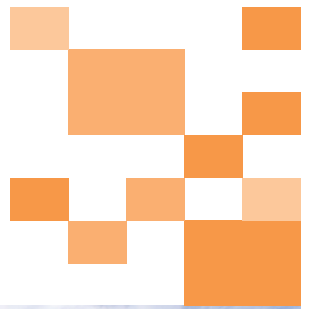


# Quisumbing Torres.

Member Firm of Baker & McKenzie International

## Primer on Immigration to the Philippines



2017

# Primer on Immigration to the Philippines

# Table of Contents

Introduction.....	1
I. Work / Employment Requirements .....	2
II. Special Resident Visas.....	4
III. Dual Citizenship .....	6
We are Quisumbing Torres.....	7
Quisumbing Torres Immigration Practice Group .....	8

## **DISCLAIMER**

The material in this publication has been prepared by Quisumbing Torres to provide general information only. It is not offered as advice on any particular matter, whether it be legal, procedural, commercial or otherwise, and should not be taken as such. For this reason, the information contained in this publication should not form the basis of any decision as to a particular course of action; neither should it be relied upon as legal advice nor regarded as a substitute for detailed advice in individual cases. The authors expressly disclaim all liability to any person in respect of consequences of anything done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents of this publication.

This publication is copyrighted. No part of this publication may be reproduced or transmitted by any process or means without the prior permission of Quisumbing Torres.

The law is stated as of 31 December 2016.

## Introduction

The Philippine economy is powering into 2017.

Strong economic performance has made the Association of Southeast Asian Nations (ASEAN) one of the world's most dynamic regions. The free flow of goods, services and investment; a freer flow of financial capital; enhanced connectivity; and expanded opportunities for intra-regional labor migration characterize deep market integration amid the ASEAN Economic Community.

Over the past six 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' economy rose up to 7.1 percent in the third quarter of 2016, outperforming other Asian countries' economic growth during the same period, according to the National Economic and Development Authority. 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.

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.

## I. Work / Employment Requirements

Subject to other legal requirements, foreigners who come to the Philippines to work must obtain a work visa from the relevant government agency (i.e., Bureau of Immigration [“BI”] and Department of Justice [“DOJ”]), as well as an alien employment permit from the Department of Labor and Employment (‘‘DOLE’’).

If the foreigner wants to work during the pendency of his visa and AEP application, he may file a PPW application with the BI. 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 issuance of an Authority to Employ is required *before* a foreign national can work for a partly-nationalized entity.

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 an SWP with the BI.

Generally, the work visa and AEP applications are filed after the foreigner has arrived in the country and has been admitted on a tourist or 9(a) visa. Except for certain restricted nationals, a foreigner may enter the country without a pre-approved tourist or 9(a) visa and he will be provided either a 30-day, 14-day or 7-day visa, depending on his nationality, provided that he has an outbound ticket with him. In such a case, the application that will be filed is for the conversion of the tourist or 9(a) visa into the appropriate work visa.

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.

The expatriate, his spouse, and unmarried minor children under 21 years of age, if accompanying or joining him after his admission into the country as a non-immigrant, may be issued multiple entry special visas valid for one-year, which may be extended from year to year upon legal and meritorious grounds.

### 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).

This visa is generally valid for an initial period of one year and is renewable from year to year. It takes approximately five to six weeks from submission of the complete documentary requirements to process a 47(a)(2) visa application.

### 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.

The entire process of obtaining a pre-arranged employment visa takes about two (2) to three (3) months. Dependents of the pre-arranged employment or 9(g) visa holder are entitled to the same visa.

The pre-arranged employment visa is granted for a period co-terminous with the AEP, which in turn, is granted for a period discretionary to the DOLE, usually based on the duration of the election or appointment of the foreigner.

### 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.

When granted, the visa may be extended to the foreigner's spouse and unmarried children below 21 years of age. The visa is generally valid for a one-year period subject to extension upon application.

### 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.

This visa is valid for, and renewable every, two (2) years.

## 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.

The SRRV takes about 2 to 3 weeks to process upon submission of all the requirements.

The SRRV holder will not necessarily lose his special resident status upon the loss of the required deposit. He may continue to stay in the country provided that he is financially capable of supporting himself.

### 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. The applicant's spouse and unmarried children who are less than 21 years of age, accompanying the applicant, may be included in the visa application. Unlike the SRRV, there is no limit to the number of unmarried children that can be included in the application.



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.

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.

### **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.*

The procedure for the approval of petitions for reacquisition or retention of Philippine citizenship by former natural-born Filipino citizens already in the Philippines is as follows:

1. Filing of notarized application with the BI, and payment of filing fee;
2. Review of supporting documents to see whether they are complete;
3. Evaluation of application and supporting documents;
4. Issuance of notice of approval by the evaluating officer;
5. Fingerprinting at the Alien Registration Division; and
6. Issuance of the I.D. card signed by the BI Commissioner.

The entire process takes about 4-6 weeks to complete, provided all the requirements are complied with.

## We are Quisumbing Torres.

For more than five decades, Quisumbing Torres has been helping leading multinational and domestic organizations drive their growth in the Philippines. A consistent top-ranking law firm, we provide global reach with deep local roots, enabling us to deliver exceptional advice 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 2017, 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 2008 to 2017, and our Real Estate and Construction practice Tier 1 from 2007 to 2009, and 2012 to 2017. From 2015 to 2017, our Corporate and M&A is ranked Tier 1. This year, our Firm also ranked Tier 1 in Tax.

In *Chambers Asia Pacific*, Quisumbing Torres was ranked Band 1 from 2008 to 2016 in Intellectual Property; from 2008 to 2011/2012 to 2016 in Natural Resources & Mining/Projects, as well as in Infrastructure & Energy. From 2008 to 2011 and 2013, *Chambers Asia Pacific* placed our Dispute Resolution: International Arbitration practice in Band 1, while our Dispute Resolution: Arbitration practice earned us a Band 1 spot from 2014 to 2016. In 2008, *Chambers Asia Pacific* ranked our Real Estate and Tax practices in Band 1. Our Firm was adjudged to belong to Band 1 in Corporate / Mergers & Acquisitions (M&A) Real Estate in 2014. Our Banking & Finance is ranked Band 1 in 2015 to 2016.

*Chambers Global* placed Quisumbing Torres in Band 1 for its Natural Resources & Mining practice in 2011 and our Projects, Infrastructure & Energy in the same ranking from 2012 to 2016.

The *Asian Legal Business (ALB)* distinguished us as a *Spotlight Firm* in 2012 and as a *Leading Firm* from 2012 to 2014 and has consistently recognized Quisumbing Torres as a Tier 1 firm in the Philippines for M&A Rankings from 2013 to 2016. From 2015 to 2016, the ALB IP Rankings cited our Intellectual Property practice in Patents / Trademarks / 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 2017. We are ranked Tier 1 for our Energy and Infrastructure in 2015 to 2017.

The *Asian-MENA Counsel Magazine* also ranked Quisumbing Torres as Firm of the Year in 2015 and 2016 in Intellectual Property. In 2016, the publication also awarded us Firm of the Year for our Anti-Trust/Competition practice.

## 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

**Contact:**

**Miguel Galvez**

Partner, Immigration

Direct: +63 (2) 8194950 | +63 (2) 2175641

Mobile: +63 (917) 8194950 | +63 (998) 9627604

[miguel.galvez@quisumbingtorres.com](mailto:miguel.galvez@quisumbingtorres.com)

**Quisumbing Torres**

12th Floor, Net One Center

26th Street corner 3rd Avenue

Crescent Park West, Bonifacio Global City

Taguig City, Philippines 1634

Tel.: +63 2 819 4700

Fax: +63 2 816 0080