

**[DENR ADMINISTRATIVE ORDER NO. 2004-53,
August 31, 2004]**

**GUIDELINES TO IMPLEMENT THE TAX INCENTIVES PROVISION
UNDER SECTION 13 OF REPUBLIC ACT NO. 8749 OTHERWISE
KNOWN AS THE PHILIPPINE CLEAN AIR ACT OF 1999**

Section 1. Legal Bases

These implementing guidelines are being issued pursuant to Section 13 of Article 1, Chapter II of Republic Act No. 8749 also known as the "Philippine Clean Air Act of 1999", and Section 1 of Rule XXIII of DAO 2000-81, Implementing Rules and Regulations (IRR) for RA 8749.

Section 2. Scope

These implementing guidelines apply to industries which shall install pollution control devices or retrofit their existing facilities with mechanisms that reduce pollution in compliance with the air quality standards set forth in the Act and its IRR.

Section 3. Definition of Terms

- a. "Act" refers to Republic Act No. 8749 otherwise known as the Philippine Clean Air Act of 1999;
- b. "*Air Emission*" means any measurable air contaminant, pollutant or gas stream from a known source that is passed into the atmosphere;
- c. "*BIR*" refers to the Bureau of Internal Revenue of the Department of Finance;
- d. "*Department*" refers to the Department of Environment and Natural Resources;
- e. "*EMB*" refers to the Environmental Management Bureau of the Department of Environment and Natural Resources;
- f. "*Incentives-Administering Agency*" refers to Board of Investments of the Department of Trade and Industry, Philippine Economic Zone Authority, Department of Finance and its concerned bureaus, Subic Bay Metropolitan Authority, Clark Development Corporation and all other special economic and freeport zone authorities;
- g. "*Industry*" consists of a group of establishments engaged in the same or similar kinds of activity. An "establishment" is an **enterprise** or part of an enterprise, that is situated in a single location and in which only a single (non-ancillary) productive activity is carried out or in which the principal productive accounts for most of the value added. An enterprise is an institutional unit in its capacity as a producer of

goods and services;

h. "*IRR*" refers to DAO 2000-81, the Implementing Rules and Regulations of the Act;

i. "*Mechanisms that Reduce Pollution*" means systems, approaches, techniques, or equipment which, when used, result in lower emissions to comply with air quality standards set under the Act and its IRR;

j. "*NIRC*" refers to the National Internal Revenue Code of 1997;

k. "*Permit to Operate*" refers to the legal authorization granted by the EMB to qualified enterprises to operate or maintain any air pollution installation for a specified period of time;

l. "*Pollution Control Device*" means any machinery, equipment or apparatus used to prevent, control or abate the pollution of air caused by emissions from identified pollution sources at levels within the air quality standards set under the Act and its IRR;

m. "*Qualified Enterprise*" refers to any individual, partnership, cooperative, corporation or other entity incorporated and/or organized and existing under Philippine laws which installed pollution control device or retrofitted its existing facilities in order to comply with the emission standards set under the Act as evidenced by a valid Permit to Operate issued by the EMB;

n. "*Retrofit*" means to install "add-on facilities" or upgrade and/or rehabilitate old or existing facilities/equipment or set-up and utilize machinery and equipment or devices with the objective of reducing air emissions to comply with air quality standards set under the Act and its IRR; and

o. "*Special Economic Zones*" refer to selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are more particularly fixed or delineated by Presidential Proclamations. A Special Economic Zone may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.

Section 4. Tax Incentives

A qualified enterprise may avail of the following tax incentives provided for under existing laws subject to the rules and regulations of concerned incentives-administering agencies.

4.1 Tax Incentives Under NIRC

4.1.1 Accelerated Depreciation - A qualified enterprise shall be allowed to deduct from gross income a reasonable depreciation allowance for the exhaustion, wear and tear including reasonable allowance for obsolescence of pollution control devices installed or retrofitted with mechanisms that reduce pollution in compliance with existing legal requirements under the Act. Pursuant to Section 34(F)(2) of the NIRC,