

04 September 2019

HON. SEN. AQUILINO "KOKO" PIMENTEL III

Chairperson

Senate Committee on Trade, Commerce and Entrepreneurship

Senate of the Philippines

GSIS Bldg, Financial Center, Diokno Blvd.

Pasay City

Dear Senator Pimentel:

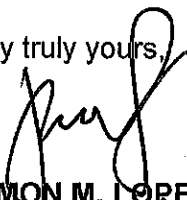
We are pleased to submit the Department's comments and recommendation on Senate Bill Nos. 656, entitled:

**"An Act Encouraging Corporate Social Responsibility,
Providing Incentives Therefore; and for Other Purposes"**

This is without prejudice to the Department's submission of additional comments.

With my best regards.

Very truly yours,


RAMON M. LOPEZ
Secretary



OFFICE OF THE SECRETARY

DTI Position on

Senate Bill No. 656

**“An Act Encouraging Corporate Social Responsibility,
Providing Incentives Therefore, and for Other Purposes”**

The Department recognizes the importance of this legislative proposal and is fully supportive of its noble objectives that seek to encourage business organizations to observe and engage in Corporate Social Responsibility (CSR), inasmuch as this measure will instill ethical standards among businesses to take into account the interests and welfare of society. By taking responsibility for the impact of their activities, CSR-practicing firms can contribute to fostering sustainable development by delivering economic, social, cultural, and environmental benefits within their communities and to society, at large.

Although the practice of CSR in the Philippines is already a part of the corporate culture, it is merely practiced by large business corporations as they have the capacity and the resources to do so.¹ CSR is believed to be not as widespread among micro, small and medium enterprises (MSMEs) as this poses additional burden on them considering their limited resources.²

The Department believes that CSR must be encouraged and vigorously promoted across all businesses, with the implementation of CSR activities to remain voluntary, especially for MSMEs. We recognize that CSR activities entail additional administrative and financial burdens for small businesses and may also impinge on their efficiency, competitiveness, and capacity to innovate. Instead of mandating small businesses to practice CSR, the government should strengthen its initiatives that promote growth opportunities and business development that would encourage the practice of CSR.

We recognize that CSR has evolved from its beginnings as a philanthropic endeavor to a more development-oriented approach⁴ that encourages a more active partnership between the firms across the value chain and the communities surrounding them.

With the adoption of the United Nations' Sustainable Development Goals (SDGs)⁵ replacing the U.N. Millennium Development Goals (MDGs) in 2015, the movement for a sustainable, circular economy is highlighted as the participation of both the government and private sectors are aligned to put ethical issues at the heart of

¹ <https://www.rappler.com/newsbreak/3421-how-csr-is-evolving-in-the-philippines> (“Collectively, the board directors and management executives initiated or introduced CSR to the entire organization 83% of the time”)

² <https://www.unisa.edu.au/siteassets/epi-server-6-files/documents/eass/hri/gig/maximiano.pdf> (“Lack of resources is no.1 barrier to CSR”)

⁴ <https://csrfl.com/wp-content/uploads/2013/10/CSR-and-the-United-Nations-SDGs.pdf>

⁵ <https://www.nytimes.com/2015/09/26/world/breakdown-of-un-sustainable-development-goals.html>

policy process and decision-making. Thus, the practice of CSR is more universal and inclusive as the SDGs also set guiding principles for businesses wishing to drive their CSR policy forward by contributing more to a sustainable society.⁶ Whether a large multinational firm or a micro enterprise, elements of CSR may be practiced based on the SDGs. With SDGs (and their precursor - MDGs) guiding government policy, we can also see that there are already some laws encouraging support for CSR, such as the Magna Carta for Women (RA 9710), Magna Carta for PWDs (RA 7277), the Philippine Green Jobs Act (RA 10771), and the Ecological Solid Waste Management Act of 2000 (RA 9003).

Following are our comments on specific provisions of the bill:

- **Sec. 4. Deduction from Unrestricted Retained Earnings.** This section makes reference to Sec. 43 of Batas Pambansa Blg. 68, which is the previous Corporation Code of the Philippines. This should be updated to refer to Republic Act No. 11232 or the Revised Corporation Code of the Philippines, particularly Sec. 42. We defer to the Securities and Exchange Commission (SEC) for their inputs.
- **Sec. 5. Full Deductibility from Gross Income.** Given the ongoing discussions on CITIRA (Corporate Income Tax and Incentives Reform Act), we defer to the Department on Finance (DOF) on this provision.
- **Sec. 6. Awards and Recognition.** The Department is fully supportive of measures that will help advocate CSR in the business community and provide a means to inspire and encourage the fostering of sustainable economic development, environment protection, as well as instilling ethical standards among businesses by taking into account the interests and welfare of society and taking responsibility for the impact of their activities to the community.

One such activity that we propose and that we can include in the IRR is the granting of awards and recognition to deserving firms. A search and selection board composed of representatives from the government and relevant sectors on the socio-economic front may be assembled to determine yearly nominees. The criteria of the awards, the requirements for eligibility, the award categories, and the precise board composition may be structured in detail pending inputs from the involved agencies. Agencies that may be involved in the award-giving body are DTI, DOF, DOLE, DSWD, DENR, and DILG.

- **Sec. 8. Periodic Report.** Per Section 177 of RA 11232, all businesses are required to submit yearly reports to SEC⁷.

Moreover, if a business is located within an economic zone, per IRR of the Special Ecozone Act (RA 7916), rule XXI section 4, aside from the BIR filings,

⁶ <http://gomarketwise.com/blog/aligning-csr-strategy-un-sustainable-development-goals/>

⁷ Businesses are required to submit their information sheet, compensation report, performance report, and financial statements. All businesses also need to periodically submit to the Bureau of Internal Revenue (BIR) their audited financial statements (including, but not limited to, balance sheet income statement, statement of cost of sales, statement of operating and administrative expenses) and income tax returns (ITRs)

the firm must also submit reports of any change in directorship or equity ownership, as well as other documents.⁸

For non-locators, they are covered under the LGU code and as such, need to process yearly permits with the LGU⁹.

There is also the matter of periodic reports to other government agencies, as applicable, such as BSP, DOLE, SSS, Philhealth, DND, DOE, FDA, DENR-MGB, DA-BAI, and others.

For DTI, there may also be instances where reports are submitted, e.g. for contractors' accreditation or repair shops accreditation, or if a single proprietorship is being assisted by DTI (e.g. sales report during a DTI-assisted trade fair or types and number of interventions rendered).

While the number of periodic reports required by various government agencies may vary and may be easily managed/handled by a large corporation (as it has its own department to handle these concerns), the same may not be said for MSMEs given the limited resources they have.

Therefore, the Department expresses concern that while it is not against periodic reports for large corporations, adding this particular requirement for MSMEs may pose additional administrative and financial burdens on micro and small businesses, which usually lack manpower and financial resources to come up with such reports.

If the objective of the periodic reports is for the deductibility from gross income (section 5, with our comments above), perhaps we can use current mechanisms to draw out such reports without adding to the already voluminous documentary requirements businesses face. For example, BIR Form 2322, is used for claiming charitable contributions as tax deductions. Also, per BIR Circular 86-2014, "Under Section 235 of the National Internal Revenue Code of 1997 [Tax Code], the books of accounts and other pertinent records of tax-exempt organizations or grantees of tax incentives shall be subject to the examination by the bureau for purposes of ascertaining compliance with the conditions under which they have been granted exemptions or tax incentives, and their tax liability, if any." As in Section 5, we defer to the DOF and BIR for any need to modify the circular or the form in order to reflect periodic reports on charitable activities or CSR activities for purposes of tax deductions, at the option of the business owner. Otherwise, we feel that compelling MSMEs to submit such reports for other purposes (such as business name renewal) will be an additional burden on their part and is not advisable, as this also goes against the government's thrust on promoting the ease of doing business.

⁸ Annual reports due every March 31 with the following information: Inventory Report of Finished Goods, Raw Materials and Work-in-Process, Value-Added, Net Dollar Earnings, Dollar Cash Flow Statement, Report on Long Term Loan, Report on Capital Account and Shares of Equity, List of Stockholders, List of Principal Officers, List of Foreign Nationals / Technicians, List of Training Program, List of Machinery and Equipment.

⁹ (Mayor's office, barangay clearance, fire inspection, environmental, health, safety and other clearances, together with income reports for the local taxes)

- **Sec. 11. Repealing Clause.** We revert the reference to RA 11232 instead of Batas Pambansa Blg. 68, per our comment on Section 4 above.

The Department also wishes to put forward the following comments and recommendations:

- We believe that a socially responsible CSR culture is best imbibed if introduced to citizens at a young age and constantly reminded and taught at school. CSR elements such as water stewardship, energy conservation, environment protection, waste reduction, equality of rights, and sustainable development may be injected into the curriculum across the K-12 range of the educational system. Hence, the Department suggests to include CSR themes in the basic education curriculum, requesting inputs from the Department of Education as it also has a pivotal role in helping push CSR into the consciousness of next-generation business owners and employees.
- While the bills suggest that CSR is voluntary in nature, the Department believes that the objectives can be best attained if there are provisions, which would specifically state how the government would support the business, especially the MSMEs that would voluntarily practice CSR, other than the entitlement to full deductibility of gross income.

To support the aforementioned agenda, the Department proposes the inclusion of an overarching CSR policy framework in the bill. The said policy framework is recommended to incorporate the following regulatory measures/provisions¹⁰, to wit:

1. Designing a process for a government and corporate social responsibility policy framework, which can be embedded from the functions related to CSR policy and its development and implementation within government agencies in several ways;
2. Developing CSR-oriented minimum standards/policies on the part of the private sector and NGOs. For optimal effectiveness, governments need to stimulate and structure these various initiatives;
3. Applicability of CSR depending on the size and scope of a company (e.g. capitalization, business classification) to avoid the burdensome effects on MSMEs as well as to serve as basis for the grant of incentives, awards, or recognition, if any, in the future;
4. Sustainable patterns of consumption and production that enhance corporate social, cultural, ethical, environmental standards and human responsibility and accountability through actions such as initiatives, standards, reporting, dialogue, financial institutions engagement and cleaner production initiatives;

¹⁰ Based on Workshop on Global Environmental Health in the 21st Century: from governmental regulation to Corporate Social Responsibility. <https://www.ncbi.nlm.nih.gov/books/NBK53982/>

5. Promoting sustainable development in a globalizing world that develops and effectively implements the intergovernmental agreements, initiatives, partnerships, regulations, and continuous improvement in corporate practices in all countries.
6. Engaging corporations as well as government institutions to prioritize sustainable consumption in their day-to-day CSR activities to avoid the conception of shifting the responsibilities from the government alone to further improve the welfare of the society; and
7. Extending social engagement of corporations to places where they produce their products but operate globally and have their headquarters (in a rich country).

In this regard, the Department further emphasizes that the establishment of partnership between and among businesses, LGUs, government agencies, non-governmental organizations, and key stakeholders to support the social, cultural, ethical, environmental standards and human responsibility awareness is one of the best practices to ensure and promote said activity.

In view of the foregoing, notwithstanding the voluntary character of CSR principles, the Department believes that while a "soft", "non-legislative approach" is required in implementing CSR, regulation is never completely dissociated from voluntary CSR policy because there is a legislative action. In a continuous process in which a large number of corporations make certain efforts regarding CSR, it can be useful that the government sets the standard, so that others who are not in the process are included as well.

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02 September 2019

Ref: BTIPR-092016-245

OSEC DTS EX 94317