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Tax Incentives under CREATE, and its Implementing Rules and Regulations

A graphic consisting of two large, light gray diamonds pointing towards each other, forming a central white space. The word "OUTLINE" is written in red capital letters in the upper diamond.

OUTLINE



Scope and Coverage



Fiscal Incentives Review Board (FIRB)



Strategic Investment Priority Plan (SIPP)



Tax and Duty Incentives



Registration and Availment of Incentives

SCOPE AND COVERAGE

All existing IPAs

All newly registered
projects/activities/qualified
expansion projects

IPA- registered
enterprises, projects, or
activities enjoying
incentives prior to
CREATE

Other government
agencies administering
tax incentives

GOCCs, GIs, government
commissaries, SUCs

APPROVAL/GRANT OF INCENTIVES

<u>BEFORE CREATE</u>		<u>CREATE</u>
IPA	Approval of Incentives	<ul style="list-style-type: none">➤ FIRB➤ IPA for projects/activities with investment capital of 1B and below
None	FIRB Oversight	Yes
As provided in the IPA Charter (for export enterprises) or as defined in the Investment Priorities Plan	Activities/Industries Covered	As defined in SIPP

COMPOSITION OF FIRB



EXPANDED FUNCTIONS OF THE FIRB

- » Exercise policy making and oversight function on administration and grant of tax incentives by IPAs
- » Approve/disapprove the grant of tax incentives upon recommendation of IPAs
- » Cancel, suspend, or withdraw the enjoyment of fiscal incentives
- » Require IPAs/govt' agencies submission of summaries of approved investments and investments granted
- » Recommend to the President the grant of non-fiscal incentives

Strategic Investment Priority Plan (SIPP)

- Formulation
- Approval
- Validity Period



CONTENTS OF SIPP

Strategic Investment Priority Plan

Priority projects or activities that are eligible or qualified to be granted incentives

Scope and coverage of location and industry tiers

Terms and conditions on the grant of enhanced deductions

Qualifications for expansion, or entirely new projects or activities, to avail of incentives

CONTENTS OF SIPP

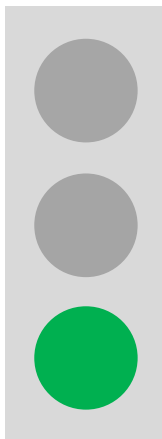
Strategic Investment Priority Plan

Criteria and conditions for existing registered projects or activities prior to the effectivity of the Act to register and avail of the incentives

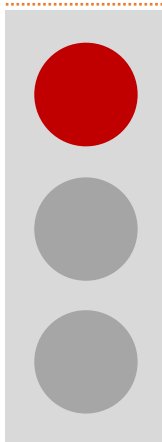
Conditions and qualifications for export enterprises registered prior to the effectivity of the Act to reapply and avail of SCIT after the expiration of the transitory period

Specific qualification requirements or conditions for a particular sector or industry and other limitations as set and determined by the BOI and in coordination with the FIRB

Power of President to Grant Incentives

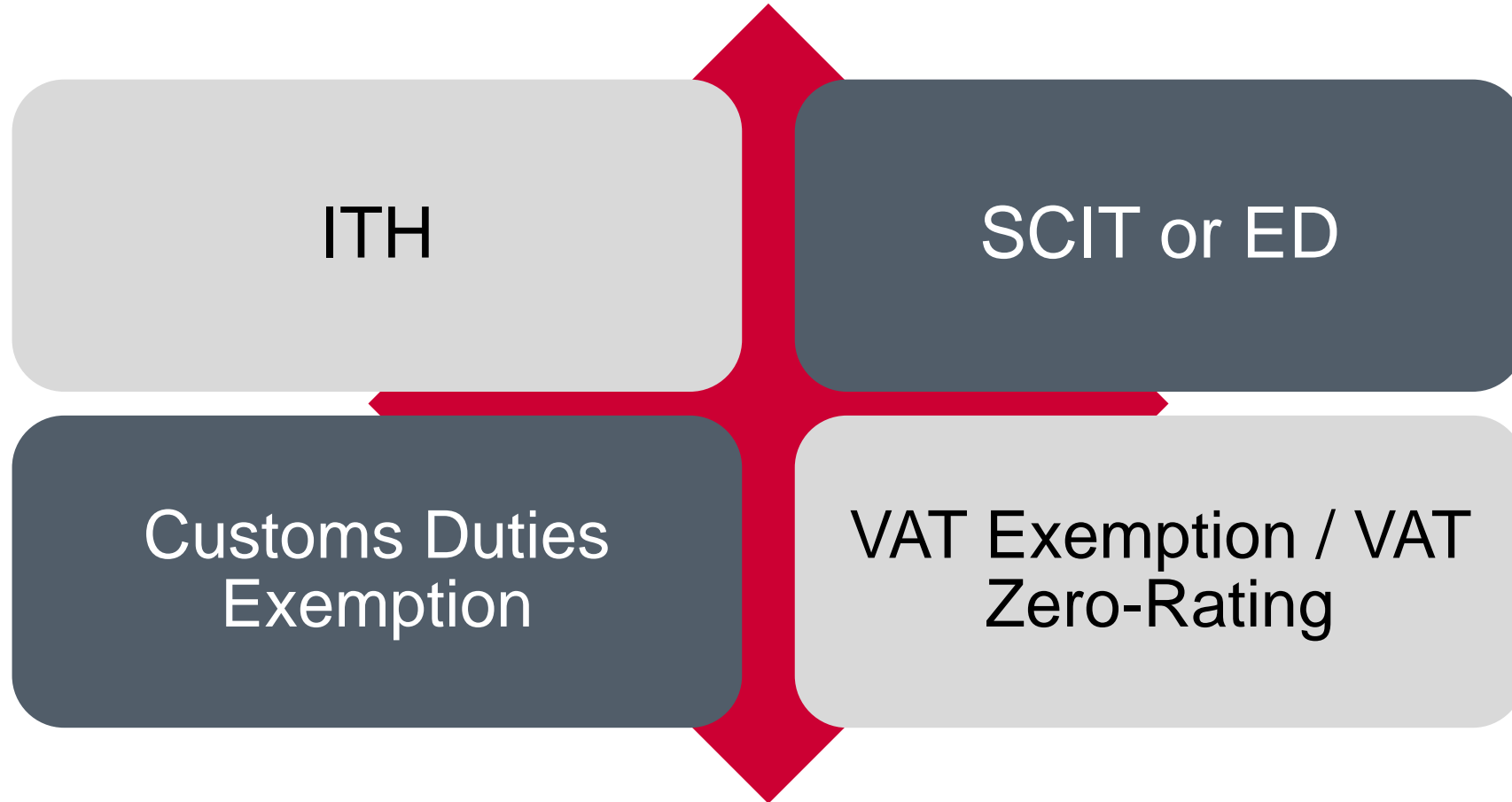


- » Upon recommendation of FIRB, the President can **MODIFY THE MIX, PERIOD OR MANNER OF INCENTIVES**
- » Conditions for positive recommendation by FIRB
 - › Project has a comprehensive sustainable development plan
 - › Minimum investment capital of P50Billion (or its equivalent in USD) or minimum direct employment of 10,000 within 3 years



- » Limitations
 - › ITH shall not exceed 8 years
 - › SCIT Rate of 5% may be granted
 - › Total period of incentive availment shall not exceed 40 years

TYPES OF TAX AND DUTY INCENTIVES



TYPES OF TAX INCENTIVES

Incentives	Domestic Market Enterprises	Export Enterprises
ITH (depending on location/industry)	4-7 yrs.	4-7 yrs.
Additional ITH (relocation from NCR)	3 yrs.	3 yrs.
Additional ITH (armed conflict/disaster areas)	2 yrs.	2 yrs.
SCIT		Either 10 yrs. SCIT or ED
ED	5	



Income Tax Holiday (ITH)

Income Tax Holiday

<u>BEFORE CREATE</u>		<u>CREATE</u>
4 to 6 years	Income Tax Holiday	4 to 7 years (depending on location/industry)
2 or 3 years	ITH Extension	Non-extendible
None	Additional incentives for relocation outside of NCR and in disaster / conflict areas	Additional 3 years ITH (in case of relocation outside NCR) or Additional 2 years ITH (in case of relocation to recovering areas)

Income Tax Holiday Based on Location and Industry

FOR EXPORTERS			
LOCATION/INDUSTRY	TIER 1	TIER 2	TIER 3
NCR	4 ITH	5 ITH	6 ITH
Metropolitan areas or areas adjacent to NCR	5 ITH	6 ITH	7 ITH
All other areas	6 ITH	7 ITH	7 ITH

Income Tax Holiday Based on Location and Industry

FOR DOMESTIC MARKET ACTIVITIES

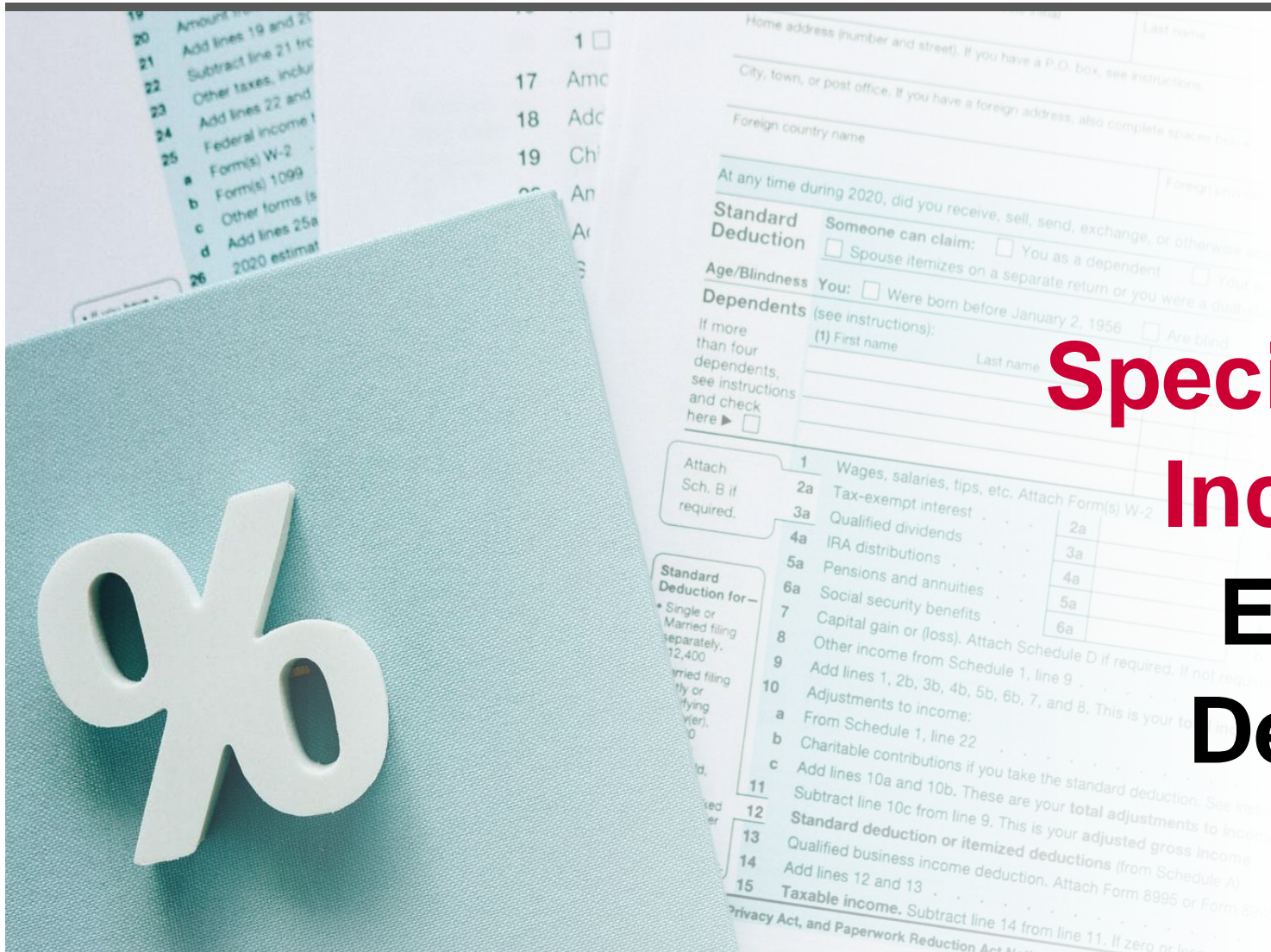
LOCATION/INDUSTRY	TIER 1	TIER 2	TIER 3
NCR	4 ITH	5 ITH	6 ITH
Metropolitan areas or areas adjacent to NCR	5 ITH	6 ITH	7 ITH
All other areas	6 ITH	7 ITH	7 ITH

AREAS RECOVERING FROM ARMED CONFLICT OR MAJOR DISASTER

ADDITIONAL 2 YEARS OF ITH

THOSE RELOCATING FROM NCR

ADDITIONAL 3 YEARS OF ITH



Special Corporate Income Tax / Enhanced Deductions

Special Corporate Income Tax/Enhanced Deductions

Before CREATE	Export Enterprise	5% GIE FOREVER
	Domestic Market Enterprise	NONE
CREATE	Export Enterprise	5% SCIT for 10 yrs or ED for 10 yrs.
	Domestic Market Enterprise	ED for 5 yrs.

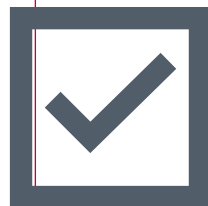
SPECIAL CORPORATE INCOME TAX



Based on GIE, in lieu of all national and local taxes (*but does not include fees and charges as defined under LGC*)



Existing rules on the allocation of the **5% SCIT** among the national government, LGUs, and the IPAs shall be observed



For export enterprises governed by special laws which do not provide for allocation:

- a. National Government – **3%**;
- b. LGU – **2%**

WHAT CONSTITUTES GIE?

Gross sales
or gross
revenues
from
registered
project or
activity

Deductible

- » Sales discounts
- » Sales returns and allowances
- » Costs of sales
- » Direct costs

Non-Deductible

- » Administrative expenses
- » Incidental losses

WHAT CONSTITUTES DIRECT COSTS? Exclusive?

Direct salaries, wages,
labor expense

Production supervision
salaries

Raw materials used

Goods in process
(intermediate goods)

Finished goods

Supplies and fuels used
in production

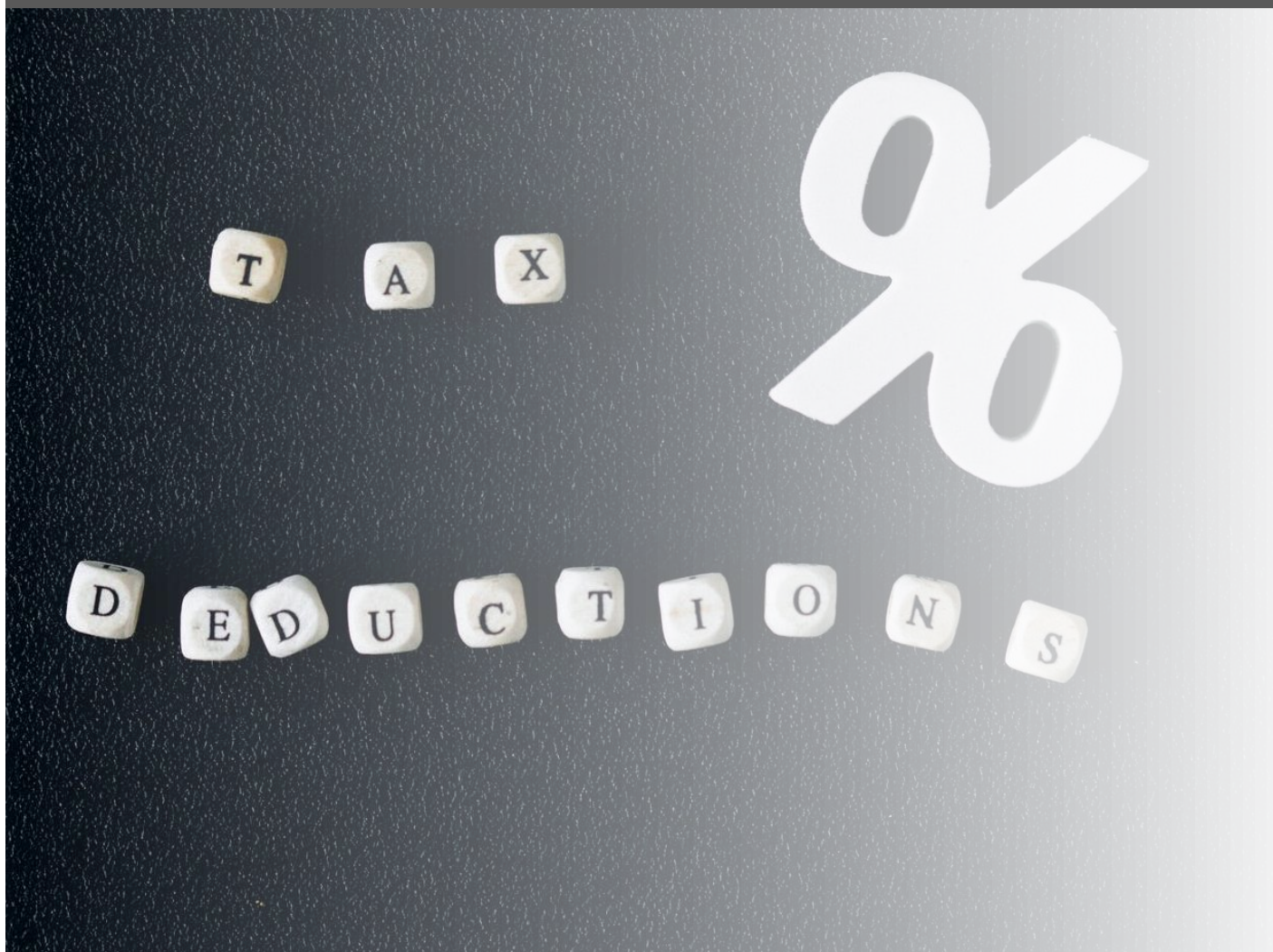
Depreciation of
machinery, equipment,
and building directly and
exclusively used in the
registered activity (or
portion thereof)

Rent and utility charges
directly and exclusively
incurred in the registered
activity

Financing charges for
fixed assets used directly
and exclusively in the
registered activity (not
previously capitalized)

Service supervision
salaries

Direct materials and
supplies used



Enhanced Deductions

» In addition to the allowable ordinary and necessary deductions under Section 34 (A) to (J) of the Tax Code

» Available to both export and domestic market enterprises

Enhanced
Deductions

» Export enterprises may opt to avail either SCIT or ED

» Not granted simultaneously with SCIT

ENHANCED DEDUCTIONS

Before CREATE	Export Enterprise	NONE
	Domestic Market Enterprise	NONE
CREATE	Export Enterprise	10 years
	Domestic Market Enterprise	5 years

ENHANCED DEDUCTIONS

Depreciation

- » Additional **10%** for buildings and **20%** for machineries and equipment
- » Assets **directly related to production of goods and services**
- » Not allowed for assets used for administrative and support services

Labor Expense

- » Additional **50%**
- » Does not include indirect salaries, wages, benefits and other personnel costs

Research and Development

- » Additional **100%**
- » Apply only to those directly related to registered activity
- » Limited to local expenditures/payments

Training Expense

- » Additional **100%**
- » Apply only to trainings as approved by IPAs

ENHANCED DEDUCTIONS

Domestic Input Expense

- » Additional **50%**
- » Apply only to domestic input that is directly related to and actually used in registered export project or activity

Power Expense

- » Additional **50%**
- » Apply only to power expense utilized for the registered activity

Research and Development

- » Deduction up to **50%** of the amount reinvested from undistributed profit or surplus
- » Within a period of 5 years from reinvestment
- » Must be invested in any activities/projects listed in the SIPP

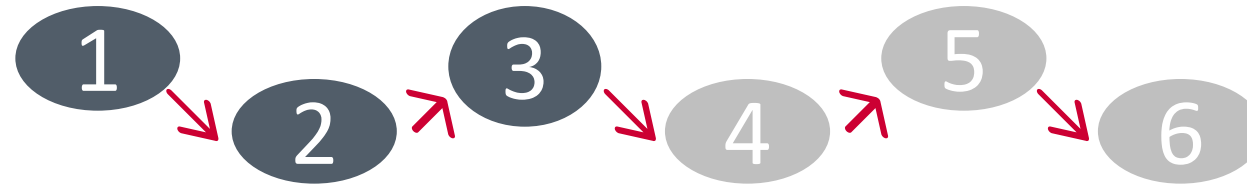
NOLCO

- » Loss for first 3 years of operation can be **carried forward for 5 consecutive years** following year of loss
- » Not previously offset as deduction from gross income



Duty Exemption

CONDITIONS FOR DUTY EXEMPTION



1

Covered importations:

- ✓ Capital equipment
- ✓ Raw materials
- ✓ Spare parts
- ✓ Accessories

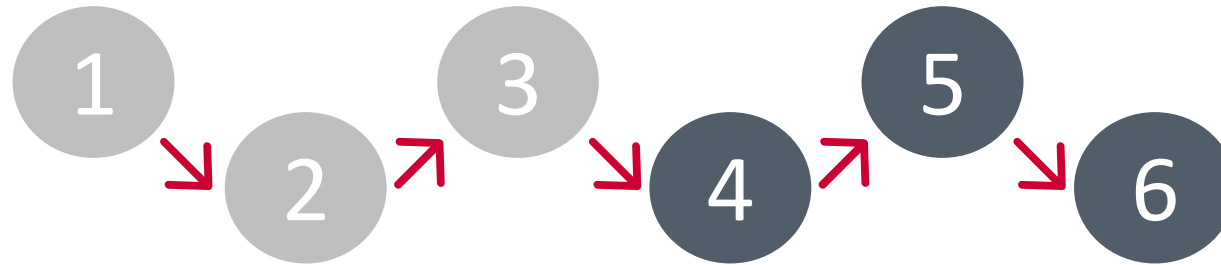
2

- ✓ Directly and reasonably needed
- ✓ Forms part of the direct cost
- ✓ Not produced or manufactured domestically

3

- ✓ Prior approval of the IPA is obtained

CONDITIONS FOR DUTY EXEMPTION



4

Directly and exclusively used in the registered project/activity

5

If used for a non-registered activity, the RBE shall secure prior approval of IPA and pay the amount corresponding to the exempt duties on importation

6

If sold, transferred, or disposed, RBE shall secure the approval of IPA and pay duties based on NBV



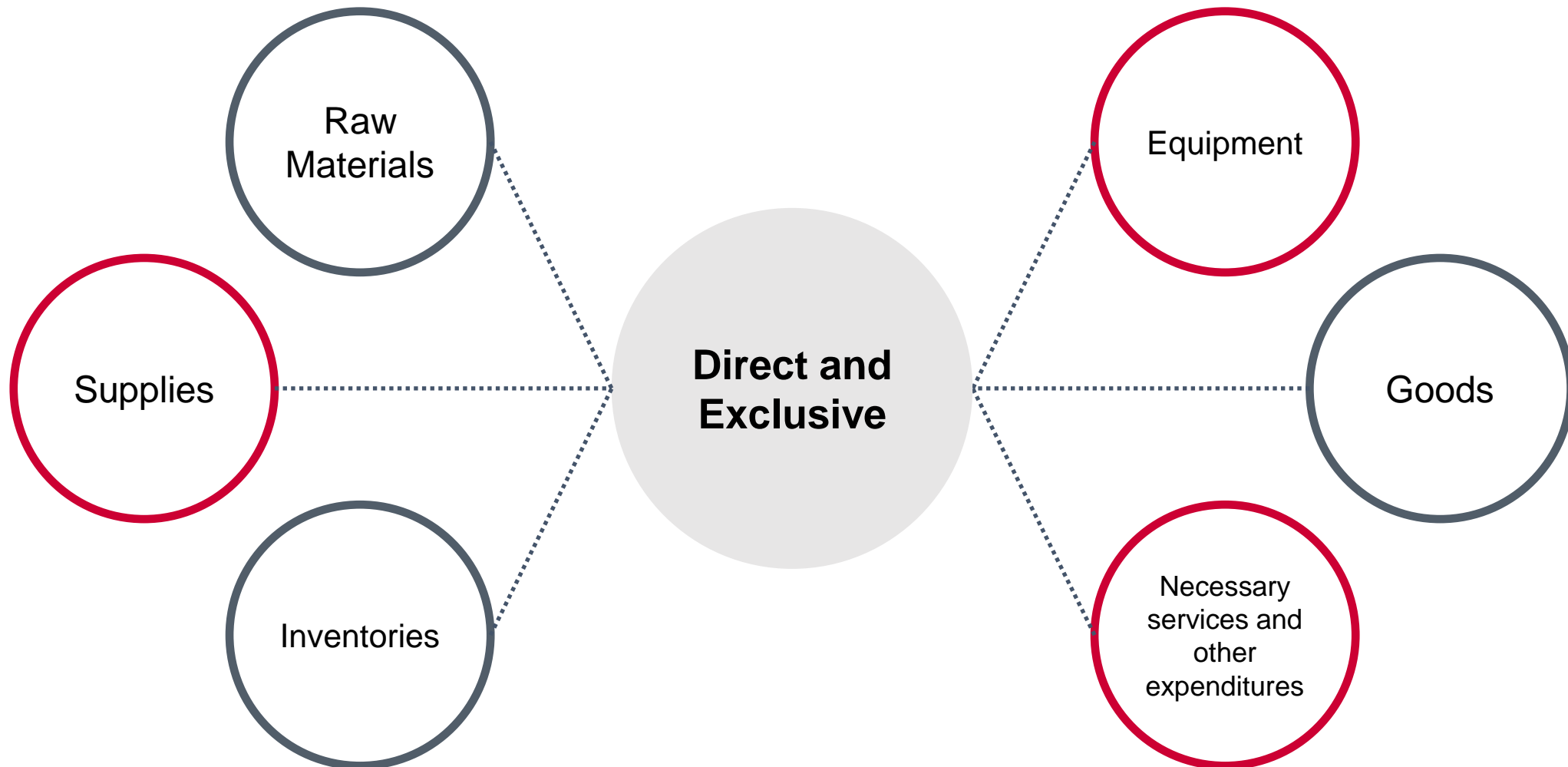
VAT Exemption on Importation / VAT Zero-Rating on Local Purchases

CONDITIONS FOR VAT EXEMPTION / ZERO-RATING

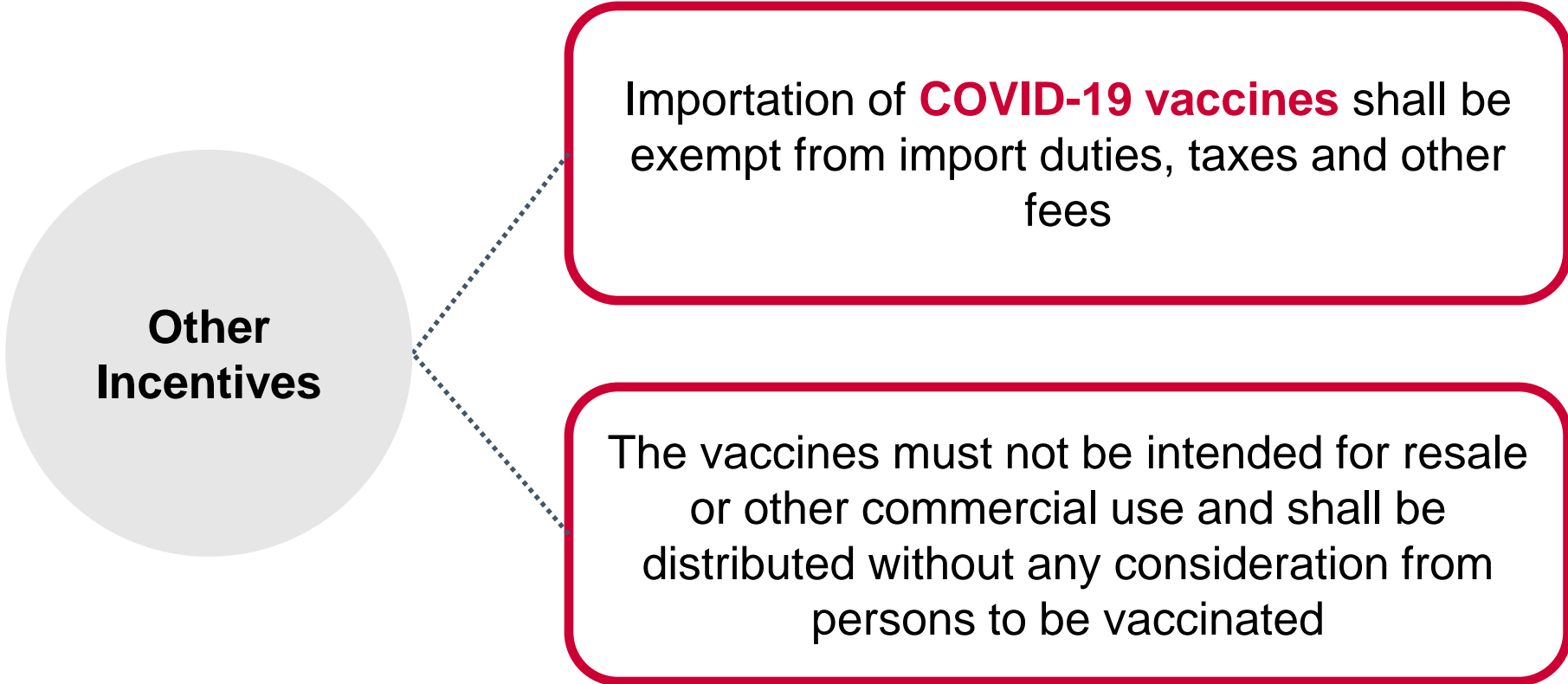


Applies to goods and services
directly and exclusively used in
registered project/activity

WHAT CONSTITUTES DIRECT AND EXCLUSIVE USE?



OTHER INCENTIVES

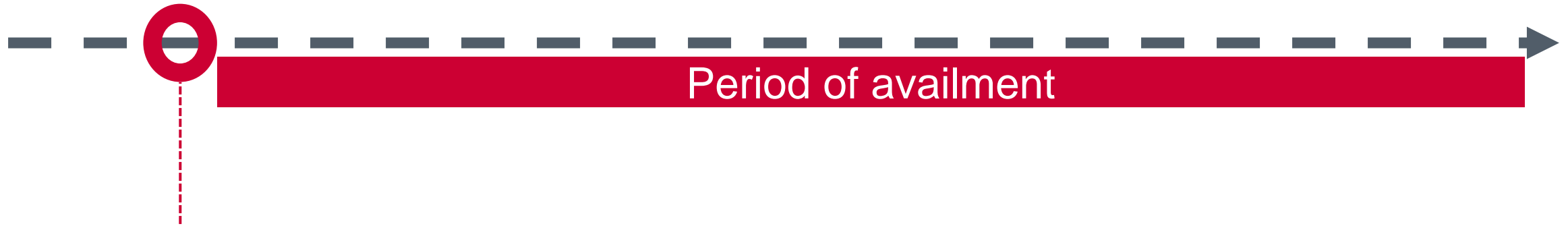


**Other
Incentives**

Importation of **COVID-19 vaccines** shall be exempt from import duties, taxes and other fees

The vaccines must not be intended for resale or other commercial use and shall be distributed without any consideration from persons to be vaccinated

PERIOD OF AVAILMENT



Period of availment shall commence from the **actual start of commercial operations** which should be **within three (3) years** from the date of registration.

INCENTIVES PRIOR TO CREATE – TRANSITORY PROVISIONS



Registered
Business

with only ITH granted
prior to the effectivity
of CREATE

Continue to use the remaining period
specified in terms

**10 - year
period**

with granted ITH
and are entitled to
5% GIT after the
ITH

Continue ITH

thereafter, 5% GIT,

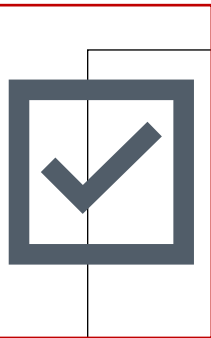
currently availing
5% GIT

Continue to avail GIT for 10 years

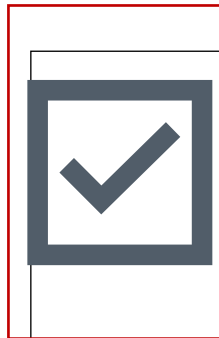
Registration and Availment of Incentives



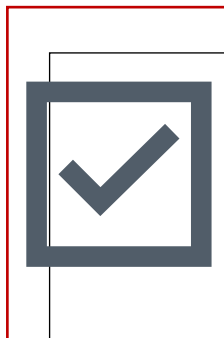
QUALIFICATIONS FOR REGISTRATION OF BUSINESS ENTERPRISES



Every project or activity is included in the SIPP



If project/activity is nationalized, compliance with ownership requirement under Constitution / applicable laws



Project/activity is within the applicant's corporate powers

BASIC DOCUMENTARY REQUIREMENTS FOR REGISTRATION

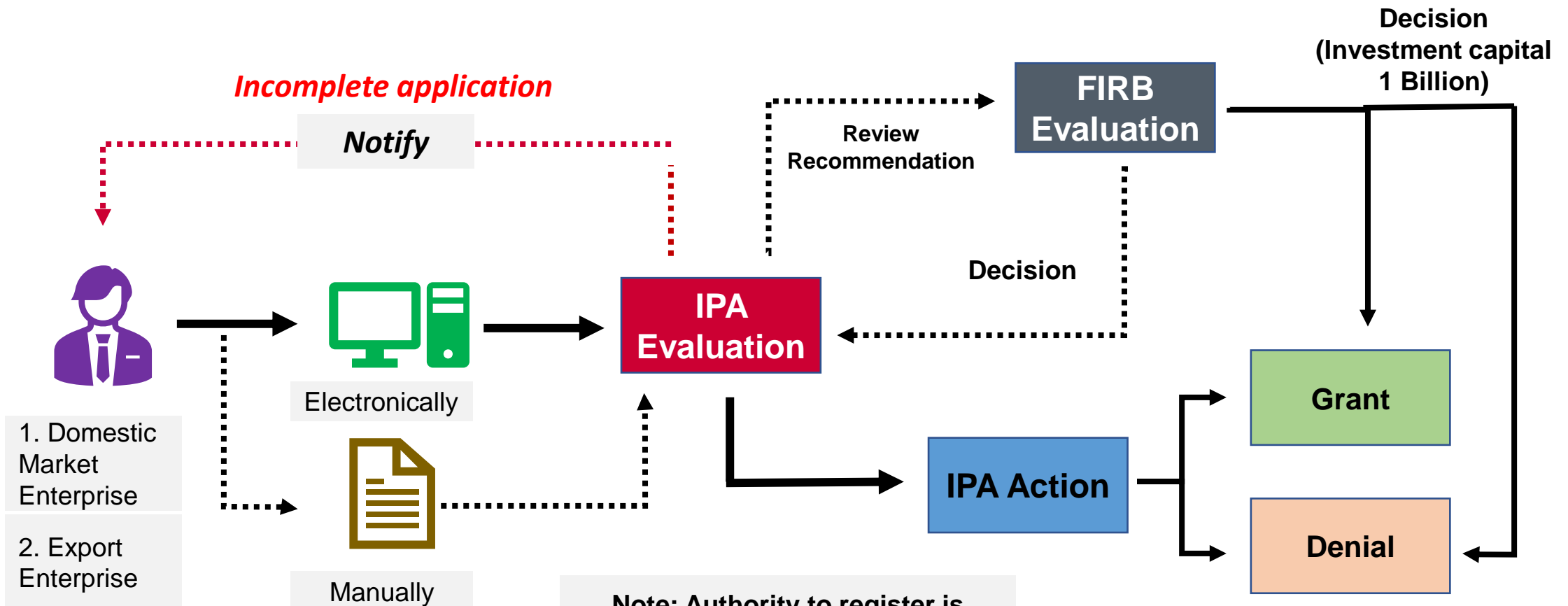
Enterprise Level Information

- » DTI or SEC, BIR Certificate of Registration
- » General company information
- » Business capitalization and ownership structure
- » Authorized business representative detail
- » Latest Audited Financial Statements (AFS), if applicable

Project or Activity Level Information

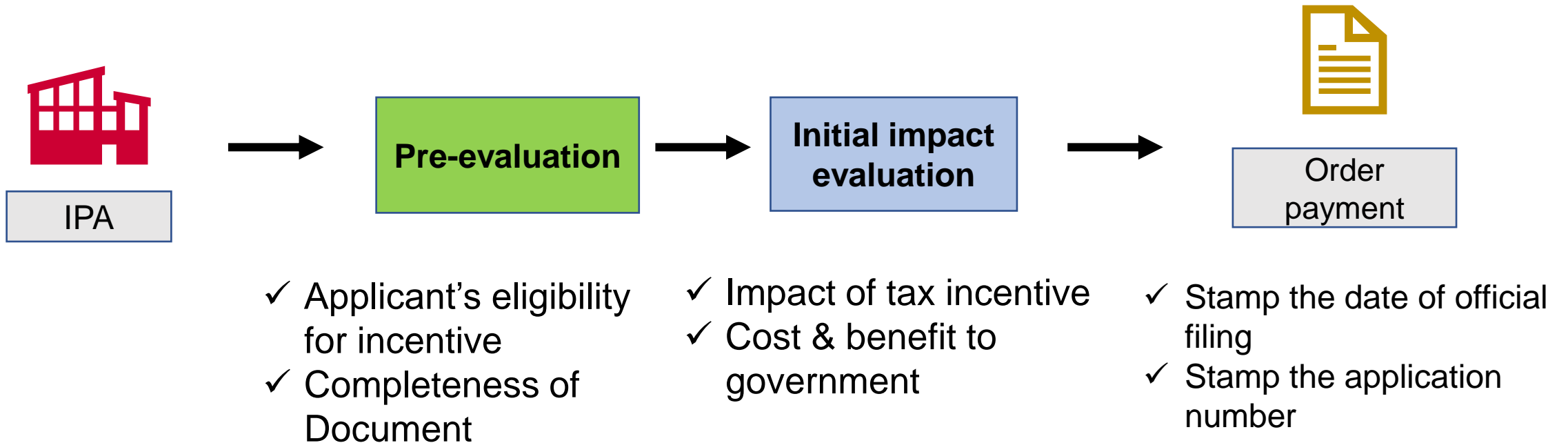
- » Locational address, contacts, activity representative details
- » Description, classification, and type of activity
- » Project or activity set-up timetable
- » Committed investment capital and other related details
- » Facility or utility requirements
- » Projected financial performance
- » Projected sales, raw materials, and production
- » Projected employment, by type

Registration Procedures



Note: Authority to register is exclusive to the IPA

IPA Evaluation Process



FIRB Evaluation Process



Secretariat

- ✓ Review
- ✓ Prepare evaluation report
- ✓ Submit to Tech. Com.



Technical Committee

- ✓ Adopt or reject
- ✓ Submit recommendation to board



Board

- ✓ Decide



IPA

- ✓ Secretariat to provide copy of board resolution

X Return application

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