



# BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



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PROFESSIONALISM INTEGRITY ACCOUNTABILITY

## MEMORANDUM

TO : ALL DISTRICT COLLECTORS  
ALL SUB-PORT COLLECTORS  
ALL CONCERNED

FROM :  OCT 21 2022  
YOGI FILEMON L. RUIZ  
Acting Commissioner RB



SUBJECT : CLARIFICATION ON THE POSTING OF BOND OF REGISTERED BUSINESS ENTERPRISES (RBEs) IN THE INFORMATION TECHNOLOGY – BUSINESS PROCESS MANAGEMENT (IT-BPM) PURSUANT TO FISCAL INCENTIVES REVIEW BOARD (FIRB) RESOLUTION NOS. 19- 21 AND 017-22.

DATE : 14 October 2022

This refers to the issuance of **FIRB Resolution Nos. 19-21** and **017-22** dated 2 August 2021 and 21 June 2022, which allowed ninety percent (90%) and thirty percent (30%), respectively, of the total workforce of RBEs in the IT-BPM to continue implementing WFH arrangements without adversely affecting their fiscal incentives under the CREATE Act, as well as **FIRB Advisory 007-2022** which provisionally extended FIRB Resolution No. 017-22 from 13 September 2022 until the FIRB decides on the PEZA's request to extend the WFH arrangement, and **FIRB Resolution No. 026-22** definitely extending the WFH arrangement until 31 December 2022.

Relative thereto, the RBEs of the IT-BPM sector covered by FIRB Resolution Nos. 19-21, 017-22 and 026-22 must satisfy the following conditions to avail of the incentives granted:

- a. The number of employees under the WFH arrangement shall not exceed:
  - i. Ninety percent (90%) of the total workforce from 2 August 2021 to 31 March 2022;
  - ii. Thirty percent (30%) of the total workforce from 1 April to 12 September 2022; and,
  - iii. Thirty percent (30%) from 13 September 2022 until 31 December 2022.
- b. The number of laptops/other equipment of the RBE outside the ecozone should not exceed the number of its employees who are under WFH arrangement;

- c. The RBE shall submit the following reportorial and documentary requirements in the Collection District of the Bureau of Customs (BOC) that has jurisdiction over the economic zone or freeport:
  - i. PEZA Permit Form 8106 (Farm-out permit) covering the equipment; and,
  - ii. Quantity and description of laptops, desktops, or other assets.
- d. The BOC shall conduct a 100% physical examination of the goods against the details in the documentary requirements submitted to ensure that the equipment and other assets to be brought outside the economic zone or freeport are properly declared and assessed the duties and taxes due thereon.<sup>1</sup>
- e. The RBE shall post a bond equivalent to **150% of the amount of VAT and duties (if imported) and VAT (if locally sourced)** on all equipment (e.g., desktops and laptops) deployed by the RBE to their employees' homes, to ensure payment of taxes and duties if any such equipment is not returned to the site of the RBE after the WFH arrangement. The amount of duties and/or VAT shall be based on the **net book value** of the equipment or assets deployed by the RBE to their employees' homes;
- f. Only surety companies granted Authority to Transact Business as Surety Company (ATBAS) by the BOC shall be allowed to issue the covering surety bonds;
- g. Upon return of the equipment and other assets to the economic zone or freeport at any time but not later than the next working day after the expiration of the WFH arrangement, the RBE must submit to the BOC a request for the liquidation of Form 8106 and cancellation of the bond. The request must include a list of all equipment and other assets returned to the economic zone or freeport;
- h. When all the equipment and assets brought outside the economic zone or freeport are completely returned, the BOC will cancel the bond. Otherwise, the BOC shall cause the issuance of a demand letter addressed to the RBE and surety company. Upon failure to settle the bonded obligations within fifteen (15) days from the issuance of a demand letter, the BOC shall recommend the issuance of an Order of Forfeiture of the Bond;
 

[N.B. In case the RBE exceeds the WFH threshold, the penalty will be the payment of RCIT. If the RBE fails to return onsite the equipment and/or assets deployed, the penalty will be the forfeiture of the re-export bond<sup>2</sup> posted by the RBE.]
- i. In cases where the equipment and assets are returned to the economic or free port zones before the termination of the WFH arrangement and the

<sup>1</sup> Item A (3), Memorandum issued by the FIRB dated 27 October 2021 on the subject, *Supplemental guidelines for the posting of bond as one of the conditions prescribed under Fiscal Incentives Review Board (FIRB) Resolution No. 19-21 and its Guidelines on the work-from-home (WFH) arrangement for Registered Business Enterprises (RBEs) in the Information Technology – Business Process Management (IT-BPM) sector.*

<sup>2</sup> Item A (4), *Ibid.*

corresponding Form 8106 have been liquidated, and the bonds cancelled, the same equipment and assets shall no longer be allowed to be brought out of the Zone, unless a new Form 8106 has been filed and a new re-export bond posted;

- j. When the number of employees under the WFH arrangement exceeds the thirty percent (30%) threshold, the non-compliant RBE shall be made to pay regular corporate income tax (RCIT) at the rate of twenty percent (20%) or twenty-five percent (25%), as applicable, for the month/s of non-compliance;
- k. The manner of payment of the penalty for the violation of the thirty percent (30%) WFH threshold shall be made in accordance with the guidelines and procedures stated in Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 120-2022 unless amended by the BIR;
- l. Revenue from export as required shall be maintained regardless of the allowed ratio of employees working from home. *Provided, That* the current number of employees shall not be reduced regardless if the majority of their employees are working from home;
- m. RBEs shall comply with reportorial requirements and site inspections, as may be required by the FIRB or the concerned Investment Promotion Agency; and,
- n. RBEs that shall continue to implement WFH arrangements upon the expiration of FIRB Resolution No. 017-22, as provisionally extended until 31 December 2022, shall be covered by Section 309 of the National Internal Revenue Code of 1997, as amended, and, as such, will not be entitled to any tax incentives under the CREATE Act.

For guidance and strict compliance.



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
FISCAL INCENTIVES REVIEW BOARD  
MANILA

**FIRB Resolution No. 19 - 21**

August 2, 2021

**WHEREAS**, Section 2 of Republic Act (RA) No. 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act" or CREATE provides that the State shall, among others, (1) provide support to businesses in their recovery from unforeseen events such as an outbreak of communicable diseases or a global pandemic and strengthen the nation's capability for similar circumstances in the future and (2) create a more equitable tax incentive system that will allow for inclusive growth and generation of jobs and opportunities in all the regions of the country;

**WHEREAS**, Rule 23 (Temporary Measures) of the Implementing Rules and Regulations of CREATE allows for the implementation of reasonable measures to support the recovery of Registered Business Enterprises (RBEs) from exceptional circumstances such as a pandemic, subject to Fiscal Incentives Review Board (FIRB) approval;

**WHEREAS**, to promote the welfare of employees, RA No. 11165, otherwise known as the *Telecommuting Act*, institutionalized telecommuting as an alternative work arrangement whereby an employee in the private sector may work from an alternative workplace with the use of telecommunication and/or computer technologies;

**WHEREAS**, the Department of Information and Communications Technology noted that the demand for connectivity arising from Work-From-Home (WFH) arrangements has led to the more equitable distribution of bandwidth across the country, such that it is no longer just focused on the central business districts, thereby making internet access more widely available;

**WHEREAS**, the Department of Labor and Employment affirms that the Information Technology – Business Process Management (IT-BPM) sector is one of the key employment generators in the country, and that the adoption of WFH arrangements in that sector has contributed to the creation and preservation of jobs during the pandemic;

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FIRB Resolution No. 19-21

**WHEREAS**, the Inter-Agency Task Force for the Management of Emerging Infectious Diseases adopts WFH as an alternative working arrangement in its community quarantine protocols, and as part of its recovery management efforts in its response against the COVID 19 pandemic, which has proven to be a working model to limit the mobility of workers without affecting the output through technology, and lessen the pressure on public transport;

**NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED**, that as a temporary measure under Rule 23 of the CREATE IRR, RBEs of the IT-BPM sector may continue implementing WFH arrangements without adversely affecting their fiscal incentives under CREATE until 31 March 2022;

**RESOLVED, FURTHER**, that RBEs of the IT-BPM sector covered by this temporary measure must satisfy all of the following conditions to maintain their incentives and/or the period of availment:


- a. The number of employees under a WFH arrangement shall not exceed ninety percent (90%) of the total workforce of the RBE; *Provided*, That beginning 01 January 2022, the ceiling shall be reduced to seventy-five percent (75%) for the remainder of the period of this temporary measure; *Provided further*, that if the State of Calamity due to COVID-19 is extended to any date beyond 01 January 2022, the ceiling shall be maintained at ninety percent (90%) until 31 March 2022;
- b. The number of laptops/other equipment of the RBE outside the ecozone should not exceed the number of its employees who are under WFH arrangement;
- c. Bonds shall be posted for all equipment (e.g. desktops and laptops) deployed by the RBE to their employees' homes, to ensure payment of taxes and duties if any such equipment is not returned to the site of the RBE after the WFH arrangement;
- d. Revenues from export as required shall be maintained regardless of the allowed ratio of employees who will work from home. *Provided*, That the current number of employees shall not be reduced regardless if the majority of their employees are working from home; and
- e. The RBE shall comply with reportorial requirements and site inspections, as may be required by the FIRB or IPA;






FIRB Resolution No. 19-21



**RESOLVED, FINALLY**, that RBEs of the IT-BPM sector, as used herein, refer only to those providing services in line with the transitional Strategic Investment Priority Plan;

This resolution was adopted by the Board in its meeting on 2 August 2021 where a quorum was present.

  
**CARLOS G. DOMINGUEZ**  
Secretary of Finance  
Chairperson 

  
**RAMON M. LOPEZ**  
Secretary of Trade and Industry  
Co-Chairperson 

  
**MICHAEL P. ONG**  
Senior Deputy Executive Secretary

  
  
**TINA ROSE MARIE L. CANDA**  
OIC and Undersecretary of Budget  
and Management

  
**KARL KENDRICK T. CHUA**  
Socioeconomic Planning Secretary 



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
FISCAL INCENTIVES REVIEW BOARD  
MANILA

**FIRB Resolution No. 017- 22**  
21 June 2022

**WHEREAS**, Fiscal Incentives Review Board (FIRB) Resolution No. 19-21, which allowed registered business enterprises (RBEs) in the Information Technology—Business Process Management (IT-BPM) sector to adopt work-from-home (WFH) arrangements, ended on 31 March 2022;

**WHEREAS**, Philippine Economic Zone Authority (PEZA), in its letter dated 24 January 2022, requested the FIRB to allow its RBEs in the IT-BPM sector to adopt a WFH arrangement without the 10% onsite capacity requirement until 12 September 2022 or until the subsistence of the State of Calamity as prescribed under Proclamation No. 1218, s.2021, which was denied under FIRB Resolution No. 003-22;

**WHEREAS**, PEZA issued PEZA Board Resolution (BR) No. 22-052 dated 06 April 2022, which allowed all kinds of RBEs to adopt a WFH arrangement not exceeding thirty percent (30%) of the total workforce of an RBE;

**WHEREAS**, the Bureau of Internal Revenue posited that the WFH arrangement under PEZA BR No. 22-052 had no basis in law even before the passage of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act and that none of the provisions under the PEZA Law, Presidential Decree No. 66, and Executive Order No. 266 provide for any WFH incentives or allow employees to work outside the ecozone or freeport;

**WHEREAS**, the 70% threshold is an export requirement, while the remaining 30% that may be allotted to local sales has nothing to do with operating outside the economic or freeport zones and, as such, does not give the RBE the authority to operate outside the zone;

**WHEREAS**, FIRB Resolution No. 19-21 only applies to RBEs in the IT-BPM sector, while Section 309 of the National Internal Revenue Code of 1997, as amended, applies to all RBEs located inside an economic or freeport zone;

**FIRB Resolution No. 017 – 22**

Grant of authority to implement a 70:30 WFH arrangement

**WHEREAS**, Rule 23, Section 2 of the CREATE Act Implementing Rules and Regulations (IRR) allows for the implementation of temporary measures by investment promotion agencies (IPAs) upon the approval of the FIRB in the event of an exceptional circumstance such as a pandemic, subject to the approval of the FIRB;

**WHEREAS**, *Presidential Proclamation No. 1218, s. 2021* further extended the existing State of Calamity due to the COVID-19 virus throughout the Philippines for a period of one (1) year, from 13 September 2021 to 12 September 2022, unless earlier lifted or extended as circumstances may warrant;

**WHEREAS**, the FIRB recognizes the contribution of the IT-BPM sector as a key employment generator in the country, and that the adoption of WFH arrangements in that sector has contributed to the creation and preservation of jobs during the pandemic;

**NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED**, that as a temporary measure under Rule 23 of the CREATE Act IRR, RBEs of the IT-BPM sector may be allowed by their respective IPAs to continue implementing WFH arrangements without adversely affecting their fiscal incentives under the CREATE Act from 1 April 2022 until 12 September 2022 only.

**RESOLVED, FURTHER**, the number of employees under a WFH arrangement shall not exceed thirty percent (30%) of the total workforce of the RBE, while the remaining seventy percent (70%) of the total workforce shall render work or service within the geographical boundaries of the ecozone or freeport zone being administered by the IPA with which the project/activity is registered; *Provided*, That the total workforce shall refer to the total employees that are directly or indirectly engaged in the registered project or activity of the RBE, but excludes third-party contractors rendering janitorial or security services and other similar services.

**RESOLVED, FURTHER**, RBEs in the IT-BPM sector adopting a WFH arrangement exceeding the thirty percent (30%) threshold shall not be entitled to avail of fiscal and non-fiscal incentives for the said month/s of non-compliance.



**FIRB Resolution No. 017 – 22**

Grant of authority to implement a 70:30 WFH arrangement

**RESOLVED, FURTHER,** the 70:30 WFH arrangement is a temporary measure under Rule 23 of the CREATE Act IRR implemented in view of Proclamation No. 1218, s.2021.

**RESOLVED, FINALLY,** that RBEs of the IT-BPM sector, as used herein, refer only to those providing services in line with the Strategic Investment Priority Plan;

This *Resolution* may be signed in any number of counterparts, each of which, when duly executed and sent by facsimile or electronic transmission to the Secretariat, shall be valid and effectual as if executed as an original, but all the counterparts (including those sent by way of facsimile or electronic transmission) shall together constitute one and the same document.

Adopted by the Board in its meeting on 21 June 2022, where a quorum was present.



**TINA ROSE MARIE L. CANDIA**

Officer-in-Charge and Undersecretary of Budget and Management

**KARL KENDRICK T. CHUA**

Secretary of National Economic and Development Authority

**LORAJEAN A. ALAMIN**

Assistant Executive Secretary





**RAMON M. LOPEZ**  
Co-Chairperson and Secretary of Trade and Industry

*CR*

**CARLOS G. DOMINGUEZ**  
Chairperson and Secretary of Finance

**FIRB Resolution No. 017 – 22**  
Grant of authority to implement a 70:30 WFH arrangement

**RAMON M. LOPEZ**  
Co-Chairperson and Secretary of Trade and Industry

  
**CARLOS G. DOMINGUEZ**  
Chairperson and Secretary of Finance 



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
FISCAL INCENTIVES REVIEW BOARD  
MANILA

### **FIRB Advisory 007-2022**

- FOR** : All Heads of Investment Promotion Agencies, Registered Business Enterprises (RBEs) in the Information Technology and Business Process Management (IT-BPM) sector, Bureau of Internal Revenue, and Bureau of Customs
- SUBJECT** : Circulating the Memorandum of the Fiscal Incentives Review Board (FIRB) Chairperson on the impending expiration of the 30-70 work-from-home (WFH) provisions under FIRB Resolution No. 017-22
- 

This Advisory is issued to circulate the attached Memorandum of the FIRB Chairperson on the impending expiration of the 30-70 WFH provisions under FIRB Resolution No. 017-22.

Given that said resolution ends on 12 September 2022 with the next Board meeting set on 15 September 2022, the FIRB Chairperson has deemed it necessary to issue a Memorandum provisionally extending the 30-70 WFH arrangement for RBEs in the Information Technology - Business Process Management sector from 13 September 2022 until the FIRB decides on the Philippine Economic Zone Authority's request to extend WFH arrangement.

The Memorandum embodying the FIRB Chairperson's action on the matter is attached herein.

  
JUVY C. DANOFRATA

Assistant Secretary of Finance, and  
Head of the FIRB Secretariat



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**FISCAL INCENTIVES REVIEW BOARD**  
MANILA

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**FIRB Resolution No. 026- 22**

14 September 2022

**WHEREAS**, Fiscal Incentives Review Board (FIRB) Resolution No. 017-22, issued on 21 June 2022 allows registered business enterprises (RBEs) in the Information Technology—Business Process Management (IT-BPM) sector to adopt work-from-home (WFH) arrangement not exceeding thirty percent (30%) of their total workforce, is valid until 12 September 2022;

**WHEREAS**, *Presidential Proclamation No. 57, s. 2022* further extended the existing State of Calamity due to the coronavirus disease-2019 (COVID-19) virus throughout the Philippines effective 13 September 2022 until 31 December 2022, unless earlier lifted or extended as circumstances may warrant;

**WHEREAS**, FIRB recognizes that RBEs in the IT-BPM sector have already adopted WFH as their business model, and any proposed alternative work arrangement not contrary to law is a management prerogative;

**WHEREAS**, Section 309 of the National Internal Revenue Code of 1997, as amended by the CREATE Act, prohibits the conduct of registered projects or activities beyond the geographical boundaries of the economic zone or freeport zone being administered by the IPA and provides that any project or activity conducted or performed outside the economic zone or freeport zone shall not be entitled to incentives;

**WHEREAS**, there is a pressing need to address the request of RBEs in the IT-BPM sector to allow them to adopt, on a long-term basis, flexible work arrangements without adverse effects on their tax incentives;

**WHEREAS**, the FIRB Technical Committee recommended the transfer of registration of RBEs in the IT-BPM sector from an IPA administering an economic zone or freeport zone to the Board of Investments (BOI) to allow them to adopt up to 100% WFH arrangement;

**WHEREAS**, Section 297(A) of the NIRC of 1997, as amended by the CREATE Act, vests in the FIRB the power to exercise policy-making and oversight functions in the administration and grant of incentives.

**FIRB Resolution No. 026 – 22**

Extending the 30:70 WFH arrangement and the transfer of registration of existing RBEs in the IT-BPM to BOI

**NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED**, that as a temporary measure under Rule 23 of the CREATE Act Implementing Rules and Regulations (IRR) and in view of *Proclamation No. 57, s.2022*, the effectivity of FIRB Resolution No. 017-22, which allows RBEs in the IT-BPM sector to adopt WFH arrangements not exceeding thirty percent (30%) of their total workforce without adversely affecting their income tax incentives under the CREATE Act, is hereby extended from 13 September 2022 until 31 December 2022.

**RESOLVED, FURTHER**, that RBEs implementing WFH arrangements shall comply with all the conditions prescribed in FIRB Resolution Nos. 19-21, 017-22, and relevant issuances.

**RESOLVED, FURTHER**, that the affected RBEs in the IT-BPM sector may be allowed to transfer their registration to the BOI from the IPA administering an economic zone or freeport zone where their project is located until 31 December 2022 and adopt up to 100% WFH arrangement; *Provided* that the monitoring of these “transferee” RBEs’ compliance and the availment of their remaining incentives shall remain with the concerned IPA administering such economic zone or freeport zone where they are located.

**RESOLVED, FURTHER**, that the transfer of registration shall be governed by the following guidelines:

1. RBEs in the IT-BPM sector shall signify to the concerned IPA of their intention to transfer to BOI;
2. The concerned IPA shall prepare an endorsement to BOI, which shall contain the following basic information:
  - a) Registration Details (Certificate of Registration, Date of Registration, and Registered Activity with corresponding PSIC Code)
  - b) Remaining Tax Incentives; and
  - c) Status of compliance with registration terms and conditions;
3. BOI shall issue the BOI Certificate of Registration (CR) indicating the remaining tax incentives of the project; *Provided* that the current Cost

Extending the 30:70 WFH arrangement and the transfer of registration of existing RBEs in the IT-BPM to BOI

Benefit Analysis for new projects shall no longer be applied to the transferee RBEs;

4. The concerned IPA shall monitor compliance of transferee RBEs and submit a report to the BOI in relation to the BOI CRs issued; and

Provided, that the “affected RBEs” shall cover those transferee RBEs that have remaining tax incentives under Section 311 of the NIRC of 1997, as amended, or those with approved incentives on or before 14 September 2022 under the CREATE Act with the concerned IPA.

**RESOLVED, FURTHER,** that the BOI and the concerned IPA, in coordination with the FIRB Secretariat, shall, when necessary, provide any additional procedures and mechanisms to effectively and expeditiously carry out the said transfer of registration of RBEs in the IT-BPM sector.

**RESOLVED, FINALLY,** that after the lapse of the periods of the remaining tax incentives, the existing registered project of the transferee RBEs shall not be entitled to additional incentives, but may be eligible to apply if the activity is listed in the Strategic Investment Priority Plan and there is a new investment or qualified expansion.

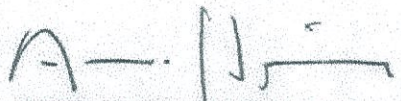
This *Resolution* may be signed in any number of counterparts, each of which when duly executed and sent by facsimile or electronic transmission to the Secretariat shall be valid and effectual as if executed as an original, but all the counterparts (including those sent by way of facsimile or electronic transmission) shall together constitute one and the same document.

Adopted by the Board in its meeting on 14 September 2022 where a quorum was present.

  
**AMENA F. PANGANDAMAN**  
Secretary of Budget and Management

**FIRB Resolution No. 026 – 22**

Extending the 30:70 WFH arrangement and the transfer  
of registration of existing RBEs in the IT-BPM to BOI

  
**ARSENIO M. BALISACAN**



Secretary of National Economic and Development Authority

**ROLANDO P. TAN**

Deputy Executive Secretary for Finance and Administration

**ALFREDO E. PASCUAL**

Co-Chairperson and Secretary of Trade and Industry

**BENJAMIN E. DIOKNO**

Chairperson and Secretary of Finance



**FIRB Resolution No. 026 – 22**

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**FIRB Resolution No. 026 – 22**  
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Co-Chairperson and Secretary of Trade and Industry

C. C. C.

**BENJAMIN E. DIOKNO**

Chairperson and Secretary of Finance



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