



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

## **FIRB Advisory 003-2023**

**FOR** : All Heads of Investment Promotion Agencies (IPAs)  
Registered Business Enterprises (RBEs) in the Information Technology — Business Process Management (IT-BPM) sector

**SUBJECT** : **Basis of the penalty due to non-compliance by RBEs in the IT-BPM sector of the work-from-home (WFH) threshold pursuant to Fiscal Incentives Review Board (FIRB) Resolution No. 017-22, as extended by FIRB Resolution No. 26-22.**

**DATE** : 27 January 2023

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This Advisory is issued to inform all parties concerned on the proper basis of the penalty in case of non-compliance with the WFH threshold.

The Board members, in the recently concluded 18<sup>th</sup> FIRB Meeting held on 6 January 2023, agreed that Philippine Economic Zone Authority (PEZA) Memorandum Circular No. 2022-074, insofar as it states that non-compliance with the allowable WFH threshold would result in the concerned registered business enterprises paying, as a penalty, the regular corporate income tax (RCIT) and local business tax only (LBT) on the excess of the 30% WFH threshold, is not consistent with our WFH policies as specified in FIRB Resolution Nos. 017-22 and 026-22, and implemented in a number of BIR revenue memorandum circulars.

Any such penalty should be based on **100% or the entirety of the RCIT for the month/s of non-compliance, and not merely based on the excess of the 30% WFH threshold.**

Under Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) Nos. 23-2022, 39-2022, and 120-22, RBEs that fail to comply with the WFH threshold shall continue to file and pay their income tax due, while the penalty shall be determined by computing the difference between the RCIT and the 5%

tax on GIE or the 5% SCIT, and to be paid using BIR Form No. 0605. Thus, LBT is deemed to have been paid therewith.

Lastly, please note that RBEs in the IT-BPM sector in the economic or freeport zone may no longer adopt WFH arrangements beginning 01 January 2023 unless registered with the Board of Investments (BOI) not later than 31 January 2023 pursuant to FIRB Resolution No. 033-22, which extends the deadline for existing RBEs in the IT-BPM sector to transfer their registration to BOI. Hence, only those registered with BOI on or before 31 January 2023 may adopt up to 100% WFH arrangements without adverse effects on their incentives.

For proper guidance. Thank you.



**JUVY C. DANOFRATA**

Assistant Secretary of Finance and  
Head of the FIRB Secretariat