



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

FIRB Advisory 004-2023

FOR : All Heads of Investment Promotion Agencies (IPA)
All registered business enterprises (RBEs) in the Information Technology — Business Process Management (IT-BPM) sector registered with the Board of Investments (BOI)

SUBJECT : **Frequently Asked Questions on the Supplemental Guidelines on the Registration of RBEs in the IT-BPM Sector with the BOI**

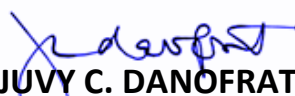
DATE : **15 February 2023**

In line with the policymaking and oversight functions of the Fiscal Incentives Review Board (FIRB) under Republic Act No. 11534, otherwise known as the “Corporate Recovery and Tax Incentives for Enterprises” (CREATE) Act, the FIRB Secretariat would like to inform all concerned IPAs and RBEs of the answers to questions raised during the virtual town hall meetings last 26 January 2023 on the supplemental guidelines on the registration of RBEs in the IT-BPM Sector with the BOI (**refer to Annex A**).

For further questions, you may reach out to your designated IPAs. Alternatively, the FIRB Secretariat’s Monitoring and Evaluation Group (FIRB MEG) can assist you for any inquiries or clarifications. They may be contacted at 5317-6363, local 8854 or through email at firbmeg@ntrc.gov.ph.

Your continued support and collaboration are highly appreciated.

Thank you.


JUVY C. DANOFRATA
Assistant Secretary of Finance and
Head of the FIRB Secretariat

ANNEX A

Clarifications on the questions received covering the Supplemental Guidelines on the registration of RBEs in the IT-BPM sector with the BOI

Coverage of FIRB Resolution Nos. 26-2022 and 33-2022

Q.1. Can IT-BPM projects registered with other IPAs and located in economic or freeport zones, from 15 September 2022 onwards, register with BOI under FIRB Resolution Nos. 26-2022 and 33-2022?

No. All registration of new or expansion projects from September 15, 2022 onwards shall be with BOI if the enterprises wish to avail of the 100% work-from-home (WFH) arrangements. Prior to this period, IT-BPM projects may register with the BOI based on FIRB Resolution Nos. 26-2022 and 33-2022.

Q.2. What is the penalty if an IT-BPM project implements WFH arrangements in 2023, but fails to register with the BOI by 31 January 2023?

IT-BPM RBEs that implemented WFH arrangements in 2023 but failed to register with the BOI by 31 January 2023 shall be subject to a penalty on the regular corporate income tax (RCIT) as specified in FIRB Advisory No. 003-2023, and Bureau of Internal Revenue (BIR) Revenue Memorandum Circular Nos. 23-2022, 39-2022, and 120-2022. This, however, is without prejudice to the suspension or withdrawal of tax incentives or cancellation of the corresponding Certificate of Registration, upon further assessment by the concerned IPAs or the FIRB.

Q.3. How is the penalty on RCIT, in case of non-compliance with Section 309 of the tax code, as amended, computed?

Per FIRB Advisory No. 003-2023, any penalty shall be based on 100% or the entirety of the RCIT for the month/s of non-compliance and not merely on the percentage of non-compliance.

Q.4. Can the BOI Certificate of Registration (BOI-COR) be amended after 31 January 2023 in order to include additional projects?

No, the BOI-COR cannot be amended after 31 January 2023 to include expansions or new projects in order to allow these new projects or

expansions to implement WFH arrangements.

New or expansion projects or activities of IT-BPM RBEs should be separately registered with the BOI in order to avail of WFH arrangements.

Availment of Incentives/Registration with BOI

Q.5. Upon the BOI-COR issuance, where shall the IT-BPM RBE submit its BOI-COR?

Upon the issuance of the BOI-COR, the IT-BPM RBE must submit the BOI-COR to the original or concerned IPA for the annotation of the original COR issued by the said concerned IPA. For the Philippine Economic Zone Authority (PEZA)-registered IT-BPM RBEs, the BOI-COR shall be submitted to the PEZA's Office of the Board Secretary (OBS), for proper annotation. For contact details, please reach out to your concerned IPA for further guidance.

Q.6. How can we avail of the fiscal incentives if BOI has not yet issued the BOI-COR?

The BIR and Bureau of Customs (BOC) shall accept the official receipt as proof that the BOI-COR will be secured by the company. Generally, in lieu of the BOI-COR, the BOI-issued official receipt shall be accepted as an alternative.

Q.7. If the official receipt evidencing BOI registration is secured on 1 December 2022, can we implement 100% WFH arrangements starting 1 December 2022?

Yes, the date indicated in the official receipt shall be the effective date of registration with the BOI. The effective date of BOI registration marks the beginning of the IT-BPM RBE's eligibility to implement 100% WFH arrangements.

Q.8. Please clarify if the registration with BOI is a transfer of registration or an additional registration in order to institutionalize the conduct of WFH arrangements by IT-BPM RBEs located in economic zones or freeport zones.

The registration with the BOI will be an additional registration on top of the IT-BPM RBE's existing registration. The registration with BOI will be the basis

for fiscal incentives, while the registration with the concerned or original IPA will be the basis for non-fiscal incentives and the corresponding terms and conditions of registration.

As such, IT-BPM RBEs must continue to abide by regulations set by both IPAs in order to maintain their fiscal and non-fiscal incentives.

Q.9 When filing tax returns with the BIR, what will be the IPA name that will be indicated?

In order to easily tag and isolate those under dual registration with the BOI and the concerned IPA, please use the syntax below:

“Concerned IPA-BOI”

To illustrate, if the concerned or original IPA is PEZA, the IPA field in the tax return will be filled-out as “PEZA-BOI”.

Submission of Reports and Compliance Monitoring

Q.10 What is the process of requesting the Certificate of Authority to Import (CAI), Certificate of Entitlement to Tax Incentives (CETI), and VAT Zero-rating certificate if the RBE is already BOI registered?

The CAI, CETI, and VAT Zero-rating certificate shall still be processed with the original or concerned IPA, using their existing processes. Nonetheless, please coordinate with your concerned IPA for any additional reportorial requirements or for any adjustments in existing process flows.

Q.11 If the VAT zero-rating certificate for 2023 has already been obtained from PEZA, is it required to request for an annotated VAT zero-rating certificate?

Please request from PEZA an amended VAT zero-rating certificate for 2023, with the required annotation as specified in the administrative order. This is done to ensure that all stakeholders are guided by the changes in the registration of the subject IT-BPM RBE.

Q.12 Is compliance with the procedural rules and reportorial requirements of the concerned IPA still required?

Yes. Existing procedural rules of the original or concerned IPA shall continue even after registration with the BOI unless otherwise declared by the original or concerned IPA. Ultimately, there are minimum control measures that must be implemented to effectively manage and administer economic and freeport zones.

Allocation of the five percent (5%) tax on gross income earned (GIE)

Q.13 If the IT-BPM RBE allows permanent WFH for employees, which registered site should these employees be reported under, for the purpose of determining the rightful local government unit (LGU) where the corresponding LGU's (e.g., 2% for PEZA) share shall be remitted?

There is no change in the corresponding share of the existing recipient-LGU, provided that the IT-BPM RBE does not change its registered address or registered location. Further, as provided under Department of Finance Local Finance Circular No. 001-2022, the employees under a WFH arrangement shall not be assessed by the LGU.

Movement of capital equipment and other assets within and outside the economic zones and/or freeport zones

Q.14 Is tax exemption indorsement (TEI) different from the Certificate of Registration and Tax Exemption (CRTE)?

Yes, the TEI is different from the CRTE. The TEI is issued by the Department of Finance - Revenue Office (DOF-RO) as proof of VAT and/or customs duty exemption of imported goods. In contrast, the CRTE is issued by the IPA as proof of the registration of the RBE with the IPA and the available fiscal incentives.

We would like to emphasize that, under CREATE, the document that serves as proof of entitlement to income tax incentives is now the Certificate of Entitlement to Tax Incentives (CETI).

Q.15 Is the TEI applicable to all IT-BPM RBEs registered with the BOI?

The TEI is applicable to all IT-BPM RBEs that are registered with the BOI, regardless of the date of registration. IT-BPM RBEs already registered with the BOI as of 31 December 2022, and those registered during the extension, which ended 31 January 2023, shall be required to secure a TEI.

Q.16 What is the coverage of the one-time blanket TEI to be secured for existing goods as of 31 January 2023?

The blanket TEI applies to all imported goods, as of 31 January 2023, that availed of import VAT and/or duty exemption and are still in the books of accounts of the registered project/activity. The TEI applies to all imported goods, irrespective of the asset's current location, and whether the asset is permanently situated in the economic or freeport zone or will be transferred subsequently.

Q.17 If duties and taxes were already paid for imported laptops used for WFH arrangements of employees, will the laptops still be covered by the TEI?

No, the TEI no longer applies as the BOC has already assessed these goods, and the IT-BPM RBE has paid the related taxes and duties. Kindly note that the TEI serves as your documentary proof of import VAT and/or customs duty exemption. If there is no exemption availed or granted, the TEI is no longer required.

Q.18 If an IT-BPM RBE has multiple projects, will a blanket TEI be required to be secured for each project?

Since the blanket TEI shall be secured on a per-project basis, it follows that each project must secure a blanket TEI.

The term “project” means those supported by a separate COR or Supplemental Agreement (SA), as applicable.

Q.19 Is a TEI also required for local purchases? What is the document to support the VAT zero-rating of these local purchases?

No, the TEI does not cover locally purchased goods. The TEI is designed to serve as proof of VAT and/or duty exemption of importations.

Locally purchased goods enjoying VAT zero-rating are supported by the VAT zero-rating certificate issued by the IPAs. In this regard, locally purchased goods can be freely moved in/out of the economic zone or freeport as long as the related supporting documentary requirements can be presented.

Q.20 What if an IT-BPM RBE has multiple projects, but only one project is responsible for importing equipment for direct delivery to other projects? Who will report the equipment for the purposes of securing a TEI?

The tagging of imported assets must follow the tagging per separate books of accounts. The use of one project to consolidate all imports that will be eventually used by other separately registered projects runs counter to the objective of requiring separate books of accounts per project.

This means that the related assets must be traced back to the project to which it was booked and where the related depreciation or expense is reported.

Q.21 What will be the implication if some of the assets will not be covered by the TEI?

Imported assets that will not be supported by a TEI will be subject to the corresponding duties and taxes, as determined by the BOC.

Q.22 Can TEI processing be accomplished by a broker?

Securing the TEI from the DOF-RO can be done by a broker, provided that the company provides an authorization letter granting the broker the authority to apply for a TEI, on behalf of the company.

Q.23 Does the TEI have to be personally filed at the DOF-RO office?

Yes. While the registration for the TEI system is done online, the TEI for existing goods and new shipments shall be filed personally at the DOF-RO. Nonetheless, IT-BPM RBEs outside Metro Manila may engage brokers to process the TEI, on behalf of the company.

For further queries on how to secure the TEI, kindly contact Mr. Riguel Fojas (revenueoffice@dof.gov.ph) of the DOF-RO through email or through (02) 8526-8458.

Q.24 Please confirm if the requirement of submission of reports within 30 days should be counted from the actual issuance of the BOI-COR.

The administrative order (AO) explicitly states that the 30-day deadline will be counted from the date the BOI-COR was issued and not on the date indicated on the official receipt. Nonetheless, the covered period of the report shall retroact to the date per official receipt, as this covers the first day of eligibility to avail of 100% WFH arrangements.

Q.25 For IT-BPM RBEs implementing hybrid WFH arrangements, what will be the headcount to be reported for the purpose of the report to be submitted 30 days after the issuance of the BOI-COR?

Employees under a hybrid work arrangement shall be included in the WFH count. The WFH count will be the basis for determining the reasonableness of the volume of assets brought out of the economic zone or freeport zone.

For simplicity, we suggest multiplying the total count of employees by the number of working days, to determine the maximum number of days employees can report on-site, in total. Thereafter, just deduct the total instances that all employees availed of WFH arrangements.

For example, if an IT-BPM RBE has 200 employees and has a 20 working-day month, in a full month, the full on-site ceiling would be 200×20 , or 4,000. If 100 employees availed of 10 offsite workdays, then the WFH ratio for the month would then be $[(100 \times 10) / (200 \times 20)]$ or 25%. For ease of tracing, kindly indicate the related number of working days used (e.g., 20 working-days).

Q.26 In the list of existing equipment, should assets with zero net book value be included?

Yes, assets that remain in the registered project or activity's books of accounts, even with zero net book value, shall be included in the list of existing equipment provided that these assets are VAT and/or customs duty exempt.

Q.27 If the count of laptops and/or other IT equipment exceeds the count of employees availing WFH arrangements, will the laptops and/or other IT equipment be subject to taxes?

As business models are constantly changing, the related laptops and other IT peripherals that operationalize the adjustments may also vary. In this regard, a justification must be provided for the change in the equipment-to-employee ratio. Such equipment, if imported and availed of import VAT and/or customs duty exemption, shall be covered by the TEI.

The justification shall be submitted to the concerned IPA. As existing internal control procedures are maintained, we suggest that the justification be included in the IPAs' forms.

Transitory period for the movement of capital equipment and other assets within and outside the economic zones and/or freeport zones

Q.28 What are the documents that RBEs need to present to the BOC to support the movement of goods during the bond-free period?

Asset movements during the bond-free period shall be supported by a provisional goods declaration and a notarized undertaking that the related TEI will be secured, in lieu of posting any type of bond and during the pendency of the TEI.

A sample of the provisional goods declaration has been included as an [attachment](#) to the AO.

Q.29 Is the IT-BPM RBE still required to secure a surety bond on importations if the assets are already covered by a TEI?

Once the TEI has been secured for existing equipment and other assets, no bond requirement, in whatever form, shall be imposed upon the movement of assets outside the zone.

Q.30 If the IT-BPM RBE failed to secure a TEI before the end of the bond-free period, will the surety bond to be secured also cover local purchases?

A surety bond is not required in order to move locally purchased goods. Locally purchased goods enjoying VAT zero-rating can be freely moved

in/out of the economic zone or freeport as long as the supporting VAT zero-rating certificate can be presented, along with the BOI-issued official receipt or BOI-COR, and other supporting documents (e.g., invoices or official receipts), as applicable.

Valuation methods of the BOC for the sale, transfer, donation, or disposal of the related assets of the covered RBE, whether local or imported

Q.31 What are the correct assessments for duties and taxes for the disposal of assets with zero book value and acquired ten years ago?

The valuation rate for assets with zero book value shall be 10% of the original book value, representing the assumed residual value. This valuation method is lifted from Customs Administrative Order 5-2011, as adopted, based on Section 608 of the Customs Modernization and Tariff Act, as amended.

Q.32 On the valuation method, how can the new rules under the AO and the provisions under the CREATE law (stating that the sale, transfer and disposition of assets shall be based on net book value and donations to TESDA, DepEd and CHED-accredited schools are exempt from duties and taxes) be reconciled?

There is no new rule. Kindly note that the AO specifically states that the sale, transfer, or donation shall be made to non-privileged persons. Ultimately, donations to government agencies and educational institutions are covered by specialized rules, given the unique purpose of these institutions.

Treatment of existing capital equipment and other assets with lost or missing documents specific to the requirements needed for the DOF-RO's TEI.

Q.33 What would be the consequence if the Transit Single Administrative Document (TSAD) supporting the imported asset, to be covered by the TEI, is missing?

The receiving BOC Office shall only be allowed to process and approve applications with sufficient supporting documents. If the TSAD can no longer be found, import VAT and/or customs duties shall be assessed, as applicable.

Q.34 In cases where a TEI can't be secured (e.g., original import documents can't be found, among others), can a bond be repeatedly secured in order to move these assets in and out of the zone?

If a TEI cannot be secured due to lost or missing documents, the related imported assets shall be assessed by the BOC, accordingly.

Allowable ratio of WFH arrangements for covered RBEs

Q.35 Is there a limitation as to the period of enjoyment of WFH arrangement once an IT-BPM project is registered with the BOI?

There is no limit as to the period of enjoyment of the WFH arrangement once a project is registered with the BOI. Registration with the BOI under FIRB Resolution Nos. 26-2022 and 33-2022 is a permanent solution that enables RBEs located in economic zones or freeport zones to conduct 100% WFH arrangements indefinitely.

Processing of TEI for New Goods

Q.36 If the TEI is not secured for assets expected to be imported starting February 2023 onwards, is there an alternative for the goods to be released at the port of entry?

The TEI is required to be secured for assets imported as of 1 February 2023. We recommend that IT-BPM RBEs review their importation timelines to ensure that TEI processing is duly considered in their plans and that adjustments in import lead times are made, as necessary.

Q.37 When should RBEs secure the TEI? Prior to the arrival of goods in the Philippines or earlier?

We recommend the filing of the TEI at least ten (10) days before the arrival of the goods, to ensure the smooth processing and release of the imported goods. For new importations, kindly note that the DOF-RO shall only accept applications filed within one (1) year from the date of importation, based on the date indicated per airway bill or the bill of lading, as applicable.

Q.38 How is the TEI requirement for new goods different from the TEI requirement for existing goods?

For existing goods, the IT-BPM RBE is required to secure just ***one blanket TEI per project***, whereas for new goods, the requirement is ***one TEI per shipment per project***.