



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

FIRB Advisory 006-2023

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

SUBJECT : **Clarifications on the supplemental guidelines on the registration of RBEs in the IT-BPM Sector with the BOI in relation to FIRB Administrative Order (AO) No. 001-2023, as amended by FIRB AO No. 003-2023**

DATE : **05 April 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, this Advisory is released to provide clarifications concerning amendments to FIRB AO No. 001-2023.

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 Supplemental Guidelines on the Registration of
RBEs in the IT-BPM Sector with the BOI, as amended by FIRB AO No. 002-2023
and FIRB AO No. 003-2023

Q.1. Are all assets of the IT-BPM RBE covered by these regulations?

No. Only the capital equipment and other assets related to the IT-BPM project or activity registered with the BOI and are to be used to implement work-from-home (WFH) arrangements shall be covered by these regulations.

Q.2. What shall be the coverage of the tax exemption indorsement (TEI) to be secured from the Department of Finance - Revenue Office (DOF-RO)?

Based on Section E of FIRB AO No. 001-2023, as amended by FIRB AO 003-2023, only assets intended to be moved out of or currently outside the economic zones and/or freeport zones for WFH arrangements shall be required to secure a TEI.

Kindly note that existing goods will be covered by a blanket TEI per project, covering existing goods that were imported as of 31 January 2023. For new importations starting 1 February 2023, the TEI shall be processed per project per shipment.

Q.3. If a foreign-supplied intangible asset/software will not pass through the BOC/any port (e.g., purely internet-based), will the TEI no longer be required?

Yes, the TEI will no longer be required. The TEI only covers goods that are physically imported and processed by the BOC as imports.

Q.4. If the intangible asset/software is a component of a tangible/physical asset (e.g., part of equipment or machinery), will the related TEI be secured?

Yes, the TEI must be secured. As the intangible asset/software forms part of the imported asset, the cost of such intangible asset/software will be

embedded in the purchase price of the tangible/physical asset that will be processed by the BOC.

Q.5. Can IT-BPM RBEs implement WFH arrangements while still processing the blanket TEI?

Yes, WFH arrangements are already permitted upon registration with the BOI. However, during the pendency of the issuance of the TEI, the movement of goods from the economic zones and/or freeport zones, in order to operationalize the WFH arrangements, shall only be allowed upon successfully securing a provisional goods declaration (PGD) and submitting a notarized undertaking.

Concerns on existing assets (or assets imported as of 31 January 2023)

Q.6. What is the duration of the bond-free period for existing assets?

As provided by FIRB Resolution No. 33-2022, and as extended by FIRB Resolution No. 012-23, the bond-free transition period shall run from 1 January 2023 to 30 June 2023.

Q.7. What is the recourse of IT-BPM RBEs if they are still securing the TEI for existing assets by the end of the bond-free transition period?

After the bond-free transition period, the goods may still be allowed to be moved outside the economic zone or freeport zone provided that a PGD has been secured and the specific and sufficient surety bond has been posted, as approved by the BOC.

However, in no case shall the TEI of existing assets currently outside the economic or freeport zone be secured later than one (1) year from the issuance of FIRB AO No. 003-2023 or the end of the bond-free transitory period, whichever comes later.

Q.8. What are the requirements for processing the PGD?

For the requirements and procedures regarding PGD, please refer to Customs Administrative Order No. 02-2021.

Q.9. If a blanket TEI has already been secured for existing goods, is there a need to lodge a PGD?

If the blanket TEI has already been secured, then there is no need to lodge a PGD.

Q.10. Where shall the application for the staging bill of lading (BL) or dummy BL be filed?

The request for the staging BL/dummy BL shall be filed by the covered RBE to the BOC satellite offices, as applicable, for pre-assessment. Thereafter, the BOC satellite offices shall endorse the application for the approval of the BOC Deputy Collector for Operations and the BOC Deputy Collector for Assessment.

Q.11. Aside from the requirements listed in Annex A of FIRB AO No. 001-2023, what are the other requirements for the staging BL/dummy BL?

The application for the staging BL/dummy BL shall be filed together with a pre-assessment entry, the related import documents, and a memorandum/letter addressed to the BOC Deputy Collector for Operations stating clearly the grounds and basis for the approval of the request. For the requirements and procedures regarding the staging BL/dummy BL, please refer to Customs Memorandum Order No. 22-2018.

Q.12. Is the inventory list of importations (attachment 5) to the BOC before processing the request for staging BL/dummy BL?

Yes, the BOC requires the inventory list of importations to be covered by the blanket TEI in order to process and issue the staging BL/dummy BL.

Q.13. Can import licenses issued by IPAs serve as acceptable substitutes for the transit-single administrative document (TSAD) in applying for the staging BL/dummy BL?

Yes. If the TSAD is no longer available, the related admission permit or import permit, or any other equivalent document, can also be used in lieu of the TSAD.

Q.14. How long will it take to secure a staging BL/dummy BL number?

Upon submission of complete documents, the staging BL/dummy BL shall be released within three (3) working days.

Q.15. Do IT-BPM RBEs need to secure staging BL/dummy BL if all WFH assets to be moved outside the economic zone or freeport zone are locally purchased equipment?

The staging BL/dummy BL is a requirement to process the TEI for imported existing goods. If the WFH assets to be moved outside the economic or freeport zone are locally purchased equipment, then the staging BL/dummy BL does not need to be secured.

Q.16. Is there a format for the letter request for staging BL/dummy BL?

There is no format for the letter request. However, the letter should be addressed to the Office of the Deputy Collector for Operations (ODCOPE).

Q.17. Is the staging BL/dummy BL only required for existing assets?

Yes, the staging BL/dummy BL is only required to secure the blanket TEI for existing assets. New importations starting 1 February 2023 shall be covered by an actual signed and dated Import BL/Air Waybill. Please refer to Annex A of FIRB AO No. 001-2023 for the distinction between requirements for existing assets and new importations starting 1 February 2023.

Concerns on new assets (or assets imported starting 1 February 2023)

Q.18. What is the process for new importations starting 1 February 2023?

As amended by FIRB AO No. 003-2022, new importations of IT-BPM RBEs shall undergo the existing/status quo clearance procedures and documentary requirements of their concerned IPA in order to release the goods from BOC custody. The additional step of securing a TEI from the DOF-RO will only arise when the IT-BPM RBE requests for the movement of goods from the economic zone or freeport zone.

As an additional control measure, kindly note that the related import permit/admission permit, or any other equivalent document to be issued by the concerned IPA for all new importations, must indicate an annotation that a TEI must be secured if the related assets will be moved out of the economic zone or freeport zone, for WFH purposes.

Q.19. What is the recourse of IT-BPM RBEs if they are still securing the TEI for the new importations and these goods already need to be moved outside the economic or freeport zone?

As amended by FIRB AO No. 003-2022, new imported assets may still be allowed to be moved outside the economic or freeport zone provided that a PGD has been processed, the specific and sufficient bond has been paid, and an application for TEI has already been filed with the DOF-RO at the time of lodgement. For the requirements and procedures regarding PGD, please refer to Customs Administrative Order No. 02-2021.

Q.20. How can the Certificate of Non-Local Availability (CNLA) requirement be secured?

The submission of the CNLA, as required in the FIRB AO No. 001-2023 for the processing of the TEI, shall be deferred pending the issuance of the joint memorandum circular of the DOF and the DTI on how to operationalize the issuance of the CNLA under Rule 2, Section 4(B)(3) of the implementing rules and regulations (IRR) of the Corporate Recovery and Tax Incentives for Enterprises Act (CREATE) Act, as amended. Please refer to FIRB Administrative Order No. 002-2023: Deferral of the CNLA requirement under FIRB AO No. 001-2023, for the related issuance.

Concerns on proof of entitlement to VAT incentives for local assets

Q.21. Is submission of invoices and receipts mandatory in order to prove that local purchases are entitled to VAT incentives?

In general, locally purchased goods used for WFH arrangements, which were subject to VAT zero-rating, should be supported by the related VAT zero-rating certificate issued by the concerned IPAs. Given the need to balance government control procedures and the ease of doing business, risk-based validation should be applied whenever possible.

Concerns on the 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.22. Considering there is a fully depreciated asset (i.e., zero net book value) with a useful life of five years (i.e., 20% depreciation per year), will the

asset be assessed based on the 50% depreciated value using the valuation method under Section H.1 of FIRB AO No. 001-2023?

Yes, this is correct. As decisions on asset sales and disposals are often accompanied by other economic and non-economic factors, the IT-BPM RBE must determine the corresponding optimal alternative.

Q.23. Will BOC's valuation for asset disposal indicated in Section H of the FIRB AO No. 001-2023 apply to locally purchased equipment enjoying VAT zero-rating?

Yes, the valuation for asset disposal shall also apply to locally purchased assets.

Q.24. Does the valuation method of the BOC for the sale, transfer, donation, or disposal of related assets apply retroactively to assets existing before the registration of IT-BPM RBEs to the BOI?

No. The valuation method prescribed in Section H of the FIRB AO No. 001-2023 will only be applied prospectively. The valuation will not cover the existing assets of the IT-BPM RBEs that were already disposed of and paid accordingly or those paid under protest, prior to the IT-BPM RBE's BOI registration.

Concerns on BOC Procedures

Q.25. Are cargoes still subject to 100% inspection by the BOC even if the RBE is already registered with the BOI?

Yes. The BOC has the right to physically inspect and validate that the goods listed in the submitted farm-out forms are the same goods to be taken out.

As mentioned in FIRB AO No. 003-2023, the concerned IPA and the BOC unit of the economic zone or freeport zone are enjoined to exercise a high degree of diligence in checking and monitoring the number of goods and equipment taken out of the economic zone or freeport zone and into the customs territory.

Concerns on expansion projects under PEZA

Q.26. Is an extension office (i.e., activity on the same building but on a different floor) considered as another project that needs to be registered for tax incentives?

If the operations at the additional floor would entail an increase in production capacity, either through the installation of new IT equipment or the hiring of additional personnel, then the extension office is an expansion project that may be registered for incentives separately. Kindly note that a qualified expansion project shall be subject to a separate application and approval process, as aligned under existing rules and regulations.

If the extension office is intended only for rearranging the office premises, the concerned RBE shall secure a Letter of Authority (LOA) from PEZA for the additional area of operations. In this instance, there will be no additional incentives granted to the RBE, and the incentives for the extension office shall be co-terminus with the incentives of the existing project.

Q.27. Are transferee IT-BPM RBEs registered with PEZA and BOI still required to maintain an office inside the economic and/or freeport zone?

Based on PEZA Memorandum Circular No. 2022-067, the transferee RBEs are still required to maintain an office inside PEZA-registered IT Centers/Buildings. Failure to comply shall result in the cancellation of its registration with PEZA as an IT Enterprise and subsequently, its registration with BOI.

Q.28. Can IT-BPM RBEs implementing WFH arrangements reduce their office space inside the economic and/or freeport zone? To what extent is the reduction allowed?

Based on PEZA Memorandum Circular No. 2022-067, PEZA Rules and Regulations shall still apply to the operations of the transferee RBEs, including the related applications for office space reduction, among others. While there is no specific area or reduction rate indicated, the reduced office space must remain compliant with the required occupant density under the National Building Code of the Philippines (NBCP) and other existing rules and regulations of the concerned IPA, as applicable.

Q.29. What's the process if the PEZA-registered RBE transfers its operations to a new location?

Based on PEZA Memorandum Circular No. 2022-067, PEZA Rules and Regulations shall still apply to the operations of the transferee, including the transferred operations. The corresponding application for the transfer shall still be processed under PEZA. Once the appropriate letter of authority has been issued and the PEZA Certificate of Registration (COR) of the transferee has been amended to reflect the new location, the IT-BPM RBE shall request for the endorsement of PEZA, for submission to the BOI, covering the changes in the registration.

Concerns on the updating of the BIR registration of IT-BPM transferees

Q.30. What IPA should be indicated in the Application for Registration Information Update (BIR Form No. 1905) in order to update the IT-BPM RBE's BIR COR?

Kindly note that IT-BPM transferees are required to update their BIR COR. The IPA to be indicated is the new IPA followed by the old IPA, separated by a forward slash (e.g., BOI/PEZA or BOI/CDC). This is also the IPA that will be indicated in the Income Tax Return (ITR).

For RBEs with multiple registered activities under multiple IPAs, additional sheets of BIR Form No. 1905 should be accomplished (as many as necessary). The RBE shall inform the BIR Revenue Officer of the fact that there are multiple registered activities under multiple IPAs to be updated.

The registration update may also be done using the Online Registration and Update System (ORUS) of the BIR (<https://orus.bir.gov.ph/>).