



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

13 May 2022

FIRB Advisory

FOR: All Investment Promotion Agencies (IPAs), Registered Business Enterprises (RBEs), and Other Registered Entities (OREs)

SUBJECT: Frequently Asked Questions on the Fiscal Incentives Registration and Monitoring System (FIRMS), Annual Tax Incentives Report (ATIR) and Annual Benefits Reports (ABR)

In line with the policymaking and oversight functions of the FIRB under the CREATE Act, the FIRB Secretariat would like to inform all Investment Promotion Agencies (IPAs), Registered Business Enterprises (RBEs), and Other Registered Entities (OREs) of the **answers to questions raised during the various Virtual Town Hall Meetings** on the following:

1. **Fiscal Incentives Registration and Monitoring System (FIRMS)** (refer to Annex A)
2. **Annual Tax Incentives Report (ATIR) and Annual Benefits Reports (ABR)** (refer to Annex B)

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 (02) 8527-2064 or through email at firbmeg@ntrc.gov.ph.

Your continued support and collaboration are highly appreciated.

Very truly yours,

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ANNEX A
Responses regarding FIRMS

Q.1 Can a user register in two or more Registered Business Enterprises (RBEs)?

A single/individual user can have multiple accounts, provided that there are unique email addresses provided per account per legal entity/Tax Identification Number (TIN).

Q.2 Can an RBE create multiple account users for one legal entity?

No, FIRMS observes a one-to-one relationship between a user account and the corresponding TIN. This means that a FIRMS account is uniquely identified to a single TIN (regardless of branch code).

However, we emphasize that one account can register multiple projects housed under one legal entity/one TIN.

Q.3 For Pre-CREATE RBEs registered with their respective IPAs, would the start date of tax incentives in Form B of FIRMS be based on the validity dates indicated in their Certificate of Registration or Certificate of Registration and Tax Exemption (or other similar documents)?

For the purpose of filling-out Form B in FIRMS, the start date of tax incentives for projects/activities shall refer to the date when the RBE first availed of the specific tax incentive based on its initial and original registration with the IPA.

However, we would like to clarify that the reckoning period of the transitory provision under Section 311 of the Tax Code is the effectivity date of the CREATE Act, which is April 11, 2021.

Q.4 What if the address of the locator is not found in the drop-down list in Form A?

The drop-down menu for the “Address” in FIRMS was based on the latest database of cities/municipalities/barangays per Philippine Statistics Authority. For now, kindly indicate the nearest local government unit (LGU) having jurisdiction over the RBE. Moving forward, we will be modifying FIRMS so that RBEs located inside ecozones and freeports that are not under the jurisdiction of any barangay will not be required to indicate their barangay address.

Q.5 Are locators also required to apply for the CETI?

Locators entitled to and will be availing of tax incentives for the year are required to apply for the CETI from the IPA. For this year's tax filing (covering the taxable year 2021), the existing Certificate of Registration (COR) or Certificate of Registration and Tax Exemption (CRTE) or other similar registration documents shall be allowed.

Q.6 For the taxable year 2022, will all RBEs be required to apply for the Certificate of Entitlement to Tax Incentives (CETI)?

For the taxable year 2021, the Bureau of Internal Revenue (BIR) accepts the official issuances of the IPAs (such as the CRTE or COR) as proof of the RBEs' entitlements. Moving forward, the BIR will be requiring the CETI. We will release further advisories regarding this matter.

Q.7 Are companies with existing CRTE expiring as of 2022 entitled to incentives under the transitory provision of CREATE Act?

If you are a registered enterprise granted incentives by the IPA prior to the passage of CREATE and still enjoying the incentives when CREATE was passed in 2021, you will be under the transitory provision of the law.

Q.8 Is there a timeline/deadline when we would need to create a FIRMS account?

FIRMS will serve as a centralized portal for approving and monitoring tax incentives and will be used to enroll existing and prospective RBEs. We encourage everyone to create their user accounts already. As FIRMS is currently undergoing further development, we will release advisories to ensure ease of use.

Q.9 If we are registered as a local domestic company (not as a branch) but in function has a parent company abroad, do we need to fill in the Foreign company parent company info?

If the Company disclosed that it has a Parent Company in its General Information Sheet (GIS), then please accomplish the Parent Company information. A parent Company refers to the entity that exercises "control" or owns more than 50% of the company's shares.

Q.10 As the FIRMS module only allows one account registered per RBE, what will happen if the one who registered the account got separated from the RBE, can the RBE create another account?

Your FIRMS account and its maintenance should be approached with due care and diligence. Proper safekeeping, internal control, and redundancy

plans must be applied in ensuring the proper maintenance of your FIRMS account.

We suggest that you designate a permanent email that will be used. This email should not be linked to a specific person but should be tied to a permanent function. For instance, if the Company's Tax Department will handle all FIRMS dealing, then a new email for the Tax Department should be created, subject to internal control procedures of the company.

Q.11 If an RBE is issued a CRTE which is renewable every three (3) years, what shall be the "registration date" to be indicated per FIRMS?

The registration date refers to your first and original registration date for the project and should not be confused with the renewal dates of the CRTE.

Q.12 If VAT zero-rating is included in the COR of an existing RBE, will the RBE tick the VAT ZERO RATING in Form B?

Yes. In addition, the VAT zero-rating rules per CREATE Act should be adhered to during actual operations/implementation.

Q.13 Where can we get the sworn declaration of authenticity, and who should sign it?

The sworn declaration is a regular business document normally provided during business-to-business accreditation. This is regularly executed by your Corporate Secretary, in accordance with the authorized signatories of your company. You may request this from your Corporate Secretary or from your procurement department.

Q.14 On the list of shareholders to be listed, shall this be updated annually?

Yes, the list of stockholders to be disclosed in FIRMS should be the same as the list of stockholders of the Company per the latest GIS submitted to the Securities and Exchange Commission (SEC).

Q.15 We have one registered activity having multiple sites, how do we register in FIRMS? By registered activity or per site?

User registration in FIRMS is on a per legal entity/per company basis. However, one user account can accommodate multiple registered projects/activities. In this regard, Form B shall be accomplished for each registered project/activity.

Q.16 We are a BOI-registered company and we are only entitled to local tax exemption. Do we still need to register under FIRMS?

Yes, as local tax exemption forms part of tax incentives.

FIRMS will serve as a centralized portal for approving and monitoring tax incentives and will be used to enroll existing and prospective RBEs. We encourage everyone to create their user accounts already. As FIRMS is currently undergoing further development, we will release advisories to ensure ease of use.

ANNEX B

Responses regarding the ATIR and ABR

Q.1 Is TIMTA report submission applicable to IPA-registered firms not availing of income tax incentives?

TIMTA is no longer required for registered projects or activities whose tax incentives have already **EXPIRED** and did **NOT AVAIL OF ANY** tax incentive during the taxable year. This means that non-income tax incentives (e.g., duty exemption and VAT zero-rating and/or exemption) were **NOT** availed during the year.

For projects or activities entitled to income tax incentives but did NOT avail any during the year due to certain circumstances (e.g., no start of commercial operations, no operations for the covered period, net loss position, among others), the ATIR and ABR are still required to be submitted.

Q.2 Are RBEs required to accomplish Annexes B.1-B.3 of the ABR under the transitory period?

The CREATE Act mandates that all registered enterprises with incentives submit the ATIR and ABR.

Q.3 We are under the fiscal based calendar ending on March 31. Our income tax return will be submitted in July. Should we re-submit last year's TIMTA using the new format?

Yes, the ATIR and ABR to be submitted this May 2022 shall include those under calendar year (ending Dec. 31, 2021) and those under fiscal year (those with an annual closing date earlier than Dec. 31, 2021, or those with fiscal years ending from January 1, 2021 to Dec. 30, 2021)

Q.4 For projects that suffered a net loss or gross loss, and therefore did not benefit from either the income tax holiday or special corporate income tax (SCIT) of 5% based on gross income earned (GIE), are they still required to submit the templates?

While there was no benefit derived due to the project's net loss or gross loss position, the incentive entitlement still exists and must be captured in the ATIR (Annual Tax Incentives Report) or what was previously known as TIMTA. Thus, the requirement to include the project in the ATIR and ABR remains.

Additionally, tax incentives also include tax and duty exemption on importations, VAT zero-rating on local purchases, VAT exemption on importations, and if under the 5% special corporate income tax based on gross income earned (GIE), which is in lieu of all national and local taxes, real property and local business tax exemptions are also included. All of these must be captured in the ATIR and ABR.

Q.5 What if an RBE already previously submitted TIMTA using the old template to their IPA. Is the submission still valid?

The TIMTA submissions, now the ATIR and ABR, should be in the new templates.

If the RBEs already submitted their ATIR and ABR using the older version, they are still required to submit the reports using the new templates.

However, given the continuing challenges under the new normal, **tentative ATIRs and ABRs shall be accepted this May 18, 2022**. The final and amended templates shall be accepted until **June 15, 2022**.

Q.6 We already registered though we are yet to commence operations because the project is still under development. Are we still required to comply with this requirement?

Yes, even if the project is not yet operational, the entitlement remains. Just kindly indicate that you are not yet operational and just encode zero in the respective data fields.

Q.7 Do RBEs need to have the ATIR and ABR printed and notarized?

No, the ATIR and ABR will be submitted as a spreadsheet to the IPAs and the FIRB Secretariat. However, we emphasize the need for accurate and complete data, as these will be used to monitor the compliance of the RBEs.

Q.8 The filing of amended income tax returns by the BIR was extended until May 15, 2022. Will an extension be provided for the ATIR and ABR?

Per RMC 42-2022, the filing deadline for the 2021 income tax returns was April 18, 2022. However, the BIR allowed tentative tax returns to be filed and amended until May 16, 2022, without incurring any interest, surcharge, or penalties.

As the tax filing deadline was not extended and remained at April 18, 2022,

the counting of the thirty (30) days from the date of filing the return remains. However, given the continuing challenges under the new normal, **tentative ATIRs and ABRs shall be accepted this May 18, 2022**. The final and amended templates shall be accepted until **June 15, 2022**.

Q.9 We are currently submitting the TIMTA reports to the IPA. Will this change in the future when we will submit the said report to FIRB? If yes, when is the effectivity?

Under the CREATE IRR, the ATIR and ABR reports will be submitted to the respective IPAs, a copy of which shall be simultaneously submitted to the FIRB in electronic form.

Q.10 If a project/activity already enjoyed more than 10 years of tax incentives prior to the effectivity of the CREATE Act. What is the applicable transitory period for the project/activity?

Existing RBEs before the effectivity of the CREATE Act are entitled to the transitory period provided under Section 311 of the Tax Code, as amended, subject to the rules provided under Rule 18, Sections 1, 2, and 3 of the CREATE Act implementing rules and regulations (IRR).

Q.11 Is registration to CREATE for incentives limited only to new companies? Or also available to already registered RBEs with expired ITH but will apply for expansion?

CREATE incentives can be availed by new and existing enterprises, as long as the project or activity to be registered is listed in the Strategic Investment Priority Plan (SIPP). However, for existing enterprises, incentives may be granted only to qualified expansions or entirely new projects.

Q.12 Who will determine incentive entitlement, is it the IPA or the FIRB?

Under the CREATE Act, the FIRB will decide on applications for tax incentives for projects or activities with investment capital of more than PHP 1 billion. Approval of projects or activities with investment capital of PHP 1 billion and below are delegated to the IPAs.

Q.13 How do we know if we are under CREATE or the transitory period?

If the project is not yet registered prior to the effectivity of the CREATE Act, then the subsequent registration with IPA will be covered under the CREATE Act. Those projects that were granted tax incentives prior to the CREATE Act will be allowed to continue their availment under the transitory provision (Part IV, Rule 18, Sections 1-3 of the CREATE IRR).

Q.14 We have multiple sites with different tax incentives but have the same registered activity, should we consolidate the tax incentive or still report it per location?

Given the differences in tax incentives, it would be best to report per location so that the various tax incentives per location will be captured.

Q.15 What do you mean by absolute amounts?

When encoding, kindly encode the full numerical value. For instance, when encoding PHP 1 million, please encode “1,000,000” and NOT “1 million”.

As the reports will be consolidated per sector, per IPA, and as a whole, differences in truncated amounts will distort the reports. Therefore, kindly encode in absolute amounts (no truncation).

Q.16 How will RBEs reflect the financial position (e.g., loans) if they have multiple projects/activities registered?

RBEs shall use an allocation method that best suits the distribution of assets or loans. The RBE shall determine the most accurate allocation method to be applied.

Q.17 Where can we see or locate our PSIC Code?

The PSIC code can be found on the PSA website (refer to link below).

<https://psa.gov.ph/classification/psic2019/>

Q.18 Do we classify contractual employees under agencies under indirect employment?

No, indirect employees refer to employees that are covered by an employer-employee relationship but are not directly engaged in the registered project or activity, such as the project’s cost accountant or an administrative assistant.

Q. 19 For the total count of employees to be reported in Annex B.3, who are the employees that shall be included in the count, will it be only those who are active employees (for the whole year) only as of December 31, 2021, or including those employees who have been hired and terminated during 2021, or both?

While we are after full and decent employment, we understand that cyclical

and structural turnover in business enterprises triggers resignations during the year. In this regard, kindly include employees hired and who were terminated or who resigned during the year. For purposes of computing the total count of employees, kindly pro-rate based on actual months rendered. As a guide, an illustration is provided below.

Assuming Project ABCD hired four employees, as follows:

- *Employee A (rank and file)* - PHP 500,000 total compensation for the period covered, employed from Jan. 1, 2021 to Dec. 31, 2021 (full year)
- *Employee B (rank and file)* - PHP 250,000 total compensation for the period covered, employed from Jan. 1, 2021 to Jun. 30, 2021 (half-year)
- *Employee C (rank and file)* - PHP 250,000 total compensation for the period covered, employed from Jul. 1, 2021 to Dec. 31, 2021 (half-year)
- *Employee D (rank and file)* - PHP 250,000 total compensation for the period covered, employed from Jul. 1, 2021 to Dec. 31, 2021 (half-year)

For purposes of accomplishing the template, the following are computed:

Total compensation would be **PHP 1,250,000.**

Total count of employees would be **2.5***

*Computed as: 1 full year + 0.5 (Jan to Jun) + 0.5 (Jul. to Dec.) + 0.5 (Jul. to Dec.)