



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

FIRB Resolution No. 006-22

21 March 2022

WHEREAS, Section 297(E) of the National Internal Revenue Code (NIRC) of 1997, as amended, authorizes the Fiscal Incentives Review Board (FIRB) to cancel, suspend, or withdraw the enjoyment of fiscal incentives of concerned registered business enterprises (RBEs) on its own initiative or upon the recommendation of the Investment Promotion Agency (IPA) for material violations of any of the conditions imposed in the grant of fiscal incentives, including, but not limited to, the non-compliance of the agreed performance commitments and endorse RBEs whose incentives are cancelled, suspended, or withdrawn to the concerned revenue agencies for the assessment and collection of taxes and duties due commencing from the first year of availment;

WHEREAS, Section 309 of the NIRC of 1997, as amended, states that a qualified registered project or activity under an Investment Promotion Agency administering an economic zone or freeport shall be exclusively conducted or operated within the geographical boundaries of the zone or freeport being administered by the IPA in which the project or activity is registered: Provided, That an RBE may conduct or operate more than one qualified registered project or activity within the same zone or freeport under the same IPA: Provided, further, That any project or activity conducted or performed outside the geographical boundaries of the zone or freeport shall not be entitled to the incentives provided in the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, unless such project or activity is conducted or operated under another IPA;

WHEREAS, FIRB Resolution No. 19-21 allows RBEs of the Information Technology – Business Process Management (IT-BPM) sector to continue implementing work-from-home (WFH) arrangements without adversely affecting their fiscal incentives until 31 March 2022, provided that the number of employees under a WFH arrangement shall not exceed 90% of the total workforce of the RBE;

WHEREAS, the "Guidelines to monitor the compliance with the conditions prescribed under FIRB Resolution No. 19-21 on the work-from-home arrangement for RBEs in the IT-BPM sector" provides that non-compliance with

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Clarifying the period of imposition of penalty for violating the conditions prescribed under FIRB Resolution 19-21
the conditions prescribed under FIRB Resolution 19-21 may result in suspension, withdrawal or cancellation of tax incentives of RBEs.

WHEREAS, FIRB Resolution No. 23-21 states that non-compliance with the conditions prescribed under FIRB Resolution No. 19-21 shall be meted with the suspension of the income tax incentive applied on the revenue corresponding to the month/s of non-compliance;

WHEREAS, the provisions found in FIRB Resolution No. 19-21, although dated 2 August 2021, became effective 13 September 2021 which is after the expiration of the Philippine Economic Zone Authority (PEZA) Memorandum Circular 2020-049 extending the WFH arrangement for ecozone IT enterprises until 12 September 2021;

WHEREAS, the FIRB in a meeting held on 21 February 2022, denied the appeals by the PEZA and its locators for the extension of the WFH provisions beyond 31 March 2022;

WHEREAS, the FIRB has been receiving inquiries as to the date of commencement of the penalty for non-compliance with the provisions found in FIRB Resolution No. 19-21;

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, *That* the penalty for non-compliance with the provisions found in FIRB Resolution No. 19-21 shall be effective from 13 September 2021 until the expiration of the effectivity of FIRB Resolution 19-21.

RESOLVED, FURTHER, *That* all projects or activities must be conducted inside the economic zone or freeport pursuant to Section 309 of the NIRC of 1997, as amended. The FIRB may cancel, withdraw, or suspend the enjoyment of fiscal incentives of concerned RBEs for violating any provisions of the CREATE Act pursuant to Section 297(E) thereof.

RESOLVED, FINALLY, *That* the WFH arrangement found in FIRB Resolution No. 19-21 for RBEs in the IT-BPM sector shall be allowed until 31 March 2022 only.

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



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Clarifying the period of imposition of penalty for violating the conditions prescribed under FIRB Resolution 19-21 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 March 2022 where a quorum was present.



LORAJEAN A. ALAMIN
Assistant Executive Secretary

TINA ROSE MARIE L. CANDA
Officer-in-Charge and Undersecretary of Budget and Management

KARL KENDRICK T. CHUA
Secretary of National Economic and Development Authority

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

CARLOS G. DOMINGUEZ
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