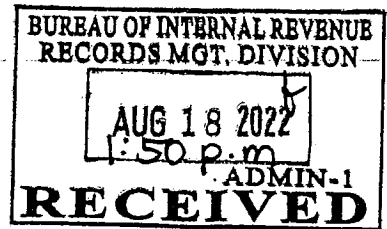




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City



Date: AUG 18 2022

REVENUE MEMORANDUM CIRCULAR NO. 120 - 2022

SUBJECT: Additional Guidelines and Procedures on the Manner of Payment of Penalty Relative to Violations Incurred by Registered Business Enterprises (RBEs) in the Information Technology-Business Process Management (IT-BPM) Sector on the Conditions Prescribed Regarding Work-From-Home (WFH) Arrangement for the Period April 1, 2022 until September 12, 2022

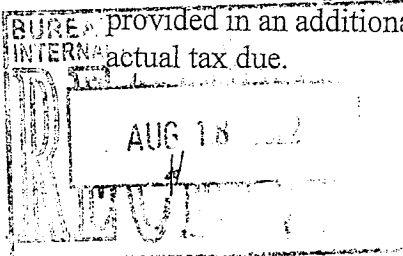
TO: All Internal Revenue Officials, Employees and Other Concerned

The Fiscal Incentives Regulatory Board (FIRB) issued FIRB Resolution No. 017-22 for RBEs in the IT-BPM sector allowing their respective Investment Promotion Agencies (IPAs) to continue implementing WFH arrangement without adversely affecting their fiscal incentives under the CREATE Act from **April 1, 2022 until September 12, 2022 only**. The number of employees under the WFH arrangement shall not exceed thirty percent (30%) of the total workforce of the RBE, while the remaining seventy percent (70%) of the total workforce shall render work or service within the geographical boundaries of the ecozone or freeport being administered by the IPA with which the project/activity is registered. The total workforce shall refer to the total employees directly or indirectly engaged in the registered project or activity of the RBE but excludes third-party contractors rendering janitorial or security services and other similar activities.

Relative thereto, non-compliance of the RBEs in the IT-BPM sector with the prescribed conditions under FIRB Resolution No. 017-22 for at least one day shall result in the suspension of its income tax incentives for the month when the violation took place. In such a case, the RBEs shall pay, as penalty, the regular income tax of either twenty-five percent (25%) or twenty percent (20%), whichever is applicable, for the aforesaid month. In addition, violations committed beyond September 13, 2022 onwards may subject the RBEs to applicable taxes.

The penalty shall be paid using BIR Form No. 0605, by choosing the radio button pertaining to "Others", under "Voluntary Payment" and by indicating in the field provided the phrase "Penalty pursuant to FIRB Res. No. 017-22". The tax type code shall still be "IT" and the ATC to be indicated is "MC 200".

RBEs with violation shall continue to file and pay Quarterly Income Tax Return following their usual procedure of computation of the tax due as if no violation was committed. A separate computation for the penalty on the WFH arrangement shall be provided in an additional schedule to be attached to BIR Form No. 0605, to present the actual tax due.



For their Annual Income Tax Return (AITR), RBEs shall continue to file using BIR Form No. 1702-EX for those with Income Tax Holiday (ITH) incentive and BIR Form No. 1702-MX for those enjoying Gross Income Tax (GIT) incentive or those with mixed transactions. However, they are mandatorily required to complete the required information pertaining to allowable deductions pursuant to existing tax laws and regulations (i.e., Part VI-Schedule I for BIR Form No. 1702-EX and Part IV-Schedule 5 for BIR Form No. 1702-MX).

For clarity, sample computations are provided hereunder.

ILLUSTRATION:

Scenario: Income summary of RBE which committed WFH violation for the month of April 2022 and whose income is derived solely from registered activity.

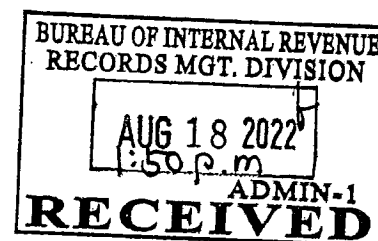
| INCOME SUMMARY (in Philippine Peso) | | | |
|-------------------------------------|--------------|---------------|---------------|
| PARTICULARS | 1ST QUARTER | 2ND QUARTER | TOTAL |
| Sales | 9,000,000.00 | 12,000,000.00 | 21,000,000.00 |
| Cost of Sales | 6,000,000.00 | 7,200,000.00 | 13,200,000.00 |
| Gross Income | 3,000,000.00 | 4,800,000.00 | 7,800,000.00 |
| Allowable Deductions | 2,100,000.00 | 2,400,000.00 | 4,500,000.00 |
| Taxable Income | 900,000.00 | 2,400,000.00 | 3,300,000.00 |

Assumption 1 - RBE is under Income Tax Holiday (ITH), thus, exempted from income tax.

No income tax was paid for the quarters ending March 31, 2022, and June 30, 2022.

However, since there is a violation committed in April, the penalty due for payment shall be:

| | |
|--------------------------------|----------------|
| Sales (21,000,000/6) | ₱ 3,500,000.00 |
| Cost of Sales (13,200,000/6) | (2,200,000.00) |
| Gross Income | ₱ 1,300,000.00 |
| Less: Deductions (4,500,000/6) | (750,000.00) |
| Taxable Income for the Month | ₱ 550,000.00 |
| Tax Rate | 25% |
| Income Tax (Penalty) Due | ₱ 137,500.00 |
| Quarterly Income Tax Paid | - |
| Income Tax (Penalty) Payable | ₱ 137,500.00 |



Note that the figures used in the computation above are the average amounts per month for the quarter.

Assumption 2 - RBE is under 5% gross income tax, thus, the Quarterly Income Tax Return shall be filed "as is" as shown below:

Quarterly Income Tax Return for the 1st quarter:

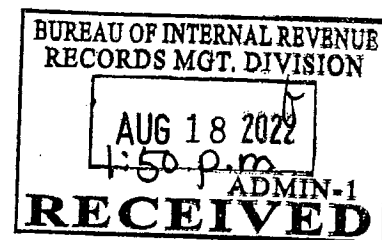
| | |
|---|----------------|
| Gross Sales | ₱ 9,000,000.00 |
| Less: Cost of Sales | (6,000,000.00) |
| Gross Income | ₱ 3,000,000.00 |
| Less: Deductions | - |
| Taxable Income | ₱ 3,000,000.00 |
| Add: Taxable Income from previous quarter | - |
| Total Taxable Income to Date | ₱ 3,000,000.00 |
| Tax Rate | 5% |
| Income Tax Due | ₱ 150,000.00 |
| Tax payment/s for the previous quarter | - |
| Income Tax Payable | ₱ 150,000.00 |

Quarterly Income Tax Return for the 2nd quarter:

| | |
|---|-----------------|
| Gross Sales | ₱ 12,000,000.00 |
| Less: Cost of Sales | (7,200,000.00) |
| Gross Income | ₱ 4,800,000.00 |
| Less: Deductions | - |
| Taxable Income | ₱ 4,800,000.00 |
| Add: Taxable Income from previous quarter | 3,000,000.00 |
| Total Taxable Income to Date | ₱ 7,800,000.00 |
| Tax Rate | 5% |
| Income Tax Due | ₱ 390,000.00 |
| Tax payment/s for the previous quarter | (150,000.00) |
| Income Tax Payable | ₱ 240,000.00 |

The computation of income tax (penalty) for the month of April shall be:

| | |
|---------------------------------------|----------------|
| Sales (21,000,000/6) | ₱ 3,500,000.00 |
| Cost of Sales (13,200,000/6) | (2,200,000.00) |
| Gross Income | ₱ 1,300,000.00 |
| Less: Deductions (4,500,000/6) | (750,000.00) |
| Taxable Income for the Month | ₱ 550,000.00 |
| Tax Rate | 25% |
| Income Tax (Penalty) Due | ₱ 137,500.00 |
| Quarterly Income Tax Paid (390,000)/6 | (65,000.00) |
| Income Tax (Penalty) Payable | ₱ 72,500.00 |



The income tax paid for the current quarter to be deducted from the income tax due to the penalty shall be divided proportionally to the number of months with the violation.

Moreover, Net Operating Loss Carry Over (NOLCO) shall not be a part of the computation for penalty and shall not be deducted from the total taxable income.

If the violation happened during the last quarter of the fiscal year (e.g. fiscal year ending November, 2022), the penalty shall be computed based on the manner prescribed in Revenue Memorandum Circular (RMC) No. 39-2022. Likewise, for RBEs with violation of the provisions of FIRB Resolution No. 19-21, the same manner of

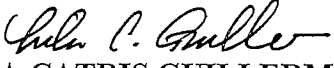
computation, filing and payment of the penalty as indicated in this memorandum shall be applied.

To emphasize the manner of payment, the RBE which committed violation shall pay the penalty using BIR Form No. 0605 on or before the due date prescribed for the filing or payment of the quarterly income tax, subject to adjustment upon the filing of the annual income tax return. For the fiscal quarter with month/s subject to penalty that already ended and returns have been filed, RBEs shall file and/or pay their penalty within ten (10) days after the issuance of this Circular. If the same is paid beyond the said period, administrative penalties shall be imposed considering that the penalty pertains to income tax.

The applicable procedures prescribed in Item IV of RMC No. 23-2022 shall be followed for the deployment of the list of RBEs with violation to the concerned Revenue District Office (RDO)/Division in the Large Taxpayer Service (LTS) and for proper monitoring of this undertaking.

This Circular shall take effect immediately and remain in force until September 12, 2022 pursuant to FIRB Resolution No. 017-22.

All concerned are hereby enjoined to be guided accordingly and give this Circular a wide publicity as possible.


LILIA CATRIS GUILLERMO
Commissioner of Internal Revenue
000738

I-2

