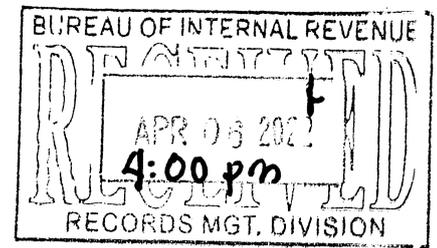




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
BIR National Office Building
Diliman, Quezon City



Date: APR 06 2022

REVENUE MEMORANDUM CIRCULAR NO. 39 - 2022

SUBJECT: Manner of Payment of Penalty Relative to Violations Incurred by Registered Business Enterprises (RBEs) under the Information Technology-Business Process Management (IT-BPM) Sector on the Conditions Prescribed Regarding Work From Home (WFH) Arrangement

TO: All Internal Revenue Officials, Employees and Other Concerned

In the Fiscal Incentives Regulatory Board (FIRB) Resolution No. 19-2021 issued on August 2, 2021, it was mentioned that the RBEs under the IT-BPM sector granted 'Work from Home' (WFH) arrangement must comply with certain conditions, otherwise, the tax incentives given to them shall be suspended. Relative thereto, this Bureau issued Revenue Memorandum Circular (RMC) No. 23-2022, wherein it was prescribed that for the month the RBE committed violation, it shall be liable for the payment of the regular income tax of either twenty-five percent (25%) or twenty percent (20%), whichever is applicable. Further, it was also mentioned in the said circular that for RBEs which has no current transactions subject to regular income tax, they can voluntarily pay the penalty by indicating the taxable income under the column "regular" of BIR Form No. 1702-MX, while for RBEs which has existing transactions subject to the regular income tax, the voluntary payment of penalty shall use BIR Form No. 0605.

Since the use of BIR Form No. 1702-MX for RBEs with no transactions subject to regular income tax would create confusion and difficulty in accomplishing the said form, this circular is issued to mandate the uniform manner of payment of the said penalty 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. 19-2021". The tax type code shall still be "IT" and the ATC to be indicated is "MC 200".

RBEs shall continue to file their Annual Income Tax Return (AITR) 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 1 for BIR Form No. 1702-EX and Part IV-Schedule 5 for BIR Form No. 1702-MX).

RBEs shall compute the penalty in the following manner and the same shall be paid within thirty (30) days after the due date prescribed for the payment of income tax. If the same is paid beyond the said period, administrative penalties shall be imposed considering that the penalty pertains to 'income tax'.

COMPUTATION OF PENALTY

Assuming the RBE committed violation for the months of September, October, November and December, 2021:

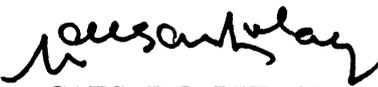
	<u>RBE enjoying ITH</u>	<u>RBE enjoying 5%GIT</u>
Annual Net Taxable Income*/12	₱ 12,000,000.00	₱ 12,000,000.00
Average Monthly Net Taxable Income	₱ 1,000,000.00	₱ 1,000,000.00
Multiply by the number of months with violation	x 4	x 4
Taxable Income subject to regular IT	₱ 4,000,000.00	₱ 4,000,000.00
Multiply by regular income tax rate	x 25%	x 25%
Income Tax due	₱ 1,000,000.00	₱ 1,000,000.00
Less: Payments made per AITR		500,000.00**
Income Tax still due and payable	<u>₱ 1,000,000.00</u>	<u>₱ 500,000.00</u>

*Annual Taxable Income must be computed based on existing tax laws and policies (Item 39 if BIR Form 1702-EX / Item 13 column B if BIR Form 1702-MX)

** Assuming the Gross Income Tax payable per AITR is P 1,500,000 (inclusive of LGU share), the monthly GIT paid is P 125,000.00, multiplied by 4 months.

All are enjoined to give this Circular a wide publicity as possible.

This Circular is effective immediately.


CAESAR R. DULAY
 Commissioner of Internal Revenue
 051681

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