

MCC TAX AND OTHER RELEVANT UPDATES

Period Covered: April 2023



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IMPORTANT UPDATES:

A. REVENUE REGULATIONS		
ISSUANCE	DATE ISSUED	SUBJECT
RR 2-2023	April 13, 2023	Topic: Documentary Stamp Tax (DST) Prescribes the use of constructive affixture of Documentary Stamp as proof of payment of Documentary Stamp Tax for Certificates issued by Government Agencies or Instrumentalities
RR 3-2023	April 26, 2023	Topic: Value-Added Tax, VAT-Zero Rating, VAT of Registered Business Enterprise on certain purchases Amends certain provisions of RR No. 16-2005 , as amended by RR No. 21-2021. <i>It amends certain portion of the RR 16-2005 or the Consolidated VAT Regulations to specifically mention that certain services purchased by Registered Business Enterprises are no longer covered by VAT Zero Rating pursuant to the new provision of law that states that Zero-Rating will only cover expenses which are directly and exclusively used for the registered activity of the RBE. This includes but not limited to services procured for legal consultation, accounting among others.</i>
B. REVENUE MEMORANDUM CIRCULARS		
RMC No. 43-2023	April 14, 2023	Topic: Assessment Further clarifies certain policies on the filing of appeal against Final Decision on Disputed Assessments (FDDA) pursuant to RR No. 12-99, as amended
RMC No. 45-2023	April 19, 2023	Topic: Incentives Management Clarification on the issues covering the transfer of registration with the Board of Investments (BOI) of Registered Business Enterprises (RBEs) in the Information Technology — Business Process Management (IT-BPM) Sector
RMC No. 46-2023	April 19, 2023	Topic: Incentives Management

		Clarifications on the supplemental guidelines on the registration with the Board of Investments (BOI) of Registered Business Enterprises (RBEs) in the Information Technology — Business Process Management (IT-BPM) Sector.
C. SECURITIES AND EXCHANGE COMMISSION		
Notice		<p>Topic: Amnesty on Non-Filing or Late Filing of AFS and GIS</p> <p>Extending the deadline for the filing of Amnesty Application</p>

DISCUSSION OF UPDATES

A. REVENUE REGULATIONS

REVENUE REGULATIONS 2-2023

REVENUE REGULATIONS NO. 2-2023 issued on April 13, 2023 prescribes the use of constructive affixture of documentary stamp as proof of payment of Documentary Stamp Tax (DST) for certificates issued by government agencies or instrumentalities.

In lieu of the loose documentary stamps, all government agencies or instrumentalities shall use the constructive affixture of documentary stamp on the certificates they issue which are subject to DST. These government agencies or instrumentalities shall be constituted as agents of the Commissioner of Internal Revenue for the collection and remittance of such DST to the Bureau of Internal Revenue (BIR).

For every issuance of certificate, the government agencies or instrumentalities shall collect from their applicants the corresponding amount of DST due thereon which shall be indicated as one of the items in the government official receipt. The said receipt shall be attached to the taxable certificate as proof of payment of the tax. The use of one government official receipt in order to cover two (2) or more certificates shall be allowed, subject to the following conditions:

- A. A serial or control number shall be printed and consecutively assigned for every issuance of certificate and the same shall be conspicuously located on the face thereof.
- B. The serial or control numbers of the certificates and the total amount of DST due, among others, shall be clearly indicated in the government official receipt

The collected DST shall be remitted monthly by filing the Documentary Stamp Tax Declaration/Return (BIR Form No. 2000) and paying the tax through the available payment facilities of the BIR on or before the fifth (5th) day of the following month.

A record of all issued government official receipts shall be maintained by the government agency or instrumentality, in hard and soft copy, which shall contain the following information for each government official receipt:

- a. Serial or control number of the government official receipt
- b. Serial or control numbers of certificates covered in the government official receipt (in case of two or more certificates issued in one receipt)
- c. Date of issue
- d. Name of applicant to the certificate
- e. Description of the certificate
- f. Amount of DST collected

Said record shall be updated daily and kept at all times at the premises of the government agency or instrumentality premises, for purposes of inspection and verification by the authorized representatives of the BIR.

The government agencies or instrumentalities, in addition to the affixture of government official receipt, shall stamp or print in a clear and readable manner which shall be located conspicuously on the face of the taxable certificate the phrase "DOCUMENTARY STAMP TAX PAID", including the serial number, and date of the government official receipt, as illustrated below.

<p>"DOCUMENTARY STAMP TAX PAID"</p>	
<p>_____ (GOR SERIAL NUMBER)</p>	<p>_____ (DATE OF PAYMENT)</p>

(DATE OF PAYMENT)

In case a government agency or instrumentality intends to implement an automated constructive affixture of documentary stamp, it shall be registered with the BIR where the government agency or instrumentality is registered as a taxpayer. A revenue issuance prescribing the procedures for this purpose shall be separately issued by the BIR. The following transitory provisions shall be strictly observed:

- a. A list (Inventory List of Loose Documentary Stamp Tax of the remaining physical inventory of loose documentary stamps in the possession of all government agencies or instrumentalities as of the effectivity of these Regulations shall be submitted to the Revenue District Office (RDO) where they are duly registered as taxpayers, within thirty (30) days after the date of effectivity of these Regulations. Upon the exhaustion of the inventory, the constructive affixture of documentary stamp prescribed by these Regulations shall be immediately implemented by the government agency or instrumentality
- b. Any government agency or instrumentality with an existing automated constructive affixture of documentary stamp shall register the same with the RDO where it is duly registered as a taxpayer, within thirty (30) days after the date of effectivity of these Regulations.

REVENUE REGULATIONS NO. 3-2023

REVENUE REGULATIONS NO. 3-2023 issued on April 26, 2023 amends certain provisions of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 21- 2021, to implement Sections 294 (E) and 295 (D), Title XIII of the National Internal Revenue Code of 1997, as amended by Republic Act (RA) No. 11534 (Corporate Recovery and Tax Incentives for Enterprise Act or CREATE Act), and Section 5, Rule 2 and Section 5, Rule 18 of the CREATE Act Implementing Rules and Regulations (IRR), as amended.

Section 4.106-5 of RR No. 16-2005, as amended by RR No. 21-2021, is hereby further amended and shall now be read as follows:

"SEC. 4.106-5. Zero-Rated Sales of Goods or Properties. — A zerorated sale of goods or properties by a VAT-registered person is a taxable transaction for VAT purposes but shall not result in any output tax. However, the input tax on purchases of goods, properties, or services, attributable to such zero-rated sale, shall be available as tax credit or refund in accordance with these Regulations.

The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

- (a) Export sales — xxx xxx xxx

XXX XXX XXX

- (c) Sale of raw materials, inventories, supplies, equipment, packaging materials, and goods, to a registered export enterprise, to be used directly and

exclusively in its registered project or activity pursuant to Sections 294 (E) and 295 (D) of Republic Act No. 11534 or the "Corporate Recovery and Tax Incentives for Enterprise Act" ("CREATE Act"), and Section 5, Rule 2 of its IRR for a maximum period of seventeen (17) years from the date of registration, unless otherwise extended under the SIPP; Provided, That the term "registered export enterprise" shall refer to an export enterprise as defined under Section 4 (M), Rule 1 of the CREATE Act IRR, that is also a registered business enterprise as defined in Section 4 (W) of the same IRR: Provided further, That the above-described sales to existing registered export enterprises located inside ecozones and freeport zones shall also be qualified for VAT zero-rating under this sub-item until the expiration of the transitory period

Local purchases of goods relating to the following services shall not be considered as "directly and exclusively used" in the registered project or activity of a registered export enterprise, to wit:

1. janitorial services;
2. security services;
3. financial services;
4. consultancy services;
5. marketing and promotion; and
6. services rendered for administrative operations such as Human Resources (HR), legal, and accounting.

This notwithstanding, the registered export enterprise is not precluded from further proving, with supporting evidence, to the concerned IPA that any of the above-listed local purchases of services are indeed directly and exclusively used in its registered project or activity. In all instances, in issuing the VAT zero-rating certification, the concerned IPA shall be guided by the rule that such local purchases of services are directly attributable to the registered project or activity without which such registered project or activity cannot be carried out. These are costs that are indispensable to the project or activity, i.e., without which the project or activity cannot proceed, and these include expenses that are necessary or required depending on the nature of the registered project or activity of the export enterprise.

If the purchased services are used in both the registered project or activity and administrative operations, the registered export enterprise shall adopt a method to best allocate the same. If a proper allocation could not be determined, said services shall be subject to twelve percent (12%) VAT.

The VAT zero-rating on local purchase of services shall be availed of on the basis of the VAT zero-rating certification issued by the concerned IPA, without prejudice, however, to the conduct of post audit investigation/verification by the BIR that the services are indeed directly and exclusively used by the registered export enterprise in its registered project or activity.

For this purpose, upon the effectivity of these Regulations, local suppliers of services of registered export enterprise shall no longer be required to apply for approval of VAT zero-rating with the BIR. All applications with accompanying VAT zero-rating certification issued by the concerned IPA which have been received but have not yet acted upon by the concerned office of the BIR upon the effectivity of these Regulations shall be accorded VAT zero-rating treatment from the date of filing of such application subject to the

conduct of post audit by the BIR that the services are indeed directly and exclusively used by the registered export enterprise in its registered project or activity.

The concerned IPA shall furnish the BIR through the Assessment Service Attention: Audit Information, Tax Exemption and Incentives Division (AITEID) within twenty (20) days following the close of each taxable quarter a list of registered export enterprise issued with VAT zero-rating certification. In order to obtain relevant information, for audit purposes, the Commissioner of Internal Revenue may prescribe a report template in a separate revenue issuance.

B. REVENUE MEMORANDUM CIRCULARS

REVENUE MEMORANDUM CIRCULAR NO. 43-2023

REVENUE MEMORANDUM CIRCULAR NO. 43-2023 issued on April 14, 2023 further clarifies certain policies on the filing of appeal against Final Decision on Disputed Assessments (FDDA) pursuant to Revenue Regulations No. 12-99, as amended.

In case of filing of an appeal against the FDDA, the taxpayer shall furnish a copy of the said appeal to the Chief of the Assessment Division for regional cases, or the concerned Head Revenue Executive Assistant, in the case of taxpayers under the jurisdiction of the Large Taxpayers Service or investigated by the National Investigation Division under the Enforcement and Advocacy Service, within five (5) days from date of filing with the Office of the Commissioner of Internal Revenue or the Court of Tax Appeals.

REVENUE MEMORANDUM CIRCULAR NO. 45-2023

REVENUE MEMORANDUM CIRCULAR NO. 45-2023 issued on April 19, 2023 publishes the full text of Fiscal Incentives Review Board (FIRB) Advisory No. 004-2023 clarifying the issues covering the transfer of registration with the Board of Investments (BOI) of Registered Business Enterprises (RBEs) in the Information Technology - Business Process Management (IT-BPM) Sector

All registration of new or expansion projects from September 15, 2022 onwards shall be with the BOI if the enterprises wish to avail of the 100% work-from-home (WFH) arrangements. Prior to this period, IT-BPM projects may register with the BOI based on FIRB Resolution Nos. 26-2022 and 33-2022.

IT-BPM RBEs that implemented WFH arrangements in 2023 but failed to register with the BOI by January 31, 2023 shall be subject to a penalty on the Regular Corporate Income Tax (RCIT) as specified in FIRB Advisory No. 003-2023, and Bureau of Internal Revenue (BIR) Revenue Memorandum Circular Nos. 23-2022, 39-2022, and 120-2022. This, however, is without prejudice to the suspension or withdrawal of tax incentives or cancellation of the corresponding Certificate of Registration, upon further assessment by the concerned Investment Promotion Agencies (IPAs) or the FIRB.

The penalty on RCIT, in case of non-compliance with Section 309 of the Tax Code, as amended, shall be computed based on 100% or the entirety of the RCIT for the month/s of non-compliance and not merely on the percentage of non-compliance

The BOI-Certificate of Registration (BOI-COR) cannot be amended after January 31, 2023 to include expansions or new projects in order to allow these new projects or expansions to implement WFH arrangements. New or expansion projects or activities of IT-BPM RBEs should be separately registered with the BOI in order to avail of WFH arrangements.

Upon the issuance of the BOI-COR, the IT-BPM RBE must submit the BOI-COR to the original or concerned IPA for the annotation of the original COR issued by the said concerned IPA. For the Philippine Economic Zone Authority (PEZA)-registered IT-BPM RBEs, the BOICOR shall be submitted to the PEZA's Office of the Board Secretary for proper annotation.

The BIR and Bureau of Customs (BOC) shall accept the official receipt as proof that the BOI-COR will be secured by the company. Generally, in lieu of the BOI-COR, the BOI-issued official receipt shall be accepted as an alternative. The date indicated in the official receipt shall be the effective date of registration with the BOI. The effective date of BOI registration marks the beginning of the IT-BPM RBE's eligibility to implement 100% WFH arrangements.

The registration with the BOI will be an additional registration on top of the IT-BPM RBE's existing registration. The registration with BOI will be the basis for fiscal incentives, while the registration with the concerned or original IPA will be the basis for non-fiscal incentives and the corresponding terms and conditions of registration. As such, IT-BPM RBEs must continue to abide by the regulations set by both IPAs in order to maintain their fiscal and non-fiscal incentives.

In order to easily tag and isolate those under dual registration with the BOI and the concerned IPA, the syntax: "Concerned IPA-BOI" shall be used. To illustrate, if the concerned or original IPA is PEZA, the IPA field in the tax return will be filled-out as "PEZA-BOI".

The Certificate of Authority to Import (CAI), Certificate of Entitlement to Tax Incentives (CETI), and Value-Added Tax (VAT) Zero-rating certificate shall still be processed with the original or concerned IPA, using their existing processes. Nonetheless, coordination shall be made with the concerned IPA for any additional reportorial requirements or for any adjustments in existing process flows.

An amended VAT zero-rating certificate for 2023 should be requested from PEZA, with the required annotation as specified in the Administrative Order, to ensure that all stakeholders are guided by the changes in the registration of the subject IT-BPM RBE.

The existing procedural rules of the original or concerned IPA shall continue even after registration with the BOI unless otherwise declared by the original or concerned IPA. Ultimately, there are minimum control measures that must be implemented to effectively manage and administer economic and freeport zones.

There is no change in the corresponding share of the existing recipient-Local Government Unit (LGU), provided that the IT-BPM RBE does not change its registered address or registered location. Further, as provided under Department of Finance (DOF) Local Finance Circular No. 001-2022, the employees under a WFH arrangement shall not be assessed by the LGU.

The Tax Exemption Indorsement (TEI) is different from the Certificate of Registration and Tax Exemption (CRTE). The TEI is issued by the Department of Finance - Revenue Office (DOF-RO) as proof of VAT and/or customs duty exemption of imported goods. In contrast, the CRTE is issued by the IPA as proof of the registration of the RBE with the IPA and the available fiscal incentives. Under the Corporate Recovery and Tax Incentives for Enterprises Act (CREATE), the document that serves as proof of entitlement to income tax incentives is now the Certificate of Entitlement to Tax Incentives (CETI).

The TEI is applicable to all IT-BPM RBEs that are registered with the BOI, regardless of the date of registration. IT-BPM RBEs already registered with the BOI as of December 31, 2022, and those registered during the extension, which ended January 31, 2023, shall be required to secure a TEI.

The blanket TEI applies to all imported goods, as of January 31, 2023, that availed of import VAT and/or duty exemption and are still in the books of accounts of the registered project/activity. The TEI applies to all imported goods, irrespective of the asset's current location, and whether the asset is permanently situated in the economic or freeport zone or will be transferred subsequently.

The TEI no longer applies for imported laptops used for WFH arrangements of employees since the BOC has already assessed these goods, and the IT-BPM RBE has paid the related taxes and duties. The TEI serves as documentary proof of import VAT and/or customs duty exemption. If there is no exemption availed or granted, the TEI is no longer required.

Since the blanket TEI shall be secured per project basis, it follows that each project must secure a blanket TEI. The term "project" means those supported by a separate COR or Supplemental Agreement, as applicable. The TEI does not cover locally purchased goods and is designed to serve as proof of VAT and/or duty exemption of importations. Locally purchased goods enjoying VAT zero-rating are supported by the VAT zero-rating certificate issued by the IPAs. In this regard, locally purchased goods can be freely moved in/out of the economic zone or freeport as long as the related supporting documentary requirements can be presented.

The tagging of imported assets must follow the tagging per separate books of accounts. The use of one project to consolidate all imports that will be eventually used by other separately registered projects runs counter to the objective of requiring separate books of accounts per project. This means that the related assets must be traced back to the project to which it was booked and where the related depreciation or expense is reported.

Imported assets that will not be supported by a TEI will be subject to the corresponding duties and taxes, as determined by the BOC. Securing the TEI from the DOF-RO can be done by a broker, provided that the company provides an authorization letter granting the broker the authority to apply for a TEI, on behalf of the company. While the registration for the TEI system is done online, the TEI for existing goods and new shipments shall be filed personally at the DOF-RO. Nonetheless, IT-BPM RBEs outside Metro Manila may engage brokers to process the TEI, on behalf of the company.

The 30-day deadline will be counted from the date the BOI-COR was issued and not on the date indicated on the official receipt. Nonetheless, the covered period of the report shall retroact to the date per official receipt, as this covers the first day of eligibility to avail of 100% WFH arrangements.

Employees under a hybrid work arrangement shall be included in the WFH count. This will be the basis for determining the reasonableness of the volume of assets brought out of the economic zone or freeport zone.

Assets that remain in the registered project or activity's books of accounts, even with zero net book value, shall be included in the list of existing-equipment provided that these assets are VAT and/or customs duty exempt.

As business models are constantly changing, the related laptops and other IT peripherals that operationalize the adjustments may also vary. In this regard, a justification must be provided for the change in the equipment-to-employee ratio. Such equipment, if imported and availed of import VAT and/or customs duty exemption, shall be covered by the TEI. Said justification

shall be submitted to the concerned IPA. As existing internal control procedures are maintained, it is suggested that the justification be included in the IPAs' forms.

Asset movements during the bond-free period shall be supported by a provisional goods declaration and a notarized undertaking that the related TEI will be secured, in lieu of posting any type of bond and during the pendency of the TEI. Once the TEI has been secured for existing equipment and other assets, no bond requirement, in whatever form, shall be imposed upon the movement of assets outside the zone.

A surety bond is not required in order to move locally purchased goods. Locally purchased goods enjoying VAT zero-rating can be freely moved in/out of the economic zone or freeport as long as the supporting VAT zero-rating certificate can be presented, along with the BOI-issued official receipt or BOI-COR, and other supporting documents (e.g., invoices or official receipts), as applicable.

The valuation rate for assets with zero book value shall be 10% of the original book value, representing the assumed residual value. This valuation method is lifted from Customs AO 5-2011, as adopted, based on Section 608 of the Customs Modernization and Tariff Act, as amended.

The receiving BOC Office shall only be allowed to process and approve applications with sufficient supporting documents. If the Transit Single Administrative Documents (TSAD) can no longer be found, import VAT and/or customs duties shall be assessed, as applicable. If a TEI cannot be secured due to lost or missing documents, the related imported assets shall be assessed by the BOC, accordingly.

There is no limit as to the period of enjoyment of the WFH arrangement once a project is registered with the BOI. Registration with BOI under FIRB Resolution Nos. 26-2022 and 33-2022 is a permanent solution that enables RBEs located in economic zones or freeport zones to conduct 100% WFH arrangements indefinitely.

The TEI is required to be secured for assets imported as of February 1, 2023. It is recommended that IT-BPM RBEs review their importation timelines to ensure that TEI processing is duly considered in their plans and that adjustments in import lead times are made, as necessary.

The filing of the TEI is recommended to be at least ten (10) days before the arrival of the goods, to ensure the smooth processing and release of the imported goods. For new importations, the DOF-RO shall only accept applications filed within one (1) year from the date of importation, based on the date indicated per airway bill or the bill of lading, as applicable.

For existing goods, the IT-BPM RBE is required to secure just one blanket TEI per project, whereas for new goods, the requirement is one TEI per shipment per project.

REVENUE MEMORANDUM CIRCULAR NO. 46-2023

REVENUE MEMORANDUM CIRCULAR NO. 46-2023 issued on April 19, 2023 publishes the full text of Fiscal Incentives Review Board (FIRB) Advisory No. 006-2023 regarding clarifications on the supplemental guidelines on the registration with the Board of Investments (BOI) of Registered Business Enterprises (RBEs) in the Information Technology-Business Process Management (IT-BPM) Sector.

Only 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 the Regulations.

Based on Section E of FIRB Administrative Order (AO) No. 001-2023, as amended by FIRB AO 033-22, 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 Tax Exemption Indorsement (TEI) from the Department of Finance - Revenue Office (DOF-RO). The existing goods will be covered by a blanket TEI per project, covering existing goods that were imported as of January 31, 2023. For new importations starting February 1, 2023, the TEI shall be processed per project per shipment.

TEI will no longer be required for foreign-supplied intangible asset/software that will not pass through the BOC/any port (e.g., purely internet-based) since the TEI only covers goods that are physically imported and processed by the BOC as imports. However, if the intangible asset/software is a component of a tangible/physical asset (e.g., part of equipment or machinery), 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.

IT-BPM RBEs can implement WFH arrangements while still processing the blanket TEI. 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. The requirements and procedures regarding the processing of PGD are specified under Customs Administrative Order No. 02-2021. There is no need to lodge a PGD if the blanket TEI has already been secured.

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 January 1, 2023 to June 30, 2023. 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.

The request for the staging bill of lading (BL) or 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.

Aside from the requirements listed in Annex A of FIRB AO No. 001-2023, 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. The BOC also requires the inventory list of importations to be covered by the blanket TEI in order to process and issue the staging BL/dummy BL.

Import licenses issued by Investment Promotion Agencies (IPAs) may serve as acceptable substitutes for the transit-single administrative document (TSAD) in applying for the staging BL/dummy BL. 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. The staging BL/dummy BL shall be released within three (3) working days upon submission of complete documents.

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

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

New importations of IT-BPM RBEs starting February 1, 2023 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 DOFRO 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, 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.

New imported assets of IT-BPM RBEs still securing the TEI 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 DOFRO at the time of lodgement.

The submission of the Certificate of Non-Local Availability (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 Department of Trade and Industry 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.

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.

The BOC's valuation for asset disposal indicated in Section H of the FIRB AO No. 001- 2023 shall also apply to locally purchased assets/equipment enjoying VAT zero-rating. The valuation method of the BOC for the sale, transfer, donation, or disposal of related assets 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.

Cargoes are subject to 100% inspection by the BOC even if the RBE is already registered with the BOI. 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.

An extension office (i.e., with activity on the same building but on a different floor) may be registered for incentives separately 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. 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.

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

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 and other existing rules and regulations of the concerned IPA, as applicable.

Based on PEZA Memorandum Circular No. 2022-067, PEZA Rules and Regulations shall still apply to the operations of the transferee, including the transferred operation. 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.

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/>)

C. SECURITIES AND EXCHANGE COMMISSION

The Securities and Exchange Commission has issued a notice on April 28, 2023 extending the deadline for the submission of application for amnesty. In a separate Memorandum Circular, it could be recalled that the Securities and Exchange Commission granted to all eligible entities to apply for amnesty for all non-filing or late filing of General Information Sheet and Audited Financial Statements including company's compliance with the Memorandum Circular 28 series of 2020 or on reporting on company's contact details.

The original deadline for companies to file for an "Expression of Intent to Avail Amnesty" which is the Annex A of MC 2 series of 2023 was set on April 30, 2023. With the latest issuance of the SEC, the deadline was moved until June 30, 2023.

*****Nothing Follows*****