REVENUE MEMORANDUM CIRCULAR NO. 120-2022 issued on August 18, 2022 prescribes 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**.

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 Investment Promotion Agencies with which the project/activity is registered.

The non-compliance of the RBEs in the IT-BPM sector with the prescribed conditions under Fiscal Incentives Regulatory Board (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 "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, 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).

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 the Circular 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 the 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/Division in the Large Taxpayer Service and for proper monitoring of this undertaking.

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