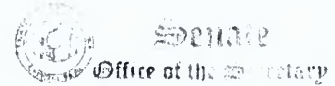


NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )



'22 JUL 14 P 4 :00

**SENATE**

S.B. No. **643**

RECEIVED BY: \_\_\_\_\_

Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT**  
**AMENDING SECTION 309 OF THE NATIONAL INTERNAL REVENUE CODE, AS**  
**AMENDED, AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

Section 9, Article II of the 1987 Constitution provides that, *"The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all."* Section 15 of the same Article further states that, *"The State shall protect and promote the right to health of the people"*. Lastly, Section 18 affirms labor as a primary social economic force and mandates the protection of the rights of workers and their welfare.

On 07 March 2020, the first case of localized COVID-19 transmission was confirmed by the Department of Health (DOH). On 12 March 2020, the World Health Organization characterized COVID-19 as a pandemic. Due to these developments, as well as the rising number of COVID-19 cases in the country, President Rodrigo R. Duterte and the Interagency Task Force for COVID-19 (IATF) moved for the imposition of an Enhanced Community Quarantine (ECQ) for Metro Manila and adjacent provinces on 15 March 2021.

In light of the calls for a *"New Normal"* and a recognition that economic activity has to continue, the IATF issued Resolution No. 13 on 17 March 2020, which allowed Business Process Outsourcing (BPO) and export-oriented businesses to facilitate their work from home (WFH) arrangements. As most of the BPOs and export-oriented companies enjoy fiscal incentives under the Philippine Economic Zone Authority (PEZA), the PEZA issued Memorandum Circular 2020-011 which allowed these companies to institute WFH schemes. Such arrangement allowed BPO and export-oriented companies

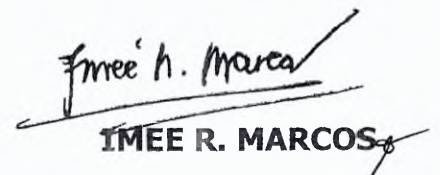
to comply with the IATF rules and regulations for the Minimum Health Standards in the work place.

However, on 01 April 2022, PEZA-registered IT-BPOs were back to the regular policy ratio of 70-30 on sales allowance and no more than 30% of WFH setup.

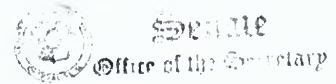
While the WFH scheme is only meant to be a temporary arrangement, the unplanned extension of the community quarantine and the continued COVID-19 threat made the extension of the WFH arrangement essential. In addition, the WFH arrangement became a comparative advantage of the Philippines over other countries, as it makes the Philippines more attractive to foreign investors, with new clients requiring that WFH schemes be available for their accounts.

Unfortunately, the IRR of Section 309 of the National Internal Revenue Code, as amended by R.A. No. 11354 otherwise known as "CREATE," does not support nor promote such WFH activities to continue, as only activities conducted within the premises of the economic zones are entitled to avail of the incentives under CREATE. As such, there is a need to further amend Section 309 of the NIRC, as amended, to allow BPO and export-oriented businesses to avail of incentives activities attributable to WFH arrangements. This would also be in line with the State's policy of promoting telecommuting pursuant to R.A. No. 11165 or the "*Telecommuting Act*."

For the foregoing reasons, the passage of this bill is earnestly sought.

  
**IMEE R. MARCOS**

NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )



'22 JUL 14 P 4 :00

**SENATE**

S.B. No. 643

RECEIVED BY: \_\_\_\_\_

Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT**  
**AMENDING SECTION 309 OF THE NATIONAL INTERNAL REVENUE CODE, AS**  
**AMENDED, AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**SECTION 1.** Section 309 in Chapter VI "Transitory and Miscellaneous Provisions" of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"Sec. 309. *Prohibition on Registered Activities.* – A qualified registered project or activity under an Investment Promotion Agency administering an economic zone or freeport shall, **AS FAR AS PRACTICABLE**, be exclusively conducted or operated within the geographical boundaries of the zone or freeport being administered by the Investment Promotion Agency in which the project or activity is registered: *Provided*, That a registered business enterprise may conduct or operate more than one qualified registered project or activity within the same zone or freeport under the same Investment Promotion Agency: *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 this Act, unless such project or activity is conducted or operated under another Investment Promotion Agency: **PROVIDED, HOWEVER, THAT WORK-FROM-HOME ARRANGEMENTS OR "TELECOMMUTING" AS PROVIDED IN R.A. NO. 11165 OTHERWISE KNOWN AS THE "TELECOMMUTING ACT" SHALL BE CONSIDERED AS**

1           **ACTIVITIES CONDUCTED OR OPERATED WITHIN THE**  
2           **GEOGRAPHICAL BOUNDARIES OF THE ZONE OR FREEPORT**  
3           **BEING ADMINISTERED BY THE IPA DURING THE EVENT OF**  
4           **A STATE OF NATIONAL EMERGENCY OR STATE OF**  
5           **CALAMITY AFFECTING THE ZONE OR FREEPORT IN WHICH**  
6           **THE PROJECT OR ACTIVITY IS REGISTERED, INASMUCH AS**  
7           **SUCH WORK-FROM-HOME ARRANGEMENTS DOES NOT**  
8           **EXCEED 50% OF THE TOTAL REVENUE."**  
9

10           **SEC. 2. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations or  
11 other issuances or parts thereof inconsistent with the provisions of this Act are hereby  
12 repealed or modified accordingly.  
13

14           **SEC. 3. *Separability Clause.*** – If any portion or provision of this Act is declared  
15 unconstitutional, the remainder of this Act or any provision not affected thereby shall  
16 remain in force and effect.  
17

18           **SEC. 4. *Effectivity.*** – This Act shall take effect after fifteen (15) days following  
19 the completion of its publication either in the Official Gazette or in a newspaper of  
20 general circulation in the Philippines.

*Approved,*