

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

]]]

'22 SEP 21 A8 :47

SENATE

RECEIVED BY



S.B. No. 1337

Introduced by SEN. WIN GATCHALIAN

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

EXPLANATORY NOTE

If there is any good that the COVID-19 pandemic has taught the world, it is the viability of flexible working arrangements. In 2018, Republic Act No. 11165 or the Telecommuting Act was passed which aimed to protect the rights of workers and promote their welfare in light of technological developments that has allowed new and alternative avenues for employees to carry out their work even outside the confines of their offices.

During the height of the pandemic, companies were compelled to institute telecommuting arrangements. Now that community quarantine restrictions have eased and we are slowly putting the pandemic behind us, telecommuting arrangement remains and is the way of the future. In fact, in a recent global survey by a top online employment company, 80% of Filipinos prefer jobs that allow a remote or hybrid work setup.¹

¹ *Most Filipinos prefer remote or hybrid work setup*, MANILA STANDARD, September 10, 2022, available at <https://manilastandard.net/business/biz-plus/314259065/most-filipinos-prefer-remote-or-hybrid-work-setup.html> [date last accessed: September 20, 2022]

However, the current wording of the 1997 National Internal Revenue Code or the Tax Code, as amended, does not permit the institution of a telecommuting program by business enterprises registered under an Investment Promotion Agency without running the risk of losing its tax incentives. Section 309 of the Tax Code requires that a qualified registered project or activity shall 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.

Thus, this measure seeks to allow the institution of telecommuting programs by registered business enterprises while keeping their tax incentives. Moreover, this measure aims to improve the quality of life, well-being, and productivity of employees,² not to mention alleviate the burden of rising costs of living, especially transportation and fuel costs. In addition, this also ensures that the information technology and business process management (IT-BPM) sector remains globally competitive.³

In view of the foregoing, the immediate passage of this bill is hereby earnestly sought.



WIN GATCHALIAN

² *WFH improved well-being, productivity of workers: survey*, MALAYA, May 10, 2022, available at https://malaya.com.ph/news_business/wfh-improved-well-being-productivity-of-workers-survey/ [date last accessed: September 20, 2022].

³ *'WFH scheme will make BPO sector more competitive'*, BUSINESSMIRROR, August 22, 2022, available at <https://businessmirror.com.ph/2022/08/22/wfh-scheme-will-make-bpo-sector-more-competitive/> [date last accessed: September 20, 2022].

SENATE

RECEIVED BY



S. B. No. 1337

Introduced by SEN. WIN GATCHALIAN

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

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

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

4 "SEC. 309. *Prohibition on Registered Activities.* — A qualified
5 registered project or activity under an Investment Promotion Agency
6 administering an economic zone or freeport shall be exclusively
7 conducted or operated within the geographical boundaries of the zone
8 or freeport being administered by the Investment Promotion Agency in
9 which the project or activity is registered: *Provided,* That a registered
10 business enterprise may conduct or operate more than one qualified
11 registered project or activity within the same zone or freeport under the
12 same Investment Promotion Agency: *Provided, further,* That any project
13 or activity conducted or performed outside the geographical boundaries
14 of the zone or freeport shall not be entitled to the incentives provided in
15 this Act, unless such project or activity is conducted or operated under
16 another Investment Promotion Agency: **PROVIDED, HOWEVER,**
17 **THAT INSTITUTING A "TELECOMMUTING" PROGRAM AS**

1 **DEFINED UNDER REPUBLIC ACT NO. 11165, OTHERWISE**
2 **KNOWN AS "THE TELECOMMUTING ACT," INCLUDING WORK-**
3 **FROM-HOME ARRANGEMENTS, SHALL NOT BE CONSIDERED A**
4 **VIOLATION OF THE REQUIREMENT TO CONDUCT OR OPERATE**
5 **EXCLUSIVELY WITHIN THE GEOGRAPHICAL BOUNDARIES OF**
6 **THE ECONOMIC ZONE OR FREEPORT, *PROVIDED, FINALLY,***
7 **THAT THE TELECOMMUTING EMPLOYEES ARE RESIDENTS OF**
8 **THE PROVINCE WHERE THE SAID ZONE OR FREEPORT IS**
9 **LOCATED.**

10
11 **SEC. 2. *Implementing Rules and Regulations.*** – Within thirty (30)
12 calendar days from the effectivity of this Act, the Secretary of Finance, after
13 due consultation with the Fiscal Incentives Review Board, investment promotion
14 agencies, and the private sector, shall promulgate the necessary rules and
15 regulations for its effective implementation.

16
17 **SEC. 3. *Separability Clause.*** - If any provision of this Act is declared
18 invalid or unconstitutional, the provisions not affected thereby shall remain in
19 full force and effect.

20
21 **SEC. 4. *Repealing Clause.*** - All laws, presidential decrees, executive
22 orders, presidential proclamations, rules and regulations or parts thereof
23 contrary to or inconsistent with this Act are hereby repealed or modified
24 accordingly.

25
26 **SEC. 5. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days
27 after its publication in the *Official Gazette* or in a newspaper of general
28 circulation.

29
30 *Approved,*