Duterte approves extra P1.185B for healthcare worker allowances

PRESIDENT Rodrigo R. Duterte has approved the release of P1.185 billion to cover the special risk allowance (SRA) of healthcare workers, his ally Senator Lawrence T. Go said on Wednesday.

The P1.185 billion was charged against the 2021 Contingent Fund and covers the SRAs of private healthcare workers and non-Department of Health plantilla personnel "who are directly catering to or in contact with COVID-19 patients," Mr. Go said in a statement.

The Budget department recently released P8.189 billion to cover the SRAs of 497,043 health workers, Mr. Go said.

Health Assistant Secretary Maylene M. Beltran told a congressional inquiry on Tuesday that the government has released about P8 billion for the risk allowances of 496,314 medical frontliners for the period Dec. 20 to June 30.

"We have an additional request for SRA amounting to P3.3 billion and to cover the special risk allowance of around 185,000 HCWs," she said.

Ms. Beltran, meanwhile, said at the same hearing that the government has released nearly P6.56 billion for the active hazard duty pay of health workers.

Health advocates have been urging the government to pay SRAs in light of the infections due to the highly infectious Omicron variant of the coronavirus. — **Kyle Aristophere T. Atienza**

BW FILE PHOTO

Spot market trading resumes for Visayas grid except Bohol

SPOT MARKET trading on the Visayas grid, with the exception of Bohol, resumed after the regulator deemed the region's loading level sufficient to support a market.

"The commission has ordered the Philippine Electricity Market Corporation–Market Operator (PEMC-MO) to resume the operations of the Wholesale Electricity Spot Market (WESM) in the Visayas Grid, excluding Bohol, effective Jan. 17," the Energy Regulatory Commission (ERC) said in a statement on Wednesday.

The ERC had suspended spot market trading for the Visayas Grid on Dec. 16, due to oversupply conditions in the wake of Typhoon Odette.

The administered price of P5.27 per kilowatt hour was also in force during the suspended intervals.

"We have been closely monitoring and assessing the Visayas Grid condition and upon assessment of the information gathered from the constant coordination PEMC-MO and with the National Grid Corp. of the Philippines-Visayas System Operator, the Commission views that market operations in the Visayas Grid except Bohol are now ready to resume," ERC Chairperson and Chief Executive Officer Agnes VST Devanadera said in a statement.

According to the grid operator, as of Jan. 16, Panay and Samar islands are drawing 100% of their power demand from the grid; Negros power loading is 95%, Leyte 89%, and Cebu 73%.

Bohol is drawing just 20% power from the grid.

"In addition to this, with the energization of the 138 KV Colon–Calung-calung Line 2 and the 138 KV Colon–Cebu Line 3, it has been assessed that market-based instructions in the area are implementable signaling the readiness to resume market operations in the Visayas excluding Bohol," ERC said.

The commission also said Bohol might experience power generation deficits as power cannot be exported to the province from other regions. — **Marielle C. Lucenio**


SHANE MCLENDON-UNSPLASH

House OK's bill barring mining in Mindoro

THE House of Representatives approved a bill on third reading on Monday which if signed into law will ban mining completely within Mindoro.

House Bill No. 10611, or the proposed Mindoro Island Mining-Free Zone Act, will be in force over Mindoro Occidental and Mindoro Oriental provinces.

According to the bill, all valid and existing mining contracts, permits, and licenses in the provinces will remain valid until expiration, with no renewals allowed.

Small-scale mining operators will be required to rehabilitate and reforest their concessions to preserve watersheds.

Quarries will be restricted to five hectares, with no more than one quarry permit allowed per person or corporation.

Violators could serve six to 12 years in prison plus a fine of up to P10 million.

On Dec. 24, the House approved the bill on second reading. The Philippine Mining Act of 1995 and the People's Small-Scale Mining Act will not apply within Mindoro Island once the measure is enacted. — **Luisa Maria Jacinta C. Jocson**

Water treatment plants maxed out to boost supply to Marikina, Rizal

MANILA WATER Company, Inc. said it is working with the Metropolitan Waterworks and Sewerage System (MWSS) and the National Water Resources Board to maximize the output of water treatment plants in Rizal and Marikina and tap deep wells to adequately service those areas.

Contingency plans include the maximized operations at the Cardona Water Treatment Plant, which draws water from Laguna de Bay, which has a capacity of 100 million liters per day (MLD), and the Marikina Portable Water Treatment Plant, which has a capacity of 20 MLD and draws water from the Marikina River.

It will also look into the operation of deep wells which can provide additional 115 MLD, Manila Water said in a statement.

"We continue to put our plans into motion to support MWSS' call for continuous supply in our concession area given the current pandemic and as we head towards the summer season," Manila Water President Jose Victor Emmanuel A. De Dios said.

Manila Water said these contingencies were also prepare for the low water levels being reported the past few weeks.

On Wednesday, the Angat Dam registered a level of 199.06 meters (m), which is 11.97 m lower than the year before. Ipo Dam and La Mesa Dam also registered levels of 98.67 m or 1.36 m lower and 79.15 m or 0.51 m lower, respectively.

Other initiatives include backwash recovery, treatment of wastewater byproduct, and water pressure management across the East Zone concession area.

Manila Water said that while supply augmentation measures are in place, it is still promoting the responsible use of water.

"While the government and the concessionaires work together to provide the needed water supply, the public is encouraged to use water wisely and responsibly to minimize water wastage," the company said.

Manila Water said it will work with the MWSS for a future Calawis Antipolo Source System and East Bay Water Supply Project, which will source water from the eastern shore of Laguna de Bay.

It is also working on the construction of a new 15-kilometer (km) aqueduct and 6.4-km tunnel that will stream 1,600 MLD of water towards La Mesa Dam. — **Luisa Maria Jacinta C. Jocson**

Measure regulating worker rest hours filed in Senate

A BILL was filed in the Senate regulating worker rest hours and deterring companies from compelling employees to perform additional tasks outside their formal work schedules.

"This bill defines the rest hours of employees, and prohibits employers from exacting work or contacting employees, without the latter's consent, during rest hours," according to the bill, proposed by Senator Francis N. Tolentino.

The bid to regulate work hours comes as work-from-home and telecommuting arrangements blur the lines between work and personal time.

Senate Bill 2475, or the proposed Workers' Rest Law, sets normal hours of work at a maximum of eight hours a day, with those on compressed workweek arrangements capped at 12 hours a day.

The measure was meant to address the extra work being performed because "the power of control of employers now overreaches beyond working hours through the use of phone and e-mail."

Any period beyond work hours will be considered rest hours, past which an employee may not be compelled to render overtime work without freely given written consent. Any prior waiver of the right to perform overtime work as a condition of hiring will be deemed void.

If passed, the measure provides for compensation of P1,000 for every hour of work rendered in violation of the rules.

If employees are limited, segregated, or classified in any way that would discriminate, deprive, or diminish their employment opportunities as a result of asserting their rights under the bill, the violator faces imprisonment of up to six months and a fine of at least P100,000.

The proposed law will apply to employees in all establishments, whether for profit or not, but not to field personnel, domestic helpers, personal service workers, and workers who are paid by results. — **Alyssa Nicole O. Tan**

OPINION

Clarity on the taxation of educational institutions

TAXWISE OR OTHERWISE
MARION D. CASTAÑEDA

Education is one of the most important pillars of any developing nation. No less than the 1987 Philippine Constitution itself mandates that the State prioritize education to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development. For almost two years now, we have been experiencing mobility restrictions with varying degrees of severity due to the COVID-19 pandemic. In responding to this situation, our educational systems have had to adapt, even as pilot testing for face-to-face classes in some localities had to be scrapped due to the sudden surge in COVID cases.

In recognition of their role in providing a public good, educational institutions are granted certain tax privileges under the Constitution and the Tax Code.

NONSTOCK NONPROFIT EDUCATIONAL INSTITUTIONS

Under Article XIV, Section 4 (3) of the Constitution, all revenue and assets of nonstock nonprofit educational institutions used actually, directly and exclusively for educational purposes are exempt from taxes and duties. As established clearly by jurisprudence (G.R. Nos. 196596, 198841, and 198941), the tax exemption of revenue and assets of nonstock nonprofit educational institutions hinges on whether these are used *actually*, *directly* and *exclusively* for educational purposes.

In one decision (G.R. No. 202792), the Supreme Court upheld such constitutional exemption in canceling the deficiency tax assessments of an educational institution, even if the latter belatedly paid the docket fees with the Court of Tax Appeals upon filing its judicial appeal. According to the high court, while procedural rules are important tools designed to facilitate the dispensation of justice, legal technicalities may be excused when strict adherence will impede the achievement of justice it seeks to serve.

PROPRIETARY EDUCATIONAL INSTITUTIONS

Educational institutions can also be organized as stock corporations, classified as proprietary educational institutions. In contrast with nonstock nonprofit educational institutions, proprietary educational institutions are not covered by the aforementioned broad tax exemptions on their revenue and assets as mandated by the Constitution. Nonetheless, the Constitution provides that they can be conferred tax privileges subject to limitations provided by law, including restrictions on dividends and provisions for reinvestment.

Such tax privileges are granted under Section 27(B) of the Tax Code, which provides for a special lower corporate income tax rate for proprietary educational institutions and hospitals alike. The lower rate is generally 10%, but pursuant to Republic Act No. 11534 (more commonly known as the CREATE Act), the rate is temporarily reduced to 1% effective July 1, 2020 until June 30, 2023 to provide relief for schools and hospitals that have been severely affected by the COVID pandemic.

However, in implementing the CREATE Act's temporary tax relief, there was confusion as to what qualifies as a proprietary educational institution subject to the special tax rate under the Tax Code. In Revenue Regulations No. 5-2021, proprietary educational institutions were defined and qualified as referring to nonprofit private schools. This confusion apparently arose from the original wording in the Tax Code:

"**(B) Proprietary Educational Institutions and Hospitals.** — Proprietary educational institutions and hospitals <u>which are nonprofit</u> shall pay a tax of ten percent (10%) on their taxable income . . ." *(Underscore supplied.)*

It seems that the nonprofit requirement for the special tax rate was interpreted to cover both proprietary educational institutions and hospitals. Such interpretation in the regulations created a seemingly absurd situation wherein the lower tax is conferred to an essentially non-existent category of schools. As previously mentioned, proprietary educational institutions include stock corporations that are, by their nature, organized as profit-oriented companies. A *nonprofit* proprietary educational institution could be considered an oxymoron or a contradiction of terms. Understandably, there was a clamor from the education sector to rectify the erroneous interpretation. Thus, Revenue Regulations No. 14-2021 were promulgated to suspend the implementation of the provisions on the "nonprofit" qualification of proprietary educational institutions.

TAX CODE AMENDMENT

Cognizant of the above controversy, our lawmakers recently passed Republic Act No. 11635, which sought to address the issue by clarifying the wording in the Tax Code itself. As amended by such law, Section 27(B) of the Tax Code now reads as follows:

"**(B) Proprietary Educational Institutions and Hospitals.** — <u>Hospitals which are nonprofit</u> and proprietary educational institutions shall pay a tax of ten percent (10%) on their taxable income . . ." *(Underscore supplied.)*

Thus, it is now clear that the nonprofit qualification only applies to hospitals and not to proprietary educational institutions. The latter refers to any private school maintained and administered by private individuals or groups with an issued permit to operate from the relevant government agencies (e.g., DepEd, CHED, TESDA). It is worth highlighting that, under the same Tax Code provision, to qualify for the lower rate, their gross income from unrelated trade, business, or other activity must not exceed 50% of their total gross income; otherwise, the regular corporate income tax rate (currently at 25%) applies to their entire taxable income.

More than ever, the COVID pandemic has pressed us — as individuals, as a community, and as a nation — to contemplate our priorities. While public health remains the highest priority, access to affordable education deserves equal attention. Through brilliant minds borne of education, many medical and technological breakthroughs in combating the COVID pandemic have been achieved, and countless lives are saved. This author personally hopes that the State continues to prioritize education following its constitutional mandate and enabling the education sector to contribute to nation-building through the development of future generations.

The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general information purposes only, and should not be used as a substitute for specific advice.

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