SMEs hard-pressed to meet wage hike demands

SMALL and medium enterprises (SMEs) are expected to find it difficult to meet wage demands being made as prices rise, because they have yet to recover from the coronavirus disease 2019 (COVID-19) pandemic, a Palace adviser said.

Presidential Adviser for Entrepreneurship Jose Ma. A. Concepcion III said at a Laging Handa briefing on Monday that small and medium businesses will be unable to raise wages to the extent being demanded by labor leaders.

"*'Yung mas malaking korporasyon, mas may kaya pero 'yung* small to medium enterprises, *iyon ang mahihirapan kasi sila talaga ang tinamaan* (larger corporations will be more able to raise wages, but SMEs will find it difficult because they took much of the hit from the pandemic," Mr. Concepcion said.

Mr. Concepcion said the tourism sector in particular will be challenged in meeting any wage demands as they are still recouping their losses.

"*Kababangon lang niyan. Halos* two years *na walang negosyo.* So, *bumabangon pa lang sila.* We have to give them time. At this point, *hindi pa bumabalik 'yung* tourism (industry) *natin* (They have just made it through the crisis, when they endured nearly two years with no business. They are still recovering from the pandemic. We have to give them time. At this point, tourism has not yet recovered)" Mr. Concepcion said.

The Trade Union Congress of the Philippines and Partido Manggagawa have called for wage hikes to address rising fuel and commodities prices.

According to the National Wages and Productivity Commission, the daily minimum wage in Metro Manila is between P500 and P537.

Mr. Concepcion called for more talks between the government and the private sector on wage hike proposals.

"*Hindi pa rin tayo sigurado rito sa mga presyo kasi biglaan ang pagtaas dahil sa* (Russia-Ukraine) conflict. *Kung mawala 'yung* conflict, then *bababa lahat ng* commodities. (We are not sure on prices since there was sudden increase due to the Russia-Ukraine conflict). If the conflict is resolved, then commodity prices may go down. This might be a temporary situation. I think the government and the private sector will need to have more discussions here," he added. — **Revin Mikhael D. Ochave**

Nomura cuts PHL growth forecast to 6.3% due to inflation

NOMURA Global Markets Research said it downgraded its growth forecast for the Philippines to 6.3% from 6.8% due to the expected impact of inflation caused by the Russian invasion of Ukraine.

The projection was made in a note issued by analysts Sonal Varma, Ting Lu, Euben Paracuelles, and Jeong Woo Park.

The official government target for 2022 growth is 7-9%.

"In Asia, India, Thailand and the Philippines are the biggest losers, while Indonesia would be relative beneficiaries from higher commodity prices," the report said.

Amid surging oil prices, Nomura raised its inflation projection for the Philippines this year to 4.6% from 2.9% previously. If realized, this will be higher than the 3.7% estimate of the Bangko Sentral ng Pilipinas (BSP) and beyond its 2-4% target band.

For now, Nomura said base effect from the high food prices last year is still keeping inflation muted.

"Surging inflation is also likely to dampen consumer spending when the unemployment rate is still high," it said.

Headline inflation was at 3% for a second straight month in February. However, central bank Governor Benjamin E. Diokno has warned that rising oil prices could push inflation beyond the target band by the second quarter, before slowing in the second half of the year.

Nomura warned that the country's high dependence on fuel imports could have an immediate pass-through impact on consumers and widen the current-account deficit.

Relatively low vaccination rates and the possibility of further outbreaks due to election-related activities could also impede growth by delaying the economy's full reopening, it added.

The Department of Health tallied full vaccinations at over 63 million as of March 9. The Johns Hopkins University vaccine tracker estimates the fully vaccinated rate at 58.36% of the population.

The government hopes to fully vaccinate 77 million people by the end of March.

Nomura said it expects the central bank to continue focusing on growth and only start increasing rates by 25 basis points in the fourth quarter of 2021.

The BSP last week said it will continue to prioritize supporting economic growth, but will be ready to move in case there is need to respond to second-round effects of inflation manifested through fare hikes or wage increases.

Last year, the economy rebounded with a 5.6% growth following a record 9.6% contraction, which was the worst in Southeast Asia. — **Luz Wendy T. Noble**

Complaints against online sellers decline in 2021

COMPLAINTS against online businesses have declined after the easing of quarantine restrictions, which allowed sellers to normalize their operations, the Department of Trade and Industry (DTI) said.

Trade Undersecretary Ruth B. Castelo said in a virtual briefing on Monday that the DTI received around 12,000 complaints involving online transactions in 2021, lower than the 16,000 complaints logged in 2020.

In the first two months of 2022, the DTI received 2,059 complaints involving online transactions, she said.

Ms. Castelo said the top three online platforms were Lazada, Shopee, and Zalora.

"In 2020, the online platforms couldn't deliver because of the lockdowns. They didn't have personnel going to work. The consumer complaints really rose in 2020. For 2021, the complaints declined. The online platforms were able to normalize operations especially because we also considered, in DTI, that online platforms are also selling essential goods. They also sell food, clothing, and grocery items," Ms. Castelo said.


JCOMP-FREEPIK

Ms. Castelo said more employees of online platforms returned to work, which allowed for the faster resolution of complaints. She added that consumers have also grown more knowledgeable about e-commerce since the start of the pandemic.

"We hope the number of complaints goes down in 2022 from 12,000 last year. We will continue to provide consumer education," Ms. Castelo said.

The DTI also warned online businesses against selling prohibited and unlicensed products over digital platforms.

Ms. Castelo said Joint Administrative Order (JAO) No. 22-01 was signed on March 4, directing online platforms to verify whether products sold by their merchants are licensed and regulated.

Under the JAO, all digital platforms are provided a three-day "safe harbor" period, during which they may take down an online post that has been flagged for violating the law.

"In case of a prima facie violation of any pertinent laws or regulations committed in an online post by the online seller or merchant, e-retailer, e-commerce platform, e-marketplace, and the like, the concerned authorized agency shall issue a notice giving the violator a maximum period of three calendar days from receipt thereof, within which to take down such post, without prejudice to the filing of appropriate administrative actions all violators," the JAO said.

"Failure to enact, or strictly enforce, such internal mechanisms or rules shall be construed as an intentional and overt act that shall aggravate the offense charged," it added.

Ms. Castelo said laws applicable to brick-and-mortar stores also cover online businesses.

"A price tag required to be pasted on items you buy in stores are also required to be pasted on the products that you buy online or through published price list. Buyers no longer have to ask for the price from the seller, who will almost always say that a private message is sent. This is a clear violation of the Price Tag law," Ms. Castelo said.

Signatories to the JAO include the DTI, the Departments of Health (DoH), Agriculture (DA), Environment and Natural Resources (DENR), the Intellectual Property Office of the Philippines (IPOPHL), and the National Privacy Commission (NPC). — **Revin Mikhael D. Ochave**

BIR collects P44.6 billion from online retail sales, content creators in 2021

THE Bureau of Internal Revenue (BIR) said it collected P44.6 billion worth of tax from online content creators and retail sales by the end of 2021, BIR Assistant Commissioner Larry M. Barcelo said in a presentation at the House Ways and Means Committee hearing.

"As early as 2013, the BIR issued a Revenue Memorandum Circular reiterating the taxpayer's obligations for online business transactions," Mr. Barcelo, who heads the bureau's legal service, said.

The obligations include "registration, keeping the books of account, invoices, receipts, filing of tax returns and payment of taxes," he added.

Other memorandum circulars outlined the rules for the registration of online businesses and the filing and paying of taxes, he added.

Mr. Barcelo said 43 tax treaties currently govern the tax treatment of the Philippine operations of non-resident foreign corporations.

During the hearing, House Ways and Means Chairman and Albay Rep. Jose Ma. Clemente S. Salceda pushed the BIR to offer an online portal to allow overseas Filipino workers (OFWs) to more easily apply for Taxpayer Identification Number (TIN).

"The committee would like to seek the expedition or the action of the BIR on the online portal for the OFW TIN application and issuance," Mr. Salceda said. "Even the PSA can issue a birth certificate online. That's even more critical (than the TIN)."

"We will consider the digital portal for the OFWs. It will be part of our digital transformation program," Mr. Barcelo said. — **Jaspearl Emerald G. Tan**

OPINION

Shaking up the cross-border doctrine

LET'S TALK TAX
JOHN PATRICK L. PAUMIG

Nothing lasts forever. Things can change for better or for worse. Right now various entities enjoying tax incentives might be left wondering about the state of Philippine tax law. Among the questions taxpayers may be asking is — Can we still enjoy what we are enjoying now?

One such change was heralded by Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 024-2022, particularly regarding the application of the cross-border doctrine for value-added tax (VAT) purposes.

CROSS-BORDER DOCTRINE

The Supreme Court has recognized that the sale and consumption of goods or services within a given freeport or ecozone shall be deemed constructive exportation and technical importation. This is because freeports and ecozones, as provided under the law, are to be managed as separate customs territories from the rest of the Philippines and, thus, for tax purposes, are effectively considered foreign territory.

The cross-border doctrine is rooted in the Omnibus Investments Code of 1987, which recognizes the existence of "constructive exportation," wherein sales to export processing zones are also considered constructive importation. The cross-border doctrine mandates that no VAT be imposed to form part of the cost of the goods destined for consumption outside the territorial border of the taxing authority, which includes the constructive exportation pertaining to sales to export processing zones.

BASED ON RMC 024-2022

In RMC 24-2022, the cross-border doctrine was rendered ineffectual as applied to freeports and ecozones for VAT purposes. Only those goods and services that are directly and exclusively used in the registered project or activity of Registered Business Enterprises (RBEs) qualify as VAT zero-rated on local purchases.

Under the RMC, direct and exclusive use in the registered project or activity refers to those expenditures directly attributable to the registered project or activity without which the registered project or activity cannot be carried out. This excludes purchases used for administrative purposes. Activities for administrative purposes, including legal, accounting, and other similar services, are not considered expenses directly attributable to, and exclusively used in the registered project or activity. If goods and services used in both the registered activity and for administrative purposes cannot be determined, then the purchase of goods and services is subject to 12% VAT.

An example provided under RMC 24-2022 is the telecommunication expenses of registered enterprises in IT/BPO services, which may be treated as expenses covered by VAT zero-rating since they are directly and exclusively incurred due to the nature of the industry. However, if the telecommunication expense is for administration purposes, it will be subject to 12% VAT.

Since only goods and services that are directly and exclusively used in the registered project or activity are allowed for zero-rating, not all goods coming into, or services rendered within freeports and ecozones may be accorded VAT zero-rating. In addition, the sale of goods or services to a registered domestic market enterprise is subject to 12% VAT.

Mere registration as an RBE will not automatically make its local purchases of goods and services qualify for VAT zero-rating following the cross-border doctrine. Thus, ecozone entities, such as RBEs, should classify their purchases from local suppliers, or determine whether the transaction is directly and exclusively used in the registered project or activity.

WHAT CAN TAXPAYERS DO?

In the meantime, it is highly recommended that taxpayers, especially RBEs, read RMC 024-2022 in its entirety. By understanding the RMC, the taxpayers can anticipate how the BIR would react and proceed. More importantly, taxpayers must take special note of the transitory provisions under the RMC.

In the discussion of the transitory provisions, for example, RMC 024-2022 took note of the retroactivity of Revenue Regulations (RR) 21-2021. Under RR 21-2021, taxpayers will be able to reclassify their sales to registered export enterprises, from being subject to 12% VAT to being considered zero-rated by virtue of the retroactive application of the issuance. The BIR considered the retroactivity to be justified as it is beneficial to the taxpayers affected.

Another clarification discussed by RMC 024-2022 is the treatment of VAT which had already been billed and/or collected that transpired during the effectivity of RR 09-2021, which is affected by the retroactivity of RR 21-2021. RMC 024-2022 holds that the seller can still opt to declare the sales to registered export enterprises as subject to 12% VAT. In this case, the VAT-registered buyer may utilize the passed-on VAT as input tax which may be credited against the output tax, or if the buyer is engaged in VAT zero-rated sales, the same can be recovered through VAT refund. If the buyer is not VAT-registered, then the VAT paid may be claimed as part of the cost of sales or expenses.

The seller can also revert the transaction from being subject to 12% VAT to VAT zero-rated by amending the filed VAT return after reimbursing/returning the VAT paid by the registered export enterprise buyer. If there is a resulting overpayment due to unutilized input tax credits, it may be recovered through VAT refund inasmuch as the corresponding sale is reverted to VAT zero-rated.

The above are just some of the rules to be observed in the application of RMC 024-2022.

While time-tested rules and procedures, such as the cross-border doctrine, are affected by RMC 024-2022, it is worth noting again that nothing is permanent. Given the tumultuous situation everyone is facing due to the two-year pandemic, the increase in gas prices, or even the threat of a nuclear war between global superpowers, a change in tax rules and principles may seem minor by comparison, but make no mistake, such a change is undoubtedly significant for many businesses.

Let's Talk Tax is a weekly newspaper column of P&A Grant Thornton that aims to keep the public informed of various developments in taxation. This article is not intended to be a substitute for competent professional advice.

JOHN PATRICK L. PAUMIG is a senior associate from the Tax Advisory & Compliance division of P&A Grant Thornton, the Philippine member firm of Grant Thornton International Ltd.
pagrantthornton@ph.gt.com