

# Leading union says wage hikes already wiped out by surging fuel prices

THE Trade Union Congress of the Philippines (TUCP) said on Monday that the impact of recent hikes in the minimum wage has been offset by higher fuel prices, keeping workers below the poverty line.

The TUCP, the Philippines' largest labor federation, said in a statement that the rising prices of basic goods that stem from the surge in fuel prices make it more difficult for workers to live on poverty wages.

"The buying power of the current wage adjustments is being dissipated by the series of previous and present extraordinary increases in the prices of

basic commodities and cost of services and have no impact in lifting the lives of workers from worsening poverty caused by the pandemic crisis," TUCP President Raymond C. Mendoza said.

"Because of extraordinary inflation, the series of wage increase orders issued by the wage boards failed to restore the purchasing power of wages and (they) didn't uplift workers' purchasing power above poverty threshold wage level," he added.

The Labor department on Sunday announced that new minimum wages will be implemented in 14 regions this

month, after regional boards approved wage hikes of between P30 and P110.

Seaoil Philippines and Phoenix Petroleum Philippines announced in separate advisories on Monday fuel price hikes of P2.70 per liter of gasoline and P6.55 per liter of diesel, which will take effect on Tuesday.

"Prices can flexibly go up and down but government wage orders are inflexible," Bienvenido S. Oplais, Jr., founder of free-market think tank Minimal Government Thinkers, said in a Viber message when asked to comment. "Soon a combination of oil and intermediate

goods price hikes plus wage hikes will force companies to reduce workers and (will be) a worse outcome for labor."

"This phenomenon directly hit the lives of workers and their families already bearing the brunt of the pandemic, in particular, the informal workers, the daily paid and the minimum waged workers who are mostly contractual and short-term, end-of-contract employees," Mr. Mendoza said.

The new minimum wage in Metro Manila increased by P33 on June 4 to P570 for non-agricultural workers, and P533 for agricultural workers.

Central Luzon will see a P40 increase to P414-460.

The new daily wage in Calabarzon is P390-P470 for nonagricultural workers; P350-P429 for agricultural workers; and P350 for retail and service establishments with not more than 10 workers.

The Department of Energy estimates that gasoline, diesel, and kerosene prices have increased by P23.85 per liter, P30.30, and P27.65, respectively in the year to date as of May 31. — **John Victor D. Ordoñez**

# ADB: Property taxes, valuation key to bolstering gov't revenue

PROPERTY TAXES should be a key area of focus for developing economies in Southeast Asia seeking to raise government revenue after the pandemic, the Asian Development Bank (ADB) said.

During a webinar on Monday, ADB Economic Research and Regional Cooperation Department Advisor Donghyun Park said the collection of property taxes is hampered by issues like valuation.

"I think an important source of tax revenue, for local governments and subnational governments, is in fact, property taxes," Mr. Park said. "What is limiting property taxes which are very much underutilized in the region is proper market valuation."

"I think governance reform, especially at the subnational gov-

ernment level, is very important for mobilizing tax revenue at the subnational and local level."

"Of course, you have to try to raise more from the mainstays such as value-added tax (VAT), but also venturing to new areas, such as property tax, personal income tax, digital economy tax, environmental tax, and so forth," he added. "It has to be a balance. I do think it has to be a medium-term strategy and priority for most governments in the region."

The Department of Finance (DoF) has said that current land valuations are outdated. In April, it said commercial areas in San Lorenzo, Makati are valued at P40,000 per square meter, when the actual value is between P400,000 to P900,000.

"So we are losing tens of billions of pesos because that kind of wealth is not being taxed correctly," Finance Secretary Carlos G. Dominguez III said.

In May, the DoF also urged the incoming administration to pass pending tax legislation, including the proposed Real Property Valuation and Assessment Reform Act, a component of the Comprehensive Tax Reform Program. It is currently with the House Committees on Ways and Means, Local Government, and Finance.

Hannelore Niestan, a consultant and international taxation expert at the ADB, also sees room for further improvement in collecting VAT, a likely platform for taxing the digital economy.

She said "tax revenue in the Asia Pacific is low" due to issues

with collecting property and personal income taxes and sees seeing room for strengthening environmental taxes.

Ms. Niestan also backed a greater focus on tax administration, with tax compliance a key area for improvement "especially for multinational companies."

Mr. Park also warned that Information and Communication Technology (ICT) should not be the sole driver for tax collection.

"ICT can do a lot to help improve the quality of tax administration, but at the same time, we cannot assume it is a panacea for tax administration. It is just a complement," Mr. Park said. "Without good governance, technology can only do so much for tax administration." — **Tobias Jared Tomas**



PHILIPPINE STAR / WALTER BOLLOSOS

## Fuel marking proceeds top P439 billion as of late May

TAXES collected from fuel marking amounted to P439.40 billion as of late May, counting back to when the program started in September 2019, the Department of Finance said.

The total includes P409.58 billion generated by customs duties as of May 26, and P29.81 billion worth of excise taxes collected as of Oct. 28, 2021.

The volume of marked fuel was 42.10 billion liters as of May 27, Finance Secretary Carlos G. Dominguez III said in a Viber message on Monday.

Luzon accounted for over 73% of marked fuel, or 31 billion liters, while 8.7 and 2.3 billion liters were marked in Mindanao and the Visayas, respectively.

Diesel accounted for 60.70% of the marked fuel, while gasoline consisted of 38.92%, and kerosene 0.51%.

There are currently 28 oil firms participating in the fuel marking program.

Petron Corp. had the largest volume of fuel marked at 10.26 billion liters, or 24.37% of the

total, followed by Pilipinas Shell Petroleum Corp. at 7.48 billion liters or 17.76%.

Unioil Petroleum Philippines, Inc. had 4.31 billion liters marked, while Insular Oil Corp. and Seaoil Philippines, Inc. accounted for 3.65 billion and 3.48 billion, respectively.

The fuel marking program was launched on Sept. 4, 2019. Fuel marked with a special dye signifies tax compliance, while the absence of the dye is considered an indication that the fuel may be smuggled. The program is authorized by Republic Act 10963, or the Tax Reform for Acceleration and Inclusion (TRAIN) law.

Last year, P158.44 billion was collected via duties. In 2022 so far, collections have totaled P154.40 billion, while the volume of marked fuel for the period was 12.97 billion liters.

Mr. Dominguez has said that the government expects to collect P147.1 billion in fuel excise tax and VAT in 2022. — **Tobias Jared Tomas**

## E-commerce companies urged to cut back on plastic packaging

PLASTIC WASTE generated by electronic commerce (e-commerce) transactions is beyond the capacity of local governments to deal with the additional solid waste, EcoWaste Coalition said.

The environmental advocacy said in a statement on Monday that the plastic waste from e-commerce packaging imposes an "additional and unneces-

sary burden" on communities, particularly after the pandemic forced consumers to order more goods online.

"Lazada and Shopee will again hold a mid-year grand sale starting June 6 which will add to more packaging and plastic waste being burned or dumped into our environment. We urge these companies to implement a genuine plastic

use reduction scheme and to support their sellers and logistics providers in implementing similar measures," EcoWaste Coalition Plastic Solutions Campaigner Coleen Salamat said.

EcoWaste coalition said the e-commerce industry is currently valued at P1.2 trillion, equivalent to 5.5% of the economy in 2022, according to data

from the Department of Trade and Industry.

"Lazada and Shopee should... support global efforts to save our climate and environment. Cutting back on their plastic waste should be a very simple step for these companies. Let us stop sacrificing our environment for profit," Ms. Salamat said. — **Revin Mikhael D. Ochave**

## SEC moves to cancel company registration over 'Ponzi'-like daily promise of 3-5% returns

THE Securities and Exchange Commission (SEC) said its investigation into a company offering unlicensed investment products revealed that the company promised daily returns of 3-5% on investments of at least P1,000.

The SEC said it is now issuing an order to revoke the registration of Intime Import and Export (LLC) Corp. for its unlicensed investment-taking activities.

According to the SEC website, the agency first warned the public against placing investments with the company on April 6.

The investment scheme offered by Intime "has the characteristics of an 'investment contract' which must first be registered with the commission before it may be offered and sold or distributed to the public," the SEC said in an advisory.

The SEC said the company is not registered to offer securities to the public and its officers do not hold licenses as capital market professionals.

On May 2, the SEC issued a show-cause order to Intime to explain why its Certificate of Incorporation should not be revoked. The agency said it received no response.

"Likewise, the investment scheme of respondents Intime Import and Export promising a return of 3-5% per day has the characteristics of a Ponzi scheme," the commission added. — **Luisa Maria Jacinta C. Jocson**

**FULL STORY**



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**OPINION**

## BIR task forces: Concerns and confusion

The term "task force" may be familiar to everyone because of the Inter-Agency Task Force (IATF) that dealt with the pandemic. It was composed of representatives from various executive departments, apparently to ensure that the members took a collaborative approach to combating COVID-19.

The task force approach lends itself readily to the tax enforcement mandate of the Bureau of Internal Revenue (BIR). While there are no recent administrative issuances serving as guidelines for the creation of task forces or special audit teams, previous task forces were formed to focus on audits of specific industries.

For example, the BIR recently created a task force to inspect registered business enterprises (RBEs) in the information technology-business process management (IT-BPM) industry, to ensure that RBEs comply with conditions for the continuous availment of incentives under the CREATE Law. Last year, a special task force was also created to monitor compliance of online merchants and influencers, possibly due to the rise of online transactions during the pandemic.

Previous task forces were likewise created to address matters of public concern. One created by the BIR's Legal Inspection Group looked into a former President to assess whether bribes and kickbacks resulted in a deficiency income tax situation.

In the absence of guidance on the scope of action a task force may carry out, what should a taxpayer do upon receipt of a notice that his business is going to be audited by a task force? Should he worry, considering that task forces are usually related to matters of public concern?

### LETTER OF AUTHORITY (LoA)

*Medicard Philippines, Inc. vs. Commissioner of Internal Revenue (CIR)* defines a Letter of Authority (LoA) as the "authority given to the appropriate revenue officer assigned to perform assessment functions." It empowers or enables the revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. If a revenue officer is not authorized by the CIR or by his duly authorized representative through an LoA, the as-

essment is deemed invalid as it violates the taxpayer's right to due process.

Jurisprudence shows that despite the creation of a task force, special auditors should still be authorized pursuant to a valid LoA. RDAO No. 08-03 also clearly states that no special task force may be created without the approval of the Commissioner. Thus, it cannot be said that the mere creation of the task force is equivalent to a LoA.

Hence, the task force cannot ripen into assessment. An assessment must always originate from a LoA; otherwise, the assessment is void.

### HOW ARE THE TASK FORCE'S FINDINGS ENFORCED?

After the issuance of the LoA, if the taxpayer is found liable for deficiency tax during an investigation conducted by a Revenue Examiner, the taxpayer must be informed through a Notice of Discrepancy (NoD), a Preliminary Assessment Notice (PAN), a Final Letter of Demand (FLD) or Final Assessment Notice (FAN), and finally, a Final Decision on Disputed Assessment (FDDA).

A review of the cases that involved a task force would show that the findings of a task force are also followed through in a similar manner to that of an ordinary audit. In the case of *Sps. Estrada vs. BIR*, the required notices such as the PAN, FLD, and FDDA were served to the taxpayers. The Court of Tax Appeals decision also states that the taxpayers were given sufficient opportunity to be heard, having been able to effectively protest the PAN and FAN.

Thus, the process of enforcement is the same for both types of tax audit.

### WHAT DUE PROCESS IS ACCORDED TO THE TAXPAYER?

While replete with case law and issuances explaining the procedures applicable to a task force, it is evident in jurisprudence that there is no difference in due process afforded to taxpayers, whether subjected to a regular audit, or that of a task force. As stated previously, taxpayers are still afforded due process with the service of the notices mandated under the law and are able to submit and file their protests to address the findings of the task force.

To note, the taxpayer has 30 days to reply to the NoD, 15 days to file a reply to the PAN, 30 days to file a protest to the FAN, and 30 days to appeal to the

FDDA. These timelines should similarly apply to the audit conducted by a task force.

### SUSPENSION OF TASK FORCES

It is thus easy to point out where the confusion and concern come from since there is not much difference between a task force's proceedings and a regular tax audit. These concerns were raised by the Department of Finance (DoF) in May when it called for the suspension of the BIR's special audit task forces, noting that task forces caused confusion for some taxpayers and that the creation of such task forces duplicated functions within the bureau.

While not addressing the remarks of the DoF on redundancy, the BIR issued Revenue Memorandum Circular (RMC) No. 76-2022 which suspended audit and other field operations under the authority of task forces created through Revenue Special Orders, Operations Memoranda, and other similar orders/directives. On the same day, the BIR issued RMC No. 77-2022 clarifying the earlier RMC stating that despite the suspension, service of assessment notices, warrants, and seizure notices would still be given effect. Similarly, taxpayers need not secure authority from revenue officials if they are to voluntarily pay their known deficiency taxes.

Task forces are created mainly to focus on a specific objective. However, if these units perform the same functions as that of officers assigned to perform a regular audit, it calls into question whether the creation of a task force is truly necessary or merely causes anxiety and confusion for taxpayers. Sure enough, taxpayers are still recovering from the stress and trauma brought about by the pandemic. As such, the BIR should ease off on taxpayers and not add to the burden of their recovery.

*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.*



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