Agri dep't considering price ceiling for sugar

THE DEPARTMENT of Agriculture (DA) said Monday it is now studying the possibility of a suggested retail price (SRP) scheme for sugar, as the price of the commodity continues to rise.

"We have set a stakeholders meeting to discuss it. It will start with a small group of stakeholders and eventually, we will also ask the Sugar Regulatory Administration," Agriculture Undersecretary Kristine Y. Evangelista told reporters after department officials met with President and Agriculture Secretary Ferdinand R. Marcos, Jr.

"(To) come up with an SRP, based on the process, there should be a consultation," she said.

The average retail price of refined sugar in wet markets was P87.50 per kilo as of July 8, according to the Department of Agriculture. The price was as high as P90 in some markets.

The average price of raw sugar in wet markets, meanwhile, was P66.86 per kilo.

The DA report on sugar prices has yet to be updated, but consumers have been reporting that prices have hit P100.

The United Sugar Producers Federation has blamed the rising prices on "manipulation and hoarding," noting that the supply of sugar is ample.

Mr. Marcos has promised to boost domestic food production and limit imports as much as possible.

Ms. Evangelista said the President also called for a "thorough assessment" of the DA's programs with a view towards planning for measures "increasing production and making agricultural commodities affordable."

"We have to see which (of the DA's programs) actually work, which one has to be tweaked and which one needs further consultation with the stakeholders," she said.

Ms. Evangelista said the officials at the meeting also reported on the market for vegetables and livestock.

"We didn't concentrate on one commodity," she said. "If we're talking about food security, that does not involve only rice."

STUNTED

Fast-food chains have reported shortages in their chicken products because the raw materials available do not meet their size and quality standards.

Ms. Evangelista said the supply of chicken is ample, noting that the restaurants' concerns center on quality because the chicken available is "stunted."

This month, United Broiler Raisers' Association president Elias Jose Inciong said chickens for public consumption were not meeting the weight standards set by the market.

He blamed the weight issue on the low quality of feed. "When you compare it to past years, the condition of chickens is very poor, precisely because the raw materials for feed (are) of relatively low quality," he told ONE News PH.

Ms. Evangelista said the DA will seek to identify optimal production areas for goods in high demand and ensure that "products are sold at a good price."

PHL touts capital markets route to finance greening of economy

FINANCE SECRETARY Benjamin E. Diokno said that the government intends to make its economy greener in part using resources raised by its sustainable financing program.

Speaking to the Group of Twenty (G20) gathering as a guest of host country Indonesia, Mr. Diokno said that apart from climate bonds, it hopes to fund its efforts with new taxes and aid from the international community.

"In this regard, we have assembled a group of Filipino experts to engage climate-vulnerable communities and prepare them to execute localized action plans," Mr. Diokno told G20 finance ministers and central bank governors Saturday.

The G20 accounts for 80% of global gross domestic product (GDP).

Philippine officials, including Mr. Diokno's predecessor and President Ferdinand R. Marcos, Jr. himself, have taken the position that the Philippines bears a disproportionate burden from climate change, while the industrialized countries responsible for much of it have not, putting them on the hook at least morally for funding climate mitigation.

Mr. Diokno told the forum that the government is seeking to mobilize climate finance through the so-called Green Force, which is led by the Department of Finance (DoF) along with the Bangko Sentral ng Pilipinas (BSP).

"This interagency task force was established to synergize public and private investment in green projects and mainstream climate change through the financial sector," Mr. Diokno said.

Under the Philippines' Sustainable Finance Framework, the government "recently issued its first-ever sustainability global bonds worth $1 billion, and sustainability samurai bonds worth $600 million. Both transactions were met with strong demand despite volatility in the global markets," Mr. Diokno told the G20.

The Philippines also debuted Environmental, Social, and Governance (ESG) Global Bonds in March, with 25-year Global Bonds offered at P1 billion.

Overall, "the Philippines successfully tapped the international capital markets with the country's offering of $2.25-billion triple tranche 5-year, 10.5-year, and 25-year Global Bonds. The transaction was the first triple tranche USD offering from the Philippines," a press release from the DoF said.

In April, the Philippines also issued its first Association of Southeast Asian Nations' (ASEAN) Sustainability bond transaction in the Samurai bond market.

The Philippines successfully returned to the Samurai market with its 70.1-billion-yen ($600 million) offering of five-year, seven-year, 10-year, and 20-year sustainability bonds, the proceeds of which will support Environmental, Social, and Governance (ESG) projects, the DoF said.

At the G20 forum, Mr. Diokno reiterated his intention to tax activities which impact the environment.

"We are supporting the passage of a bill that would either regulate or tax the use of single-use plastics to cut pollution and adopt more sustainable practices. We are also considering the imposition of a carbon tax," he said.

A P20 excise tax per kilogram of single-use plastics was part of the previous government's fiscal consolidation plan, although it had been targeted for rollout in 2023.

Meanwhile, a tax on carbon emissions was also contemplated in the third package of the same fiscal consolidation plan.

"The Philippines is one of the countries at highest risk for climate-related disasters. We are thus determined to be a world leader in this fight against the crisis," Mr. Diokno said.

PARTNERSHIP WITH ADB

Mr. Diokno also expressed the Philippines' willingness to work with the international community on climate-related matters, citing an ongoing partnership with the Asian Development Bank (ADB).

"We will deal with the impact of climate change while bringing down energy costs through developing clean and renewable energy sources, such as hydro, geothermal, wind, and solar power. We will work together with the international community, such as our ongoing partnership with the ADB, to quicken our transition from coal to clean energy," Mr. Diokno told the G20.

Aside from the Philippines, the ADB has also partnered with Indonesia in implementing the Energy Transition Mechanism (ETM) project, which was launched in October.

It aims to accelerate the transition of Southeast Asia from coal to green energy.

In addition, "the ADB just extended to the Philippines its first-ever climate change policy-based financing worth $250 million, making the country one of the pioneers in climate policy development financing," Mr. Diokno said, referring to the Climate Change Action Program, Subprogram 1 (CCAP1).

"It will support the Philippines in implementing its national climate policies, including its Nationally Determined Contribution (NDC), which aims to peak greenhouse gas (GHG) emissions by 2030, and scale up climate adaptation, mitigation, and disaster resilience," the ADB said.

"It focuses on sectors that are of national priority for climate action, targeting adaptation in highly vulnerable sectors (agriculture, natural resources, and environment), and mitigation in emissions-intensive sectors (energy and transport)," it added.

In April 2021, the government committed to reducing greenhouse gas emissions by 75% by 2030 when then President Rodrigo R. Duterte approved the Philippines' first NDC. — **Diego Gabriel C. Robles**

British chamber calls on PHL to ratify RCEP trade agreement

THE BRITISH Chamber of Commerce Philippines (BCCP) said Monday that it supports Philippine ratification of the Regional Comprehensive Economic Partnership (RCEP) trade deal, saying it will enhance the Philippines as an investment destination.

Chris Nelson, BCCP executive director, said on *BusinessWorld Live* on One News Channel that British investors are looking forward to the Philippines signing on to RCEP.

"We consider (RCEP) to be a very important development. The reason for that is... we see the Philippines not only as an important market for investors and doing business, but also as a gateway to Southeast Asia," Mr. Nelson said.

"I think this is the time (to be a part of RCEP). The only three countries (that have not ratified are) is the Philippines, Indonesia, and Myanmar. The opportunity is now," he added.

RCEP started coming into force on Jan. 1 in the various member countries. The trade deal will involve Australia, China, Japan, South Korea, New Zealand and the 10 members of the Association of Southeast Asian Nations (ASEAN). It is touted as the world's largest trade deal, accounting for about 30% of global gross domestic product (GDP).

The Philippine Senate was unable to finalize its ratification during the 18th Congress after some senators expressed concerns over the lack of protections for the agriculture sector.

President Ferdinand R. Marcos, Jr. needs to endorse the trade deal to the Senate when the 19th Congress opens on July 25.

Former President Rodrigo R. Duterte signed the trade deal on Sept. 2.

According to Mr. Nelson, British investors are looking for further liberalization in the Philippines, which can be supported by joining RCEP.

"We're looking to see the continued liberalization of the economy and hoping (that) one of the points being mentioned is (RCEP) ratification," Mr. Nelson said.

Mr. Nelson said that there is much interest in the Philippines among British investors.

"What we need to continue to do is highlight opportunities. We want to meet companies, (and) come here, and look at the Philippines as a base and further (expand) into Southeast Asia," Mr. Nelson said.

Trade Secretary Alfredo E. Pascual has said that the DTI will continue to push for the RCEP's ratification, along with other free trade agreements (FTAs).

"With only 10 FTAs, the Philippines has the least number of FTAs among the ASEAN six countries. Singapore signed 27 FTAs, Malaysia 17, Thailand 15, Indonesia 15, and Vietnam 15. These agreements will diversify the country's exports in terms of products and services and country destinations and enhance the country's attractiveness to foreign investments," Mr. Pascual said.

"Without these FTAs and RCEP, the Philippines would not be an attractive location for such types of export-oriented enterprises," he added. — **Revin Mikhael D. Ochave**

OPINION

Double trouble: Double taxation issues and MAP

LET'S TALK TAX
PATRICK MANUEL R. OLARTE

Did you know that the sentence "I never said he stole my money." can have seven different meanings depending on which word is emphasized when read out loud? When "*I*" is accentuated, you're implying that someone else must have said it. Emphasizing "*never*" suggests you never said it. Putting the stress on "said" implies that you might have never spoken it out loud, but you might have hinted it. Highlighting "he" means you're actually referring to a different person. When emphasizing "stole", then perhaps the money was merely borrowed and not stolen. Accentuating "my" suggests the stolen money isn't actually yours, and by giving distinction to "money," a different object may have been stolen.

That's just an example of how a simple sentence can be interpreted in various ways, especially when only viewed in writing. As a matter of fact, misunderstandings have sparked multiple conflicts in history, from lovers' quarrels, to the alleged misunderstanding that led to the atomic bombing of Hiroshima, which was said to stem from the mistranslation of a Japanese message towards the end of the war, when the Allies were trying to gauge the possibility that Tokyo might be willing to give up the fight. Such misinterpretations are also a common occurrence when deciphering the tax rules. This is especially prominent in cases involving cross-border taxation laid out in Double Taxation Agreements (DTAs), more commonly known as tax treaties.

A tax treaty is a bilateral agreement entered into by two countries to resolve any issues that may arise when the same income is taxed by two or more different jurisdictions. This scenario is called "double taxation." To resolve disputes arising from differences or difficulties in the interpretation or application of the tax treaty, parties to the treaty typically sign up for a Mutual Agreement Procedure (MAP).

The Bureau of Internal Revenue (BIR) recently issued Revenue Regulations (RR) No. 10-2022, which lays out the guidelines and procedures for requesting MAP assistance in the Philippines. This opens an alternative remedy for taxpayers facing double taxation, whose current available courses of actions are only to litigate such case in court or to file an administrative appeal.

Below are the salient provisions of the regulations.

Typical scenarios requiring MAP

The following are some typical examples of taxation not in accordance with a tax convention that would necessitate MAP assistance:

1. The withholding tax rate imposed on an item of income earned by a domestic corporation is beyond the maximum rate fixed under the tax treaty.

2. A taxpayer deemed resident of the Philippines is also deemed a resident of another contracting country based on its domestic laws.

3. A resident citizen or domestic corporation is taxed in the other country on business profits or income from independent services, despite not having a permanent establishment in that country under the tax treaty.

4. A resident citizen or domestic corporation has been or will be subject to taxation not in accordance with the provisions of the applicable tax treaty regarding the amount of profit attributable to the permanent establishment or fixed base.

5. A taxpayer is uncertain whether the convention covers a specific item of income or is unsure of the characterization or classification of the item related to a cross-border issue.

6. A taxpayer is subject to additional tax in one country because of a transfer pricing adjustment to the price of goods or services transferred to or from a related party in the other country.

Composition of the MAP Team

The Commissioner of Internal Revenue (CIR) is designated as the Competent Authority for the Philippines (Philippine CA). Meanwhile, the Rulings and MAP section of the International Tax Affairs Division (ITAD) is considered the MAP Office undertaking the analysis and resolution of MAP cases.

Initiating a MAP request

A taxpayer may, prior to making a formal request for MAP assistance, request a pre-filing consultation. If the Chief of ITAD believes that the issues may be resolved through MAP, he is to advise the taxpayer to submit a formal request for MAP assistance.

The taxpayer must submit a written MAP request to the MAP Office manually or electronically via encrypted mail. The request must contain the minimum information and documentation specified in the Regulations in order to become valid. Such information and documents include the tax treaty articles not being correctly applied, the taxpayer's interpretation thereof, analysis of the issues involved, and the Final Assessment Notice (FAN), rulings or any equivalent document issued by the Philippine or foreign tax authority which contains the action that results in double taxation, among others.

The receipt of a valid MAP request determines the commencement date of the MAP process. Taxpayers must ensure that they submit the MAP request within the time frame specified in the applicable DTA. In cases where the DTA does not provide a time limit, the MAP request must be submitted within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the DTA, such as from the date of the FAN or a ruling denying the claim for treaty benefit.

Resolution of a MAP Case

The following are the possible outcomes of the MAP process:

a. Access to MAP is denied (i.e., not an admissible request or denied for any other reasons);

b. Objection is not justified;

c. Objection is resolved via domestic remedy;

d. Unilateral relief will be granted;

e. Competent authority agreement for full or partial elimination of double taxation;

f. Competent authority agreement stating that there is no taxation not in accordance with the tax treaty;

g. No competent authority agreement is reached including agreement to disagree; and

h. Any other outcome.

The MAP cases are estimated to be resolved within a period of 24 months from the receipt of the request.

Implementation of MAP agreements

If the taxpayer confirms in writing the acceptance of the mutual agreement, the Philippine CA must give effect to such mutual agreement and ensure its implementation without delay.

In cases where a refund is due to the taxpayer, the taxpayer should begin the process of obtaining the refund following the procedures prescribed under existing revenue issuances.

Interaction with domestic remedies

MAP assistance may be requested irrespective of the remedies provided by the domestic laws of the Philippines. Thus, a taxpayer can request MAP assistance from the Philippine CA even in situations where there are pending judicial or administrative appeals and even where a decision, ruling or final assessment has already been rendered by the competent officials of the BIR.

However, court decisions cannot be overruled through MAP. Hence, once a taxpayer's liability has been finally determined by the court, the BIR is bound by the decision and may no longer provide further relief through MAP.

The question now arises — is the newly implemented MAP enough to address double taxation issues? Navigating the jungle of tax rules is indeed challenging. Disputes regarding the interpretation of such laws are inevitable, but just like any other conflict outside the world of taxation, it will all boil down to the eagerness of both parties to collaborate and reach a mutual agreement. Hopefully, taxpayers and the BIR will be able to achieve such compromises.

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.

PATRICK MANUEL R. OLARTE is a senior-in charge of the Tax Advisory & Compliance division of P&A Grant Thornton, the Philippine member firm of Grant Thornton International Ltd.
pagrantthornton@ph.gt.com