Ex-USec says Sugar Order 4 was meant to address 'urgent' shortage

THE Agriculture Undersecretary who resigned following the recall of Sugar Order (SO) No. 4 said he signed the order after a meeting with the President convinced him of the urgent need to import 300,000 metric tons of sugar, adding that he believed he was fully authorized to act in such a manner.

At a joint hearing on Monday of two House committees, the Good Government and Public Accountability and Agriculture and Food panels, former Undersecretary Leocadio S. Sebastian acknowledged that he had signed the order on behalf of President Ferdinand R. Marcos, Jr., in the latter's capacity as Agriculture Secretary.

He said, however, that the plan went through the proper administrative channels.

"I drafted a memo for the President which I sent to the office of the Executive Secretary. I was also informed that (Sugar Regulatory Administration Head Hermenegildo R. Serafica) also sent the same e-mail (with the draft import order) directly to the office of the Executive Secretary. We waited for an answer but did not get any," he added.

Mr. Sebastian said that he signed the order due to the "urgency" of the supply situation and based on a "misreading" of Mr. Marcos' intentions following their meeting.

"I misread the intention of the President... that gave me the feeling that there is an urgency to this matter and that we need to act as soon as possible. I also expressed in my letter to the President that the board will meet as soon as possible to decide on the sugar order," he said.

"I may have misread the intent of the President when I pushed through with the signing, based on the authorization given to me. That's why when I realized I had misread the intention of the President, I immediately gave my resignation," he added.

Mr. Sebastian said during the hearing that his brief allows him to sign sugar orders on behalf of the Agriculture Secretary, citing a memorandum from the Executive Secretary. The Secretary of Agriculture is ex-officio chairman of the SRA board.

Mr. Serafica, who has also resigned as SRA board member, as did the millers' representative to the board, Roland B. Beltran, said the import plan was made in consultation with the sugar industry and was required to bolster the sugar inventory.

"We really needed additional sugar. We submitted an import proposal. I did ask my immediate supervisor then, Mr. Sebastian. I did not neglect the farmers. In fact, we consulted the farmers, it was a recommendation from almost all the stakeholders and these are written recommendations," Mr. Serafica said.

On Aug. 1, Mr. Serafica said he was in a meeting with Mr. Marcos, who gave instructions to the SRA and Department of Agriculture to "prepare an import plan."

The plan was then submitted to Mr. Sebastian on Aug 5. On the same day, Mr. Sebastian also sent a memorandum detailing the Sugar Order to the Palace.

On Aug. 8, the SRA board met prior to the signing of the order.

"I initiated the (meeting). Based on the recommendations of the stakeholders, we took it from there," Mr. Serafica said.

The issue of whether the SRA board acted with due authority remained contentious among legislators, with Antipolo Rep. Romeo M. Acop saying that the board meeting was "unauthorized" as it was not called by Mr. Marcos.

"The signs are there that SO No. 4 was not right. It did not follow protocols," he said.

Rep. Florida P. Robes, of the lone district of San Jose Del Monte City, said the manner in which the meeting was called "is illegal and was not authorized by the President. If you had pressures from the stakeholders, I don't think it's just that. There might be other reasons."

Deputy Speaker Rodante D. Marcoleta said at the hearing that the SRA must act in a manner that also considers consumer interests.

"There are representatives for planters and millers but none for consumers. Consumers are the ones hit because (the SRA) doesn't consult consumers. Consumers are the ones who do not benefit here," he said.

Ms. Robes concurred, saying that the interests of workers in the sugar industry have also been neglected.

"We need to know the policies (for improving) the situation of the sugar farmers. The SRA has not supported the interests of farmers," she said. — **Luisa Maria Jacinta C. Jocson**

MUFG raises 2022 outlook on Philippine growth to 6.7%

MUFG Bank said it upgraded its view on Philippine economic growth in 2022 to 6.7% from 6.5% previously, citing stronger-than-expected performance in the first half.

MUFG Bank analyst Sophia Ng, in a note issued on Monday, said the upgraded growth outlook was due to the "robust" 7.8% growth posted in the first half.

"Given the robust 7.8% growth rate in 1H22, our revised forecast still reflects our assumption of a slower growth rate in 2H22," she added.

GDP growth in the second quarter slowed significantly to 7.4% from 12.1% a year earlier and 8.2% in the first quarter, according to preliminary data from the Philippine Statistics Authority (PSA).

"Factors that led to a slowdown in growth in Q2 were within our expectations, but the overall growth rate is higher than what we projected earlier this year," Ms. Ng said.

MUFG's new projection falls within the 6.5-7.5% full-year growth target set by the Development Budget Coordination Committee.

According to MUFG, inflation will likely be the main drag on private consumption until 2023, as will volatility in net goods exports.

"Inflation has risen much faster than expected so far this year and is likely to be the main impediment to private consumption through 1H23," Ms. Ng said.

Preliminary estimates from the PSA indicate consumer price index growth of 6.4% year on year in July, driven by food and transport costs.

July headline inflation was the highest since the 6.9% posted in October 2018.

In the year to date, inflation averaged 4.7%, up from 4% from a year earlier. This was also lower than the revised 5.4% forecast of the Bangko Sentral ng Pilipinas (BSP).

"Higher interest rates and elevated levels of inflation are likely to continue to (impede) private consumption in 2H22. This is already evident in Q2 when private consumption added just 5.8 percentage points (ppt) to growth in Q2 from 7.4 ppt in Q1," Ms. Ng said.

"As inflation is the biggest threat to the consumption-led economy, the BSP would have to continue to tighten monetary policy after 175 bps of cumulative rate hikes done so far this year," she added.

The central bank has raised benchmark rates by a total of 175 basis points (bps) so far this year, including the 50-bp increase on Aug. 18, bringing the benchmark rate to 3.75%.

Rates on the overnight deposit and lending facilities were also raised by 50 bps to 3.25% and 4.25%, respectively. MUFG sees the BSP hiking by 75 bps more before the year ends to bring inflation back within target.

Meanwhile, MUFG said the merchandise trade deficit will continue to widen and drag down overall growth for the rest of the year. — **Keisha B. Ta-asan**

FULL STORY

Read the full story by scanning the QR code with your smartphone or by typing the link **<bit.ly/MUFG082322>**

Foreign investors wary of RCEP delay, Trade department says

THE Department of Trade and Industry (DTI) said the ratification of the Regional Comprehensive Economic Partnership (RCEP) remains one of its top priorities due to the unease that failure to sign on to the trade deal has caused investors.

The DTI was briefing the Senate Trade, Commerce and Entrepreneurship Committee on Monday on its policy priorities. Trade Secretary Alfredo E. Pascual said that "most of the investors in these industry clusters will most likely come from abroad."

The priorities include industrials, manufacturing and transport; technology, media and telecommunications; health and life sciences; and modern basic needs; and measures to make the economy more resilient.

"There are the foreign investors setting up these enterprises here in partnership with local investors, and the target of these industry clusters is the export market," Mr. Pascual said. "We want these enterprises to be participating in the global value chains in the products produced under these clusters."

He said through industrialization, especially in the priority areas, the Philippines will be able to offer better-quality and higher-paying jobs.

"So it is very important, I'd like to emphasize, that RCEP be ratified or be confirmed by the Senate because we've always been asked by prospective investors, foreign chambers about how soon (we can ratify) RCEP because their own people, the companies in their respective regions, are asking them, before they consider investing in the Philippines," he added.

RCEP, which started coming into force in participating countries on Jan. 1, involves Australia, China, Japan, South Korea, New Zealand and the 10 members of the Association of Southeast Asian Nations (ASEAN).

The Philippines is one of three countries that have not ratified RCEP, along with fellow ASEAN members Indonesia and Myanmar.

President Ferdinand R. Marcos, Jr. has said that he wanted to review the trade agreement to protect the agriculture sector.

Senator Pilar Juliana S. Cayetano said the DTI must work closely with the Commission on Higher Education (CHED) and public and private universities, to better align job creation efforts with academic training being received by future workers.

"A lot of (students) will end up going abroad or end up in unrelated fields which is kind of sad, so as early as now, we have six years, let's plan this carefully, work with the state universities on what the demand is, what the particular specifications you are looking for," she said.

"We need to understand what we really expect from our human resource pool and align this with the demand," she added, noting that since becoming a senator in 2004, she has not seen adequate coordination between agencies and the education industry.

Mr. Pascual said that when he "made this presentation to the Cabinet, I highlighted, very specifically, the need to collaborate with CHED, DepEd (Department of Education) and TESDA (Technical Education and Skills Development Authority) for purposes of developing the necessary skills among our human resources, our workers." — **Alyssa Nicole O. Tan**

FULL STORY

Read the full story by scanning the QR code with your smartphone or by typing the link **<bit.ly/RCEP082322>**

OPINION

Back to school: A refresher on the taxation of educational institutions

LET'S TALK TAX
JOEN JACOB G. RAMAS

Yesterday marked the end of beach days for students as they officially start a new academic year. While summer 2022 might seem brief, the young may very well be looking forward to face-to-face classes. Zoom classes can be set aside for the meantime while students flock back to schools for their first-ever in-person classes since the pandemic.

At the onset of the pandemic, a plunge was seen in the number of enrollees especially in academic year 2020-2021, mainly due to pandemic-driven economic and social factors and a reluctance to transition to alternative modes of learning. Private schools took a hit as students transferred to the public-school system or dropped school altogether. It is hoped that academic year 2022-2023 will see an increase in enrollees; initial numbers from the Department of Education (DepEd) appear to be positive.

This optimism for increased enrolment, however, does come with tax implications. Along with the increase in enrollees and subsequently, tuition, educational institutions are still subject to some form of tax. So, to all educators and school administrators, grab your pen and paper (or your tablet, as the kids might say), it's time to take a refresher course on the taxation of educational institutions.

LESSON 1: WHAT'S THE INCOME TAX RATE FOR EDUCATIONAL INSTITUTIONS AGAIN?

Before we discuss taxing school income, it is important to determine the corporate structure of the school, which will be used to classify it either as a proprietary education institution (PEI), a non-stock, non-profit educational institution (NSNP-EI), or a government educational institution (GEI).

PEIs, commonly known as "private schools," are managed and administered by private individuals, groups, or stockholders. PEIs may be registered as domestic corporations, partnerships, or other recognized entities under the law, provided that they are registered and adhere to the rules and regulations of either the DepEd, Commission on Higher Education (CHED), or the Technical Educations and Skills Development Authority (TESDA).

PEIs registered as domestic corporations are subject to a preferential income tax rate of 10% based on net taxable income. The Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, however, granted a reprieve to PEIs by lowering the tax rate to 1% of net taxable income between July 1, 2020 and June 30, 2023. The preferential tax rate is given to PEIs, provided that incomes received from unrelated business or other activities do not exceed 50% of the total revenue for the taxable year; otherwise, PEIs may be subject to the regular corporate income tax on the entire amount of taxable income. PEIs other than domestic corporations are still subject to the regular income tax rates depending on their structure. As such, a PEI owned by a sole proprietorship may still be subject to the regular income tax.

NSNP-EIs are also considered private schools, as these are managed by private groups of individuals, better known under corporate law as "trustees" or "members." NSNP-EIs do not issue shares of stock or dividends. Further, no income shall inure to the benefit of any trustee, member, director, or officer of NSNP-EIs. These institutions are required to register and adhere to the rules of DepEd, CHED, and TESDA as well.

As expressly provided in the Constitution, and further reiterated under Section 30(H) of the Tax Code, NSNP-EIs are exempt from income tax on their revenue and assets, provided that the revenue and assets are actually, directly, and exclusively for educational purposes. Unrelated income, however, may still be subject to the appropriate income taxes.

To ensure that the income from NSNP-EIs is actually, directly and exclusively used for education purposes, NSNP-EIs are required to secure a one-time tax exemption certification from the Bureau of Internal Revenue (BIR) through the submission of applicable documents as required under Revenue Memorandum Order No. 44-2016. Such certification may be revoked by the BIR for any violation of any existing tax rule, or if there are material changes in the character, purpose or method of operation by the NSNP-EI.

GEIs are schools that are supported, either fully or partially, by the government. These institutions are commonly formed by express provision of law and their tax exemptions are usually stated in their charter. Generally, GEIs are exempt from income tax under Section 29(I) of the Tax Code.

LESSON 2: IS MY SCHOOL SUBJECT TO VAT ON INCOME OR REVENUE RECEIVED?

Section 109(H) of the Tax Code states that educational services rendered by private educational institutions and GEIs duly accredited with either the DepEd, CHED, or TESDA are exempt from VAT. However, the exemption does not extend to the input VAT on purchases made by the schools. In connection with this, input VAT on purchases made by private schools may be claimed as a cost or expense.

It must be noted, however, that the VAT exemption of private schools only extends to receipts from educational services such as tuition. In several BIR VAT rulings and tax appeals cases, gross receipts from other activities such as the disposal of school vehicles and equipment for operational use and rentals received by PEIs or NSNP-EIs from canteen concessionaires may still be subject to VAT. Thus, while the private school may be exempt from VAT on its tuition, it may still be subject to VAT on other areas.

Revenue received from non-educational activities has been the subject of various administrative and judicial cases involving educational institutions — this is one to watch.

LESSON 3: DOES MY SCHOOL NEED TO WITHHOLD TAXES FROM PURCHASES?

Taxpayers such as NSNP-EIs or GEIs, who are exempt from payment of income tax, are generally exempt from withholding tax on income receipts as well. However, this does not absolve the school from withholding taxes on its purchases.

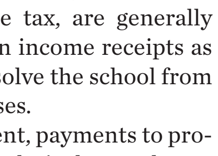
Common expenses such as rent, payments to professionals, management, and technical consultants are all subject to certain withholding taxes under Revenue Regulation (RR) No. 02-1998, as amended by RR No. 11-2018. This means that on every payment made to suppliers, the school must withhold a certain percentage therefrom net of VAT.

Last, schools that are considered as top withholding agents are required to withhold 1% on every purchase of goods or 2% on every purchase of service from regular suppliers.

Blessed with preferential tax rates and exceptions, schools must also invest in a robust regulatory compliance team aside from having a strong roster of faculty members. Of equal importance is regulatory compliance of educational institutions as part of our collective aim of enriching the country's youth and improving our educational and tax system.

Any questions? There being none, class dismissed!

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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