Hotels hit 60-80% occupancy; full recovery expected in 2024

HOTEL OCCUPANCY levels are currently between 60 and 80%, and are expected to return to pre-pandemic levels starting 2024, an industry executive said.

Benito C. Bengzon, Jr., Executive Director of the Philippine Hotel Owners Association, Inc. (PHOA), added that the industry had been hoping for a boost from tourists making a long weekend of the last days of October, though many travelers had to cancel because of Tropical Storm Paeng.

"Our member hotels have been reporting occupancy rates of about 60% to 80%. But we are still a long way off from pre-pandemic levels. We feel that the return to 2019 levels will only happen in 2024 at the earliest," Mr. Bengzon said.

On the long weekend leading up to the Nov. 1 holiday, Mr. Bengzon said,"The reports that we've been getting from our member hotels have been varied. There were some that were reporting 90% occupancy and there were some that reporting 50% occupancy. All in all, it could've been better. But unfortunately, we were affected by the typhoon...We in the PHOA remain confident that the situation will get better. For sure, 2022 is a better year for us compared to 2021 and 2020."

"People were really looking forward to the long weekend. This is the first time in a very long time that we've had a four-day weekend. Unfortunately, we were affected by the storm and this disrupted travel plans," he added.

On Wednesday, Calabarzon (Cavite, Laguna, Batangas, Rizal, Quezon), Bicol, the Western Visayas, and the Bangsamoro Autonomous Region in Muslim Mindanao were placed under a state of calamity with the issuance of Proclamation No. 84 by President Ferdinand R. Marcos, Jr.

The state of calamity will be effective for six months unless lifted earlier by Mr. Marcos.

"When I talk about return to 2019 levels, I'm looking at both international traffic, meaning we have to go back to roughly 8.2 million foreign travelers and for domestic traffic, we have to go back to 110 million domestic trips," Mr. Bengzon said.

Mr. Bengzon said the industry's performance will be influenced by affordable air fares, flight availability, and the global situation.

"For inbound traffic, we have to make sure that the main tourist markets of the Philippines, particularly South Korea, China, and Japan will go back to normal levels. We have to make sure also that the flights are restored to their operating capacity in 2019," Mr. Bengzon said.

"For next year... the situation in Ukraine will be a major factor for long-haul travel. Air fares have to be kept to a very manageable level to encourage inbound and domestic travel. While we are optimistic about 2023, we also have to consider that there are many challenges facing us, like the high cost of fuel and inflation," he added.

Recently, the Tourism department announced that tourist arrivals hit 1.83 million as of Oct. 25, exceeding the previous projection of 1.7 million arrivals. The Philippines opened its borders in February. — **Revin Mikhael D. Ochave**

Customs exceeds Oct. target

THE BUREAU of Customs (BoC) said Wednesday that it exceeded its collection target for a tenth straight month in October.

In a statement, the BoC reported collections of P75.5 billion in October, exceeding its target for the month by 18.6%.

Year on year, October collections were up 35%.

In the 10 months to October, collections hit P714.3 billion, exceeding the year-to-date target by 18.5% and the year-earlier performance by 37%.

The BoC said it will continue to address sources of revenue leakage, corruption, and smuggling, while modernizing its processes. — **Luisa Maria Jacinta C. Jocson**

Fishing industry warns gov't not to use storm as pretext for imports

THE AQUACULTURE industry said the government should not use the recent storm as a pretext to authorize fish imports, saying that the domestic supply of fish is stable despite the damage inflicted by Tropical Storm Paeng (international name: Nalgae).

Mario G. Balazon, Taal Lake Aquaculture Alliance, Inc. director, said in a statement Wednesday that the fishing and aquaculture industries can meet domestic demand for fish.

"We want the government to know that our industry remains resilient regardless of the strong winds, rain, and flooding, despite Typhoon Paeng affecting many fish producers, it did not hinder our production. We can still supply the whole country without importing fish," Mr. Balazon said.

"Don't use this calamity as a reason to justify imports. Support our producers first before turning to other countries for fish," he added.

According to Mr. Balazon, the storm inflicted P22 million worth of losses for the aquaculture industry in Talisay, Batangas.

"Approximately 200 tons of fish escaped the cages. In Calauan, Laguna, the supply of fingerlings was washed out. But we are confident that in three months we will be able to re-stock again and rest assured that this will not affect the supply of *tilapia*," Mr. Balazon said.

Norberto O. Chingcuanco, Tugon Kabuhayan co-convenor, said a fish shortage is unlikely.

"When fish from aquaculture cages escape, municipal fishermen catch those fish. It doesn't disappear. Our fishing industry is robust and we can always fill the demand. There is no need to import," Mr. Chingcuanco said.

According to Philippine Tilapia Association President Jon G. Juico, the price of *bangus* and *tilapia* dropped last year because of imports.

"Our producers were forced to sell their fish for only P60 to P70 per kilogram, while the cost of production per fish was P90. It devastated the industry when the market was inundated by imports," Mr. Juico said.

"There is not much damage here in Pampanga. We are always prepared here in Minalin since we don't use nets. We use dikes, and we are affected more by dams releasing water, not by typhoons," he added. — **Revin Mikhael D. Ochave**

FULL STORY
Read the full story by scanning the QR code with your smartphone or by typing the link <bit.ly/Fishing110322>

Prime Infra to seek Malampaya service contract extension

PRIME INFRASTRUCTURE Capital, Inc. (Prime Infra) is seeking to extend the license for Service Contract (SC) 38 covering the Malampaya gas-to-power project, after Shell Petroleum N.V. (Shell Petroleum) announced the completion of the sale of its stake in the contract to a unit of Prime Infra.

"Prime Infra is committed to invest in critical infrastructure that supports the country's urgent needs. We are excited to be part of the next phase of Malampaya, and to further the potential of SC 38 as we work on securing the license extension," Prime Infra President and Chief Executive Officer Guillaume Lucci said in a statement.

The license expires in 2024.

In its own statement Tuesday, Shell Petroleum announced that its 100% stake in Shell Philippines Exploration B.V. (SPEX) was transferred to Malampaya Energy XE Pte. Ltd. (MEXP), a Prime Infra unit, effective Nov. 1.

"The Malampaya asset begins a new chapter as we continue to build on the legacy of this world-class installation in helping achieve national energy security and independence," Enrique K. Razon, Jr., chairman of Prime Infra, said in the Prime Infra statement.

Prime Infra said it will work to sustain and expand gas production to meet growing domestic demand for power.

SC 38 covers the Malampaya project in northwestern Palawan. The other members of the SC 38 consortium are UC38 LLC holding, and PNOC Exploration Corp., which own a 10% and 45% interests, respectively.

Malampaya is approaching commercial depletion by 2027, with production dwindling starting this year.

The Department of Energy (DoE) said Malampaya supplies up to 20% of Luzon's power requirements. With MEXP's assumption of full ownership and control of Malampaya operator, Prime Infra said it will also rename SPEX to Prime Energy Resources Development B.V. (Prime Energy).

"The renaming of SPEX is already in process following the acquisition of SPEX shares," Prime Infra said.

The DoE approved the sale of the stake of SPEx to MEXP last month, finding Prime Infra technically, financially, and legally qualified as an operator of the Malampaya gas-to-power project. — **Ashley Erika O. Jose**

Supermarkets facing higher costs even as revenues rise

SUPERMARKETS are dealing with higher operating costs as pandemic restrictions ease, with an industry official saying that the pickup in sales is sometimes not reflected in the resulting profits, especially for smaller stores.

Steven T. Cua, Philippine Amalgamated Supermarkets Association, Inc., president, told *BusinessWorld* Live on One News channel that supermarkets are still adapting to unpredictable conditions as a result of the coronavirus disease 2019 (COVID-19) outbreak.

"It is difficult for us right now, those which are not big (supermarket) chains. It is difficult for us to make sure that the bottom line is clear in view of sales. Even if we have a spike in sales, sometimes our costs increase, our cost of operation increase. We're still in transition," Mr. Cua said.

Mr. Cua said some supermarkets expanded their operating hours in October in the hope of capturing more business.

"There are adjustments still made on our end to make sure that there is a balance between sales and bottom line," Mr. Cua said.

"We have better sales (compared to 2021) because of the reopening of the economy. But again... there are new COVID-19 variants coming out," he added. — **Revin Mikhael D. Ochave**

Japan to help improve Philippine mountain road safety

THE DEPARTMENT of Public Works and Highways (DPWH) said Wednesday that Japan will provide assistance in improving mountain road safety, particularly in the area of slope management.

Japanese experts will also help the Philippines "enhance (its) capability to establish hazard maps for road disaster risk reduction and improve... road disaster information management," the department said in a statement.

The department said that it recently had the first of a series of meetings with Japan "to discuss the work plan in improving the capabilities of the DPWH and its engineers in incorporating the latest technology to address the problem of road disasters in mountainous areas."

Public Works Secretary Manuel M. Bonoan recently ordered the creation of a joint coordinating committee chaired by Senior Undersecretary Emil K. Sadain to ensure the success of the technical cooperation project with the Japan International Cooperation Agency (JICA).

According to Mr. Sadain, the project will help facilitate the development, transfer and dissemination of relevant technology, not just in terms of mitigation but also in the reduction of risks posed by disasters.

"A work plan was presented by the JICA project team to establish coordination with the concerned technical working groups for effective collaboration and smooth conduct of the project," the department said.

"Given the amount of expertise that is gathered, I am confident that the first meeting will be able to gather timely development outcomes," Mr. Sadain said.

Twenty-seven sections of road were closed to traffic as of Nov. 1 due to a severe tropical storm.

Seven of those road sections were in the Cordillera Administrative Region, five in Region II, one in Region III, two in Region IV-A, five in Region VI, one in Region VIII, three in Region XII, and three in the Bangsamoro region. — **Arjay L. Balinbin**

OPINION

Business restructuring at arm's length

TAXWISE OR OTHERWISE
LEIZELYN DE VILLA

"It is not the strongest or the most intelligent who will survive but those who can best manage change." This warning by Charles Darwin sends a clear message. With the world evolving so rapidly, we have to be quick to adapt. In business, it has become a necessity for multinational enterprises (MNEs) to adjust to the changing environment to remain competitive and relevant. As such, most MNEs make adjustments by restructuring their commercial and financial relations to adapt to these changes.

Cross-border reorganization in the commercial and financial relations between associated enterprises is called business restructuring. It may often involve centralization of intangibles, risks or functions, along with the profit potential attached to them. MNEs implement business restructurings for a number of reasons, typically to maximize synergies and economies of scale, to streamline the management of business lines, to improve the efficiency of the supply chain, or to preserve profitability or limit losses.

While business restructurings are not usually done for tax reasons, the changes that occur during restructuring may, however, warrant transfer pricing considerations for all the parties involved. As such, business restructurings pique the interest of tax authorities especially during transfer pricing audits. In fact, in the Philippines, the Bureau of Internal Revenue (BIR) included business restructuring as one of the factors to be considered in analyzing the transfer pricing risks and compliance of a taxpayer during an audit. In Revenue Audit Memorandum Order (RAMO) no. 1-2019, the BIR briefly discussed its key considerations in reviewing the transfer pricing implications of business restructurings entered into by associated enterprises.

According to the RAMO, the reduction in profit of an entity as a result of business restructuring may only be acceptable if the functions performed, assets employed, and risks assumed have actually been reduced. Otherwise, the revenue officer may make necessary adjustments to reflect an arm's length arrangement. The rationale behind this is simple. In an arm's length situation, an independent party will not restructure its business if it affects its results negatively, and where it has the option realistically available not to do so.

The RAMO did not provide further details on how to apply the arm's length principle to business restructurings. Nonetheless, Chapter IX of the OECD Transfer Pricing Guidelines provide a thorough discussion on the application of the arm's length principle to business restructurings.

Ultimately, there are three main points to consider in determining the arm's length conditions of business restructurings. First, we must analyze the accurate delineation of the transactions comprising the business restructuring. We will ask questions like, "What are the functions performed, assets employed, and risks assumed before and after the restructuring?", "Does the transferred function or risk carry with it a profit potential?", "If so, does the transfer itself call for an arm's length consideration?".

For instance, let's take the case of a full-fledged manufacturer that is converted into a toll manufacturer resulting in the elimination of inventory risk. In order to migrate from the preexisting arrangement to the restructured one, the inventories that are on the balance sheet of the taxpayer at the time of restructuring are transferred to another associated enterprise. The question here is how to determine the arm's length transfer price for the inventories upon the conversion.

Second, we must understand the business reasons for and the expected benefits from the restructuring. One of the most common reasons for restructuring is to have more centralized control and management of business functions. For instance, a business restructuring may involve centralizing the group's procurement activities into a single entity to take advantage of volume discounts and potential savings from administrative costs. Thus, to determine the arm's length nature of the transactions involved in the restructuring, it is equally important to determine the benefits derived from such reorganization. The question of who will benefit from the savings or profit derived from such reorganization should be raised. In the example, the central procurement company may be entitled to a profit for its performance of certain functions, and its assumption of the risks associated with buying, holding and reselling goods. However, it is not entitled to retain profits arising from the group's purchasing power (e.g., savings from volume discounts) because it does not contribute to the creation of synergies.

Last, in analyzing whether the business restructuring itself is conducted at arm's length, it is important to understand whether the entity involved in the reorganization has a more attractive alternative rather than to enter into a restructuring. Simply put, in applying the arm's length principle, it would be important to know whether independent entities would be willing to enter into the same transaction. Otherwise, if the restructuring would make the independent entities worse off than their current situation, they would not restructure their business.

In view of the above, it is not surprising why business restructuring is one of the focus areas of tax authorities during transfer pricing audits. Aside from the potential sudden changes in the profitability of a restructured entity post-restructuring, the tax authorities would also be concerned about the transactions involved in carrying out the restructuring itself.

From the perspective of the taxpayers, robust documentation of the business restructuring would be helpful in supporting the arm's length conditions of the reorganization. One of the major hurdles that taxpayers may face is the difficulty of finding comparable transactions. Nonetheless, every effort should be made to determine the pricing for the restructured transactions. In light of this, aside from transfer pricing documentation, an advance pricing agreement approved by the BIR (once this becomes available) should be helpful to minimize uncertainty and give taxpayers comfort on the tax treatment and transfer prices of the transactions involved in the restructuring.

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.

LEIZELYN DE VILLA is a Manager at the Tax Services Department of Isla Lipana & Co., the Philippine member firm of the PwC network.
+63 (2)8845-2728
leizelyn.e.de.villa@pwc.com