Shipping dev't plan to highlight increase in yard, repair capacity

THE 10-year plan for the shipping industry will be anchored on an increase in shipbuilding and repair yard capacity, the Department of Transportation (DoTr) said on Monday.

The department said in a statement that Undersecretary for Planning and Project Development Timothy John R. Batan met with officials of the Maritime Industry Authority (Marina) on Nov. 18 to discuss the 10-year Maritime Development Plan.

The plan also calls for technology upgrades for the shipping industry, the development and expansion of shipping and maritime tourism routes, the improvement of maritime education and training, and upgrades to safety, security, and environmental protection practices.

"Updates are currently being undertaken by the Marina to align with the eight-point priority economic agenda of the Marcos administration," the DoTr said.

The 10-year plan is expected to be fully implemented in 2028, with a goal of elevating the industry's contribution to gross domestic product to P1.44 trillion from P720 billion.

On Nov. 13, Marina announced that it signed a memorandum of agreement with France to strengthen the shipping industry.

The deal focuses on maritime safety, security and shipbuilding and ship repair, Marina said in a statement.

Under the agreement, the French government will deploy a maritime expert to the Philippines to provide technical assistance, training, and consultancy services.

The Philippines is the fifth-largest shipbuilding nation in the world, according to 2020 estimates.

"Philippine registered vessels stand at about 29,974, comprising 4,114 large merchant vessels and 25,860 motor bancas/boats and fishing bancas/boats. Of the merchant fleet, passenger ships number 11,898. Excluding the pandemic years, over 72 million passengers per year were carried by sea vessels," Marina said. — **Arjay L. Balinbin**

Hotels balancing value, affordability as inflation weighs on travel plans

THE Philippine Hotel Owners Association (PHOA) said on Monday that inflation will be a challenge for the industry, which hopes to keep rates affordable and raise the value proposition of its offerings to retain customers.

"Inflation will be a major factor in travel decisions in 2023. The challenge for the hotel industry is to make sure we offer value and come up with price point that will still be within reach of domestic travelers," PHOA Executive Director Benito C. Bengzon, Jr. told *BusinessWorld Live* on One News channel.

"Apart from inflation, we're also monitoring developments around the globe. The Ukraine-Russia war certainly will affect long-haul travel. Another thing that has to be factored in is that airfares have to be kept at reasonable levels," he added.

Inflation was 7.7% in October, driven by higher food costs.

According to Mr. Bengzon, the PHOA is "cautiously optimistic" for 2023.

"We are happy with the performance of our hotels in the past 11 months this year. Certainly, occupancy rate and revenue for 2022 are much better than what we registered for 2021. This has been driven largely by travelers from the US, Canada, and the UK. We're also cautiously optimistic about 2023. (There are) a lot of challenges but we remain hopeful that it will be better than 2022," Mr. Bengzon said.

Mr. Bengzon said an occupancy rate of 80%-90% will be a "comfortable level" for hotels to achieve in 2023.

"If we can sustain occupancy at 80% to 90%, that would be a comfortable level for many hotels. We have to consider that the performance indicator is not limited to just hotel occupancy but the more important indicator is average daily room rate. That's where we have to strike a balance to make sure we're able to operate viably while making sure we remain within reach of consumers," Mr. Bengzon said.

Mr. Bengzon added that hotels are "looking at a daily rate that is affordable for travelers but at the same time, will allow hotels and resorts to operate. To make it more compelling... many of our hotels are coming up with new products like more al fresco options (or) pet-friendly rooms."

The Tourism department has said that as of Nov. 14, 2.025 million visitors have arrived in the Philippines since the easing of entry requirements earlier in the year, exceeding its 1.7 million arrivals projection for 2022. — **Revin Mikhael D. Ochave**

Vape industry urged to improve tax compliance after lobbying for permissive regulation

THE vape industry must improve its tax compliance after having seeking a "loose" regulatory regime, a legislator said, claiming a shift in public opinion that now favors stricter handling of the industry.

"They asked for looser regulations, through the Vape Regulation Law, which supplanted many of the stricter conditions under the Tax Code, but they aren't even paying taxes," Albay Rep. Jose Ma. Clemente S. Salceda said in a statement.

The Vape Regulation Law took effect earlier in the year allowing electronic cigarette to be used by 18-year-olds instead of those aged at least 21. The law also transferred regulation of vapes and heated tobacco products to the Department of Trade and Industry from the Food and Drug Administration.

The Bureau of Internal Revenue reported during a House ways and means committee meeting that it collected P7 million in excise taxes from electronic cigarettes, against P242 million from heated tobacco products.

Mr. Salceda, who also chairs the ways and means committee, said market data suggests the vape market is generating P12.3 billion in sales.

"In 2019, when the Vape Tax Law was being discussed, government revenue agencies projected as much as P1.4 billion in tax revenue annually from the measure," he said. "In short, we are off target in taxes, while sales projections seem to be on track."

He said the weaker-than-expected revenue generated by the industry "indicates the possibility of both smuggling and tax evasion going on."

Mr. Salceda filed House Bill 5532 which seeks to increase taxes on vape products by 14% and impose an additional tax on vaping devices.

The committee has created a technical working group to draft the committee report for the measure. — **Matthew Carl L. Montecillo**

Solar, wind projected to lead renewable energy expansion

SOLAR and wind energy projects will continue to drive the growth of Philippine renewable energy (RE) with additional capacity estimated at 6.8 gigawatts (GW) over the next 10 years, Fitch Solutions Country Risk and Industry Research estimated in a report.

In a Nov. 18 report, Fitch Solutions said wind and solar capacity is expected to grow 10.4% a year.

Fitch Solutions said in the non-hydropower RE segment, 86% will consist of photovoltaic projects and 10% onshore wind power.

The latest Department of Energy (DoE) estimates have RE accounting for 23.4% of the power generation mix.

The DoE said that in 2021, renewable generating facilities made up 28.9% of installed capacity.

While the DoE noted that hydropower and geothermal accounted for the most RE capacity, solar was the fastest-growing.

The Energy department has set a target of more than 900 megawatts (MW) in new RE capacity for the 2021-2027 period. Of these, solar accounted for 489 MW, hydro 233 MW; geothermal 116 MW; and biomass 65 MW.

Fitch Solutions estimates the number of non-hydro RE projects in the Philippines at 127, with combined capacity of 21.4 GW. Of these projects, 78 are solar.

In June 2021, the DoE conducted the first round of the Green Energy Auction Program (GEAP) in which 2,000 MW was committed for delivery between 2023 and 2025.

The second round of the GEAP is expected to be conducted in June.

Last week, the DoE opened up the RE industry to full foreign ownership, after amending the implementing rules and regulations of the Renewable Energy Act of 2008. — **Ashley Erika O. Jose**

Farmers lobby Marcos not to extend EO setting low rice tariffs

THE Federation of Free Farmers (FFF) asked President Ferdinand R. Marcos, Jr. not to extend the effectivity of an executive order setting lower tariffs for rice imports.

FFF National Manager Raul Q. Montemayor said in a statement on Monday that lower tariffs do not benefit consumers.

Executive Order (EO) No. 171 signed by former President Rodrigo R. Duterte in May set the tariff for in-quota rice imports at 35%, equivalent to the rate enjoyed by grain imports from Southeast Asia, which enjoy preferential treatment due to trade agreements. Rice beyond the minimum access volume (MAV) quota is charged 50%.

The EO rates are set to expire by year's end.

"Although imports from Pakistan and other countries outside the Association of Southeast Asian Nations (ASEAN) arrived at a cheaper price because of lower tariffs, ordinary consumers did not benefit because most of the imports were for premium grades of rice," Mr. Montemayor said.

"If ever traders passed on any benefits to consumers, the beneficiaries were the rich consumers of Indian Basmati rice, Japanese stick rice, or clients of five-star restaurants serving exotic rice dishes," he added.

The Foundation for Economic Freedom has petitioned the Tariff Commission to extend EO 171, which also lowers tariffs for pork, corn, and coal, saying that lower tariffs help keep inflation contained.

The EO also reduced the tariffs on pork within the MAV quota to 15% from 30%, while pork imports beyond the quota are currently charged 25%, down from 40%.

The EO also lowered the tariffs of in-quota corn imports to 5% from 35% and those beyond the quota to 15% from 50%. The order also imposed zero duties on coal imports, down from 7%.

Mr. Montemayor said rice from Pakistan is expected to diminish because of extensive flooding there, while India will impose a 20% tax on rice exports to ensure rice remains adequate for domestic needs.

Mr. Montemayor proposed that the Philippines develop supply arrangements with other ASEAN countries such as Cambodia and Myanmar.

"This strategy will not require any tariff adjustment, will not incur any losses in customs duties, and will even improve our trade relationships with our ASEAN neighbors," Mr. Montemayor said.

"Customs data further indicate losses of over half a billion pesos in potential tariff collections due to the slash in tariffs on rice imported from non-ASEAN sources. A further analysis revealed that rice from Pakistan would have been competitive against rice from Vietnam, the largest exporter to the Philippines, even if the former's tariff had been retained at 50%," the FFF added. — **Revin Mikhael D. Ochave**

OPINION

IT-BPM shift to WFH: Issues and questions

LET'S TALK TAX
ELEANOR LUCAS ROQUE

Among the many things that the pandemic taught us is the ability to work efficiently at home. We have discovered the joys and challenges of just rolling out of bed and barely combing our hair to join our early morning Teams or Zoom call. The ability to work without the horrendous sacrifice of sitting in traffic or braving the jam-packed MRT are but a couple of the perks of working from home.

Clearly, working from home (WFH) is here to stay. No other industry is more affected than the Information Technology and Business Process Management (IT-BPM) sector. Hence, the government announcement that employees must go back to their registered offices threw the industry into tumult.

Fortunately, Fiscal Incentives Review Board (FIRB) through Resolution No. 026-22 allowed IT-BPM registered business enterprises (RBEs) to transfer their registration to the Board of Investments (BoI) which allows them to adopt up to 100% WFH arrangements without their tax incentives being adversely affected.

Various government agencies have issued implementing guidelines and procedures for the transfer and some RBEs have submitted their applications pursuant to these guidelines. However, there are still some lingering questions on the consequences of transferring or not transferring. Recently, I attended a webinar on the shift of the IT-BPM sector to WFH and here are some of the issues that were discussed.

WHAT HAPPENS TO THE PEZA REGISTRATION UPON TRANSFER?

FIRB Resolution No. 026-22 described the application as a transfer of registration. It stated that "affected RBEs in the IT-BPM sector may be allowed to transfer their registration to the BoI from the IPA administering an economic zone or freeport zone where their project is located until 31 December 2022 and adopt up to 100% WFH arrangement; Provided that the monitoring of these "transferee" RBEs' compliance and the availment of their remaining incentives shall remain with the concerned IPA administering such economic zone or freeport zone where they are located."

The Resolution denotes that the registration is being transferred to the BoI and the PEZA would only be a monitoring agency. However, instead of a transfer of registration, the application would allow a dual registration where the RBE is registered with both the BoI and PEZA. In this case, PEZA is not just a monitoring agency but remains the regulator for the PEZA-specific incentives being enjoyed by the RBE.

Hence, even if the Certificate of Registration is issued by the BoI in favor of the RBE, its PEZA registration is not canceled. PEZA will still be in charge of issuing the Certificate of Entitlement to Tax Incentives (CETI) and VAT Zero Rating Certificate to the RBE.

WHAT HAPPENS TO THE PEZA-SPECIFIC INCENTIVES UPON TRANSFER TO BOI?

Since the PEZA registration is not canceled, all incentives specific to PEZA RBEs are retained. Nothing is expected to change after the BoI registration other than the ability of employees to work from home.

DTI Memorandum Circular No. 22-19 specifically stated that "(N)othing herein shall affect the other incentives and non-fiscal incentives that the covered RBEs are enjoying under their original registration with the concerned IPA, or under the NIRC or other laws, provided that the registration with the concerned IPA is maintained by the covered RBE."

Hence, the benefit of branch profit remittance tax exemption under Section 28 of the NIRC for PEZA RBEs will remain. Likewise, the PEZA visas of expatriates, among other non-fiscal incentives, will subsist.

MOVING FORWARD, WHERE MUST THE IT-BPM RBE REGISTER NEW OR EXPANSION PROJECTS?

The ability to avail of the dual registration is time-bound to until Dec. 31. Hence, according to current rules, the ability of PEZA to endorse to BoI will terminate on the same date. Moving forward, new projects or expansion projects which will adopt the WFH model must now apply for registration with the BoI. This necessitates that the RBEs comply with two rules for their various projects. Old, registered projects will be under the dual registration of PEZA and BoI while new projects will be exclusively with the BoI.

WHY IS THERE A DEADLINE FOR THE TRANSFER?

Much discussion centered around the reason why the ability to transfer to BoI is time-bound. Some RBEs are claiming that the timeline is too tight. This may be the reason why PEZA has not yet received the deluge of applications it was expecting despite the deadline for filing, which is Dec. 16, is less than a month away. As of Nov. 14, PEZA has received only 154 applications, of which 56 have been endorsed to the BoI.

Note that the State of Calamity as extended by Presidential Proclamation No. 57-2022 will end on Dec. 31. Similarly, the 70-30% WFH arrangement allowed to the RBEs will also expire on the same date. Hence, any transfer to the BoI to resolve any questions about WFH must be put to rest not later than that date.

However, does window for RBEs to transfer to the BoI really need to be limited? Currently, RBEs not compliant with the WFH rules are subject to the regular corporate income tax. Would it be possible to adopt this penalty system for RBEs unable to transfer before deadline and while the RBEs are still sorting their requirements or getting their internal corporate approvals?

WHAT HAPPENS TO RBES REGISTERED AFTER SEPT. 14?

FIRB Resolution No. 026-22 dated Sept. 14 allowed the transfer by RBEs to the BoI. The Resolution defined affected RBEs as "those transferee RBEs that have remaining tax incentives under Section 311 of the NIRC of 1997, as amended, or those with approved incentives on or before 14 September 2022 under the CREATE Act with the concerned IPA."

Considering that the guidelines were issued sometime in late October, what happens to RBEs registered after Sept. 14 but before the issuance of the guidelines? Are they not allowed to avail of the WFH? Can they not file their application to be registered with BoI so that they too can also be allowed to adopt WFH?

ARE THE RBES STILL REQUIRED TO FARM IN AND FARM OUT THEIR EQUIPMENT?

BoI registration does not require the registered entity to operate within a particular zone or territory. Hence, the BoI does not require the farming in and farming out of equipment which PEZA entities are required to do. Some RBEs expect that once they are registered with the BoI, they will no longer be required to comply with this cumbersome requirement.

However, within 30 days from the issuance of the BoI Certificate of Registration, the covered RBE must submit to PEZA the list of all equipment and assets with required details. Thereafter, the covered RBEs must submit to PEZA (or their respective IPAs) within five days after the end of each month a report containing the (a) additional equipment/assets brought out of the ecozones and (b) total number of employees and number of employees under the WFH arrangement.

Further, considering that they remain under PEZA, the requirement of farming in and farming out of equipment will remain. The good news is that a bond will no longer be imposed on the movement of capital equipment under the WFH arrangement.

As RBEs shift to this new concept of dual registration which allows them to adopt WFH, new issues and questions may surface. Indeed, there will always be birth pains at the start of anything new. Fortunately, the government agencies involved in implementing this transfer are proactive and working together with the IT-BPM industry to iron out any creases in the implementation. With any luck, we may be even given an early Christmas gift of either the relaxation of the WFH rules or additional issuances that clarify the remaining issues.

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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