

# DBP dividend cut not connected to Maharlika, DoF's Diokno says

FINANCE Secretary Benjamin E. Diokno rejected on Monday speculation that the reduction in the Development Bank of the Philippines' (DBP) dividend was intended to retain capital for use by the proposed Maharlika Investment Fund (MIF).

The Department of Finance (DoF) said in a statement that government banks like the DBP and Land Bank of the Philippines are routinely allowed to reduce their dividends.

"Long before the MIF was conceived (dividend reductions were resorted to) in order to improve the ability of both government banks to deliver on

their mandates and, at the same time, maintain their financial standing."

He was responding to a statement by Representative France L. Castro, the House deputy minority leader from the ACT-Teachers Party-list, that Executive Order (EO) No. 8, which reduced the rate of DBP's dividends to the National Government to 0%, "was issued to increase DBP's capital for the Maharlika fund."

Mr. Diokno said President Ferdinand R. Marcos, Jr. issued EO No. 8 last week to support the capital position of the DBP, allow it to comply with central bank

regulations, and "sustain its role in the economic recovery of industries adversely affected by the pandemic."

"The grant of dividend relief aims to provide DBP with a stronger capital base in support of its mandated developmental programs," he said.

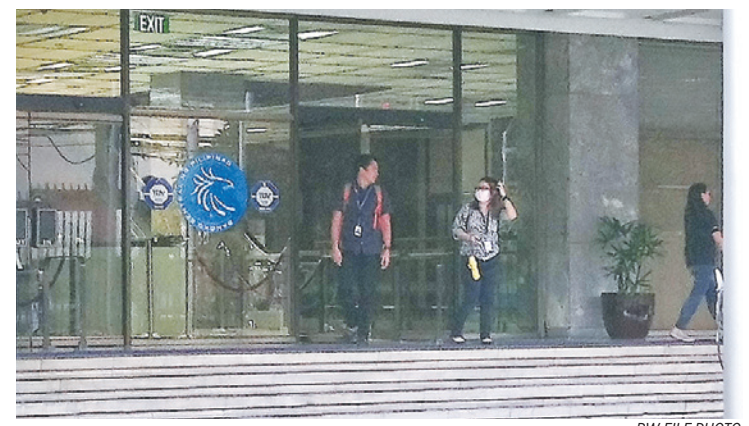
Part of the proposed MIF's initial funding was to come from the DBP, which will pitch in P25 billion.

"Consequently, because DBP would not remit anything to the National Government, this would be a huge loss from the people's coffers and the source of funds for the next General Appropriations

Act (GAA)," Ms. Castro said in her statement.

Republic Act No. 7656 requires all government-owned or -controlled corporations to declare and remit at least 50% of their annual net earnings as cash, stock or property dividends to the National Government.

"The President of the Philippines, however, may adjust the percentage of annual net earnings to be declared by a government-owned and -controlled corporation, in the interest of the national economy and general welfare, according to RA 7656," the Palace said in a statement. — **Kyle Aristophere T. Atienza**



BW FILE PHOTO

## PHL taps IMF for technical assistance on exiting from accommodative policy

THE PHILIPPINES is tapping the International Monetary Fund (IMF) for technical assistance, with the aim of improving the central bank's ability to transition away from the accommodative policy it adopted during the pandemic, the fund said.

In a country report, the IMF called the Philippines one of the largest recipients of capacity development (CD) assistance among emerging economies, with the fund providing "considerable" support in order to help the government pursue its reform agenda.

"The authorities have identified additional CD priorities where support from the IMF would further contribute to the reform agenda. Some of the assistance is already ongoing while other requests remain to be addressed," the IMF said.

The IMF was also asked to assist with improving the monetary authorities' inflation forecasting and enhancing the Bangko Sentral ng Pilipinas' (BSP) data analysis capabilities.

"Support for the implementation of monetary policy will center on: (i) inflation forecasting and refinements to the BSP's Policy Analysis Model for the Philippines to facilitate structured and data-coherent forecasting and integrated analysis of monetary and other policies," the IMF said.

The IMF was also asked to help the BSP reform its liquidity operations and to improve the central bank's communication strategy, particularly on giving forward guidance when it comes to policy rates, making the Monetary Policy Report a flagship publication, communicating its exit strategy from crisis support measures, and how to best inform the public about digital money, cybercrime, and climate-related financial risk.

"The authorities have also requested the Fund to advise and provide training for a sandbox project on the development of a wholesale CBDC (central bank digital currency)."

Earlier this year, the BSP announced it was working on a pilot project that will test the use of wholesale CBDCs for large-value financial transactions by selected financial institutions.

In the financial sector, the IMF was requested to provide technical assistance on bank supervision and the establishment of a supervisory college.

The IMF was also asked to assess the expected credit loss model of banks and the operational resilience of the Philippine banking system.

"Requests have also been made by the Securities and Exchange Commission for TA (technical assistance) to develop risk management instruments and by the Bureau of the Treasury for TA to enhance its cash management, further develop the government's debt management strategy, deepen the domestic debt market through innovative financial instruments, and develop a strategy to access the international capital markets," the IMF said.

The fund was asked to review an ongoing program helping government-owned and -controlled corporations (GOCCs) enhance their financial reporting, the fund said.

According to the IMF, the Philippines has requested a follow-up mission to review the progress made on GOCC financial reporting since the assistance was first put forward in 2019.

The IMF was requested to provide guidance and help develop an implementation plan to bring the reporting frameworks of GOCCs and public-private partnerships in line with international standards. — **Keisha B. Ta-asan**

## JobStreet offers hiring companies 30 days' worth of free job postings

EMPLOYMENT listings site JobStreet said it is offering employers 30 days' worth of free job postings.

In a statement on Monday, JobStreet said hiring companies that register with its platform will have access to a database of more than 14 million jobseekers in the Philippines.

JobStreet said participants will also be able to use platform features like AI matching, job market insights, and various solutions available to hirers.

"Making hiring decisions and recruiting the right people have been a struggle for enterprises as they transition to the new normal," it said. "Things have changed since the pandemic and fresh talent has also entered the job market."

"We are looking to empower hirers to... end the year with great hires and start the year with quality candidates in their companies," it added.

JobStreet said that its new job posting package scheme "follows a consumable budget-based model."

The model provides "flexibility," allowing employers to adjust job postings to their needs, it said.

Workers are expected to turn to job posting platforms at a time of high inflation and underemployment, economists said, with the gig economy and part-time work as one of the options.

"Many Filipinos are taking extra jobs since inflation decreases a person's purchasing power" Jefferson A. Arapoc, an assistant professor of Economics at the University of the Philippines Los Baños, told *BusinessWorld* via chat.

"If the government cannot manage surging inflation, we can only expect the number of underemployed people to surge as well," he added.

"The gig economy has emerged because of the inadequacy of salaries and wages. This is a response of people to make ends meet and maintain purchasing power," according to John Paolo R. Rivera, an economist at the Asian Institute of Management.

"Companies should understand this especially if they cannot and are not willing to adjust salaries (in line with) inflation," he said via chat. — **Kyle Aristophere T. Atienza**



BW FILE PHOTO

## Insurance Commission says catastrophe risk premiums overdue for adjustment

THE Insurance Commission (IC) said premiums for catastrophe risk were last adjusted in 2006 and need adjustment because the old premium structure was "unsustainable."

IC Commissioner Dennis B. Funa said on Monday in an e-mail that "For the longest time, the other non-life insurance business lines have been subsidizing catastrophe insurance products and claims — a situation that is unsustainable given the constant, if not growing, exposure to catastrophe risks," Mr. Funa said in an e-mail.

Mr. Funa was responding to a legislator's query about the state of the catastrophe insurance market.

AGRI Party-list Representative Wilbert T. Lee had queried via a Dec. 12 resolution whether there was a gap in coverage for earthquakes, typhoons, and floods.

"Our country has a huge catastrophe insurance gap that leaves millions of Fili-

pinos in poverty after every catastrophe," Mr. Funa said.

The commissioner added that higher premiums would be warranted given the Philippines' vulnerability to natural disasters.

"Since insurance is an important risk transfer tool for the recovery of communities after large loss events, it has been the view of the World Bank, the Department of Finance (DoF), the IC, and non-life insurers that catastrophe resilience of the Philippine insurance industry and its capacity to retain catastrophe risks should be increased," Mr. Funa added.

The IC is in charge of Philippine Catastrophe Insurance Facility (PCIF), a World Bank initiative under the supervision of the DoF.

Mr. Funa said the IC is reassessing the PCIF program. — **Beatriz Marie D. Cruz**

### OPINION

## A closer look at the BIR's clarifications on REEs' VAT incentives

Since Republic Act 11534, otherwise known as the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, took effect, the Bureau of Internal Revenue (BIR) has released issuances and clarifications to implement the amendments introduced therein. On Dec. 10, 2021, Revenue Regulations (RR) No. 21-2021 took effect, implementing the amended value-added tax (VAT) incentives of Registered Export Enterprises (REEs) on their imports and local purchases, as provided under the Tax Code, as amended, and the Implementing Rules and Regulations of the CREATE Act.

Months after, Revenue Memorandum Circular (RMC) Nos. 24-2022 and 49-2022 were issued to provide clarifications on RR No. 21-2022. RMC No. 24-2022 clarifies that VAT-registered REEs whose registration with an IPA has expired is subject to VAT, whereas RMC No. 49-2022 clarifies that REEs enjoying 5% GIT/SCIT are to shift registration from VAT to Non-VAT taxpayers. In this regard, concerns may have surfaced from taxpayers on the proper application and consequences of the above clarifications.

To address these concerns, the BIR recently issued RMC No. 152-2022 to further clarify the transitory provisions of RR No. 21-2021 and as explained in RMC Nos. 24-2022 and 49-2022. These issuances implement and clarify the VAT zero-rate incentives under the Tax

Code, as amended, and as implemented by Rule 18 of the CREATE Act Implementing Rules and Regulations.

The BIR grants relief to suppliers/sellers who might have treated and declared their sales to REEs as VAT zero-rated in their respective quarterly returns during the transitory period

between the effectivity of RR No. 21-2021 on Dec. 10, 2021, and the issuance of Q&A No. 26 of RMC NO. 24-2022 on March 9, 2022. It is to be noted that RMC No. 24-2022 clarified that an REE whose incentives have expired is no longer qualified for VAT zero-rating on local purchases during the transitory period. In such cases, the BIR, in RMC No. 152-2022, ruled that the above transactions which transpired during the transitory period remain VAT zero-rated to avoid prejudice to affected taxpayers.

On the other hand, in cases where the REE is qualified for VAT zero-rate on its purchases, but was charged 12% VAT by the seller during the transitory period, the buyer and the seller may either:

#### 1. Retain the transaction as subject to 12% VAT

VAT-registered purchasers, in such case, can utilize the input VAT from their output tax or if the purchaser is engaged in zero-rated activities, the same can be recovered through the VAT refund pursuant to Section 112(A) of the Tax Code, as amended. If the purchaser is not VAT-registered, the

VAT paid may be claimed as part of the cost of sales or expenses.

#### 2. Revert the transaction from VAT at 12% to VAT zero-rated where the seller may amend the same after reimbursing/returning the VAT paid by a buyer that is an REE.

The related VAT Sales Invoices/ Official Receipts (SI/OR) to such transactions are to be retrieved by the seller for cancellation and replacement with VAT SI/OR. The seller is to prepare a list of canceled VAT SI/OR together with the replacement subject to validation of the BIR.

Consequently, the purchaser must likewise file an amendment return to reflect the reduced input VAT it previously declared in the VAT return/s.

The BIR has yet to clarify the time and manner of submission of the required list under the 2<sup>nd</sup> option above, whether it will be submitted to the BIR or only to be presented in case of a tax audit. Nonetheless, taxpayers need to identify the transactions engaged in during the transitory period and prepare the list required by the BIR to be ready once the BIR requires its submission.

RMC No. 152-2022 also discussed the mandatory registration from VAT to Non-VAT of REEs that are under the 5% Gross Income Tax (GIT)/Special Corporate Income Tax (SCIT) within two months from the expiration of the ITH or the effectivity of RMC No. 49-2022,

whichever is applicable, as provided under RMC No. 24-2022.

It was clarified further that the mandatory shift from VAT to Non-VAT would not subject REEs' sales to percentage tax as they are entitled and subject only to GIT/SCIT in lieu of all other internal revenue taxes. Despite the shift from VAT to Non-VAT, the BIR clarified that REEs are still entitled to VAT zero-rate incentives on their local purchases until the expiration of the incentive period of the Company.

While this issuance is somehow a respite to some taxpayers, the question on the validity of provisions under the CREATE IRR that limit the duration of entitlement of non-income-related tax incentives remains, such as VAT zero-rate on local purchases and VAT exemption on imports. This limitation under the IRR may have unduly expanded the provisions of the CREATE Act since it seems that such duration was not provided under Section 296 and 311 of the Tax Code, as amended.

It is clear under Paragraph 3 Section 6 of the Civil Code that "[a]dministrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution." Additionally, the Supreme Court has always been consistent on the limitation of the delegated legislative powers to administrative agencies through enacted laws. Mere administrative issuances cannot modify, expand, or restrict the law delegating the power to prescribe rules to implement statute's provisions. This is consistent

with the long-standing legal principle that the *spring cannot rise higher than the source*.

In this case, it seems the prohibition under the CREATE Act was specifically included by the Congress to limit the duration of income-related tax incentives only. Thus, a distinction should be made, and such duration may not extend to other incentives granted under the law. This would cause undue restriction of the rights of REEs clearly granted by the CREATE Act. Accordingly, taxpayers are hoping that the limit on the period of availment of VAT zero-rating be further evaluated by our regulatory bodies.

Nevertheless, the BIR continues to revisit and address all the relevant concerns of taxpayers to implement effectively and efficiently the CREATE Act, and frequently releases clarificatory issuances primarily aimed at helping taxpayers navigate the changes introduced to our tax system.

*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.*

AARON PAUL A. SANTOS is a senior-in charge from the Tax Advisory & Compliance division of P&A Grant Thornton, the Philippine member firm of Grant Thornton International Ltd. [pagranthornton@pt.gt.com](mailto:pagranthornton@pt.gt.com)

