

# Senate minority says Maharlika must benefit public, not investors

SENATE Minority Leader Aquilino Martin D. Pimentel III expressed doubts on Monday about private investment in the proposed sovereign wealth fund, saying that the interests of investors will take precedence over those of the public.

"We are just creating a protected corporation, a protected entity whose beneficiaries are investors," Mr. Pimentel told *Teleready*.

He added that sovereign wealth funds should only be established if a government has a windfall or surplus since it's a new source of income. But there is none.

The wealth fund's sources of financing have proved to be a key sticking point as the legislation setting up Maharlika has evolved. The original bill proposed that Maharlika be funded mainly by the two big government pension funds and the two big state-owned banks. The backlash to using pension funds led the bill's authors to propose as a funder, alongside the two government banks, the *Bangko Sentral ng Pilipinas* (BSP), which was to contribute its profits.

Albay Rep. Jose Ma. Clemente S. Salceda, who chairs the House ways and means committee, has

said that the bill has since been "reengineered" to designate as Maharlika's source of initial capital the dividends generated by government-owned and -controlled corporations (GOCCs).

"Well, we already use (GOCC dividends) in the budget as well. So, what will happen is that we will reduce non-tax revenue," Mr. Pimentel said. "If we reduce that then continue with our spending, our budget deficit will surely increase."

He said such a set-up will inevitably increase government debt.

"Imagine the end of this, the proponents of the sovereign wealth fund (will cause) the debt of the National Government to become larger and larger," he added.

President Ferdinand R. Marcos, Jr. has said the terms for setting up the Maharlika fund are being adjusted, including the sources of funding. Mr. Marcos recently pitched Maharlika to participants at the World Economic Forum in the Swiss mountain resort of Davos.

"The more we study it, the more it's clear that although the sovereign wealth funds around the world have the same name, they're all very different. They're different in purpose, they're different in methodology and of course, they

operate in a different context of law," he told reporters at the end of the Davos conference.

"We have to design it very specifically to Philippine conditions, and that's what the legislators are trying to do now: to make sure that it is customized for us and it will be a good thing for us. So that's the process that we're undergoing now," he added.

Mr. Pimentel objected to the corporate orientation of the fund, adding: "The sovereign wealth fund should be owned by the people, so if there is any dividend or benefit, it should go directly to the people."

The Senate's version of the Maharlika Investment Fund, Senate Bill 1670, filed by Sen. Mark A. Villar on Jan. 12, envisions Maharlika's ownership structure as proportional to investors' contributions.

The bill calls for the establishment of the Maharlika Investment Corp. (MIC) which will govern and manage the fund to ensure optimal returns while directing investment to projects that reinvigorate job creation and reduce poverty.

If passed, initial capital will be provided by the Land Bank of the Philippines (LANDBANK)

(P50 billion) and Development Bank of the Philippines (DBP) (P25 billion).

The BSP, if retained as funder, was to remit all of its dividends to the fund in the first and second fiscal years after its establishment. In the succeeding years, BSP was to remit half of its dividends to the fund.

The Philippine Amusement and Gaming Corp. and other government-owned gaming operators must also contribute at least 10% of their gross gaming revenue. Other proposed sources were royalties and special assessments on natural resources, proceeds from privatization of government assets and debt incurred by Maharlika itself.

Such contributions will be subject to review by the Secretary of Finance every five years.

The Maharlika board will have 15 members, including the Secretary of Finance, the MIC chief executive officer, and the presidents of LANDBANK and the DBP.

Six regular members will represent other fund contributors and five independent directors from the private sector, academe, the business sector and the investment industry. — **Alyssa Nicole O. Tan**

## Cold storage industry warns capacity inadequate for mitigating onion crisis

THE cold storage industry said its capacity is inadequate if the government intends to counter the onion shortage by building up inventories.

In a briefing on Monday, the Cold Chain Association of the Philippines (CCAP) estimated the required investment at P150 million for every 2,500 metric tons (MT) of onions held in storage.

It also estimated the import requirement at up to 360,000 MT, and warned that domestic supply will be close to depletion by the fourth quarter.

"Local production is estimated at 70% sufficiency, or a shortfall of about 100,000 met-

ric tons, which can be covered either by improved agricultural productivity or imports," CCAP said in its statement.

According to CCAP President Anthony S. Dizon, the private cold storage industry's capacity is 600,000 pallet positions, used for commodities such as meat, dairy, and onions.

He noted the "obvious disparity between demand and capacity."

"The government needs to develop and implement a holistic policy... to balance supply and demand and mitigate undue market volatility," he added. — **Sheldeen Joy Talavera**

## PPA warns dev't mission to suffer if commercial function prioritized

THE Philippine Ports Authority (PPA) said it hopes legislators will consider the developmental role played by the agency under its current setup of acting as a regulator and a commercial entity.

Stripping the PPA of regulatory functions will leave it with a purely commercial mission, which may cause it to neglect ports which it does not consider viable.

"When you say commercial, I have to turn a profit. Why will I put something there if it is not commercially viable? Will I not violate my mandate?" PPA

General Manager Jay Daniel R. Santiago told reporters during a recent briefing, where he was asked to comment on the proposed reorganization of the agency.

A "developmental" mandate means "it does not really matter whether it's commercially viable as long as I provide linkages. That's the advantage of the dual (regulatory and commercial) personality," he added.

"We leave it to the wisdom of Congress if they want to (remove functions from the PPA), but the first question I will ask is if you (transfer) the regulatory function of PPA to MARINA (Maritime Industry Authority) ... will you ask the same people from PPA to be transferred to MARINA to do it?"

He said the agency has been addressing concerns from the private sector questioning the setup where it is a regulator and an operator of ports.

"Privatizing the terminals is one step towards separating the regulatory and the operational functions. We acknowledge (the concerns) also, and we try to work within the limitations of the current regulations to address the concerns."

Last year, a legislator refiled a bill seeking to reorganize the PPA by separating its regulatory and commercial functions.

Bagong Henerasyon Party-list Representative Bernadette Herrera-Dy's House Bill No. 1400 aims to convert the agency into the Philippine Ports Corp. (Philports) while transferring its regulatory functions to MARINA.

"Through the years, the port users, including domestic shippers, exporters, and importers, have complained of low service levels, inefficient port operations and ever-increasing port charges," Ms. Herrera-Dy said in the bill's explanatory note.

"They claim that the high cost of transport serves as a barrier to increased trade (both local and foreign) and undermines the country's competitiveness."

The PPA was established by Presidential Decree (PD) No. 505, which was subsequently amended by PD No. 857 in 1975. It is tasked with carrying out an integrated program for the planning, development, financing, operation and maintenance of ports or port districts.

The bill seeks to "avoid the conflict of interest arising from regulatory agencies vested in both regulatory and development or commercial functions."

"Under no circumstances should a regulatory agency benefit from its own regulation and/or use its own regulatory powers to protect itself from competition at the expense of the public interest," according to the bill.

Under the bill, PPA will be converted into Philports to handle the development, management and operation of public ports. Philports will collect port fees and dues approved by MARINA, which will fund port development, modernization, and expansion, among others.

The Philippine Liner Shipping Association has expressed support for the measure. — **Arjay L. Balinbin**

## USAID backs project to upgrade tech manufacturing skills

THE United States Agency for International Development (USAID) has partnered with the ICCP Group Foundation, Inc., a non-profit affiliated with an economic zone developer, to improve the skills of the Philippines' technology manufacturing workforce.

USAID and the UNILAB Foundation signed a memorandum of agreement with the ICCP foundation to carry out a five-year Advanced Manufacturing Workforce Development (AMDev) program. The program is ongoing and runs through September 2027.

"The project aims to strengthen the workforce through the development of an industry-led technical education system with better-defined, harmonized skills as well as qualifications descriptors and competency and training standards," the ICCP Group said in a statement on Monday.

The foundation is the social development unit of the ICCP Group.

The AMDev program, which was among the initiatives announced by US Vice-President Kamala D. Harris in her recent visit, seeks to "create a highly skilled and adaptive workforce that meets the evolving requirements of the high-tech manufacturing sector."

Under the agreement, the ICCP foundation will join the Advanced Manufacturing Skills Council, which will "lead the effort to define and harmonize standards and qualifications for the workforce and identify strategic priorities. It will have three core functions: human capital development; policy, research, and advocacy; and stakeholder engagement among government, industry, and education sectors," the ICCP Group said.

"Specifically, (the foundation) shall lead in the skills gap and training needs analysis through the conduct of surveys with locators within industrial zones towards the development of a competency framework for the advanced manufacturing workforce," it added.

The foundation will also help in the delivery of a training curriculum for the current and future workforce co-developed by partner firms and schools.

The ICCP Group owns and operates the Science Park of the Philippines, Inc., which operates ecozone estates in Cabuyao and Calamba, Laguna; Sto. Tomas and Malvar, Batangas; Hermosa, Bataan; and Lapu-Lapu City, Cebu. — **Revin Mikhael D. Ochave**

## Glencore interested in expanding PHL in-country mineral processing

SWISS multinational Glencore plc is hoping to support Philippine plans to expand in-country mineral processing, Trade Assistant Secretary Glenn G. Peñaranda said.

In a briefing on Monday, Mr. Peñaranda said: "Glencore is involved in the processing of our minerals. This is important because we are fortunate that the Philippines has a lot of minerals like nickel, copper and cobalt, which are very important since these are needed for EVs, and also power batteries that are needed for renewable energy projects," Mr. Peñaranda said.

Trade Secretary Alfredo E. Pascual said at a conference of the Financial Executives Institute of the Philippines in Makati City on Monday that "Mineral processing is crucial given our resources of green metals... (that) can be used for downstream industries such as electric vehicle (EV) battery manufacturing, hyperscale data centers, and renewable energy projects."

"The Philippines can be a vital partner for these critical minerals, not as an exporter of raw ores, which is what is happening now, but as a processor and producer of semi-finished and finished products. We have Indonesia as a model," he added.

Indonesia suspended nickel exports in 2020 in a bid to do more processing in-house. The Philippines, Indonesia, and Australia are some of the biggest ore exporters because of their proximity to China, where nickel is manufactured into stainless steel, though new-energy applications are growing for the metal.

The Mines and Geosciences Bureau estimated the value of metallic mineral output in the first nine months of 2022 at P175.61 billion, up 29.21%. — **Revin Mikhael D. Ochave**

### OPINION

## VAT zero-rating application never goes out of style

Various changes relative to VAT have been implemented through the years. It cannot be denied that with the removal of the cross-border doctrine relative to sales to ecozones and freeport zones, VAT zero-rating has been suspended but is now fully implemented.

VAT zero-rating application was implemented starting 2005 but came into focus again recently due to the removal of the cross-border doctrine for local sales to registered export enterprises (REEs). The VAT zero-rating rules on export sales of REEs remain, but VAT zero-rating on their local purchases is only applicable for purchases that are directly and exclusively used in the REEs' registered project or activity. These issues were addressed by Revenue Regulations (RR) No. 21-2021 which harmonizes our VAT zero-rating system with amendments proposed by the TRAIN and CREATE Laws.

### DIRECT AND EXCLUSIVE USE

What is crucial is the meaning and interpretation of the condition "directly and exclusively used" in the REE's registered project or activity. According to the Bureau of Internal Revenue (BIR), the direct and exclusive use for the registered project or activity refers to raw materials, inventory, supplies, equipment, goods, packaging materials, services, including provision of

basic infrastructure, utilities, and maintenance, repair and overhaul of equipment, and other expenditures directly attributable to the registered project or activity, without which the registered project or activity cannot be carried out. To prove this, the REE-buyer must execute a sworn affidavit stating that the goods and/or

services bought are directly and exclusively used in the registered project or activity.

However, costs incurred in relation to the REE's administrative function such as legal, accounting, and other analogous expenses are not considered as directly and exclusively used in the registered activity. In addition, costs incurred in setting up or those incurred prior to registration with the Investment Promotion Agency (IPA) are also excluded in the definition of directly and exclusively used. Further, if the goods or services used in both the registered project or activity and administrative purposes and the proper allocation cannot be determined, the purchase of such goods and services is subject to 12% VAT.

The application of the above rules is no walk in the park, because to validate whether the aforementioned conditions are duly complied with before availing of the VAT zero-rating on local purchases of REEs, it is of paramount importance that the local suppliers must secure prior approval from the BIR. Absence of prior

approval from the BIR may result in the disallowance of the VAT zero-rating.

Hence, the application for VAT zero-rating transactions for these REEs has become a requirement again.

### REQUIREMENTS FOR VAT ZERO-RATING APPLICATION

With this requirement, what do REEs and their local suppliers need to know and prepare for their VAT zero-rating application with the BIR? The following is to be prepared and submitted to the Audit Information Tax Exemption and Incentives Division - Incentives Evaluation Section (AITEID-IES):

1. Duly accomplished application form, which is available and can be requested from AITEID-IES

2. Photocopy of the latest Certificate of Registration or BIR Form No. 2303 (for applicant and purchaser)

3. Photocopy of Certificate of Registration issued by:

a. IPA - for VAT-Registered Applicant-Supplier of REEs  
b. Agencies implementing Republic Act 9513, or the Renewable Energy Act of 2008 - for VAT-Registered Supplier-Applicant of Accredited & Registered Renewable Energy (RE) Manufacturers, Suppliers, Fabricators and Developers.

4. Photocopy of Board of Investments (BoI) Certificate of Registration (applicable for VAT-

Registered Supplier-Applicant of Accredited & RE Manufacturers, Suppliers, Fabricators and Developers)

5. Photocopy of VAT Certification with export ratio issued by IPA as per RMC No. 36-2022.

6. Certified true copy of documents to prove existence and legitimacy of the transaction:

a. For Supplier of Services - Service Agreement or Contract, etc.

b. For Supplier of Goods - Purchase Order (PO) with delivery date, etc.

7. Sworn Declaration pursuant to RMC No. 84-2022 (for VAT-Registered Applicant-Supplier of REEs)

8. Other documents as the BIR may require

### IMPORTANCE OF PRIOR BIR APPROVAL

Application and prior BIR approval must be secured by the local supplier of goods and services in order for the sales made by the local supplier to the REE to qualify for VAT zero-rating. Otherwise, the absence of such may result in disallowance of the VAT zero-rating and the impact of such is substantial both to the REE and the local supplier. For the REE, incurring passed-on VAT would mean additional cost of goods or services, which could affect its global pricing competitiveness or decrease its gross margin. The REE may also accumulate the passed-on VAT and later utilize it as tax credit or for a tax refund, which can be a tedious and costly process. For the local supplier, non-com-

pliance could mean a potential tax deficiency findings during BIR audit.

Clearly, securing BIR approval benefits both the local suppliers and the REEs.

### TAKEAWAY

The BIR has and always been strict in accepting and approving applications especially with regard to VAT zero-rating. The VAT zero-rating application allows the BIR to properly monitor and allow qualified transactions only.

Complying with BIR requirements is no easy task, especially now that deadlines for submission of year-end requirements are fast approaching. Hence, we must always remember to check on our compliance with VAT requirements.

VAT zero-rating application may have been suspended, but it never did and will never go out of style.

*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.*

MARIE ABIGAIL C. GELUZ 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@ph.gt.com](mailto:pagranthornton@ph.gt.com)

