

Nomination process open for senior Maharlika posts

THE Bureau of the Treasury (BTr) said it has started accepting nominations and applications for top positions in the Maharlika Investment Corp. (MIC), with the nomination deadline set for late September.

The positions to be filled are president and chief executive officer (CEO), independent directors, and regular directors, it said.

"Nominations and applications will close on Wednesday,

Sept. 27," the BTr said in an advisory on its website.

The MIC board will manage the Maharlika Investment Fund (MIF), a sovereign wealth fund.

In July, President Ferdinand R. Marcos, Jr. signed into law Republic Act No. 11954 or the Maharlika Investment Fund Act of 2023. The law's implementing rules and regulations (IRR) were released this month and will take effect on Sept. 12.

The MIC board will be composed of the Finance secretary as ex-officio chair, the MIC president and CEO as the vice chair, the Land Bank of the Philippines president and CEO, the Development Bank of the Philippines president and CEO, two regular directors and three independent directors.

Under the IRR, the MIC president and CEO must have an advanced degree (MBA, MA, MSc, PhD) in finance, economics, busi-

ness administration, or any related field from a reputable university.

The position also requires a minimum of 10 years in a senior leadership role in a "reputable financial institution or public or private sector organization."

Regular directors must be Filipino citizens, at least 35 years old, of "good moral standing and reputation, of recognized probity and independence (with) substantial experience and exper-

tise in corporate governance and administration, investment in financial assets, and/or management of investments in the global and local markets."

The independent directors must have "probity, competence, expertise and experience in finance, economics, investments, business management, or law, and are able to contribute to the attainment of the objectives and purposes of the MIF."

Regular and independent directors are both required to have a master's degree in finance, economics, business administration and must have at least 10 years' experience in finance, investment, economics, business, or any related field.

The list of nominees must be submitted to the Office of the President not later than 30 days from the effectivity of the IRR. — **Luisa Maria Jacinta C. Jocsion**

BCDA seeking Japanese tieups to develop Clark

THE Bases Conversion and Development Authority (BCDA) said it is seeking out potential partners from Japan to develop projects in the Clark area.

BCDA President and Chief Executive Officer Joshua M. Bingcang made presentations on the agency's development projects in New Clark City, Clark Freeport Zone, and Clark International Airport at the 14th Japan-Philippines High Level Joint Committee on Infrastructure Development and Economic Cooperation in Tokyo.

"Together, we are shaping the future of urban living, leveraging technology, sustainability, and collaboration to pave the way for innovation and progress," Mr. Bingcang said in a statement.

BCDA said the projects pitched to the Japanese were the 100-hectare mixed-use Clark Central Business District, 35-hectare residential complex in New Clark City in Tarlac, and the 22-hectare Clark International Convention and Exhibition Complex.

There are 10 Japanese companies currently operating in the Clark Freeport Zone.

BCDA has partnerships with Japan Overseas Infrastructure Investment Corp., Nippon Koei and Keio University, Kansai Electric Power Co., Inc., Chubu Electric Power, Marubeni group, New Energy and Industrial Technology Development Organization, and Zenmov, Inc. for various projects in Clark. — **Justine Irish D. Tabile**

Norwegian companies positive on PHL renewable energy policy

By **Sheldeen Joy Talavera**
Reporter

NORWEGIAN COMPANIES are viewing with interest the evolution of Philippine renewable energy (RE) policy, according to the Norwegian ambassador.

Christian Halaas Lyster, ambassador to Manila for the Royal Norwegian government, said the key is "a transparent and stable framework for activities within the various sectors... because that's what the investors and businesses would like to have."

"I think you'll see that the current developments on the policy side have made it more interesting for companies — whether for hydro, floating solar, or offshore, onshore wind — for Norwegian companies," he added.

He was speaking to *BusinessWorld* on the sidelines of a workshop on offshore wind.

Norway is Europe's largest producer of hydropower. It is also a major producer of oil and gas from

its North Sea fields, the wealth from which is helping finance its green energy transition, which includes the electrification of its transport system.

Mr. Lyster said the Philippine government "is moving in the right direction" and encouraged it to be collaborative with industry in drafting its regulations.

Developing the framework, regulations, and guidelines "should be done in a collaborative way where you listen to industry but also where you include all the different agencies that might have a stake in the framework," he said.

In late 2022, the Philippine Department of Energy (DoE) obtained a legal opinion from the Department of Justice in support of exempting RE exploration, development, and utilization from the 40% cap on foreign ownership applicable to many enterprises.

The legal opinion paved the way for the revision of the Renewable Energy Act of 2008's implementing rules and regulations (IRR), to allow 100% foreign ownership of RE projects.

FULL STORY



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Customs, PEZA sign info-sharing deal to monitor ecozone goods movements

THE Bureau of Customs (BoC) and the Philippine Economic Zone Authority (PEZA) have signed a data-sharing agreement to facilitate the tracking of goods moving in and out of economic zones.

"This landmark agreement is set to revolutionize the efficiency and security of trade and economic zone operations in the Philippines," the BoC said on Wednesday.

The agreement gives PEZA access to the BoC's Electronic Tracking of Containerized Cargo (E-TRACC) System.

First launched in 2020, the E-TRACC system allows the real-time monitoring of inland movements of containerized goods to make their transport more secure.

The system can also detect diversion and tampering.

The partnership will allow for the "real-time monitoring of containerized goods and individuals within and outside economic zones."

"This partnership promises to enhance efficiency, transparency, and security in cargo transportation to and from these zones. Key provisions of the agreement focus on data privacy, security, storage, and retention of confidential information," the BoC added.

In a separate statement PEZA said the agreement also promotes compliance with Executive Order No. 18, which establishes green lanes to accelerate and streamline the processing of clearances for strategic investments.

"We firmly believe that sharing secure data with PEZA will enable us to coordinate our efforts and

drive collective improvements toward seamless trade facilitation. This will pave the way for improved day-to-day operations and will further buttress our trade facilitation performance," Customs Commissioner Bienvenido Y. Rubio said in a statement.

"We subscribe to the BoC's objectives of trade facilitation as our way of enhancing the competitiveness of the Philippines for trade and investments. To do this, we believe that digitalization is the key, increased adoption of automation, so that we can enhance our ease of doing business and facilitate even more the movement of cargoes of our locators," PEZA Director General Tereso O. Panga added. — **Luisa Maria Jacinta C. Jocsion**

OPINION

A closer look at FLDs and FANs

In tax audits conducted by the Bureau of Internal Revenue (BIR), the issuance of a valid assessment is a substantive prerequisite, thus making the Formal Letter of Demand (FLD)/Final Assessment Notice (FAN) crucial documents.

The FLD/FAN contain the official demand by the BIR for the taxpayer to pay deficiency taxes which the latter has been determined to be liable for during a tax audit. Further, the issuance of the FLD/FAN is also the point for determining whether the assessment has been issued within the required prescriptive period. Pursuant to Section 203 of the Tax Code, internal

revenue taxes, as a general rule, should be assessed within three years after the last day prescribed by law for the filing or actual date of filing of the return, whichever is later.

For the FLD/FAN to be considered valid, certain prerequisites must be observed. First, Section 228 of the Tax Code requires that the taxpayer be informed in writing of the law and the facts on which the assessment is based; otherwise, the assessment shall be void. The use of the word "shall" means that the act of informing the taxpayer of both the legal and factual bases of the assessment is mandatory. The purpose of this requirement is for the taxpayer to be properly notified of the charge against him and to give the taxpayer a fair and reasonable opportunity to explain or defend himself. The rationale behind this requirement is the constitutional mandate under Article III of the Constitution (Bill of Rights), that no person shall be deprived of his or her property without due process of law.

In various decisions, the Supreme Court (SC) has pointed out the mandatory nature of the written notice requirement of the facts and law on which the assessment was based. In one decision, the SC ruled that merely notifying the taxpayer of his or her tax liabilities without details or particulars is not enough. Also, a FAN that only contained a table of taxes with no other details was considered insufficient.

Notwithstanding these decisions, the SC also clarified that

the mandate of giving the taxpayer a notice of the facts and laws on which the assessments are based should not be mechanically applied. In a 2014 decision (G.R. No. 193100, Dec. 10, 2014), although the FAN and FLD issued to the taxpayer were not accompanied by a written explanation of the legal and factual bases of the deficiency taxes, the SC held that the requirement of Section 228 of the Tax Code was substantially complied with.

In that case, the records showed that the taxpayer was sufficiently apprised of the nature, factual and legal bases, as well as how the deficiency taxes being assessed were

computed. The taxpayer was provided a summary report which contained an explanation of the Findings of Investigation stating the legal and factual bases for the deficiency assessment. Further, the Preliminary Assessment Notice (PAN) contained a computation of the deficiency taxes with a detailed explanation of the particular provision of law and revenue regulation violated which enabled the taxpayer to protest the PAN.

According to the SC, considering the exchange of correspondence and documents between the BIR and the taxpayer, the BIR had fully informed the taxpayer in writing of the factual and legal bases of the deficiency tax assessment, which enabled the latter to file an "effective" protest. As such, the written notice requirement in Section 228 of the Tax Code was substantially complied with.

Another essential requirement for the FLD/FAN to be valid is that it should contain a definite tax liability with a definite due date for payment. In the landmark case of CIR vs. Fitness by Design, Inc. (G.R. No. 215957, Nov. 9, 2016), the SC invalidated the FAN issued against the taxpayer since the assessment amount remained indefinite and there was no demand for payment.

In that case, as the FAN was undated, the SC ruled that the total amount of the tax liability of the taxpayer would depend on when the latter decides to pay, thus making the amount of assessment indefinite. Further, as the FAN did not contain a due date, there was

no actual demand for the taxpayer to pay the deficiency taxes.

The Fitness by Design case should be differentiated from that of the 2022 Court of Tax Appeals (CTA) case of BASF Philippines, Inc. vs. CIR, CTA Case No. 10221 dated Nov. 3, 2022. In the latter case, while the FAN provides that: "the interest and the total amount due will have to be adjusted if paid beyond the date specified therein.", the CTA ruled that the FAN contained a definite amount of tax liability with a definite due date since the FAN, in this case, indicated a due date, unlike in the Fitness by Design case.

The CTA pointed out that in determining the validity of the assessment, what is crucial is the definiteness of the amount indicated in the FAN with respect to the deadline or due date provided. The CTA further held that the amount of deficiency VAT plus interest is definite and certain on the due date indicated in the FAN which is Jan. 21, 2019. This remains to be the fact despite a warning from the BIR that additional interest (consequently affecting the total amount due) shall continue to accrue if payment is made beyond the due date.

Knowing the substantive requirements for the FLD/FAN to be valid is very important and works to the benefit of both the taxpayer and the BIR. On the part of the taxpayer, this affords an opportunity to explain or defend itself before it is required to pay deficiency taxes. On the part of the BIR, instances of assessments being voided for failure to comply with the due process requirement will be avoided. After all, taxes are the lifeblood of the nation which we are required to pay to enjoy a civilized society.

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.

RACHEL SISON is a senior manager at the Tax Services department of Isla Lipana & Co., the Philippine member firm of the PwC network. **+63 (2) 8845-2728**
rachel.d.sison@pwc.com



ValuePlus Celebrates 10th Anniversary with Easy Start Financing for New VPX Franchises



As ValuePlus marks its 10th year of unparalleled service in the automotive industry, it is rolling out an unprecedented franchising opportunity to celebrate this milestone. VPX, the franchise brand of ValuePlus Auto Services introduces its "Easy Start Financing" program, targeted specifically to expand its trusted network of service centers.

This special offer enables the first 10 new franchisees to qualify under this program to avail themselves of an installment payment plan for the franchise fees and select tools and equipment over a 12-month period. The program is intended for high-net-worth individuals, business owners, entrepreneurs, auto industry insiders, overseas Filipino professionals, and expatriates looking to settle in the Philippines.

"With a decade in the industry, ValuePlus is more than just a business;

it's a brand built on trust," states Mark Saberola, General Manager of ValuePlus. "We offer a competitive investment range of 5-8 million and diverse franchising packages that are tailored to meet the needs of both bustling cities and smaller towns."

The Easy Start Financing initiative aims to attract potential franchisees from Cavite, Laguna, Bulacan, Pampanga, Quezon, Baguio, Cebu, Negros, Davao, and Metro Manila. VPX offers a turn-key setup for franchisees, ensuring a smooth transition into successful operations.

"This 10th-anniversary financing offer symbolizes our commitment to growth and our confidence in the robust business model we've developed over the years," adds Saberola. "VPX is excited to bring its reliable and trusted auto services to more Filipino consumers nationwide."