Common tower project worth P50B endorsed for green lane

THE Board of Investments (BoI) said it endorsed for green-lane treatment a P50-billion common passive telecommunications tower infrastructure project which it expects to generate 9,700 jobs.

In a statement, the BoI said that the project is aligned with the Philippine Development Plan 2023-2028's goal of expanding and upgrading infrastructure.

"The project shall support the government's initiative to enhance telecommunications services nationwide and increase connectivity, mobile network access, and internet penetration in unserved and underserved regions of the country," the BoI added.

The telco project is under EdgePoint Towers, Inc., a unit of EdgePoint Infrastructure Sdn. Bhd. The Philippine unit builds and leases towers for telcos and digital services providers.

It will be the second such project granted green lane status after that of PhilTower Consortium, Inc., which applied to build P52 billion worth of telco infrastructure.

EdgePoint claims an optimal tower design that uses less material, with indigenous materials employed where possible instead of steel. It will also seek to use renewable energy in powering towers.

With the endorsement, the BoI One-Stop Action Center for Strategic Investments will monitor the action taken by government agencies on Edgepoint's applications for permits and licenses.

Telecommunications infrastructure is one of the priority sectors of the BoI, alongside electric vehicles.

Its other priority sectors are: smart and high-tech lighting manufacturing, outsourced semiconductor assembly and testing, green metals, high-tech agriculture, renewable energy, and data centers.

EdgePoint has said it hopes to increase its sites and client network in the Philippines, a projection founded on its optimistic outlook for the industry.

"(It is) targeting to own and manage approximately 6,400 shared passive telecommunications towers nationwide by 2030," the BoI said.

In May, the company activated its first tower colocation tenancy partnership with DITO Telecommunity Corp., which involved a 48-meter tower in Tanay, Rizal. — **Justine Irish D. Tabile**

DBM to keep disbursements above 20% of GDP to help drive spending

THE Department of Budget and Management (DBM) said it wants to keep disbursements above 20% of gross domestic product (GDP) to ensure the government has the resources to spend ready at hand.

"At the DBM, we will sustain government disbursements at above 20% of gross domestic product on average as we continue to prioritize expenditures," Budget Secretary Amenah F. Pangandaman said.

The disbursement rate is among various initiatives to ensure the government meets its spending goals while keeping debt manageable, the DBM said in a statement on Wednesday.

"For fiscal consolidation to remain on track in the long term, we are also working on public spending efficiency," Ms. Pangandaman said.

She said Executive Order No. 29 will strengthen the implementation of the Integrated Financial Management Information System in government agencies and lay the groundwork for reforms such as the budget modernization bill.

The DBM is also "working on the draft guidelines for the rationalization of government programs and projects that are targeted to be included in the FY 2025 National Budget Call."

"The government's fiscal consolidation strategy, which supports the administration's socioeconomic development agenda, will be underpinned by increasing revenue effort through tax policy and tax administration reforms, as well as declining deficit trajectory over the medium term," she added.

The government is aiming to bring down its debt-to-GDP ratio to below 60% by 2025 and cut its deficit-to-GDP ratio to 3% by 2028.

The government set its deficit ceiling at P1.499 trillion this year, equivalent to 6.1% of GDP. In the first eight months of the year, the budget deficit narrowed 12.06% to P732.5 billion.

Ms. Pangandaman also noted that the government is also working on amending procurement law.

"Our proposed procurement reforms include the implementation of the Modernized Philippine Government Electronic Procurement System (MPhilGEPS), e-Marketplace and the adoption of a Green Public Procurement Strategy," she added. — **Luisa Maria Jacinta C. Jocson**

Producers talked out of price hikes until yearend

THE Department of Trade and Industry (DTI) said manufacturers had arrived at a "consensus" to delay price increases until the end of 2023.

"What happened in our meeting with the manufacturers is that at least six of those who had submitted requests for price adjustments said that they are withdrawing their requests," Trade Secretary Alfredo E. Pascual said at a briefing on Wednesday.

"This had an influence on the other manufacturers resulting in us having a consensus to hold off on price adjustments until the end of year," he added.

On Sept. 21, the DTI convened a meeting with manufacturers of basic necessities. It was attended by 29 manufacturers and two industry associations, representing goods like canned sardines, coffee, processed milk, bread, salt, detergent, candles, condiments, bottled water, canned meat, toilet soap, and batteries.

According to Mary Jean T. Pacheco, assistant secretary and officer-in-charge of the DTI's Consumer Protection Group, the six manufacturers withdrawing their requests make bottled water, candles, condiments, bread and toilet soap.

"We're meeting with canned sardine manufacturers tomorrow because we continue to appeal that there will be no price adjustments until the end of the year," Ms. Pacheco added.

Mr. Pascual said that the DTI is also considering allowing canned sardine prices to be "rounded off" on the advice of the Bangko Sentral ng Pilipinas (BSP).

"This is strictly not a price adjustment, but rounding off the price, because the BSP ordered the rounding off of prices by 25 centavos," he said.

According to the BSP, rounding off is supposed to generate efficiencies in the delivery of goods and services and to maximize government resources by reducing demand for coins needed to make change.

Melquiades Marcus N. Valdez II, DTI director for consumer policy and advocacy, said that the department will encourage manufacturers to apply the rounding-off scheme.

"The manufacturers will send us notices of their adjustments," Mr. Valdez said. "After that we assess whether there is profiteering or whether it is within the 10% threshold dictated in the Price Act. Once we come up with the price, we will verify with the BSP (details of) the price rounding scheme — whether we will round up or down," he added. — **Justine Irish D. Tabile**

Legislator calls proposed taxes on junk food, beverages unenforceable


FREEPIK

PROPOSALS to tax junk food as well as raise the current tax on sweetened beverages are not feasible, a senior legislator said.

"On a junk food tax, I don't see a way of implementing it," Albay Rep. Jose Maria Clemente S. Salceda said during a forum organized by the Philippine Stock Exchange, Inc. in Taguig City on Wednesday.

Mr. Salceda, who also chairs the House Committee on Ways and Means, called the proposal on the junk food tax is "not enforceable."

"We have enough studies on it. We dove into it and we found out that we cannot do it. This junk food (tax) should be junked because it is not enforceable," Mr. Salceda told reporters when asked for additional comment.

"How do we implement it in the factory? By (inventory) removals? At retail? At point of sale? The cost of enforcement is much higher than the revenue increments," he added.

Mr. Salceda also said that the proposed higher taxes on sweetened beverages will not help reduce obesity.

"The sugary drinks tax would produce more malnutrition (while not) reducing obesity," Mr. Salceda said.

"In simple language, we now have the highest tax on sugar in the world at P6. Mexico's is the equivalent of P3. Their obesity (rate) was 76%, and reduced to 67%. The Philippines' obesity (rate) is 22% ... we don't have an obesity problem," he added.

Mr. Salceda said he has yet to receive a copy of the tax proposal from the Department of Finance (DoF).

"The (DoF) did not even give me a copy of their proposal. I should've filed it already," Mr. Salceda said.

"My question first is the enforceability, second is the fundamental soundness. What are you trying to cure? Where is the link?" he added.

The DoF in June proposed to impose a tax on junk food and increase the tax on sweetened beverages, citing high obesity rates. It estimated that the combined measures could generate P76 billion worth of revenue in the first year of implementation.

The proposal calls for a P10 tax per 100 grams or a P10 tax per 100 milliliters on packaged foods that lack nutritional value and go beyond the Department of Health's specified thresholds for fat, salt, and sugar content. These products include confectioneries, snacks, desserts, and frozen products.

The proposal also seeks a sweetened beverage tax of P12 per liter for any kind of sweetener, from the current P6 per liter.

Finance Secretary Benjamin E. Diokno said last week that he does not expect the junk food tax proposal to pass this year since it has no sponsor at the Senate and the House of Representatives. — **Revin Mikhael D. Ochave**

OPINION

BEPS 2.0: An update on Pillar 1 Amount B

TAXWISE OR OTHERWISE
MARIA ISABEL SILPEDES

In line with the recent developments on the Base Erosion and Profit Shifting (BEPS) 2.0 Two-Pillar Solution, the Organisation for Economic Co-operation and Development (OECD) released an updated public consultation document on Amount B in July with the objective of simplifying transfer pricing of certain baseline marketing and distribution activities in accordance with the OECD Transfer Pricing (TP) Guidelines.

The OECD had released an earlier public consultation document in December. Comparing the two documents thus far, the July document provides reduced scoping criteria to determine whether qualifying transactions are to be covered under Amount B. It likewise presented the pricing matrix for Amount B which is based on return on sales (RoS).

SCOPING CRITERIA

Baseline arrangements generally refer to distribution arrangements involving an enterprise distributing on a wholesale basis to third parties goods supplied by an associated enterprise (or related party). The distribution activities (or qualifying transactions) in-scope of Amount B include:

1. Buy-sell arrangements where the tested party purchases goods from a related party from a different jurisdiction for wholesale distribution to unrelated parties in the tested party's local market; and

2. Sales agency and commissionaire arrangements where the tested party contributes to wholesale distribution of goods for a related party and to the extent they exhibit economically relevant characteristics similar to those outlined in the scoping criteria for Amount B.

A distribution activity falling under either of the above categories does not automatically mean that it is covered under Amount B. The consultation document likewise provided for scoping criteria. Accordingly, the qualifying transaction is in scope only if it satisfies the following:

• The qualifying transaction must exhibit economically relevant characteristics that can be reliably priced using a one-sided method (e.g., Transactional Net Margin Method (TNMM) under the principles of the OECD TP Guidelines, with the distributor being the tested party;

• The tested party in the qualifying transaction must not meet certain quantitative filters based on annual operating expenses and annual net sales.

Furthermore, a qualifying transaction would still be excluded from the scope of Amount B if:

• The qualifying transaction involves the distribution of services or the marketing, trading, or distribution of commodities; or

• The tested party has other non-distribution activities other than the qualifying transaction, unless information is available to adequately evaluate and reliably price the qualifying transaction separately in accordance with the principles of the OECD TP Guidelines.

PRICING FRAMEWORK

As to the most appropriate TP method to apply to the in-scope transactions, the consultation document provides that the TNMM is considered the most appropriate method for the purpose of applying the pricing methodology for Amount B. However, an exception would be when the application of the Comparable Uncontrolled Price (CUP) Method using internal comparables could be potentially more appropriate to apply in evaluating the qualifying transaction. This is consistent with the OECD TP Guidelines which provide that when there is a more direct method in evaluating the arm's length nature of a transaction (i.e., CUP Method), it shall be preferred than the transactional profit methods such as TNMM.

Furthermore, the consultation document presented the pricing matrix to be applied for Amount B wherein there will be a two-dimensional mapping of the distributor based on its industry grouping and factor intensity. The applicable arm's length return varies depending on the distributor's industry, as well as level of operating assets and operating expense.

Determining the arm's length return for a distributor in scope of Amount B involves the following three-step process:

1. Determine the relevant industry grouping and identify the applicable RoS in the pricing matrix provided in the matrix. For this purpose, the matrix provides three industry groupings categorized based on the products distributed.

2. Determine the relevant factor intensity classification. There are five factor intensity categories with each category representing a combination of asset intensity (i.e., operating asset to sales ratio) range and operating expense intensity (i.e., operating expense to sales ratio) range. For purposes of determining the factor intensity classification, the weighted average of the distributor's most recent three-year financial period should generally be used.

3. Identify and apply the arm's length range from the pricing matrix segment corresponding to the point where the industry grouping and factor intensity classification of the distributor intersect.

In addition to the default pricing matrix for Amount B, the consultation document likewise provided for a modified pricing matrix for qualifying jurisdictions. These jurisdictions include those that use a qualifying local dataset produced by the tax administration and those with a sovereign credit rating below BBB.

In the Outcome Statement on the Two-Pillar Solution released by the OECD last July 2023, the OECD mentioned that further work is still underway to ensure the appropriateness of the scope and pricing framework discussed above.

Nevertheless, it is targeted that the Inclusive Framework will approve and publish a final report on Amount B and incorporate key content into the OECD TP Guidelines by January 2024. It is therefore recommended that taxpayers stay ahead by maintaining relevant documentation on their related party transactions especially those involving distribution activities. These include, among others, necessary information for purposes of applying the scoping criteria including the functional analysis of the distributor, annual financial accounts, or written contracts or agreements, which may already be included in a TP documentation. These will aid the tax administrations in determining whether the company's distribution activities meet the scoping criteria for Amount B and therefore, qualify for the application of the simplified approach under Amount B.

From a Philippine standpoint, while the Philippines is not an OECD member country, there are Philippine companies which are local distribution hubs of multinational entities. Thus, it is still important for distributors operating in the Philippines, especially those who may potentially fall under the purview of the scoping criteria for Amount B, to closely monitor the developments on Pillar 1 Amount B as these may have implications in their current transfer pricing policies.

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.

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