APEC councils to conduct roundtable on nuclear power viability

INTERNATIONAL and Philippine experts will convene today, Tuesday, to discuss the Philippines' plan to develop a nuclear energy industry, a business advisory group said.

In a statement, Aboitiz Group said that the APEC Business Advisory Council (ABAC) Philippines and ABAC Canada will conduct a roundtable discussion on financing mechanisms to develop nuclear energy.

Sabin M. Aboitiz, president and chief executive officer (CEO) of Aboitiz Group, who is also a member of ABAC Philippines and vice chair of the ABAC Sustainable Growth Working Group, will kick off the event.

"Nuclear energy is more than just power; it's a promise of a clean, strong future where progress and care for our planet go hand in hand," Mr. Aboitiz said.

He will be joined by Jan De Silva, chair of the ABAC Digital Innovation Working Group and president and CEO of the Toronto Region Board of Trade.

"Since our first roundtable, Canada's Province of Ontario announced its biggest-ever nuclear expansion. We are doubling production at the world's largest nuclear generation station, refurbishing our oldest operating plant and working on 4 small modular reactors (SMRs). These are the most scalable clean energy solutions to meet our growing need for electrification," Ms. De Silva said.

The second roundtable will serve as a preparatory platform to further fine-tune the presentation of the ABAC Sustainable Growth Working Group on the feasibility of nuclear energy for the upcoming ABAC 4 meetings scheduled in San Francisco next month.

"The insights and discussions from this roundtable will be integral in finalizing and enriching the content and recommendations of the presentation," the company said.

Energy Secretary Raphael P.M. Lotilla is also set to headline the event to discuss the challenges in harnessing the full potential of the country's existing energy sources and exploring emerging technologies towards a cleaner and more sustainable environment.

Jose M. Layug, Jr., president of the Developers of Renewable Energy for Advancement, Inc., said that the Philippines has to consider the cost for nuclear energy development.

"The Philippines has a diverse portfolio of energy sources. What's critical for the Philippines really is the cost. Okay, we study nuclear, but is that as competitive as coal and LNG (liquefied natural gas)?," he said in a recent virtual interview.

"If it is then there's no problem, provided we take into account safety, of course the feedstock management. No problem as long as we are able to address this, particularly the cost," he added. — **Sheldeen Joy Talavera**

Energy dep't says fuel prices rising on threat of wider war in Middle East

THE latest increase in fuel prices is being driven by the threat of a broader conflict in the Middle East, and by the decline in stockpiles of US commercial crude, the Department of Energy (DoE) said.

"Reasons for increases are the resurgence of uncertainty over further escalation of the conflict in Gaza due to the bombing of a hospital on Oct. 17, the cancellation by Jordan of the summit between Arab leaders and President Biden and Iran's proposed oil embargo on Israel," Rodela I. Romero, assistant director of the DoE Oil Industry Management Bureau, said in a Viber message.

On Monday, oil companies announced in separate advisories that pump prices will increase by P0.95 per liter for gasoline, P1.30 per liter for diesel, and P1.25 per liter for kerosene, effective today, Tuesday.

Caltex, Inc. was set to implement price adjustments at 12:01 a.m., followed by Seaoil at 6 a.m. and Clean Fuel at 4:01 p.m.

This week's price movements end the run of rollbacks for diesel, whose price had retreated for two weeks, as well as for kerosene, which experienced four weeks of price declines.

Oil firms last week slashed prices by P0.95 per liter for diesel and kerosene, while gasoline prices went up by P0.55 per liter.

"These developments could cause any disruptions in supply from the world's biggest oil producing region," Ms. Romero said.

During the first half, the Middle East was the source of most of the Philippines' crude, with 50.2% provided by Saudi Arabia, 26.9% by the United Arab Emirates, and 22.9% by Iraq.

The decline in US commercial crude stocks indicates an increase in demand, while "stronger-than-expected" Chinese economic data also pushed oil prices higher, Ms. Romero said.

"If oil demand is higher than the supply, there is a possibility of an oil price increase, but that impact might change based on weekly developments in the international oil market," Ms. Romero said, citing the Global Crude Oil Market Short Term Outlook Fundamentals showing a deficit of 0.38 million barrels per day.

Ms. Romero said that the DoE is encouraging oil companies to offer discount programs as a corporate social responsibility (CSR) initiative.

"We requested a copy of the gasoline stations providing those fuel discounts, promos and other freebies and post it to DoE webpage for public consumption," she said.

Raymond T. Zorilla, senior vice-president for external affairs of Phoenix Petroleum, Inc., said that the market continues to monitor the Middle East.

"While the conflict has not made a drastic impact on fuel supply, the market remains cautious as it monitors the rising tension amidst the uncertainty. Hopefully it doesn't spill over to other countries that are major oil producers," he said in a Viber message.

Economists said price pressures will remain as the situation develops.

"The latest increase in pump prices is still considered relatively mild, so far as well as the impact on prices and overall inflation," Rizal Commercial Banking Corp. Chief Economist Michael L. Ricafort said.

"However, it is important for the war not to spread/widen/escalate in the Middle East, especially some major oil producing countries, to prevent world oil prices from rising further," he added.

ING Bank N.V. Manila Senior Economist Nicholas Antonio T. Mapa said that the rise in pump prices has caused transport inflation to "flare up again," which contributed to the acceleration of overall inflation in the last two months. — **Sheldeen Joy Talavera**

Farmers say lowered tariffs deprive industry of funding

THE GOVERNMENT has had to forego billions of pesos in revenue by keeping tariffs low on rice, pork, and corn imports, agricultural producers argued at a Tariff Commission hearing on Monday.

Federation of Free Farmers National Manager Raul Q. Montemayor said the reduced revenue resulting from the low tariffs produces no benefits, particularly for programs expressly funded by such import tariffs.

"Imports from non-ASEAN countries have not significantly increased, nor have they influenced retail prices," Mr. Montemayor said, referring to the expansion of the low-tariff regime to grain suppliers from outside the trading bloc.

"In the process we have lost over (P1 billion) which went mostly to the pockets of importers and traders. This money should have gone to help our rice farmers cope with rising production costs," he added.

ASEAN rice used to enter the Philippines at a favorable tariff, set by trade agreements at 35%, with rates from other rice sources previously set considerably higher.

A Duterte-era executive order had temporarily equalized the tariff treatment of ASEAN and non-ASEAN rice as an inflation-containment measure. The executive order also called for lowered tariffs on corn and pork.

Executive Order No. 10, signed by President Ferdinand R. Marcos, Jr. last year extended the low-tariff regime until Dec. 31, 2023.

National Economic and Development Authority (NEDA) Secretary Arsenio M. Balisacan said an inter-agency committee had recommended the further extension of the low-tariff regime, citing high global prices for the three commodities.

Last month, Mr. Marcos rejected a proposal to further reduce tariffs on rice, citing stabilizing global prices. NEDA had proposed to cut tariffs to as little as 0%.

Nicanor M. Briones chairman of the Pork Producers Federation of the Philippines, also argued at the hearing that the foregone revenue from lowered pork tariffs could have been used to aid the hog industry.

He added that the current tariff regime has caused hog farmers' earnings to decline due to competition from pork imports.

Tariffs on pork were set at 15% for shipments falling within the minimum access volume (MAV) quota and 25% for those exceeding MAV.

"(The government is) losing about P8.4 billion in revenue... which could have given to help hog farmers combat African Swine Fever (ASF)," Mr. Briones said.

The Department of Agriculture has said that the supply of domestic pork is projected to be in deficit equivalent to 10 days' demand during the fourth quarter, as consumption picks up during the holidays.

Philippine Maize Federation, Inc. Artemio M. Salazar said that proposal to extend lower corn tariffs was "bereft of analysis of the seasonal dynamic of corn production and its effects on corn producers."

Corn tariffs are currently at 5% and 15% for those within the quota and those exceeding it, respectively.

The Tariff Commission is looking into a possible extension of the low-tariff regime covering the three commodities at the request of economic managers.

"This could enable importers and traders to diversify sources of imports to non-ASEAN exporting countries that may offer a more competitive price on the commodities," according to a statement signed by Finance Secretary Benjamin E. Diokno and Mr. Balisacan. — **Adrian H. Halili**

OPINION

BIR assessments related to employee reimbursements

LET'S TALK TAX
CYDNIE C. HIERAS

Employees can sometimes find themselves in the position of having to pay for business-related expenses out of their own pockets. Such transactions can include transportation expenses and office supplies, for which they would later seek reimbursement from their employers.

Regardless of how business practices change, there remain firm rules in place that will affect how taxpayers or employers approach these "business-related expenses" in terms of deductibility. Some of the most common Bureau of Internal Revenue (BIR) audit findings have to do with expenses which were not subjected to expanded withholding taxes (EWT) and expenses that were improperly substantiated, leading to the disallowance of a Value-Added Tax (VAT) claim. Hence, the following questions arise:

1) What happens during BIR Audits? and

2) How should employers treat such expenses moving forward?

WHAT HAPPENS DURING BIR AUDITS?

BIR-driven Tax Assessments typically start with the issuance of a Letter of Authority (LoA), in which the assigned examiner compares the expenses reported on the taxpayer's books, such as the audited financial statements or the taxpayer's trial balance, against the expenses claimed in the tax returns. Any resulting difference could lead to a deficiency tax if caused by a non-deductible expense or unaccounted income.

One of the most common findings by the BIR are expenses that were not subjected to EWT pertaining to employee reimbursements. As a result, a deficiency in EWT remittance plus penalties and interest will be exacted by the BIR on the taxpayer, with such expenses possibly disallowed as deductions from gross income in the income tax return (ITR).

HOW SHOULD EMPLOYERS TREAT SUCH BUSINESS-RELATED EXPENSES?

In order to appropriately identify how taxpayers can resolve such issues, let us look into the regulations related to the withholding of employee-reimbursed business expenses. Section 2.78.1 6(b) of Revenue Regulations (RR) No. 2-98 as amended, states that any amount paid specifically, either as an advance or an item to be reimbursed for travel, representation, and other bonafide ordinary and necessary expenses incurred or reasonably expected to be incurred by the employee in the performance of his duties are not compensation subject to withholding, if the following conditions are satisfied:

(i) It is for ordinary and necessary traveling and representation or entertainment expenses paid for or incurred by the employee in the pursuit of the trade, business or profession; and

(ii) The employee is required to account/ liquidate the foregoing expenses in accordance with the specific requirements of substantiation for each category of expenses pursuant to Sec. 34 of the Tax Code. The excess of actual expenses over advances made shall constitute taxable income if such amount is not returned to the employer. Reasonable amounts of reimbursements/ advances for traveling and entertainment expenses which are pre-computed on a daily basis and are paid to an employee while he is on an assignment or duty need not be subjected to the requirement of substantiation and to withholding on compensation.

Now that we are enlightened as to what will form part of the employees' taxable income, let us move forward as to the effect of such reimbursements to the employers.

SUBSTANTIATION AND WITHHOLDING REQUIREMENTS

Accordingly, for taxpayers to legitimately claim such ordinary and necessary expenses, Section 34 of the National Internal Revenue Code (NIRC) as amended, specifies that to claim a deduction from gross income, the taxpayer must substantiate with sufficient evidence, such as official receipts or other adequate records, (i) the amount of the expense being deducted, and (ii) the direct connection or relation of the expense being deducted to the development, management, operation, and/ or conduct of the trade, business or profession of the taxpayer.

Furthermore, Revenue Memorandum Circular (RMC) No. 72-2004 clarified that taxpayers classified as top 20,000 corporations (TTC)/as large taxpayers (LT) should subject payments made to their regular suppliers which were shouldered by their employees/ agents to an EWT of 1% on purchase of goods or 2% on purchase of services. The RMC further clarified that the sales invoices/official receipts should be in the name of the persons whom they represent and that the corresponding certificate of taxes withheld at source (BIR Form No. 2307) is issued. There is another option for taxpayers to eliminate the complexity of the administrative task of compliance, one of which is for taxpayers to issue a company credit card to employees, since no withholding is required for transactions paid with company-issued credit cards.

Moreover, should the taxpayer/employer fail to subject such employee reimbursements to EWT, it would not only give rise to various tax penalties but, as a significant effect, a possible disallowance of such expenses against gross income. Nevertheless, as a remedy should the BIR raise a non-withholding or under-withholding issue resulting in the disallowance of the expense, Revenue Regulations (RR) No. 6-2018 reinstated the provisions for deductibility as stated in RR No. 14-2002. In the said RR, any income payment that is otherwise deductible under the Tax Code will now be allowed where no withholding was made, as long as the withholding agent pays the tax (or the difference between the correct amount and the amount of tax withheld, in the case of an erroneous under-withholding), including the interest and surcharges incident to non-withholding (or under withholding), at the time of audit/investigation or reinvestigation/reconsideration. In a Court of Tax Appeal decision, the Court held that the audit/investigation or reinvestigation/reconsideration had been concluded when the Final Decision on Disputed Assessment (FDDA) was issued. It is prudent, therefore, to settle the deficiency withholding tax at least before the issuance of the FDDA to be able to claim the related expense.

In addition, with the consideration of audit findings related to VAT, taxpayers should also keep in mind the appropriate invoicing requirements as part of the substantiation requisites since improper supporting documents and improper invoicing requirements could as well result to audit findings related to VAT. Commonly, such findings pertain to 1) failure to support purchase of services with an official receipt as well failure to support purchase of goods transactions with a sales invoice, 2) failure to separately indicate the input VAT in the receipt, and 3) failure to properly indicate the required taxpayer's information such as the registered name, taxpayers identification number (TIN), the registered business address, and the business style or trade name of the taxpayer in the Sales Invoice (SI) or Official Receipt (OR).

Due to the complex nature of the substantiation and invoicing requirements, companies could issue a policy regarding employee reimbursements, denying reimbursement if employees fail to meet the substantiation and invoicing requirements.

Finally, due to the growing complexity of day-to-day business transactions and as businesses move towards globalization, it is time that the BIR issues guidelines to ease the process of withholding taxes on employee reimbursements. Until then, taxpayers staying updated with and informed of the tax rules won't be sufficient to keep up with the evolution of business and tax practices. Taxpayers should as well become proactive in conducting their internal tax compliance audits in order to revisit internal tax policies and align with the ever-changing landscape of Philippine taxation. As stated by the Greek philosopher Heraclitus, the only constant thing in life is change.

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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