

BSP, IFC back amendments to Warehouse Receipts law

THE Bangko Sentral ng Pilipinas (BSP) and the International Finance Corp. (IFC) have declared their support for the immediate passage of amendments to the Warehouse Receipts (WR) law.

The BSP and the IFC said that in early October they consulted representatives from banks, government agencies and the private sector on Senate Bill No. 2173, or "An Act Providing for the Revised

Warehouse Receipts Law of the Philippines."

"The bill aims to strengthen and modernize the Warehouse Receipts Law of 1912 by establishing a central electronic registry where goods and products can be deposited in exchange for a warehouse receipt that can easily be traded, bartered or sold in order to obtain credit," the BSP said in a statement on Monday.

Senate Bill No. 2173 was transmitted to the Senate on May 30.

The amendments will allow banks and other financial institutions to have greater confidence in using warehouse receipts as collateral, the central bank noted.

An improved WR system will also unlock financing for farmers by assigning a verifiable value to their inventory, stabilize market prices, and improve food security, the BSP said.

WR financing has been singled out as a priority initiative for micro, small and medium enterprises in the National Strategy for Financial Inclusion 2022-2028, it added.

The participants in the consultation discussed WR finance practices in developed markets, as well as the need to digitalize agriculture. — **Aaron Michael C. Sy**

BSP sees inflation breaching 2-4% band if Dubai crude benchmark exceeds \$90/barrel

THE Bangko Sentral ng Pilipinas (BSP) said inflation will breach its target band of 2-4% if the Dubai benchmark for crude prices exceeds \$90 per barrel next year and \$100 in 2025.

"It should be noted that these oil price scenarios considered only the direct effects and do not incorporate any potential second-round effects on transport fares, food prices, and wage increases among others," it added in a monetary policy report.

The BSP said it expects inflation to average 6% this year, before easing to 3.7% in 2024 and further down to 3.2% in 2025.

The BSP said it continues to hold the view that global crude oil prices will remain elevated with supply constrained by production cuts.

"Assumptions for global crude oil prices are higher for 2023 and broadly unchanged for 2024 and 2025 compared to the previous round," it said in the report.

The BSP expects Dubai crude to average \$83 per barrel this year, higher than the forecast of \$81.7 per barrel it issued in August. It maintained its forecast for next year of \$82.3 per barrel and 2025 of \$78 per barrel.

According to the BSP, the projections were based on the average futures price between Oct. 26 and Nov. 8.

"The rise in global crude oil prices for 2023 reflects expectations of declining global oil inventory resulting from the (announcement by the) Organization of Petroleum Exporting Countries and its allies (OPEC+) of extended crude oil production cuts in June and a further extension of voluntary cuts through end-2023 by Saudi Arabia," it added.

The BSP also cited the US Energy Information Administration forecast of a decline in global oil inventory "in the remaining

months of 2023 as OPEC+ cuts keep global oil production lower than global demand, putting upward pressure on global oil prices over the forecast period."

However, the central bank said it expects global crude oil prices to continue declining over the next two years due to fears of a global recession, partly offset by possible supply shocks and volatility arising from geopolitical tensions.

The BSP also sees the peso settling within the Development Budget Coordination Committee's assumption of P54 to P57 per dollar this year and P53 to P57 range in 2024 and 2025.

"The projected exchange rate for 2023 is broadly unchanged from the previous round. Meanwhile, modest peso appreciation is expected for 2024 and 2025 due to the higher real interest rate differential following the off-cycle policy rate

increase for the Philippines and the Federal Reserve's projected additional rate cuts in 2024," it added.

On Monday, the peso closed at P55.55 against the dollar, strengthening from its P55.67 finish on Friday.

The BSP also said that the expansion in domestic liquidity (M3) will "continue to support the country's funding requirements."

"M3 is projected to increase at a faster rate than in the previous round in line with continued credit growth. The upward adjustment in M3 growth forecasts reflects the impact of stronger domestic activity and higher domestic liquidity in the near term," it added.

The central bank has reported that domestic liquidity expanded 7.9% to P16.6 trillion in September, accelerating from the 6.8% reading a month earlier. — **Luisa Maria Jacinta C. Jocsos**

PHL cited as among region's leaders in curbing illicit trade

THE PHILIPPINES was singled out as a "regional leader" within ASEAN in curtailing illicit trade and piracy, the Transnational Alliance to Combat Illicit Trade (TRACIT) said.

"Strengthening interagency and interdepartmental cooperation is essential in the fight against illicit trade," TRACIT said in its "Fighting Fakes, Contraband and Illicit Trade: Spotlight on The Philippines" report.

It added that the Philippines is also a leader in promoting domestic cooperation, particularly in intellectual property coordination, because of the Intellectual

Property Office of the Philippines (IPOP) and the 15-member National Committee on Intellectual Property Rights (NCIPR).

The report said that the collaboration of NCIPR-affiliated agencies helped the Philippines remain off the US Trade Representative Special 301 Watchlist starting in 2014.

TRACIT is an independent, private sector initiative seeking to mitigate the economic and social damage caused by illicit trade and works to strengthen government enforcement mechanisms.

It presented the global illicit trade report at the IP Enforce-

ment Summit organized by IPOP.

In a global illicit trade index commissioned by TRACIT, the Philippines ranked 64th out of 94 countries.

The Philippines had an overall score of 49 out of 100, slightly above the ASEAN average of 46 points, but below the global average of 60.

The Philippines registered the strongest performance in the transparency and trade metric, where it ranked 24th, followed by supply and demand (55th), and customs environment (60th).

"While there's room for improvement across all categories, significant efforts are required in the Government Policy category, where perceptions of corruption and limited compliance with FATF (Financial Action Task Force) standards lower its overall performance," TRACIT said.

According to TRACIT, the illicit economy in the Philippines is driven by its proximity to major Asian economies such as China, corruption, weak regulatory and enforcement systems, widespread smuggling, tax evasion, and insufficient deterrent effect of existing sanctions. — **Justine Irish D. Tabile**

Fish imports not seen offsetting impact of closed season, fuel prices

FISH IMPORTS will not make up for the impact of closed fishing seasons and the dampening of fishing activity due to high fuel prices, the Department of Agriculture (DA) told a House of Representatives committee on Monday.

"The fish resources of our country are actually depleted," Agriculture Secretary Francisco Tiu Laurel, Jr. told the House agriculture and food committee. "The import request... of 35,000 metric tons (MT) this year is not enough."

The Philippine fish supply is projected to be in deficit by 358,977 MT in the fourth quarter, widening by 20.77% from the previous quarter, Agriculture Assistant Secretary Arnel V. de Mesa told legislators.

The deficit is equivalent to 38 days' demand, he said.

In an Aug. 15 memorandum circular, the DA said that the Philippines will import frozen round scad or *galunggong*, big-eye scad, mackerel, bonito, and moonfish for sale in wet markets.

The closed fishing season for sardines in northern Palawan and Zamboanga Peninsula started this month and will run until Jan. 31 and Feb. 15 next year, respectively.

Under the Philippine Fisheries Code, closed fishing seasons are declared over certain fisheries to help fish stocks regenerate.

Mr. Tiu Laurel also said that high fuel prices caused by the war in Ukraine have discouraged commercial and municipal fishermen from leaving port.

"A lot of fleets just stop fishing if they see (poor) yields. Usually, in commercial fishing, we stop at around November, but now, as early as September, others have been stopping," Mr. Tiu Laurel, a former commercial fisherman, said.

Meanwhile, rice production rose 0.22% year on year to 3.80 million MT, Mr. De Mesa said.

He said rice supply of 7 million MT is currently "larger than demand," which was estimated at 4.02 million MT for the fourth quarter of the year, implying a rice surplus of 2.98 million MT.

Land planted to rice declined 0.51% year on year to 926,923 hectares (ha) in the third quarter, Mr. De Mesa said.

He also said that the DA is expecting 176,932 MT of imported rice to arrive in the fourth quarter.

"To date our imports have totaled 2.86 million MT. This is very significant reduction versus (a year earlier), when imports were at 3.8 million MT," he said.

Albay Rep. Jose Ma. Clemente S. Salceda said that a campaign promise made by President Ferdinand R. Marcos, Jr. to lower rice prices to P20 per kilogram is "not impossible" with subsidies.

"We can set up a subsidy fund for it. If there's no NFA (National Food Authority), then somebody can do it. If he wants (rice that costs) P20, it's not impossible," he told the committee. — **Beatriz Marie D. Cruz**

Palay farmgate average price rises 18.1% in Oct.

THE farmgate price of palay, or unmilled rice, rose 18.1% year on year to an average of P20.6 per kilogram in October, according to the Philippine Statistics Authority (PSA).

The PSA reported that all regions except the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) posted increases in average farmgate prices during the period.

The highest farmgate price in October was reported in Northern Mindanao at P23.56 per kilo, up 29.2% from a year earlier.

This was followed by the Ilo-ilo Region with average palay prices increasing 22.8% to P22.92 per kilo from a year earlier.

The lowest farmgate price was posted in BARMM, with farmgate prices of P17.36 per kilo. The region recorded the only year-on-year decline at 7.3%.

The National Food Authority in September approved higher buying prices for palay of P19-23 per kilo for dry grain and P16-19 per kilo for wet. The previous buying price for palay was P16 per kilo wet and P19 per kilo dry.

On a month-on-month basis, the PSA said that the average farmgate price rose 3.5% from September.

The PSA said 10 regions saw higher farmgate prices of palay month on month, while five regions posted declines. — **Adrian H. Halili**

OPINION

How to avoid receiving a Subpoena Duces Tecum from the BIR

An ounce of prevention is worth more than a pound of a cure. At any stage of the tax assessment process, complications will surely arise when the notices and requests from the Bureau of Internal Revenue (BIR) remain unheeded.

During the early stages of the tax assessment process, examiners authorized by the BIR through the issuance of a Letter of Authority (LoA) are empowered to conduct the examination of the books of account and tax records of the taxpayer by directly requesting

such documents from the latter. During this stage, the taxpayer is given a specific period to submit the requested documents upon the receipt of the First Notice. In case the taxpayer fails to submit all the requested documents in the First Notice, the BIR will issue the Second and Final notice to submit the required records and documents.

It is only when the taxpayer fails to substantially comply with the Final Notice to submit required records and documents will a Subpoena Duces Tecum (SDT) be issued by the BIR to the taxpayer. Pursuant to Revenue Memorandum Order (RMO) No. 10-2013, in case the information or records requested are not furnished within the period prescribed in the written notice, or when the information or records submitted are substantially incomplete, the revenue officer conducting a verification

or investigation is to request an SDT through a Memorandum Report. The officer is to state therein the relevant facts, specify the particular documents or records not made available to him and the taxpayer liable or the third party or office concerned.

WHAT IS AN SDT?

Pursuant to Section 1 of Rule 21 of the Rules of Court, it is worthy to note that an SDT is a coercive process requiring the taxpayer to bring with him any books, documents, or other things under his control. (8199 Convenience Corp. v. Commissioner of Internal Revenue, C.T.A. EB Case No. 1912, Sept. 3, 2020)

Pursuant to Section 2 of the Tax Code, as amended, the BIR is conferred the authority to assess and collect all national internal revenue taxes, fees, and charges. To aid the BIR in the discharge of such mandate, Section 5(c) of the Tax Code endows upon the Commissioner of Internal Revenue, or his duly authorized representatives, the power to command the production of books, papers, records, or other data of any person liable for tax, required to file a tax return, or in the possession of such documents.

ENFORCEMENT

As a rule, the SDT is served by personally delivering a copy of the SDT to the par-

ty at his registered address before it is served to the taxpayer's known address, or simultaneously to the taxpayer's registered address and known address. In case personal service is not practicable, the SDT may be served by substituted service or by mail as per RMO No. 10-2013, as amended by RMO No. 08-2014.

If a taxpayer receives an SDT from the BIR, the taxpayer is given a final opportunity to comply with the request for documents by the BIR and is ordered to appear in person before the Commissioner or his duly authorized representative at the time and place specified in the SDT. From there, the taxpayer is allowed to submit the requested documents by the BIR and/or to present his side and supporting alternative documents in case of unavailability or inapplicability of the documents requested.

CRIMINAL ACTION

For failure to obey the directives of an SDT, which is to personally appear before the requesting officer and to produce the requested documents, Section 266 of the Tax Code, as amended, provides for a punishment of fine and imprisonment for the unwilling or unsuspecting taxpayer. Section 266 of the Tax Code, as amended, penalizes by fine and imprisonment any person, who, despite being summoned, neglects to produce books of account, records, memoranda, or other papers required therein.

In the case of *Ang vs. People*, (CTA EB Criminal Case No.095, Aug. 2, 2023), the

Court of Tax Appeal En Banc outlined the elements of this offense. First, the offender is duly summoned; second, offender is summoned to appear and produce books of account, records, memoranda or other reports, or to furnish information as required by the Tax Code, as amended; and third, the offender neglects to appear or to produce the documents just mentioned.

In the unlikely event that a taxpayer fails to obey the directives stated in the SDT, the BIR may endorse the case for the issuance of a warrant of arrest to be issued against the taxpayer. In the case of associations, partnerships, or corporations, the penalty is to be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation as per Section 253 (d) of the Tax Code, as amended. From here, the tax assessment process elevates into a full-blown trial in court to which the taxpayer must present his defense against the improper issuance of the SDT and more importantly, to prove his innocence towards the alleged violation of Section 266 of the Tax Code.

COMPLIANCE WITH BIR REQUESTS

Close coordination with the BIR examiners during first contact establishes a good relationship throughout the assessment process, which also assists in bridging any gap or gray area that may arise during the preliminary stages of requesting documents from the tax-

payer. Communication and attending to the request for documents is material in resolving problems in the early stages of the tax assessment process.

Conversely, full compliance with any request from the BIR alleviates any complication which may arise during the tax assessment process. By attending and fully complying with all the notices the taxpayer receives from the BIR, it removes the risk of being issued an SDT. Essentially, at any stage of the tax assessment process, taxpayers should be proactive in coordinating with the BIR examiners to address their requests for documentation and records and to promptly submit these items to build rapport, promote transparency, and smoothen the flow of the tax assessment process.

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