Philippines urged to reduce dependence on China-funded projects

THE PHILIPPINES must stop counting on Chinese-funded projects due to ongoing tensions between the two countries that could derail the infrastructure program, policy think tank Infrawatch PH said.

"Our infrastructure ambitions must not be held hostage to the whims of a single foreign power. Many international funding options are available that respect our sovereignty and offer more favorable terms," Terry L. Ridon, a public investment analyst and convenor of InfraWatch PH, said in a statement on Wednesday.

The Philippines must diversify its funding sources, Mr. Ridon said, to facilitate a shift away from China-funded infrastructure projects.

He described the country's continued resort to China as a funding source as a "risky entanglement" amid the worsening tensions arising from the two countries' ongoing territorial dispute.

"In the delicate game of international relations, economic dependencies can become geopolitical vulnerabilities. Our economic strategies should not leave us exposed to pressures from a nation that challenges our territorial sovereignty," he said.

"These financial entanglements could potentially influence our political decisions, compromising our national interests in favor of external agendas," Mr. Ridon added.

InfraWatch said the government must also reevaluate existing China-assisted projects, noting that the 2024 expenditures and sources of financing document still lists a number of major infrastructure projects funded by China.

The Department of Transportation has said that it is seeking the approval of the National Economic and Development Authority to increase the loan amount for three major infrastructure projects after withdrawing its official development assistance request from China due to lack of progress on the application.

Several loan agreements with China cover works that are classified as flagship projects by the Department of Finance, such as the New Centennial Water Source-Kaliwa Dam Project and the Chico River Pump Irrigation Project.

"Canceling these projects is a definitive way to assert our national interests and sovereignty. It sends a strong signal to Beijing that we are serious about defending our sovereignty," he said. — **Ashley Erika O. Jose**

Bill tapping GOCCs for unfunded budget items approved by House

THE House of Representatives on Wednesday approved on third reading a bill that would allow the government to tap state-run corporations in funding unprogrammed appropriations.

With 292 affirmative votes, four negative votes, and two abstentions, legislators approved amendments to Republic Act No. 11936 or the 2023 national budget.

House Bill No. 9513 seeks to outline the conditions for financing unfunded budget items.

"In order to further assist the National Government's requirements and fund much needed unprogrammed projects instead of burdening the National Government with more foreign loans, these government corporations can readily provide the necessary funds for the aforesaid purposes," Albay Rep. Jose Ma. Clemente S. Salceda said in House Bill No. 9513.

Under the measure, "funds of government-owned or -controlled corporations (GOCCs) determined to be in excess of their current administrative and operational expenses, benefit obligations or reserve requirements" may be allocated to unfunded budget items.

The bill also seeks to use revenue from tax or non-tax sources in excess of the agencies' collection targets to fund unprogrammed appropriations.

Assistant Minority Leader and Party-list Rep. Arlene D. Brosas, one of the legislators who voted against the measure, said the bill could only "expand the pork barrel system."

"The proposal to source funds from excess GOCC revenue raises concerns about the direction of GOCCs and the potential intensification of profit-based fund sourcing at the expense of social services and the welfare of ordinary Filipinos," she told the plenary.

The government must instead seek to increase the funding of agencies engaged in direct social services, according to Ms. Brosas.

Camarines Sur Rep. Gabriel H. Bordado, Jr. said he abstained from voting as "several pressing issues affecting the lives of people have yet to be fully addressed."

John Paolo R. Rivera, president and chief economist at Oikonomia Advisory & Research, Inc., said the measure would allow unused or idle funds to be productive.

"However, this potential has to be matched with accountability," Mr. Rivera said in a Viber message. "Without accountability, doing this might create more leakages than benefits."

"That plan is okay if the funds in mind are the dividends of the GOCCs... those funds go to National Government for eventual allocation and appropriation," Enrico P. Villanueva, a senior lecturer at the University of the Philippines Los Baños Economics department, said via X (formerly Twitter) message.

"It is a different story if they force contributions again from GOCCs the way they did with the GFIs (government financial institutions) to fund MIF (Maharlika Investment Fund)," Mr. Villanueva said citing the older provisions of the MIF law that gained backlash.

Budget Secretary Amenah F. Pangandaman said in October that the obligation and disbursement of government agencies' maintenance and other operating expenses and capital outlays are extended until the end of 2024. The extension was done after changes were made on the guidelines on the validity of unprogrammed appropriations. — **Beatriz Marie D. Cruz**

Irrigation, processing facilities focus areas for rice program

THE Department of Agriculture (DA) said its plan for raising rice production will focus on expanding irrigation and building more processing facilities.

In a statement on Wednesday, Agriculture Secretary Francisco T. Laurel, Jr. said: "Ultimately, our aim is to minimize rice imports to achieve food security and sufficiency."

As of Nov. 16, rice imports hit 2.94 million metric tons (MT), according to the Bureau of Plant Industry.

He said that minimizing imports could also improve the income of farmers and fisherfolk.

"(It would) create more jobs in a sector that already provides employment to one in every four Filipinos and reverse the shrinking trend of agriculture's contribution to economic growth," he added.

In a speech, President Ferdinand R. Marcos, Jr., the previous Secretary of Agriculture, said the DA is stepping up efforts to mechanize farming, increase agricultural infrastructure and adopt technology to improve grain production and supply.

"I am optimistic that all concerned government agencies, partners, and stakeholders will continue to explore ways to enhance existing agricultural technologies to improve and strengthen the rice industry, in line with our goal of a food-secure nation," Mr. Marcos said.

He added that modernization of agriculture will equally focus on livestock, poultry, fisheries and high-value crops.

"The government shall continue to give primacy to research and development to ensure a sustainable rice value chain," he said.

He added that the administration will also support the research initiatives of the Philippine Rice Research Institute to introduce modern agricultural biotechnology to improve rice output. — **Adrian H. Halili**

ADB warns digitalization may cause small companies to lose market power

THE rapid acceleration of digitalization risks upending the dynamics of market power, often to the disadvantage of micro-, small- and medium-sized enterprises (MSMEs), the Asian Development Bank (ADB) said.

"The process of accelerated digitalization in recent years has also changed Asia's competition landscape dramatically. COVID-19 hastened the widening of the scope of platforms and digital ecosystems, and the extent to which they are impacting markets today," the ADB said in a recent working paper.

"It also accelerated the digital revolution that was already taking place, with firms upgrading their digital know-how and joining platforms to thrive in an increasingly connected and globalized world," it added.

In the Philippines, employment in the MSME sector as a share of the total labor force was 64.7% in 2021.

"While these changes are ushering in opportunities and benefits to consumers, firms, and the economy as a whole, digital platforms also have characteristics that potentially yield them too much market power and present challenges to other stakeholders, especially MSMEs, that are an important pillar of many Asian economies," the ADB added.

MSMEs are estimated t o have accounted for about 30% of Asia's total exports in 2013.

"In Asia, a majority of MSMEs operate in traditional wholesale and retail trade and other service industries, mostly in rural areas," it said.

"This means that the sustained growth of MSMEs will play a critical role in achieving inclusive growth, maintaining poverty reduction, and narrowing regional disparities in developing Asia by providing employment and business opportunities for the young, unemployed or underemployed individuals, those working in the informal sector, women, and other vulnerable groups," it added.

During the pandemic, digitalization also accelerated, but not all MSMEs benefited from this, the bank said. — **Luisa Maria Jacinta C. Jocson**

OPINION

A limited period to collect stickers and taxes

TAXWISE OR OTHERWISE
JOSE LUIS M. YUPANGCO

One sign that Christmas is just around the corner is when coffee chains begin running their annual year-end sticker campaigns. The schemes involve earning stickers or stamps for every purchase of a beverage. Once patrons have collected a certain number of stamps or stickers, they get to choose from a selection of limited-edition merchandise. However, the redemption periods for these campaigns are normally limited, thereby encouraging customers to purchase more before the deadline.

Just as these year-end campaigns run for only limited periods, so does the National Government's right to collect taxes. It has a limitation which can either be three years or five years from the date an assessment notice has been released, mailed or sent to the taxpayer by the Bureau of Internal Revenue (BIR). But when do we apply these periods? This was answered by the Supreme Court in G.R. No. 258947 dated March 29, 2022.

In that case, the BIR sent a Formal Assessment Notice (FAN)/Formal Letter of Demand (FLD) in 2014 to the taxpayer assessing the latter for deficiency taxes arising from the taxable year 2010. Six years later (in 2020), the BIR proceeded with collection efforts.

The Court of Tax Appeals (CTA) issued Resolutions cancelling the deficiency tax assessment on the ground of prescription, and enjoined the BIR from collecting the assessed deficiency taxes. The BIR appealed the case to the Supreme Court and alleged that the CTA erred when it dismissed the assessment on account of prescription. The BIR argued that the failure of the taxpayer to file a protest to the FAN/FLD rendered the assessment against the taxpayer already final, executory, and demandable and that the final decision on disputed assessment (FDDA) issued in 2015 effectively served as a collection letter for the satisfaction of deficiency tax liabilities. Thus, BIR's right to collect the deficiency taxes did not prescribe.

One issue resolved by the Supreme Court was the applicable period of prescription on the BIR's right to collect taxes (i.e., whether it is three years or five years).

The Supreme Court ruled that the three-year period would apply. Based on the decision, Section 203 of the Tax Code provides the period within which the BIR may assess and collect taxes. Citing jurisprudence, if an assessment is duly issued within the three-year period, the BIR has another three years within which to collect the tax due by distraint, levy, or court proceeding. The Supreme Court held that the five-year period for collection of taxes only applies to assessments issued within the extraordinary period of 10 years in cases of false or fraudulent return or failure to file a return.

Nonetheless, the Court notes that regardless of which period is applied, i.e., five years as determined by the CTA Division or three years as discussed above, the BIR's collection efforts were already barred by prescription. Since the FAN/FLD was issued in 2014, the BIR effectively only had until 2017 (or 2019) to initiate efforts to collect the tax by distraint, levy, or court proceeding. However, since the BIR only initiated collection efforts in 2020, according to the Supreme Court, the CTA was correct in ruling that prescription had already set in.

Since the Supreme Court decision is deemed part of the Philippine legal system under the doctrine of stare decisis, the author hopes that Congress, by way of an amendatory law, clarifies its intent insofar as the applicable period of prescription for the collection of taxes since Section 203 does not expressly provide for such three-year period to collect. Based on my reading of Section 203, the period pertains to the time frame for the BIR: (1) to make an assessment; and (2) to file a case for collection without an assessment.

Further, while I agree that the five-year period for the collection of taxes applies to assessments issued within the extraordinary period of 10 years (i.e., in cases of false or fraudulent return or failure to file a return), this is not the only instance when the five-year period can apply. Another instance is when the three-year period to assess is extended through the execution of a waiver, as provided in Section 222 subparagraph (d) in relation to subparagraph (b).

From the foregoing, following the Supreme Court's interpretation of Sections 203 and 222 of the Tax Code, the rules on the prescriptive period for the collection of taxes can be summarized as follows:

1. When the BIR validly issues an assessment within the three-year period under the statute of limitations, it only has another three years within which to collect the tax due by distraint, levy, or court proceeding if the assessment becomes final and executory.

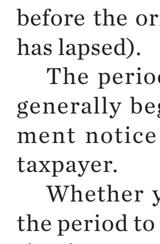
2. By way of exception, when the assessment is issued within the extraordinary period of 10 years (in cases of false or fraudulent return or failure to file a return), the BIR will have a period of five years to collect the deficiency taxes.

3. The five-year period to collect would also apply in instances where the taxpayer and the BIR agree in writing to an extended period for the assessment of taxes (i.e., a waiver was executed before the original period to make an assessment has lapsed).

The period for collection of the assessed tax generally begins to run on the date the assessment notice is released, mailed or sent to the taxpayer.

Whether you are collecting stickers or taxes, the period to do so is not unlimited. As far as taxation is concerned, prescription limits the right of the government to assess and collect taxes. Thus, just as coffee shop patrons aim to complete collecting stickers before the deadline, both taxpayers and revenue authorities should be mindful of the applicable prescriptive periods provided for by law in the assessment and collection of taxes.

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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