Laurel to focus on raising agri output; not in favor of imports

NEWLY appointed Agriculture Secretary Francisco Tiu Laurel, Jr. said in his first briefing as head of his department that he will favor raising domestic production over importing food to fill supply gaps.

"I am not pro-importation, I am pro-production, I was a producer in my past life. I believe that the Filipinos can produce more," Mr. Laurel, who formerly headed a commercial fishing company, said on Monday.

He said the key to raising production is to modernize the industry as rapidly as possible, in accordance with the strategy set by the Palace.

"The President's directive is to increase production in almost all sectors of agriculture and all commodities, but of course there is special emphasis on rice," Mr. Laurel said on Monday.

Mr. Laurel added that the Department of Agriculture is preparing measures to keep rice prices under control.

"It is possible to lower the price, but we have to have our silos, our buffer stock, and we have to change some laws," he added, without elaborating.

He said modernization would make agriculture more profitable and attractive to the younger generations.

"Modernizing is not easy, so it might take a little time, but we are going to do it as fast as possible," he said.

Due to high grain prices, President Ferdinand Marcos, Jr. ordered price controls on rice on Sept. 5, which capped regular-milled rice at P41 per kilogram and well-milled rice at P45. The controls were lifted on Oct. 5.

Mr. Laurel added that one of his major initiatives is to compile more accurate data on agricultural production.

"One of the major things I have to do from the start is to (revitalize), if possible, the Bureau of Agricultural Statistics so we will have accurate data," he said, noting that the bureau's current output is "incomplete."

He said more accurate and timely data will aid in making decisions on whether to rely on domestic output as against importing food.

"We really have to import when it is needed, but in order to bring the right balance, we have to have the right data to manage it properly," he added.

Mr. Laurel added that he plans to promote the proliferation of aquaculture and mariculture.

"The (fisherfolk) and small coastal (communities) can make money, but we have to change some policies to promote that better," he said.

He added that the growth in seaweed production could further boost the fisheries industry.

During the second quarter, seaweed was the top item by volume of all fisheries products, according to the Philippine Statistics Authority. Output was 365,775 metric tons for the period, accounting for 33.9% of fisheries production. — **Adrian H. Halili**

Household spending to grow 6.3% in 2024 — BMI

HOUSEHOLD spending in the Philippines is forecast to expand 6.3% in 2024 with inflation easing and economic growth remaining robust, BMI Country Risk and Industry Research said.

In a report dated Nov. 3, BMI said it expects the sustained economic recovery to feed through to strong consumer spending.

In its previous consumer outlook report in August, BMI said Philippine household consumption will grow 5.5% this year.

"Our consumer spending outlook will be more positive, relative to 2023, as economic growth persists, and consumption levels normalizes. Easing inflationary pressures and healthy employment will form the base for stable consumer spending," according to BMI, a unit of Fitch Solutions.

Private consumption, which typically accounts for three-fourths of the Philippine economy, rose 5.5% in the second quarter, slackening from the 6.4% growth posted in the first quarter and the 8.5% reading a year earlier.

This was the slowest household spending growth reading since the 4.8% contraction in the first quarter of 2021.

BMI said its forecast for household consumption in 2024 is in line with its projections that the economy will grow 6.2% next year, from 5.3% in 2023.

Economic growth likely picked up in the third quarter. A *BusinessWorld* poll of 18 economists and analysts last week yielded a median gross domestic product (GDP) growth estimate of 4.9% for the three months to September, against the 4.3% posted in the second quarter.

If realized, this would bring the nine-month average GDP expansion to 5.2%, still below the government's 6%-7% full-year target. Authorities will release third-quarter GDP data on Nov. 9, Thursday.

Meanwhile, inflation is expected to decline to 4% in 2024 from a likely 6.1% average this year, BMI said.

"The risk now is that inflation remains elevated at these levels for longer than anticipated, which will accelerate the erosion of household purchasing power," it said.

BMI sees inflation easing to 3.2% in 2025.

The Bangko Sentral ng Pilipinas (BSP) expects full-year inflation to come in at 5.8% in 2023, before easing to 3.5% in 2024 and 3.4% in 2025. Officials have said the BSP could revise its inflation forecasts on Nov. 16 to account for October inflation data.

Headline inflation likely eased to 5.7% in October from 6.1% in September, a separate *BusinessWorld* poll indicated. If realized, October inflation would weaken from the 7.7% reading from a year earlier. It would also be the lowest rate since the 5.3% posted in August.

However, October would still mark the 19th straight month inflation exceeded the central bank's 2-4% target band. The Philippine Statistics Agency will release October inflation data today, Tuesday.

"High levels of household debt remain a risk to our consumer outlook, as it limits the future availability of debt, but also draws on current disposable income levels, especially as debt servicing costs increase on the back of interest rate increases," BMI said.

The BSP raised borrowing costs by 450 basis points between May 2022 and October. This has brought the key interest rate at 6.5%, the highest in 16 years.

BMI also said remittances from overseas Filipino workers (OFWs) will continue to be an important source of funding for many households in the Philippines, with demand for OFWs increasing globally.

"In particular, there is demand for Filipino workers skilled in jobs related to medical and health services, construction and housekeeping," BMI said.

The BSP reported that cash remittances coursed through banks rose 2.7% year on year to $2.79 billion in August, the highest rate of growth since the 2.8% posted in May.

"However, we do highlight several risks to this income over 2023, mostly related to the negative impact from the rising inflation across several global markets," it said.

"In addition, the possible weakening of the peso will reduce the amounts sent back by overseas workers in local currency. This could put pressure on households with fixed expenditures," it added. — **Keisha B. Ta-asan**

PHILIPPINE STAR/ WALTER BOLLOZOS

Meat prices to rise by up to 4%, DTI says

PRICES of meat products that will feature in the traditional Christmas feast are expected to rise by up to 4%, the Department of Trade and Industry (DTI) said, adding that producers are likely to absorb much of the higher operating costs.

Mary Jean T. Pacheco, officer-in-charge of the DTI Consumer Protection Group, said that the department is meeting with producers of items commonly used in the Christmas feast, known as Noche Buena.

"The meat processors said that their production costs increased by 15%-20%," Ms. Pacheco said in an appearance on government television network PTV on Monday.

She added that the producers will absorb much of the cost increases and seek a "minimal" price increase of up to 4% on some meat products.

She said not all meat products will see a price increase. She added that only some Christmas ham producers are charging more, citing price monitoring reports.

"Our advice is for our consumers to choose the products that fit their budget and their taste," Ms. Pacheco said.

She added that the DTI will issue a Noche Buena guide containing product and price information.

Separately, Ms. Pacheco said that the implementing rules and regulations (IRR) of Executive Order 41, which prohibits the collection of pass-through fees on national roads, could be signed within the week.

"The IRR is now going around as there are six government agencies that need to sign it. Hopefully, it could be signed already because we are already done with consultations, we are now at the 'legal scrubbing' stage," she said.

The six government agencies that will have to approve the IRR are: the DTI, the Departments of Finance, the Interior and Local Government, Public Works and Highways, and Transportation, as well as the Anti-Red Tape Authority.

The DTI has said that the removal of pass-through fees was among the requests of the manufacturers seeking price increases.

"Although logistics is only a certain percentage of the total, we believe that because of the suspension of pass-through fees, the manufacturers will have a reduced burden," Ms. Pacheco said.

"That is why we always tell the manufacturers to not implement a price increase because the government is trying to do its best to reduce their operating costs," she added. — **Justine Irish D. Tabile**

OPINION

Are satellite airtime fees taxable in the Philippines?

LET'S TALK TAX

NOLAN REDJI D. DOMINGO

The tax system operates on the territoriality principle. This means that the power of the government to tax is limited within the territorial bounds of the Philippines. This rule emphasizes the importance of establishing a situs within the Philippines before income can be taxed. So, what happens when part of the source of income is located in outer space? Does the Philippines have any right to tax such income generating activities? Turns out that the answer is yes.

In the case of Aces Philippines Cellular Satellite Corp. v. CIR (G.R. No. 226680), the Supreme Court ruled that income payments made to a nonresident foreign corporation (NRFC) for satellite airtime fees are taxable within the Philippines.

In this case, Aces Bermuda, a nonresident foreign corporation, entered into an agreement with Aces Philippines in which Aces Bermuda sells satellite communications time to Aces Philippines, which in turn would have the exclusive right to distribute these services to Philippine subscribers. The BIR assessed Aces Philippines for failure to withhold taxes on income payments to Aces Bermuda. Aces Philippines, however, argues that such income is sourced outside of the territorial jurisdiction of the Philippines and therefore should not be subject to withholding tax.

Aces Philippines explained that the satellite system is primarily composed of three pieces of infrastructure:

1. Garuda 1, a communications satellite in outer space operated by Aces Bermuda;

2. Network Control Center in Indonesia owned by Aces Bermuda; and

3. Gateways within the Philippines owned by Aces Philippines.

Aces Philippines further explained the process by which a call is made through the satellite system. First, the satellite receives the call and then beams it to the Network Control Center in Indonesia which would determine the exact Philippine gateway the call is to be routed to. Second, the Philippine gateway then receives the call. Aces Philippines argues that the income generating activity of Aces Bermuda is restricted to the first and second steps of the process.

In short, Aces Philippines asserts that the services of Aces Bermuda only contemplate the determination of which Philippine gateway should be used in receiving the call and transmitting the signal to the gateway. Since the services are performed in outer space and in Indonesia, Aces Philippines argued that these operations are outside the taxing jurisdiction of the Philippines.

The Supreme Court, however, rejected the argument and ruled that in determining the income generating activity of Aces Bermuda, the process should be taken as a whole rather than piecemeal due to the interconnected nature of the satellite, the network control center, and the gateways. At the point of transmission, Aces Philippines has not been given access to the Aces System yet. It is only when the call is routed to its gateway located in the Philippines that Aces Philippines is able to connect its subscriber to the intended recipient of the call.

In this sense, the gateway's receipt of the call signifies completion or delivery of Aces Bermuda's services. Furthermore, the agreement between Aces Philippines and Aces Bermuda shows that Aces Bermuda only charges Aces Philippines once the call is received by the gateway and utilized by the Philippine subscriber. Evidently, the income-generating activity of Aces Bermuda is the receipt of the call rather than mere transmission. Since the receipt of the call occurs in gateway infrastructures located within the Philippines, the income should be subject to Philippine income tax.

In order to further support its position, Aces Philippines argued that Aces Bermuda maintains no equipment nor owns any infrastructure within the Philippines. Aces Philippines argued that situs denotes a concept of some physical presence or some tangible and visible activity. Since Aces Bermuda does not own the gateways located inside the Philippines, there is no physical presence within the Philippines.

The Supreme Court likewise rejected this argument, ruling that the fact that Aces Bermuda does not own the gateways is of no moment. It cannot be denied that the gateways were constructed primarily to serve the needs of the Aces system. Furthermore, the agreement between Aces Philippines and Aces Bermuda shows that it was Aces Bermuda that provided the necessary equipment and software to enable Aces Philippines to construct the gateways in the first place. In short, the Supreme Court ruled that even though Aces Bermuda does not own the gateways located in the Philippines, Aces Bermuda has sufficient economic and beneficial interest in these Philippine properties, inasmuch as its Philippine operations depend on those facilities.

ACES V CIR AND IT SERVICE PROVIDERS

Due to the promulgation of Aces v. CIR, some Revenue Officers have started to use the case as a legal basis to justify the imposition of income tax on Information Technology (IT) services rendered by NRFCs outside of the Philippines. This, however, should not be the case since the circumstances of IT service providers are different from those of satellite service providers.

In the case of Aces v. CIR, the Court ruled that the income-generating activity is partially conducted within the Philippines. In order for Aces Bermuda to render its services, it had to utilize gateway infrastructure located within the Philippines. Even if Aces Bermuda operated the satellite in outer space and the Network Control Center in Indonesia, it could not provide its services completely outside of the Philippines because it needs the terrestrial gateways that will receive the signal from the satellite. Since the income generating activity is only completed when received by the gateway in the Philippines, the Court ruled that the situs of the income was in the Philippines and therefore, subject to tax.

The above circumstances, however, are not present in IT services rendered outside of the Philippines by NRFCs. Examples of IT services are help desk support, cloud services, backup and disaster recovery, network security, software and hardware development, among others. These IT services are normally conducted remotely and outside of the Philippines' territorial limits. The IT service providers do not normally require the construction, utilization, and maintenance of infrastructure within the Philippines for them to render their IT services. Evidently, when it comes to IT services, the provision of such service is completed wholly outside of the Philippines. There is no need for specialized equipment located within the Philippines to complete the services. Therefore, the circumstances of IT services provided by NRFCs are not similar to the circumstances in the Aces case.

As the Court elucidated in the case of Saint Wealth Ltd. v. BIR (GR No. 252965), what is important in determining whether an activity could be subjected to Philippine tax laws is whether the revenue-generating activity occurs within the Philippines. In IT services, it is evident that the income generating activities of NRFCs providing IT services are outside of the Philippines. As discussed above, no portion of such activities could be said to have occurred within the territorial bounds of the Philippines.

At first glance, it would seem that the case of Aces v. CIR allowed for the extraterritorial application of the tax laws of the Philippines. However, a more careful reading of the case reveals that this is not true. The Supreme Court was able to establish the situs within the Philippines that would warrant the application of Philippine tax laws to Aces Bermuda.

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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