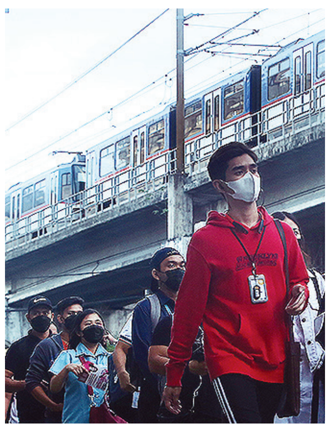
PHILIPPINE STAR/MIGUEL DE GUZMAN

MRT-3 fare hike seen approved next year

METRO RAIL TRANSIT Line 3's (MRT-3) fare hike petition will likely be approved by next year, the Department of Transportation (DoTr) said.

"It will go ahead but not right away. It is still being reviewed, maybe by next year," Transportation Secretary Jaime J. Bautista told reporters on the sidelines of a forum last week.

The fare hike increase is for a P2.29 in boarding fare, or a 21-centavo increase per kilometer. Once the proposal is approved, the boarding fare will become P13.29, while the distance fare will be P1.21 per kilometer.

In July, the DoTr said the MRT-3's fare hike petition was refiled after a technical lapse in its previous filing.

The Transportation department had denied a previous proposal, noting that the MRT-3 management had failed to issue a notice of public hearing.

Currently, the boarding fare at the MRT stands at P11, while the distance fare is a peso per kilometer.

The fare hike petition will be approved before a private entity takes over the operations and maintenance of the MRT-3 by 2025, Mr. Bautista said.

The DoTr has said it is studying its options for the privatization of the MRT-3 once its build-lease-transfer contract lapses in 2025.

In September, the DoTr said it is reviewing the rules governing the handling of multiple unsolicited proposals after receiving a second bid to operate MRT-3. — **Ashley Erika O. Jose**

OPINION

Philippines bets on BEPS

SUITS THE C-SUITE

MARIA MARGARITA D MALLARI–ACABAN AND MIRA RAMIREZ-UY

On Nov. 8, the Philippines officially accepted the Organisation for Economic Co-operation and Development's invitation to join the Inclusive Framework (IF) on base erosion and profit shifting (BEPS). The announcement is timely, as other countries, including our Asian neighbors, have expressed their intention to join or have started drafting their own BEPS legislation earlier this year.

In 2021, 136 member jurisdictions of the IF forged a new global tax deal — the Two-Pillar solution—with the aim of curbing tax avoidance by Multinational Enterprises (MNEs). The Two-Pillar solution was years in the making and represents the most significant tax reform in decades. The Global Anti-Base Erosion (GloBE) Rules, a core component of BEPS 2.0 Pillar Two, seek to limit unhealthy tax competition — the so-called "race to the bottom" for corporate tax rates — among jurisdictions by introducing a 15% global minimum tax rate.

This is the fifth article in our series following the 2nd SGV Tax Symposium, which focused on how a sustainable and effective tax ecosystem can advance the sustainability agenda for both the public and private sectors. This article will discuss how BEPS 2.0 Pillar will impact the Philippine tax landscape.

WHAT IS THE BEPS 2.0 PILLAR 2 ARCHITECTURE?

Applies only to large MNEs. Under the GloBE rules, the 15% global minimum tax rate applies only to large MNEs — particularly those with annual consolidated revenues of 750 million euros (or equivalent) in two of the last four years. Essentially, purely domestic firms or MNEs falling below the 750 million euro revenue threshold are excluded from the coverage of Pillar 2.

GloBE Effective Tax Rate (ETR) is below 15%. Once an MNE is considered in-scope, the group determines the ETR of the entities per jurisdiction and compares this with the 15% global minimum tax rate. If the ETR of an entity is lower than the 15% minimum rate (deemed as a low-taxed entity), an additional tax called the 'top-up tax' becomes due.

When computing the ETR, the GloBE Rules apply to all low-tax outcomes as a wholesale policy. Therefore, it does not provide any exceptions or preferences for reduced tax rates intended to encourage specific sustainability efforts (e.g., investments in renewable energy), or those granted for specific industries or activities.

New charging and collection mechanism. Through an ordered system of top-up taxes, the GloBE Rules recognize a new set of taxing rights, allowing various jurisdictions to collect the top-up tax irrespective of the low-taxed entity's physical location or tax residency. The Pillar 2 system effectively deviates from the tax system where income is typically collected by the source jurisdiction or the immediate parent's jurisdiction. By design, the GloBE rules allow not only the domestic jurisdiction (where the low-taxed income is earned) to collect the top-up tax via the Qualified Domestic Top Up Tax (QDMTT), but also the ultimate or intermediate parent jurisdiction via the Income Inclusion Rule (IIR) or another related entity within the Group via the Undertaxed Payments Rule (UTPR).

Common approach. Adopting the GloBE rules is not mandatory for all countries. However, to ensure uniform implementation, the rules provide a common approach to be adopted by the implementing jurisdictions. To date, a few countries have enacted their own Pillar 2 legislation, such as Japan, South Korea, and the UK. Additionally, more than 40 countries — including the Philippines — have signified their intention to adopt the GloBE Rules or are in the process of passing local legislation, with anticipated implementation by 2024 to 2025.

THE PHILIPPINES IN THE BEPS 2.0 WORLD

With the Philippines joining the IF, our adoption of the Pillar 2 rules will become a critical piece of local legislation. It will determine the top-up tax mechanism to be applied to low-taxed entities of Philippine and Foreign MNEs, and the alternative incentives we need to complement it.

For developing countries like the Philippines, incentives have been traditionally used as a stimulus mechanism to boost employment, foster technology transfer, encourage capital inflow and foreign currency, and promote overall growth. As an investment hub, the country is home to many enterprises in the manufacturing, business process outsourcing, and renewable energy space, which benefit from income tax holidays or special income tax rates. As such, entities enjoying these incentives will likely have a jurisdictional ETR of below 15%, for which a top-up tax will be due.

Local enterprises that benefit from these incentives will be the most affected in case we adopt the QDMTT since the Philippines will now have the primary taxing right over these low-taxed entities. For Philippine-headquartered conglomerates with operations in other low-tax jurisdictions, the country will likewise have the right to collect the top-up tax through the IIR or UTPR.

IS THIS THE END FOR TAX INCENTIVES? NOT NECESSARILY.

Certain incentives that are grounded on substance (e.g., payroll, tangible assets), are expenditure-based (e.g., accelerated depreciation), or are not income tax-related, appear to work better in a Pillar 2 environment. Our neighbors in ASEAN are similarly re-assessing the design of their tax incentives. For instance, as part of their Pillar 2 implementation, Malaysia and Vietnam are exploring cash grants and qualified refundable tax credits. Other alternatives being considered include non-income tax incentives, interest-free loans, and relaxation of ownership rules. The Philippines could explore similar approaches that can be localized to align with the government's investment policy.

In the long term, however, as designing incentives becomes more complex and challenging in a Pillar 2 environment, we may eventually need to shift our focus toward non-tax investment drivers, such as general operating conditions, infrastructure, human capital, access to talent, and ease of doing business, to remain competitive in the market. These measures have been viewed to deliver more sustainable, long-term value to investors.

STRIKING A BALANCE IN A PILLAR 2 ENVIRONMENT

The BEPS Project is arguably the most ambitious and comprehensive tax initiative we have seen. As more countries enact their own Pillar 2 legislation, we can anticipate significant changes in the tax landscape. For affected MNEs, an impact assessment, incentives review, group-wide BEPS compliance, and Pillar 2 planning should now take precedence in their tax and finance agendas. Engaging with the regulators is also a must to ensure a smooth transition to a Pillar 2 environment.

This entire process will likewise involve a delicate balancing act by the government. Surely, this will require more than just adopting a top-up tax legislation. A major policy reform should go along with it to address the long-term impact of top-up taxes to existing and future investors. A comprehensive solution should definitely be on the table, otherwise, the intended benefits of our Pillar 2 adoption may well be short-lived.

This article is for general information only and is not a substitute for professional advice where the facts and circumstances warrant. The views and opinions expressed above are those of the authors and do not necessarily represent the views of SGV & Co.

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Palawan manufacturing ecozone under study

THE Philippine Economic Zone Authority (PEZA) said it is studying a major public economic zone (ecozone) within the Iwahig Prison and Penal Farm in Puerto Princesa, Palawan.

"It is still under study; it is a mega ecozone. If you notice, that is the trend right now in ASEAN. They are able to bring in big-ticket projects or large and high-value projects because they have thousands of hectares to offer to investors," PEZA Director General Tereso O. Panga told reporters last week.

He said the targeted locators are manufacturers, particularly car and electric vehicle companies.

"We are talking with the Bureau of Corrections for the 26,000 hectares of land. I think car manufacturing and electric vehicles would be ideal in this area," he said.

"We want this ecozone to be self-sustaining, so that all their power and water needs will all be developed within that area. That's the idea. It will use renewable energy and be sustainable," he added.

Mr. Panga said talks are entering their final stages with the Bureau of Corrections, which will result in the signing of a memorandum of agreement (MoA) for the use of the property.

"We will start with due diligence; within a month or so the MoA might be signed," he said.

He said that the study will determine how much PEZA will spend on development, as well as how the development will be phased.

"There are a lot of modalities; we can always offer land as our equity. ... we (may) not really have to spend that much," he added.

He said that a similar scheme was used in some of the PEZA ecozones like Camp John Hay in Baguio City.

"Although we did not put in money to develop it, the locators offered to develop at their expense," he added.

Asked why PEZA wants to develop a public ecozone he said: "There are no more large areas of land — big enough to accommodate big-ticket projects — in the Philippines that are privately owned."

"We want to develop the whole supply chain... If there's anything we want to highlight, we want to see... an area where the ecosystem can be developed to facilitate the whole supply chain of manufacturing," he said.

There are four public ecozones, in Cebu, Baguio, Cavite and Pampanga

Rizal Commercial Banking Corp. Chief Economist Michael L. Ricafort said that the initiative will help stimulate economic growth and development.

"The area will primarily be attractive for tourism, so investments by both local and foreign investors would be another source of economic and other business activities which will also creating more jobs or livelihood," Mr. Ricafort said.

He said that the creation of jobs and businesses in the area will help maximize the potential of Palawan.

"This will also help the area to become more self-sufficient by producing more rather than importing from other areas around the country via ship, being a separate group of islands relatively far from mainland Luzon, Visayas, and Mindanao," he added. — **Justine Irish D. Tabile**

PEZA says most wish list items addressed in CREATE MORE

The Philippine Economic Zone Authority (PEZA) said the proposed amendments to the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act contained in a bill approved by the House of Representatives last week addressed most of its concerns about the law.

"Almost everything that was requested by PEZA was sustained by Rep. Jose Ma. Clemente S. Salceda. So, we are happy with the version of the House," PEZA Director General Tereso O. Panga told reporters last week.

The House approved the CREATE to Maximize Opportunities for Reinvigorating the Economy (CREATE MORE) bill Tuesday, which gave investment promotion agencies (IPAs) the authority to grant tax incentives.

"Basically, it will restore all powers of all IPAs — the authority to grant incentives to registered projects without having to go through another layer," Mr. Panga said.

FULL STORY

Read the full story by scanning the QR code with your smartphone or by typing the link <tinyurl.com/2xcbayp5>

The CREATE MORE bill amended the CREATE law's Section 292, or Extent of Authority to Grant Tax Incentives.

Previously, IPAs were delegated authority by the Fiscal Incentives Review Board (FIRB) to grant tax incentives. The proposed amendments allowing IPAs to grant incentives as long as the registered project or activity is listed in the Strategic Investment Priority Plan. — **Justine Irish D. Tabile**