Farmers allocated P10B in fertilizer, fuel subsidies

THE Department of Budget and Management (DBM) said over P10 billion was allocated for fuel and fertilizer assistance to farmers in the 2024 budget.

Some P9.561 billion will go to fertilizer discount vouchers, a program run by the Department of Agriculture's (DA) National Rice Program.

Some P6.161 billion will be used in conjunction with the DA's hybrid seed program while P3.4 billion will fund fertilizer subsidies for inbred certified seed varieties.

"The fertilizer assistance program is expected to be implemented within the major rice-producing provinces and promote balanced fertilization to increase rice productivity," the DBM said.

Meanwhile, the remaining P510.4 million will go to fuel assistance, including the operating expenses incurred in the distribution of the assistance. — **Luisa Maria Jacinta C. Jocson**

BoI to allow return of registrants to PEZA after WFH legal opinion

THE Board of Investments (BoI) said it will allow registered business enterprises (RBEs) to voluntary return to the jurisdiction of the Philippine Economic Zone Authority (PEZA).

"The BoI supports the allowing of those who have transferred to BoI to seamlessly be able to go back to their PEZA registration if they prefer it," Department of Trade and Industry (DTI) Undersecretary and BoI Managing Head Ceferino S. Rodolfo told reporters on Monday.

RBEs seeking to offer employees work-from-home (WFH) arrangements exceeding the PEZA maximum were allowed to transfer their registrations to the BoI last year, as a workaround to tax incentive rules requiring that most of the work performed by RBEs be conducted on premises.

PEZA, as the economic zone regulator, grants incentives tied to the performance of work within the ecozones, while the BoI has no such location-based rules.

"Once ecozones and freeport zones locators are given work flexibility, we also support allowing those who have transferred to BoI to take advantage of this legal solution to go back to PEZA," Mr. Rodolfo added.

Asked to comment on the legal opinion issued by the Department of Justice (DoJ) on Section 309 of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, Mr. Rodolfo said that the opinion only clarifies the law as it is generally understood.

"The DoJ legal opinion essentially confirms the existing mechanism that provides the flexibility that now allows us to continue to attract business process outsourcing (BPO) investments into the Philippines," he said.

However, he said that the BoI is reiterating the DTI recommendation to the House of Representatives of setting a 30% WFH limit for RBEs in ecozones and freeports.

Jack Madrid, president of the IT and Business Process Association of the Philippines (IBPAP), said that the organization also welcomes the legal opinion.

"(WFH) is not a new topic for the industry. We have become the 'poster boy' for work flexibility, but I feel that the industry is speaking for the entire workforce because WFH in some shape or form has affected the future of work, not just the IT-BPM (information technology and business process management) industry," he said.

However, he said that concerns were raised following the news that came out after the DoJ posted its legal opinion.

"While we welcome the opinion and clarification, the headlines are a bit of a concern because you know when employees read a headline like that, it could discourage them from the industry," he said.

He said that the industry is facing reputational risk when reports emerge about limits on work flexibility.

"When we have a supply problem and then they read a headline about constraints on work flexibility, this could damage the reputation of our industry and also our country, because our investors also look at headlines and may see an instance of changing the rules," he added.

Nonetheless, he said the IBPAP is pleased that the government has given IT-BPMs a legal pathway towards 100% WFH arrangement while enjoying the incentives provided under CREATE.

"Most of our investors are in PEZA, and allowing the paper transfer of locators in PEZA gives them the capability to transfer to BoI which in turn gives them 100% work flexibility," he said.

"This was a very good legal solution to give more flexibility. And I'm happy to receive information that the DoJ opinion will not affect the work arrangements of those currently enjoying 100% work flexibility after the paper transfer to BoI. So, that is certainly a significant clarification," he added.

In the DoJ legal opinion dated Jan. 3, Justice Secretary Jesus Crispin C. Remulla said that Section 309 of the CREATE Act "requires registered projects under an investment promotion agency (IPA) administering an ecozone or freeport to be exclusively conducted or operated within the geographical boundaries of the zone or freeport."

"Any project or activity conducted or performed outside the zone or free port shall not be entitled to the incentive under CREATE Act. This locational prohibition does not apply to enterprises registered with the BoI as it does not administer an ecozone or freeport," Mr. Remulla said.

However, he noted that there are pending legislative measures which seek to allow RBEs in the books of IPAs, such as PEZA, to enter into voluntary WFH arrangements without losing their tax incentives.

"Until the enactment of new legislation amending the law, business enterprises located in economic or freeport zones must continue to conduct their activities within the zone boundaries if they wish to continue availing of their tax incentives under the CREATE Act," he said.

"Likewise, these enterprises are not prohibited from adopting WFH arrangements but will no longer be eligible to continue enjoying the tax incentives," he added. — **Justine Irish D. Tabile**

Direct sugar procurement budget of P5B equivalent to 10-15% of harvest, SRA says

THE Sugar Regulatory Administration (SRA) said that the government's direct procurement plan with a budget of P5 billion will have the capacity to acquire 10-15% of the sugar harvest directly from farmers.

The funding level for the program implies a capacity to purchase 1.75–1.8 million 50-kilogram bags of sugar, SRA Administrator Pablo Luis S. Azcona said on Monday.

"The P5 billion, for the sugar industry, that's a very limited budget. It could take out roughly 10-15% of the remaining production," Mr. Azcona told reporters.

Mr. Azcona said that the current harvest is now at 60% as of Jan. 15. This translates to about 1 million metric tons (MT).

At the start of the harvest, the regulator estimated production of 1.85 million MT during the crop year.

Last week, the government said it allocated P5 billion for the direct purchase of sugar from farmers to close the gap between farmgate and retail prices. The plan was adopted after consulting with the Department of Agriculture, the Philippine International Trading Corp. (PITC), and industry representatives.

He added that PITC will oversee the sugar purchasing, which will either be sold directly to retail markets or used as a buffer stock to ensure adequate supply.

"We are discussing whether PITC will purchase at a higher price. The farmers were hoping for P2,700 to P2,800 (per 50-kilo bag) or better," Mr. Azcona said.

Current trading prices for raw sugar range from a low of P2,200–P2,300 per 50-kilo bag to a high of P2,500. This is below the P3,000 per 50-kilo bag the regulator projected at the start of the milling season.

He added that purchased sugar could be refined and sold at a retail price of P85 per kilo.

He said the SRA is seeking industry recommendations on how to execute the sugar procurement in a manner that will reduce retail prices.

"We were tasked to do it as quick as we can. The plan is everybody hand-in a written recommendation, and we all sit down within this week to work out all the other suggestions and issues involved," he said. "We are trying to get this out before the month ends."

Mr. Azcona added that the SRA will also be meeting with the national price council to address the prevailing high sugar prices.

"We have a very ample supply, and there is no reason for the retail price to remain high," he added.

Late last year, industry groups called for government intervention to stop the declining trading prices of sugar.

The United Sugar Producers Federation of the Philippines said that raw sugar has declined to P2,300–P2,500 per 50-kilo bag, which is below the cost of production.

Meanwhile, Mr. Azcona said that there has been a decline in the demand for sugar since September.

"There is about a 20% drop in the demand for sugar. We are thinking that manufacturers are finding alternatives to sugar... We are trying to find out. We need to take a look at our numbers again," he added. — **Adrian H. Halili**

OPINION

Withholding tax rules on digital commerce

LET'S TALK TAX
PAUL VINCES C. LEORNA

The evolving narratives of personal growth and determination at the start of the new year bear a striking parallel to the transformative changes unfolding in digital commerce. Just as people face a crucial checkpoint in the fourth week of 2024, electronic marketplace (e-marketplace) operators and digital financial services providers (DFSPs) are also navigating a pivotal moment. The Bureau of Internal Revenue (BIR) recently implemented groundbreaking withholding tax rules pursuant to Revenue Regulations (RR) No. 16-2023 and Revenue Memorandum Circular (RMC) No. 8-2024 issued on Dec. 21 and Jan. 15, respectively. This move, aimed at reshaping the taxation framework, mirrors the determination seen in individuals striving for self-improvement.

The commitment to fairness and transparency in taxation aligns with the collective spirit of renewal and fresh beginnings that the new year often brings. The challenges and opportunities posed by the new regulatory framework underscore the parallel paths of personal and economic development, highlighting the dynamic nature of progress in the first month of the year.

EFFECTIVITY OF WITHHOLDING TAX OBLIGATION

The revenue regulations that imposed withholding tax obligations on e-marketplace operators and DFSPs took effect on Jan. 11, or 15 days after its publication in the *Manila Bulletin* on Dec. 27.

On the other hand, RMC No. 8-2024 was issued and published on Jan. 15.

RATE OF WITHHOLDING TAX

In general, e-market place operators and DFSPs are required to withhold 1% tax on one half of their gross remittances to sellers and merchants of goods and services using their platforms or facilities. Remittances to sellers and merchants are not subject to withholding tax if (a) the annual total gross remittance for the past taxable year is P500,000 or below; (b) the cumulative gross remittance for the taxable year is P500,000 or below; or (c) the seller or merchant is exempt from or subject to a lower income tax pursuant to law or treaty.

COVERED TAXPAYERS

The following taxpayers are affected by the new regulations:

- **e-marketplace operators:** those that develop and/or provide a digital platform that connects online buyers with sellers to facilitate sales. These platforms handle various aspects, including processing payments, organizing product shipments, and providing post-purchase support. They oversee transaction processes and cover a range of services, such as online shopping, food delivery, and booking accommodations like resorts, hotels, and rental spaces in the Philippines. Essentially, e-marketplace operators offer digital platforms that serve as online hubs for various services and products. Examples are marketplaces for online shopping, food delivery platforms, and booking platforms for resorts, hotels, and similar lodgings.
- **DFSPs:** those that provide financial technology. These providers use internal systems, mobile applications, or similar methods to deliver various financial services to the public. These services include banking, insurance, payment and money transmission services, and other related financial offerings. In essence, digital financial service providers provide a broad range of financial solutions through digital platforms.
- **Sellers/merchants of goods and services:** local sellers/merchants for purposes of imposing creditable withholding tax.

OBLIGATIONS OF E-MARKETPLACE OPERATORS AND DFSPs

E-marketplace operators and DFSPs are required to carry out the following:

- Ensure sellers/merchants are registered with the BIR by collecting their Certificate of Registration (CoR or BIR Form No. 2303) before allowing them to use the e-marketplace or DFSP platforms.
- Request certification or documentation from sellers/merchants exempt from or subject to a lower income tax rate under existing laws or treaties.
- Mandate sellers/merchants to submit a copy of the BIR-received Sworn Declaration (SD); an automatic withholding tax deduction under RR No. 16-2023 shall apply for failure to submit SD and for failure to submit within the prescribed period.
- Monitor buyers/customers' gross payments, deduct the withholding tax as per RR No. 16-2023, and remit it to the respective sellers/merchants. If a payment reaches the seller/merchant through multiple channels, the last facility (e-marketplace operators and DFSPs) that has control of the payment before fully remitting it to the seller/merchant is responsible for withholding taxes under RR No. 16-2023.
- Issue the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) to sellers/merchants within the prescribed period stated in the Tax Code or upon their request.

OBLIGATIONS OF SELLERS/ MERCHANTS

Sellers/merchants using the e-marketplace facility or DFSP must register their business with the BIR and provide a copy of the BIR-issued CoR to the e-marketplace operator. All sellers/merchants currently not registered with the BIR but selling goods and services in an e-marketplace facility must register their businesses with the BIR within the transitory 90-day period.

If the expected annual gross remittance from e-marketplace operators or DFSPs is below P500,000, sellers/merchants need to submit a BIR-received SD to the e-marketplace or DFSP, declaring this limit. The BIR-received SD must be submitted before the 20th day of the first month of each taxable year.

Failure to submit the required SD will result in the automatic deduction of withholding tax by the e-marketplace operator or DFSP. If the annual gross remittances exceed P500,000 during the taxable year, sellers/merchants must promptly submit the required BIR-received SD to the e-marketplace operators or DFSPs.

If a seller/merchant is exempt from income tax or qualifies for a lower income tax rate under existing laws or treaties, they should provide the e-marketplace operator with a duly issued certification as evidence of their exemption or eligibility for the lower rate.

WHAT COMPRISES GROSS REMITTANCE?

The P500,000 gross remittance limit includes all payments received by an online seller/merchant from all e-marketplace operators and DFSPs. If any e-marketplace operator or DFSP finds that the total remittances on its platform surpass P500,000 at any point during the taxable year, the required withholding tax will be automatically deducted from the exceeding amount. This withholding tax will also apply to subsequent remittances.

COMMENCEMENT OF OBLIGATION TO WITHHOLD

E-marketplace operators and DFSPs' obligation to withhold commences:

1. Upon receipt by the e-marketplace operator and DFSP of the BIR-received SD indicating that the sellers/merchants have exceeded the P500,000;
2. When the seller/merchant failed to submit the required BIR-received SD to the e-marketplace operator or DFSP within the described period; or
3. When the e-marketplace operator or DFSP has determined that its total gross remittances to the concerned seller/merchant have exceeded the P500,000 threshold.

PAYMENTS/REMITTANCES TO SELLERS/MERCHANTS

Sellers/merchants are not allowed to receive payments in their personal accounts. All payments, remittances, or transfers must go to their BIR-registered tradename. The BIR will monitor the usage of accounts under the registered tradename of the seller/merchant.

TRANSITORY PERIOD

E-marketplace operators and DFSPs have a 90-day window from the issuance date of this circular on Jan. 15, or until April 14, to adhere to any additional policies or requirements set by the BIR. This transitory period allows them the opportunity to make necessary adjustments and ensure full compliance with the provisions outlined in RR No. 16-2023 before the official enforcement of the prescribed creditable withholding tax.

Existing unregistered sellers and merchants must fulfill the specified requirements detailed in this circular within the same 90-day period. Violators of any provision of RR No. 16-2023 are liable for penalties.

Truly, we are entering a new era of taxation for digital marketplaces, marking a crucial milestone in shaping the rules for the digital economy. This change signifies a shift in how these digital businesses are taxed, representing a significant step toward creating fairer taxation rules for everyone in and out of the digital landscape.

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.

PAUL VINCES C. LEORNA is a manager from the Tax Advisory & Compliance division of P&A Grant Thornton. P&A Grant Thornton is one of the leading audits, tax, advisory, and outsourcing firms in the Philippines, with 29 Partners and more than 1000 staff members. Tweet us: GrantThorntonPH, like us on Facebook: P&A Grant Thornton, **pagrantthornton@ph.gt.com** ***www.grantthornton.com.ph***