Nine more commodities cleared to adjust prices

By Justine Irish D. Tabile
Reporter

THE Department of Trade and Industry (DTI) said on Wednesday that it has approved price adjustments for nine more products that are subject to its suggested retail price (SRP) scheme.

Citing to the newly released SRP bulletin, Trade Assistant Secretary for Consumer Protection Amanda F. Nograles said the second batch of price increases follows an initial group of nine stock keeping units (SKUs) approved to adjust prices on Jan. 12.

She was speaking on the sidelines of the National Price Coordinating Council on Wednesday.

"These are not yet updated on the website as we are waiting on the manufacturers' signal that they have already implemented the increases," Ms. Nograles said.

"The nine price increases approved on the 17th are composed of four canned sardine products, one powdered milk product and four toilet soaps," she added.

The canned sardine adjustments were 14-15%, that of powdered was 9% or P70.75 increase, and the adjustment for the four toilet soaps was 10%.

The DTI is set to review 45 more SKUs which have pending price adjustment applications. The candidates for price hikes form the bulk of the 63 SKUs it said it will review for price increases this year.

The government had asked producers to hold off on increasing prices before the end of 2023, to minimize the impact on inflation.

Ms. Nograles said that the commodities to be reviewed are powdered milk, bread, instant noodles, bottled water, processed canned meat and canned beef, condiments, candles and batteries.

"(For the pending approvals), the largest price increase will be around P30, and the smallest price increase will be 30 centavos which is for instant noodles," she said.

"But our condiments will also have small increases (of) 55-60 centavos, some 55 centavos," she added.

The DTI said early this year that it is expecting price hikes to average 6% this year, against the 10% average increase in 2023.

The DTI is hoping to approve all pending price adjustment applications by March which is also when it is targeting to release the fully updated SRP bulletin.

Meanwhile, Ms. Nograles said that the department is studying a policy that will help address misinformation in cases of so-called "shrinkflation," — the practice of reducing the size of a product while maintaining the price.

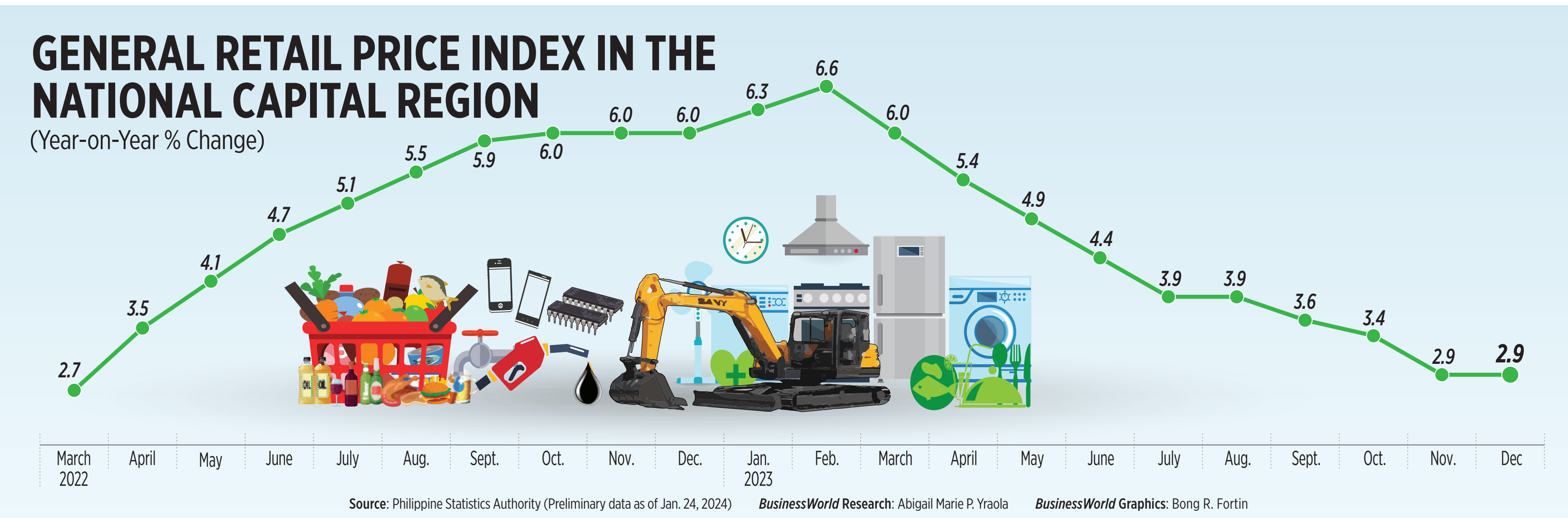
"We are currently studying whether we could come up with a policy which will require notification when there are changes in the weight of a product without changes in the price," she said.

"We observed that there is not much difference in the packaging of products with 2 grams difference or in the size of a 155-gram canned product versus 130 grams," she added.

"If the manufacturers are to implement this, they have to put the signage on the packaging, labeling and for retailers to put the notices on the shelves," she said.

"We are looking at implementing this through an administrative order," she added.

Aside from addressing shrinkflation, the DTI is also studying whether to release SRP bulletins only during calamities, with the market to be allowed to decide prices for the most part.



Sugar harvest likely to come in under target

By Adrian H. Halili *Reporter*

THE Sugar Regulatory Administration (SRA) said the Philippines is unlikely to hit its sugar harvest target during the current crop year.

SRA Administrator Pablo Luis S. Azcona told reporters that the harvest is on pace to come in below the 1.85 million metric ton target set before the start of the milling season.

The regulator had projected a 10-15% decline in raw sugar production due to El Niño.

"What is alarming also is that a lot of our farmers are complaining of a lower yield this year due to the weather patterns, and the south of Negros has been very dry in the last two or three months. So, we already see the effects," Mr. Azcona said.

"I don't think we will hit 1.85 million MT, the way it is going now," he added.

The government weather service, known as PAGASA (Philippine Atmospheric, Geophysical and Astronomical Services Administration), said that the effects of El Niño may run until the second quarter. An estimated 63 provinces will experience droughts or dry spells.

He said the preliminary estimate for the sugar harvest is now 1.75 million MT.

"During the review, we noted a drop. The estimate will come out soon but based on preliminary estimates, and of millers (output will fall) to about 1.75 million MT," he added.

Metro Manila retail price growth unchanged in December at 2.9%

RETAIL price growth in Metro Manila was 2.9% year on year in December, unchanged from a month earlier, the Philippine Statistics Authority (PSA) said on Wednesday.

Citing preliminary data, the PSA said the December general retail price index (GRPI) in the National Capital Region (NCR) was the lowest reading since the 2.7% reported in March 2022. Year-earlier price growth had been 6%.

Over the full year, GRPI growth averaged 4.5%.

The GRPI movements mirror the moderation noted in the consumer price index (CPI) inflation, according to ING Bank N.V. Manila Senior Economist Nicholas Antonio T. Mapa.

"This reflects a favorable base as well as improvements in the supply chain, resulting in a slower pickup in prices for both GRPI and CPI," he said in an e-mail.

Headline inflation in December eased to 3.9%, coming in within the 2-4% target range of the Bangko Sentral ng Pilipinas, amid slowing price increases for utilities and food.

Mr. Mapa also expects the downward trend of the index to continue at least for the first half of 2024.

Slower price growth was recorded in the heavily weighted food index which was up 4.4% in December, against 4.7% in November.

Price growth accelerated in chemicals, including animal and vegetable oils and fats, to 2.7% from 2.6%.

Price growth in miscellaneous manufactured articles was 1.4% in December, against 1.3% a month earlier.

Meanwhile, the mineral fuels, lubricants and related materials category arrested its price decline to -1.4% from -3.5% in November.

Other commodities that posted unchanged levels of price growth in December were beverages and tobacco (4.9%), crude materials, inedible except fuels (2.5%), manufactured goods classified chiefly by materials (1.9%), and machinery and transport equipment (1.3%). — **Mariedel Irish U. Catilogo**

Local government tax collections exceed P200 billion in 2022 — DILG

TAX COLLECTIONS at the local level exceeded P200 billion in 2022 following efforts to simplify business processes via digitalization, the Department of the Interior and Local Government (DILG) said.

It added that its digitalization program has a 60% compliance rate among local government units (LGUs), with 921 cities and municipalities deemed digital-ready. Of these, 799 have adopted the National Government's e-LGU system while the rest have their own systems, Secretary Benjamin de Castro Abalos, Jr. said at a Palace briefing.

Mr. Abalos said LGU tax collections had been P50 billion in 2018.

"It is really important to simplify the process (by going) digital," he said.

He said the number of registered businesses nationwide rose to 4.4 million in 2022 from 1.5 million in 2018.

In Metro Manila, all LGUs have put up one-stop shops for business permits, Mr. Abalos noted.

He said 14 out 17 LGUs in the capital region have automated their systems and institutionalized online tax payment. — **Kyle Aristophere T. Atienza**

OPINION

The game-changing RMC No. 5-2024

TAXWISE OR OTHERWISE
OLIVIA ERIKA SUSA

In September, I wrote about a Supreme Court (SC) case covering the sale of satellite communications services by a non-resident corporation, which may potentially have an impact on the taxation of digital services, or what seems (or seemed to be) a gray area in the Philippine taxation. In that case, the SC ruled that the service fees arising from the transmission of satellite signals from a satellite in outer space and Indonesian control center were considered as Philippine-sourced income and thus, subject to withholding taxes in the Philippines. The SC applied a two-tier approach in making its decision: (1) it determined the source of income, and thereafter, (2) the situs of the source. Considering that the income was only earned upon successful delivery of the satellite signals to the Philippine gateways, and that the equipment making up the gateways was situated in the Philippines, the situs for taxation purposes was deemed to be in the Philippines.

The decision was interesting, to say the least, primarily because it appeared to go against the Philippine tax laws on the situs of services – that income from services are only treated as sourced within the Philippines if these are performed locally. Just this month, the Bureau of Internal Revenue (BIR) released Revenue Memorandum Circular (RMC) No. 5-2024 on the basis of the above decision and laid out new cards on the table. Surprisingly and unfortunately, the RMC has not limited the application of the SC decision to transactions similar to satellite services, but has instead used it as reference to determine the taxability of cross-border services — including those that can be physically performed entirely outside the Philippines.

RMC No. 5-2024 provides a list of existing cross-border services which it deems to be "akin" to the transaction covered by the SC case. The list includes consulting services, IT outsourcing, financial services, telecommunications, engineering and construction, education and training, tourism and hospitality, and other similar services where the services are carried out abroad but the results are used, applied, consumed, or executed in the Philippines. Thus, such services are deemed subject to Philippine income tax/withholding tax and 12% VAT. I should mention that VAT was not even touched upon by the SC in the case.

The concept seems to have been anchored on the SC's decision where it held that for transactions conducted in different jurisdictions, "it becomes imperative to ascertain whether the stages occurring in the Philippines are so integral to the overall transaction that the business activity would not have been accomplished without them." On this basis, the RMC focuses on the "benefits-received" theory in determining whether the income is Philippine-sourced, where the place of utilization/consumption of the output or consultation now appears to be crucial in determining the taxability of a transaction. For this purpose, the RMC seems to consider the utilization or consumption as the economic activity that generates the income, thus giving rise to Philippine taxing rights on the entire amount of income without any clear separation or attribution of revenue for each country.

However, our tax law is not ambiguous on the taxation of services, especially those which arise from physical labor. Under Sections 42 and 108 of the Tax Code, it is very clear that service fees are only considered as sourced within the Philippines and subject to income tax and VAT if the services are performed within the country. Philippine tax literature is likewise replete with court decisions and even BIR rulings upholding that income arising from services rendered outside the Philippines are not subject to Philippine tax. The SC itself has repeatedly held that administrative rules must not go beyond the law that it seeks to implement. I am, thus, very curious on how the RMC has arrived at what seems to be a categorical imposition of Philippine tax on offshore services rendered to Philippine residents.

Interestingly, the RMC does not mention how it will be applied in instances where the counterparty is a resident of a tax treaty country, unlike the SC decision which takes cognizance of tax treaties (but were not applied since the case involved a non-resident entity from Bermuda, a country with no existing tax treaty with the Philippines). Tax treaties are bilateral tax agreements between countries. Generally, if certain conditions under the treaty are met, income derived by the foreign income earner from Philippine sources would be exempt from Philippine tax. Since tax treaties are international agreements which have the force and effect of law, I believe that even though the RMC is silent, residents of treaty countries may be protected from the RMC's ramifications if there is applicable treaty relief. Applying the RMC, however, affected foreign taxpayers will be subject to similar administrative requirements as other taxpayers seeking tax treaty relief.

The RMC likewise does not cover the tax implications if the situation were reversed — how do we apply it to export services by Philippine entities? For income tax purposes, it may not have a significant impact on domestic corporations which are taxed based on worldwide income. However, how would it affect resident foreign corporations which are only taxed on Philippine-sourced income? By applying the benefits-received principle in the RMC, does it mean that if a branch of a foreign corporation were to render services in the Philippines for a foreign customer, the situs of the services would likewise be in the foreign country where the customer is and therefore the revenue is not subject to Philippine tax? Similarly for VAT, can we consider the mere consumption of the output/product outside the Philippines as a basis for exemption?

Previously, the SC decision's potential impact was anticipated to possibly affect the taxation of foreign digital services consumed in the Philippines. Before the issuance of the RMC, digital services were considered a gap in our system, which pushed legislators to draft laws to address such shortcomings. With the RMC, it seems the enactment of a formal law taxing digital services, which Congress has been working on for the past few years, has become moot. Considering, however, that the RMC did not stem from a new law, there is an increasing concern among taxpayers that the rules provided would be applied retrospectively by the BIR, particularly in ongoing tax audits.

The issuance of this RMC has not only touched upon the digital realm, but has also trod outside Philippine waters. Non-residents who are currently providing or those planning to provide services to Philippine customers must take note of this, even if they have no physical presence in the Philippines. While we await (and hope for) further clarification, local income payors, as the agents who are primarily liable to withhold taxes on their payments to non-residents, must also now carefully review their transactions to ensure that they comply with the new requirements. The RMC is clear in its intention — it wants to change the rules of the game.

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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