Recto open to expanding free university program

FINANCE SECRETARY Ralph G. Recto declared his support for more investment in education, including the possible expansion of the program offering tuition-free state university education.

"I think we should expand... anything about education. We had a discussion with the Office of the Chief Economist and we keep on talking about 'Build, Build, Build,' which is correct... (but) I think we should also highlight education," Mr. Recto told reporters on the sidelines of an event on Tuesday.

His predecessor, former Secretary Benjamin E. Diokno, had argued against Republic Act 10931, or the Universal Access to Quality Tertiary Education Act of 2017.

Under the law, eligible students receive free tuition and are exempt from other fees charged by state universities and colleges, as well as local universities and colleges.

Mr. Diokno had called the program is fiscally unsustainable and "anti-poor." He instead recommended improving basic education and a means test to determine eligibility for free tuition.

Mr. Recto said the government should make space for education, calling it the "most important investment."

"No matter how much infrastructure you build, it's the people who will be using that infrastructure productively so if they're not educated, how will they use it productively?"

"Of course it's a mix of where we spend it — primary, secondary, tertiary? There's always going to be that debate, but what's important is that we spend more on education," he added.

The Constitution requires education to take up the largest share of the national budget.

This year's P5.768-trillion spending program sets aside P924.7 billion to education programs. The Department of Education itself will be allotted P758.6 billion. — **Luisa Maria Jacinta C. Jocson**

RTC injunction forces BoC to delay modernization program

THE Bureau of Customs (BoC) said it is delaying its modernization program pending the resolution of a legal challenge.

According to Customs Assistant Commissioner Vincent Philip C. Maronilla, the Philippine Customs Modernization Program (PCMP) is subject to an injunction "prohibiting us from pursuing any modification or change in our customs systems."

Speaking to reporters on the sidelines of an event on Tuesday, Mr. Maronilla said he was looking forward to "any advancement in our legal case (which) would allow the Bureau of Customs to move forward with the Customs Processing System (CPS), which he described as "the core component" of the modernization program.

The World Bank approved the project in 2020. It aims to streamline operations and processes through upgrading customs systems.

The project has a total cost of $104.38 million, of which the World Bank will be providing $88.28 million.

In a follow-up text, Mr. Maronilla said the injunction was issued by the Manila Regional Trial Court (RTC) in response to a petition against the cancellation of a P650-million computerization contract.

Mr. Maronilla said delays to developing the CPS would undermine the other components of the modernization, which would "not be beneficial to the Philippine government and the Bureau of Customs specifically."

He said the BoC will re-engage with the World Bank on the project once it settles its legal issues.

"This project has been delayed because of this case and we've tried to look at all other legal options available to us. And yet, we're still in a bind," he said.

"We do understand that the World Bank that they're also apprehensive about pursuing the CPS because of this legal case. So, I think the best way to move forward is to take a step back and re-engage when we're ready to do so."

Due to the delays, Mr. Maronilla said that the initial project completion target of 2025 is no longer attainable.

"I don't think it's right that we're borrowing money and paying for something where the important component which we really needed is not there," he said.

Meanwhile, Mr. Maronilla said the BoC is still working on its Customs laboratory project.

"That's still on the table. That's still being discussed. There are movements towards establishing the Customs laboratory in cooperation with the Japan International Cooperation Agency (JICA)," he said.

"But right now, no concrete plan is set other than close negotiations with JICA on how to move forward with funding and what are the other requirements needed for that to happen," he added.

He said the agency is hoping to have the agreement finalized by this year.

The laboratory will improve the BoC's technical capacity in classifying goods in aid of curbing smuggling, he added.

Mr. Maronilla expressed confidence in meeting the BoC collection target for February.

"Chinese New Year being early this year, it's going to affect about two weeks of our collections. So, even with the drop in volume, we're hoping to still have a surplus. We remain pretty confident that we'll be able to meet the February target," he said. — **Luisa Maria Jacinta C. Jocson**

Short-course certificates seen as key to expanding pool of skilled workers

THE Private Sector Advisory Council's (PSAC) jobs sector group pressed the government to expand certificate programs to train more skilled workers.

In a statement on Wednesday, the PSAC called for more accelerated certificate programs, particularly through the Technical Education and Skills Development Authority.

"These shorter courses effectively address the demand for skilled workers, empowering individuals for a wide array of employment opportunities," it said.

The Philippine Statistics Authority reported unemployment at 3.1% in December, against 4.3% a year earlier.

PSAC also backed the Marcos administration's scholarship program committing healthcare and digital industry scholars to working in the Philippines for two or three years. The program aims to "nurture local talent" and retain healthcare and digital industry workers within the country before they switch to overseas employment.

The PSAC also called for alternative solutions to improve seafarer training, such as sharing vessels across a number of maritime schools, who must currently maintain their own ships to offer students hands-on training. — **Revin Mikhael D. Ochave**

PEXELS-ALEXAS FOTOS

Benguet declared free of bird flu

THE Department of Agriculture (DA) said Benguet is free from type H5N1 Highly Pathogenic Avian Influenza (HPAI), or bird flu, after an outbreak that started in 2022.

The clearance was issued via Memorandum Circular No. 3, signed by Agriculture Secretary Francisco P. Tiu Laurel, Jr.

According to the guidelines issued by the World Organization for Animal Health, a country or area may be declared free of avian influenza 28 days after the completion of depopulation, disinfection of the last affected establishment, and no infections observed while under monitoring.

The DA said that more than 90 days have passed since the completion of its cleaning and disinfection operations, and no trace of the disease has since turned up.

"Continued disease monitoring and surveillance in the 1 kilometer (km) and 7 km surveillance zones surrounding the affected farms yielded negative test results for influenza type A virus," the DA said.

In 2022, the province recorded 11 cases of bird flu in Baguio and the municipalities of Atok, Buguias, Itogon, La Trinidad, Sablan, and Tublay, affecting duck, native chicken, layer chicken, gamefowl, broiler breeders, turkey, and goose.

The cases were found in February, March, May, June, July, and September 2022.

It added that Benguet province, DA regional field offices, and the Bureau of Animal Industry had depopulated affected farms, conducted cleaning and disinfection, and restricted the movement of poultry.

"Prior to the confirmation of the first case of HPAI H5N1 in Benguet, the province had been free from avian influenza in poultry," it added.

The DA has also declared the provinces of Pangasinan, Aurora, Quezon, Capiz, Batangas, Ilocos Norte, Ilocos Sur, Rizal, Cotabato, Isabela, and Maguindanao del Sur as avian influenza-free. — **Adrian H. Halili**

Demand for OFWs seen growing among Philippine employers

MORE Philippine employers are recruiting overseas Filipino workers (OFWs) for leadership roles, offering attractive pay and bonuses, recruiting firm Robert Walters Philippines said.

"One growing trend we've seen is companies sourcing talent to fill leadership roles through our Balik Bayan campaign, which connects companies with skilled Filipino professionals based abroad with valuable, overseas work experience," Alejandro Perez-Higuero, director at Robert Walters, said in a statement.

Robert Walters said in its Global Salary Survey 2024 that the shift in demand is due to the projected growth of shared service centers in the Philippines with more international companies establishing hubs in key cities like Metro Manila and Cebu.

"With more shared services centers sprouting up in the country, Robert Walters expects that this will drive higher demand for business heads to lead the hub," Robert Walters said.

"This trend will also lead to the increasing demand for Filipino professionals with overseas experience in leadership roles," it added.

Robert Walters said that employers view workers with international experiences as helping drive innovation and competitive advantage as the businesses become more globalized.

"The structure of such centers and the talent that leads them will have a greater impact on business operations in the region," it said.

"In 2024, companies will also invest more on automation and digitalization. They will look to develop and use technologies that can help them lower costs, and raise productivity and efficiency," it added.

As a response to the growing demand, Robert Walters said that employers now are poised to offer substantial salary increases.

In its survey, Robert Walters found out that employees with niche skill sets can expect an average of 15%-25% salary increases, while job movers with niche skill sets can expect up to 30%. — **Justine Irish D. Tabile**

OPINION

Intra-allocation of expenses for banks and financial institutions not valid

TAXWISE OR OTHERWISE
CESAR NICKOLAI SORIANO, JR.

The Supreme Court, time and again, has held that banking institutions are imbued with public interest. Banking is also one of the most regulated industries, if not the most. Under Philippine tax laws and regulations, a bank operating in the Philippines has two separate units, the Regular Banking Unit (RBU) and Foreign Currency Deposit Unit (FCDU), with separate books of account and separate registrations with the Bureau of Internal Revenue (BIR).

Income derived from the RBU is generally subject to the Regular Corporate Income Tax (RCIT) of (now) 25%. In contrast, income from the FCDU is categorized into the following:

1. Offshore income — or those derived from non-residents (including FCDUs of other banks) which is treated as exempt from tax;

2. Onshore income — or interest income derived from residents which is subject to 10% Final Withholding Tax (FWT); and

3. Others — for those not classified as Onshore or Offshore, which is also subject to the RCIT.

On March 15, 2011, the Department of Finance (DoF) issued Revenue Regulations (RR) No. 4-2011 providing for the rules on the allocation of costs and expenses among income earnings of banks and other financial institutions. Put simply, this RR required that costs and expenses must be allocated between the RBU and FCDU of a bank, where only the costs and expenses that may be attributed to the operations of the RBU will be deductible in computing the income tax liability. The method of allocation to be utilized by the taxpayer is as follows:

1. Specific Identification — where the costs and expenses specifically identified as pertaining to the RBU or the FCDU are declared as costs or expenses of that unit; and

2. By allocation — where common expenses that cannot be specifically identified for a particular unit shall be allocated based on the percentage of gross income earnings of a unit over the total gross income of both units, including those which may be exempt from tax and those subjected to FWT.

The RR prescribed the same method of allocation for other financial institutions that have regular income, "tax-paid" income (or those subject to FWT), and those that are exempt; or in the case of a bank, an intra-RBU or intra-FCDU allocation.

Essentially, the RR limited the deductibility of ordinary and necessary expenses to gross income or revenue which may be subject to RCIT, and expenses that are then allocated to FCDUs or other types of income would no longer be deductible. The RR effectively provided a different treatment for the expenses of banks and other financial institutions which cannot be found in the Tax Code nor applied to other taxpayers which also derive tax-paid income and income exempt from tax.

On Dec. 1, 2021, the Supreme Court, in the case of Department of Finance vs Asia United Bank, et al. (G.R. Nos. 240163 and 240168-69), held that the above-mentioned RR is void and invalid.

According to the Court, the RR not merely provided an interpretation, but effectively modified the Tax Code it seeks to implement. The Court said "taxpayers are allowed to adopt their accounting methods and periods, the Commissioner of Internal Revenue (CIR) may only prescribe an accounting method if any of the following conditions exist: (a) no accounting method has been employed by the taxpayer; or (b) while an accounting method has been employed, it does not clearly reflect the income of the taxpayer."

The Court found that none of these conditions were present and held that the RR's allocation rules essentially prescribed a uniform accounting method on banks in determining their deductions and taxable income and curtailed their right to adopt their own accounting methods.

The Court went further to explain that "while the CIR is empowered to distribute, apportion, or allocate gross income or deductions under Section 50 of the Tax Code, the same is applicable only if they determine that such distribution, apportionment, or allocation: (a) is necessary in order to prevent evasion of taxes; or (b) clearly to reflect the income of organizations, trades, or businesses." Neither one of these conditions was present in the taxpayer's case. Moreover, this power of the Commissioner to allocate expenses applies only to allocations between two or more organizations, trades or businesses. The two units of the bank (despite having separate certificates of registration and books of account as per BIR rules) are part of a single bank or financial institution. Thus, Section 50 cannot be invoked as the statutory basis for RR No. 4-2011.

Moreover, the Court held that the prescribed allocation limited the taxpayers' right to claim deductions under Section 34 of the Tax Code by requiring the aforesaid allocation of costs and expenses of banks with respect to its RBU and FCDU operations and as to its "tax paid income" and "tax-exempt income" activities. The allocation method, thus, effectively imposed an additional requirement for deductibility of expenses which is not provided under the Tax Code.

The Court concluded that common expenses of the banks and other financial institutions should be deductible in full against their income subject to regular tax. As currently worded, all expenses are deducted directly and in full without any allocation or attribution between the different income streams. There is no requirement to allocate the common expenses to such taxpayers' income subject to FWT or exempt income. There is no distinction for common expenses among income streams, as these are, after all, common expenses. Thus, there can be no allocation of expenses between different incomes in the same trade or business unit.

This decision of the Court provides uniformity of treatment of the expenses across taxpayers who are also earning tax-paid income and income exempt from tax and does not treat the banking industry and other financial institutions to a separate set of rules applicable only to them.

As was held by the SC in the same case, the implementing rules and regulations of a law cannot extend the law or expand its coverage, as the power to amend or repeal a statute is vested in the legislature.

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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