NEDA cites need to lower telco barriers to entry

THE National Economic and Development Authority (NEDA) called for reforms to the telecommunications industry that reduce barriers to entry, promote open access, and enhance spectrum management.

"The telecommunications sector in the Philippines is currently at a crossroads, marked by robust demand against a backdrop of challenging geography and market concentration," it said in a policy note on Wednesday.

The NEDA said that the industry faces challenges such as high costs, slow broadband speed and inadequate coverage.

"The impact of insufficient data transmission infrastructure spans multiple sectors such as education, business process outsourcing (BPO), healthcare, and disaster response," it added.

According to Ookla, the Philippines was 64th among 145 countries in terms of mobile internet speed and 48th out of 181 in fixed broadband speed as of November.

"A significant concern is the growing digital divide, especially among lower-income groups, signaling an urgent need for policy intervention," it added.

NEDA cited the franchise and licensing system as an area needing reform.

"The current franchise and licensing process is a significant barrier to new entrants. Reforming this regime, particularly through the removal of the franchise requirement, will simplify market entry and enhance sector competitiveness," it said.

"Streamlining these processes will create a more dynamic telecommunications environment," it added.

The policy note also emphasized the need for open access.

"Current market dynamics, marked by high entry barriers and limited competition, necessitate legislation for an open access framework," it said.

"This policy will allow new entrants to challenge the dominant market players, leading to increased efficiency, reduced costs, and improved service quality. Open access is essential to disrupt the existing market structure, mitigate monopolistic practices, and foster innovation," it added.

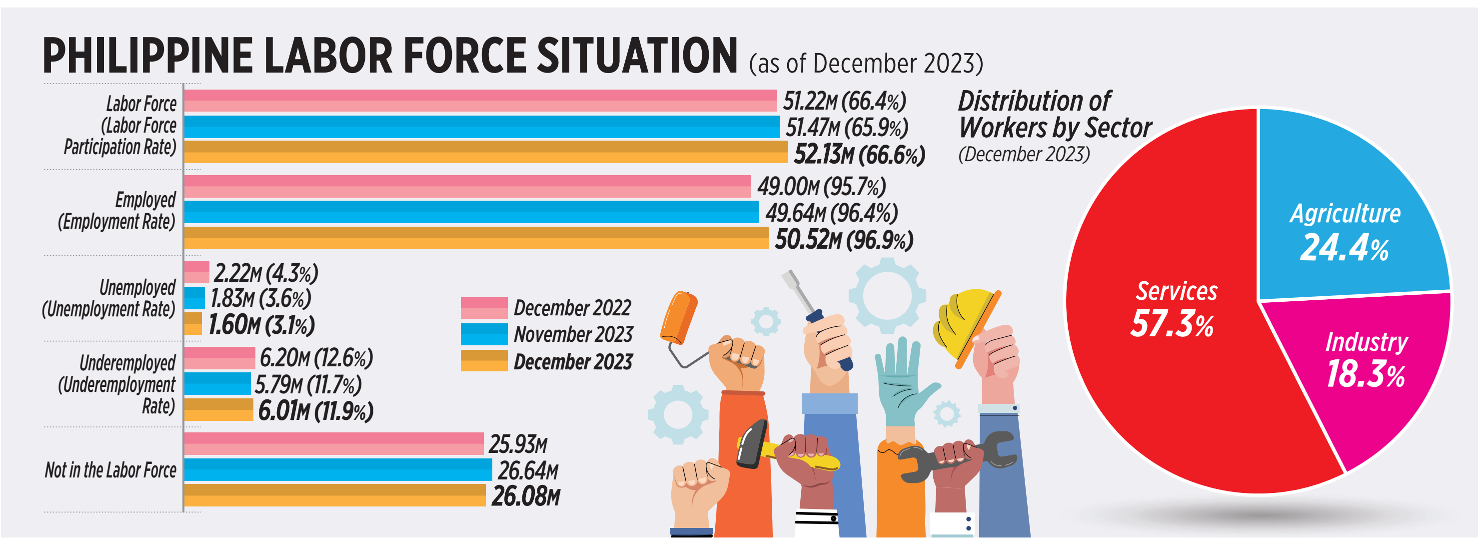
Meanwhile, NEDA said that the current policies on spectrum management are "unclear and fragmented."

"A new legislative framework is imperative to optimize this finite resource, ensuring transparent allocation and efficient use. This approach will enable new technologies and services, contributing significantly to the sector's growth," it said.

It recommended revising spectrum user fees and introducing competitive auctions for spectrum allocation, among others.

"The reforms are designed to bridge the digital divide, enhance service quality, and ensure the Philippines keeps pace with an increasingly digital global economy," NEDA said.

"The ultimate goal is to cultivate a telecommunications sector that supports the socioeconomic advancement of the Philippines," it added. — **Luisa Maria Jacinta C. Jocson**



ARTA backs pre-approval system to address long processing times

THE Anti-Red Tape Authority (ARTA) said a pre-approval system for business permits may help in reducing application processing times, leading to a more attractive environment for potential investors.

"What we are suggesting is to have a pre-approval system, meaning the agencies will approve the business permits first with the undertaking that they will submit the pending requirements, say in 20 days, or risk revocation," ARTA Secretary Ernesto Perez told reporters on Wednesday.

"This is what other countries do; they approve the permits first or even allow them to operate as long as it is not critical," he added.

Earlier this year, ARTA made the commitment to reduce processing time to 10 minutes. The agency has since found processing times in some local government units (LGUs) of as long as two days.

"But there are LGUs that can issue permits in 20 minutes to 30 minutes, so 10 minutes is doable, just like how it is in Singapore," Mr. Perez said.

He said that reducing the processing times could be achieved via LGU compliance with Republic Act 11032 or the Anti-Red Tape Act, which requires all LGUs to set up electronic business permit one-stop shops.

"We already have the operations manual, and we also have this joint memorandum circular with the Department of Information and Communications Technology, Department of Interior and Local Government (DILG) and Department of Trade and Industry," he said.

"What the LGUs only need to do is to follow the guidelines that we have set and if there are still challenges, we are always ready to help them to comply," he added.

Of over 1,000 LGUs, only 26 are confirmed to have complied with the law, according to ARTA's Compliance Monitoring and Evaluation Office.

"But the data from the DILG showed that there were more compliant LGUs; that is why we received a directive from the President to harmonize our figures," he said.

"We will be conducting a joint inspection to validate the reports of those LGUs that are saying that they are fully automated, and we are targeting to do that within the year," he added.

"Businessmen, when they know that it is easy and fast to get business permits and licenses from a certain LGU, they themselves will voluntarily register their business there and pay the right amount of taxes," he added. — **Justine Irish D. Tabile**

House think tank want rules to govern spending, debt issues

THE GOVERNMENT needs to set up rules that will govern spending and debt, according to a think tank attached to the House of Representatives.

"To avoid excessive spending and debt build-up, it is important to consider having a rule-based framework or fiscal responsibility framework to guide the government in setting fiscal targets, identifying strategies, and ensuring the attainment of a sound public financial system," the Congressional Policy and Budget Research Department (CPBRD) said in a position paper.

The National Government's (NG) outstanding debt as a share of gross domestic product (GDP) eased to 60.2% at the end of 2023, the Bureau of the Treasury said last week.

The NG's outstanding debt hit a record P14.62 trillion at the end of 2023, up 8.92% from a year earlier, according to the Treasury. — **Beatriz Marie D. Cruz**

FULL STORY

Read the full story by scanning the QR code <tinyurl.com/29lnvkjl>

Miners say attracting investment to require additional incentives

By John Victor D. Ordoñez
Reporter

MINERS said more fiscal incentives are needed to attract investment and called on Congress to ensure that any mining fiscal regime will raise the industry's competitiveness.

"The inclusion of mining in Investment Priority Projects and the granting of fiscal incentives or novel mining projects, particularly those that will significantly improve employment or the economy in the area" were among the industry's priorities, Michael T. Toledo, chairman of the Chamber of Mines in the Philippines, said in a Viber message.

He also urged Congress to pass a bill creating mining economic zones to regulate mining projects.

State Department Undersecretary for Economic Growth, Energy, and Environment Jose W. Fernandez has said Washington is hoping to establish more partnerships with the Philippines involving the processing of nickel, cobalt and copper.

He said that high energy costs are keeping miners and semiconductor companies from investing in the Philippines.

Miners are open to working with the US to enhance domestic mineral processing and boost ore exports, Mr. Toledo said.

"There are no ongoing talks of tie-ups yet as we know it and we have yet to see the details of this proposal," he said.

"Nevertheless, any discussion on the expansion of our mineral export markets, be they ore or processed, is most welcome."

He added that all supply agreements from Philippine ore exporters covered by contracts must still be honored following this development.

The House of Representatives in September approved on third and final reading a bill that seeks to establish a new fiscal regime for the mining industry through the imposition of margin-based royalties and a windfall profit tax on large-scale miners.

Mr. Toledo said the current mining fiscal regime is more burdensome than those of Indonesia, Chile, Peru and South Africa.

"The addition of income-based taxes being proposed in HB 8937 will make the structure (of mining taxes) more palatable as higher taxes will be paid at higher operating margins when metal prices are high," he said. "And conversely, lower taxes when metal prices are low or when operations are not profitable."

Mr. Toledo said the government must harmonize national and local laws on mining and taxation.

Under House Bill No. 8937, large-scale metallic mining operations inside mineral reservations will pay the government 4% of their gross output.

On the other hand, small-scale miners will be charged royalties equivalent to a 10th of 1% of their gross output.

OPINION

When the BIR says 'mine' to online sellers

TAXWISE OR OTHERWISE

EDMUND JAMES E. OPINIO

Digital services have grown significantly in the past years especially during the pandemic when mobility was restricted. The growth was spurred by the rise of online marketplaces, which have given traditional brick and mortar stores a run for their money. Readers who are patrons of these digital marketplaces would be familiar with the practice of declaring "mine" to signify a buyer's intent to purchase a product from an online seller.

Late last year, the Bureau of Internal Revenue (BIR) issued Revenue Regulations (RR) No. 16-2023, imposing withholding taxes (WHT) on online sellers. This RR was further clarified by Revenue Memorandum Circular (RMC) No. 8-2024, which was issued last month. This time around, it is BIR's turn to say "mine" with regard to withholding taxes that the agency aims to collect on the transactions conducted through electronic marketplaces (e-marketplaces) and digital financial services platforms (DFSPs).

WHAT ARE E-MARKETPLACES AND DFSPS?

The RR defined e-marketplace as a digital service platform whose business is to connect online buyers with online sellers; facilitate and conclude the sales; process the payment of the products, goods or services through such digital platform, such as but not limited to the (a) marketplace for online shopping; (b) food delivery platform; (c) platform for booking of resort, hotel, and other similar lodging accommodations; and (d) other similar online marketplaces.

The RR covers all the items above, including the use of other modes of payment such as credit cards, e-wallets of the platforms, and other mobile payment services.

On another hand, a DFSP pertains to the financial technology provided by digital financial services providers which are capable of offering a wide array of services of a financial nature that are made available to the public through the internet, mobile application, or other similar means.

HOW WILL THE WHT APPLY?

Under the RR, remittances of e-marketplace operators and DFSP to online sellers/merchants are subject to 1% WHT. Such a rate applies to one-half of the gross remittances by the former to the latter.

Gross remittance refers to the total amount received by an e-marketplace operator or DFSP from a buyer for the sales paid to the seller through the platform or facility (i.e., e-wallet or other similar modes of payment and money transmission) of the former. Further, it excludes sales returns/discounts, shipping fees, value-added tax (VAT), and any consideration/fee for the use of the e-marketplace and/or digital platform.

However, the WHT obligation does not apply (1) if the annual total gross remittances for the past year has not exceeded P500,000; (2) if the cumulative gross remittances in a taxable year has not exceeded P500,000; or (3) if the seller/merchant is exempt from or subject to a lower tax rate pursuant to any existing law or treaty.

WHAT ARE THE OBLIGATIONS OF SELLERS/MERCHANTS?

First, sellers/merchants must register their business with the BIR and submit a copy of their Certificate of Registration (CoR) to the e-marketplace operator and DFSP prior to the use of the latter's online facility.

Second, they need to submit a BIR-received Sworn Declaration (SD) to the operator/DFSP declaring that the total gross remittance to be received from the e-marketplace operators or DFSP does not exceed P500,000. Such SD must be submitted to the operators/DFSP upon application as a new seller (or within the 90 days from Jan. 15 in case of existing sellers). Thereafter, the SD must be submitted no later than Jan. 20 annually. However, should the gross remittance exceed P500,000 at any time during the year, the SD must immediately be submitted to e-marketplace operators or DFSPs.

Finally, if the seller/merchant is exempt from tax or subject to a lower rate pursuant to existing law or treaty, it must furnish the DFSP or e-marketplace operator with a certification as proof of the exemption or entitlement to lower rate.

OBLIGATIONS

Aside from the obligation to withhold applicable taxes before remitting the payments to sellers, e-marketplace operators and DFSPs must ensure that all sellers are registered with the BIR by requiring the submission of their CoR (BIR Form 2303) prior to allowing them to use their facility.

They must also request certification of entitlement to exemption or lower tax rate for sellers who wish to avail of such incentives. They are also bound to require sellers to submit a copy of the BIR-received SD. Without the certification, they must automatically apply the withholding tax.

Last, they are required to provide withholding tax certificates (BIR Form 2307 using WI760 or WC760 as the Alphanumeric Tax Code or ATC) to sellers as proof of withholding.

COMMENCEMENT OF WITHHOLDING OBLIGATION

The RR provides three instances when the WHT obligation applies. First is upon receipt of the BIR-received SD indicating that the sellers have exceeded the P500,000 remittance threshold. Second is when the seller fails to submit the required BIR-received SD within the prescribed period. Third is when the e-marketplace operator or DFSP has determined that its total gross remittances to the seller have exceeded P500,000.

In the event that the gross remittances exceed P500,000 at any point during the year, the withholding automatically applies on the remittances which exceed the threshold.

TRANSITORY PERIOD

E-marketplace operators and DFSPs have 90 days from Jan. 15 to comply with the requirements under the RR prior to the actual imposition of the WHT.

WHAT'S NEXT FOR ONLINE SELLERS?

Contrary to popular belief, this tax on online sellers is not a new tax. Online vendors are subject to income tax on their taxable income. Transactions with domestic vendors are generally subject to creditable withholding tax depending on the nature of the income and classification of the payor based on existing rules. The RR merely implements the government's right to collect a portion of these income taxes in advance by including the online retail industry in the withholding tax system.

However, online sellers may erroneously consider this as an additional cost. They may then opt to pass on this tax to the customers through a price increase. As such, it is the buying public who may ultimately bear the cost. Nonetheless, looking at the bigger picture, this withholding tax on online sellers will help the government amplify its revenue collection efforts. However, in order for these initiatives to really make a difference in the government collection efforts, it is crucial for online sellers to register their businesses with the BIR and pay their taxes properly.

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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