

FIRB reviewable threshold hike to P15B seen improving EoDB

THE Fiscal Incentives Review Board (FIRB) decision to raise the threshold of investment projects subject to its review to P15 billion from P1 billion previously has been pitched as an improvement to the ease of doing business (EoDB), by pushing more project approvals down to the investment promotion agency (IPA) level without delays imposed by a board review.

In an FIRB resolution dated Feb. 2 but released this week, the FIRB said the new threshold was adopted to facilitate EoDB by giving IPAs more leeway to approve projects falling under the threshold.

Under the resolution, all applications for tax incentives on projects involving investment capital of P15 billion or more are reviewable by the FIRB, with IPAs retaining approval authority for investments under the threshold.

Finance Secretary Ralph G. Recto, who chairs the FIRB, said in a statement that the new resolution will help improve competitiveness.

"IPAs play a vital role in attracting more productivity-enhancing investments, and we will continue to support them by acting fast on measures that will further promote ease of doing business and cultivate an investment-friendly climate," Mr. Recto said.



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The new resolution was also welcomed by the Philippine Economic Zone Authority (PEZA) and business chambers, who expect it to fast-track project approvals.

PEZA Director General Tereso O. Panga said that the new process will empower IPAs to evaluate and approve projects.

"This will definitely strengthen PEZA and the IPAs' capacity to promote and facilitate investments given the faster gestation period in registering projects, particularly big-ticket investments," Mr. Panga told *BusinessWorld* via Viber.

"With this power restored to the IPAs, this reform will not only enhance EoDB and investor trust and confidence in the Philippines, but also accelerate the implementation of projects that can generate the much needed jobs, exports and other economic

opportunities for the country," he added.

British Chamber of Commerce of the Philippines Executive Director Chris Nelson said by telephone that the new resolution is "a very positive development."

"It will allow those IPAs greater flexibility in what they can do, because obviously, now the amount is significantly higher," Mr. Nelson said.

He said the new policy could further help attract more big-ticket investments by coupling it with measures that will ease doing business in the Philippines.

"This is one move along with others, right? Of course, we, along with many of the business groups, have advocated for removing or further reduction of the economic barriers, right? But, yes, this will help," he said.

He added that there is a need for investors to see constant ef-

fort from the government to improve ease of doing business to compete with other countries in Southeast Asia.

The Philippine Chamber of Commerce and Industry also welcomed the new policy and gives IPAs more authority.

"This would mean more projects will have to be decided quickly at the IPA level without going through the approval of FIRB, which became the bottleneck for incentives," PCCI President Enunina V. Mangio said in a statement on Monday.

"One of the bottlenecks we have in government is the ease of doing business. We need to streamline our processes and policies so we become an attractive investment destination," she said, citing the need to catch up with ASEAN neighbors.

She added that the policy could also help encourage more investors to participate in big-ticket projects through public-private partnerships (PPP).

The FIRB said that the revised threshold aligns with the PPP Code of the Philippines, which states that PPP projects with a cost of P15 billion and higher are reviewable by the National Economic and Development Authority Board at the recommendation of the Investment Coordination Committee. — **Justine Irish D. Tabile**



PHILIPPINE STAR/RUSSELL PALMA

UNDER Republic Act No. 11976 or the Ease of Paying Taxes Act, taxes may be filed and paid anywhere, whether manually or electronically.

Revenue regulations for EoPT expected by April

THE Bureau of Internal Revenue (BIR) said it will release seven revenue regulations (RR) to clarify provisions of the Ease of Paying Taxes (EoPT) Act by April.

BIR Deputy Commissioner for legal Marissa O. Cabreros told the House ways and means committee on Monday that "Seven RRs are in the pipeline to implement the Ease of Paying Taxes Act, and they are arranged per topic."

The RRs for Republic Act (RA) No. 11976 or the Ease of Paying Taxes Act are scheduled for release on April 21, Ms. Cabreros told the legislators.

RRs are issuances signed by the Finance Secretary, on the recommendation of the BIR Commissioner, specifying rules and regulations for the effective implementation of the National Internal Revenue Code (NIRC).

President Ferdinand R. Marcos, Jr. signed the Ease of Paying Taxes Act in January. It seeks to amend provisions of the NIRC to simplify and digitalize the tax collection process.

The law is expected to "encourage more taxpayers to enter into and comply with the tax system by streamlining processes and minimizing the burden on taxpayers, thereby increasing the country's revenue collection," the Department of Finance said.

It also seeks to classify taxpayers into micro, small, medium, and large based on their gross sales. It would also classify value-added tax refund claims into low-, medium-, and high-risk.

The bureau has also yet to release revenue memorandum orders (RMOs) and revenue memorandum circulars (RMCs) to ensure the streamlined implementation of the law, Ms. Cabreros added.

"As early as now, while the RRs are being drafted, we have RMOs and RMCs in the pipeline," she said.

After releasing its RRs, the BIR will also conduct roadshows to discuss with taxpayers their concerns or queries, according to Ms. Cabreros.

"Commissioner (Romeo D. Lumagui, Jr.) himself will go to all our revenue regions," Ms. Cabreros told the panel. "We want to go down to the taxpaying public to talk to the BIR."

The bureau will also release uniform guidelines for BIR personnel to avoid diverging interpretations of the law.

Under RA 11976, taxes may be filed and paid anywhere, whether manually or electronically.

The BIR is studying a mechanism in which taxpayers can process their electronic Certificate Authorizing Registration (eCAR) at the respective regional district office (RDO) where personal or real property is located, according to Ms. Cabreros.

"We have to respect the file-and-pay anywhere (provision), but we have to have an internal mechanism where the processing of the eCAR should be where the property is located," Ms. Cabreros said.

An eCAR would confirm whether requisite tax has been paid, and is necessary for the transfer of ownership of real or personal property.

"The RDO that received the return and the payment should immediately transmit the documents (and) information to the RDO where property is located to immediately process the eCAR," Ms. Cabreros said. — **Beatriz Marie D. Cruz**

New Clark City to host \$152-M food logistics hub

THE Department of Trade and Industry (DTI) and the Clark International Airport Corp. (CIAC) have signed an agreement on Monday to build a \$152-million food hub in New Clark City.

At the signing event, the Trade Secretary Alfredo E. Pascual said that the Clark National Food Hub brings forward the DTI's food logistics strategy centered on improving distribution networks.

"This memorandum of understanding (MoU) will accelerate the government's efforts to make food available, accessible, and more affordable to the consuming public," Mr. Pascual said.

"It will be a catalyst in the region for developing a food and agro-industrial corridor that we

hope to expand to Region 1 and possibly Region 2," he added.

Under the MoU, the DTI is responsible for assisting the parties in attracting investment for the construction and management of the food hub.

Aside from the DTI, the Department of Agriculture (DA) is also a signatory to the MoU and is tasked to leading the development of a policy framework, raising public investment, and arranging support services for domestic and export-oriented businesses.

The DA pre-signed the MoU prior to the signing ceremony on Feb. 19 in Makati.

One of the flagship projects of the CIAC, Clark National Food Hub is a 64-hectare agriculture

trading hub within the Clark Civil Aviation Complex.

CIAC President Arrey A. Perez said the food hub's feasibility study will be completed by the third quarter, aided by the Public-Private Partnership (PPP) Center and the Asian Development Bank.

"We are making much headway with the PPP Center in completing the project preparation stages, and working round the clock to identify key investors, major food conglomerates, and other private-sector partners so we can break ground soonest," Mr. Perez said.

With the completion of the study, the CIAC will be open the project for bidding by late this year and award the project next year.

CIAC has six other projects — the Clark Entertainment and Events Center, Urban Renewal and Heritage Conservation Program, Clark Direct Access Link, Entertainment and Events Center Connector Road, the new CIAC headquarters and a second runway for the airport.

"I think these projects will have an estimated cost of about P30 billion," Mr. Perez said, noting that the first phases of the projects are targeted for completion by 2028.

The infrastructure projects, such as those that involve roads and utilities, are targeted for completion by next year. — **Justine Irish D. Tabile**

OPINION

New rules for tax treatment of foreign currency transactions

LET'S TALK TAX RICHARD R. IBARRA

It is common for taxpayers dealing with foreign entities, whether for purchases or sales, to have transactions in foreign currency. Therefore, it is important for taxpayers to be guided by the rules governing the use of forex rates in business transactions.

Recently, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) 12-2024 setting new guidelines on the tax treatment of foreign currency transactions. This circular serves as a guide for taxpayers to navigate any conflicts that may arise between accounting rules and tax rules. Note, however, that the scope of the RMC excludes banks and other financial institutions and those using functional currencies other than the peso.

To highlight the key points and consequences of the new rules, taxpayers should evaluate and consider the following:

EXCHANGE RATE AT THE INITIAL RECOGNITION OF THE TRANSACTION.

Taxpayers must use the spot rate on the transaction date at the initial recognition of the foreign currency-denominated transactions.

When using the spot rate, taxpayers have the flexibility of deciding which spot rate to use, such as open, close, high, low, weighted average, etc. It is crucial, however, to adopt the spot rate consistently, both for financial and tax reporting purposes.

Note that the use of the spot rate at the date of the transaction, as prescribed in the RMC, aligns with the provisions outlined in the accounting

rules, Philippine Accounting Standard (PAS) 21.

It is worth noting that the standard also allows the use of a rate that approximates the actual rate at the transaction date, such as employing an average rate for a week or a month for all transactions within that period. However, the RMC, under Q&A No. 10, explicitly does not permit the use of average monthly exchange rates for tax purposes.

Hence, taxpayers using average weekly or monthly rates, or any rates other than the spot rates required by the RMC, will need to convert all foreign currency transactions based on the specifications of the RMC. This might necessitate a potential reconfiguration for those taxpayers using the accounting system to align with the requirements of the RMC, which may entail significant costs. For that reason, they are hoping that the BIR reconsiders its position and allows taxpayers to still use average weekly or monthly rates.

SOURCE OF FOREX RATES FOR THE TRANSACTION.

The RMC also prescribed that the source of the published spot rate be the Banker's Association of the Philippines (BAP).

Should the BAP published rates prove impractical or not feasible, taxpayers have the option to use the other published rates, such as those from the Bangko Sentral ng Pilipinas (BSP),

Bloomberg, and Reuters, among others. However, it is important to note that these alternatives would be subject to the following conditions:

i. Submission of the notarized sworn statement indicating the source of the forex rate, the reason for using the said source, and allowing access to the BIR of the day-to-day forex rates during their audit for the taxable year, within 30 days prior to the start of the taxable year.

ii. The source of the forex rates used, such as the URL/source of day-to-day forex rates used for the taxable year, together with other supporting documents, must be available during the BIR audit.

Note that the selection of the forex rate is irrevocable and must be used consistently both in recording for financial accounting and tax reporting purposes for at least one taxable year.

PAS 21, on the other hand, does not prescribe the source of the forex rate to be used by entities for financial reporting purposes. Currently, the prevailing practice among taxpayers is to commonly use the BSP rate on the foreign currency translation of their transactions.

Moving forward, the taxpayers must determine whether to shift to BAP forex rates or continue their existing source of forex rates, as long as it is acceptable to the BIR. Should there be a transition, this may necessitate modifications to the current accounting system used by taxpayers.

Taxpayers opting to retain their current source of forex rates are obligated to notify the BIR 30 days before the commencement of the taxable year.

NETTING OR OFFSETTING OF FOREX GAINS OR LOSSES IS NOT ALLOWED.

The practice of offsetting or netting forex transactions is explicitly prohibited. It is mandatory to present the gross amounts of gain and loss separately in the income tax return.

Nevertheless, for tax calculations, the deduction of forex losses is still allowed.

Please note that the presentation of forex gains and losses required under the RMC is not consistent with the presentation under PFRS wherein forex gains or losses may be presented on a net basis.

The RMC would require the taxpayers to maintain separate GL accounts for both forex gain and forex loss, covering both realized and unrealized transactions. However, it has been observed that it is a common practice for some taxpayers to consolidate these transactions into a single account for forex gain or loss and opt for offsetting them.

Therefore, the taxpayers would need to modify their chart of accounts and, for some, adjust their accounting system to align with the requirements of the RMC.

With the release of RMC No. 12-2024, the BIR has established uniform guidelines regarding the forex rates to be used in recording and reporting foreign currency transactions for tax purposes. However, some taxpayers are still hoping that the BIR considers providing a transitory provision and clarifies whether such rules under this RMC apply to the taxable year 2023, which is due for filing in April. Moreover, the RMC

requires that a sworn statement be submitted within 30 days prior to the start of the taxable year by the taxpayer who will use forex rates other than the BAP rate. Without this transitory provision, it seems that for taxpayers using the calendar year as their taxable year, the notification for the year 2024 has lapsed.

In formulating the transitory provision, the BIR should further assess the impact of the RMC on the added cost to the taxpayer as well as on their completed transactions to prevent potential confusion in the future BIR audit.

The release of this RMC is a welcome development to clarify the distinction between the PFRS and tax treatment. BIR's clear guidance on transactions involving foreign currency translation for taxpayers is a major step forward in encouraging their adherence to the guidelines and will greatly reduce their potential exposure in the future.

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