

# House passes CREATE MORE legislation on final reading

By Kenneth Christiane L. Basilio

A BILL seeking to amend a law designed to revive the post-pandemic economy was approved on final reading by the House of Representatives on Monday.

The chamber approved House Bill No. 9794 with a vote of 238 legislators for, four against, and two abstentions.

CREATE MORE (CREATE to Maximize Opportunities for Reinvigorating the Economy) cuts the corporate income tax to 20% from 25% previously.

It also provides duty exemptions, value-added tax (VAT) exemptions on imports, and VAT zero-rating of local purchases for domestic-market and export companies.

Commenting on the bill, Jose Enrique A. Africa, executive director of think tank Ibon Foundation, said that repeated tax cuts on corporations reduce the National Government's revenue.

"Taxes on corporations were equivalent to 3.5% of GDP (gross domestic product) in 2008 but tax cuts have brought this down to just 2.2% as of 2022," he said.

"If the corporate tax effort had stayed the same, this would mean at least P276 billion more in rev-

enue annually," he told *BusinessWorld* in a Viber message. "In contrast, indirect consumption taxes (excise and VAT) increased from the equivalent of 2.5% to 3.6% of GDP over the same period."

The proposed bill also harmonizes the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act and its implementing rules and regulations (IRR).

"Conflicting interpretations of the VAT regime under CREATE's IRR also resulted in the loss of some 125,560 manufacturing jobs," Albay Rep. Jose Ma. Clemente S. Salceda said in a statement, referring to the impact of the CREATE-IRR disparity.

"Manufacturing is sensitive to increases in cost, being a low-margin operation, so any undue increase in taxes in that sector also means job losses," Mr. Salceda, who is also a proponent of the bill, added.

Filomeno S. Sta. Ana III, Action for Economic Reform coordinator, said that while "CREATE is a reform most lauded," the problems surrounding its IRR should have been adjusted instead of being amended as a law.

"It undeniably is facing teething problems but that is a question of making implementation adjustments, not amending the law," he told *BusinessWorld* via

Viber. "The key reform behind CREATE is the rationalization of fiscal incentives."

He said that the rigorous economic criteria of CREATE, where "economic benefits for the whole society, not private gains, are the prime consideration for the granting of incentives" is now facing amendment by CREATE MORE.

The proposed law returns the power to grant tax incentives to investment promotion agencies (IPA) such as the Philippine Economic Zone Authority and the Subic Bay Metropolitan Authority. The Fiscal Incentives Review Board (FIRB) will be turned into an oversight body for IPAs, according to the bill.

Mr. Salceda noted that the move to turn FIRB into an oversight body is due to the current FDI approval system "that requires multiple stages of submissions," delaying their arrival in the country. "While the FIRB has resulted in a more complete analysis of where our tax incentives go, it also has the ability to delay the inflow of FDI by requiring multiple stages of submission."

Ebb Hinchcliffe, American Chamber of Commerce of the Philippines, Inc. (AmCham) executive director, said in a Viber message: "AmCham welcomes final approval by the House of Representatives of the CREATE

MORE bill. We look forward to the Senate deliberating and working on approval of its counterpart version when session resumes at the end of April."

"We are hopeful that the final bill will be responsive to the needs of investors, especially on provisions related to work from home and the grant of incentives and tax refunds," he added.

Information technology and business process outsourcing companies will also be allowed to "conduct business under alternative work arrangements," according to the bill.

The bill also offers corporations a 200% deduction for power costs incurred during the Income Tax Holiday period. Trade fairs, missions, or exhibitions will also be allowed to deduct 100% of their accrued expenses.

"High power costs are an existential threat to Philippine industries, especially in the manufacturing sector," Mr. Salceda said. "Because we cannot afford to subsidize power costs as our neighbors do, an enhanced deduction for power cost will be more targeted towards those who need competitive power rates to create jobs."

Aside from the CREATE Act, the measure also seeks to amend the National Internal Revenue Code of 1997 and the Ease of Paying Taxes Act.

## Weakening in big global economies a risk to BSP projection for BoP

SLOWER GROWTH in large economies will present downside risks to the central bank's projection of a narrower current account deficit, analysts said.

"Global economic conditions, such as a slowdown in major economies, could impact Philippine exports and imports, influencing the current account. Fluctuations in oil prices, a major import for the Philippines, can likewise impact the current account," Security Bank Corp. Chief Economist Robert Dan J. Roces said in a Viber message.

"Finally, overseas Filipino worker (OFW) remittances are a significant source of foreign currency for the Philippines. A sustained rise in remittances could help narrow the current account," he added.

Last week, the Bangko Sentral ng Pilipinas (BSP) released revised balance of payments (BoP) projections, now seeing the current account deficit narrowing to \$6.1 billion this year from an earlier projection of \$9.5 billion.

In 2023, the current account deficit was \$11.2 billion, equivalent to 2.6% of gross domestic product, according to preliminary estimates.

Mr. Roces said that a narrower deficit will depend on

the magnitude of potential shocks.

"The BSP's revisions seem reasonable based on the flat electronics export projection, but external factors and potential changes in domestic economic activity can still influence the final outcome," he added.

The Philippine Statistics Authority reported that the trade deficit contracted 24% to \$4.22 billion in January.

Rizal Commercial Banking Corp. Chief Economist Michael L. Ricafort said an improved BoP position and current account estimates would support the peso.

He said this was due to "continued growth in the structural dollar inflows such as OFW remittances, business process outsourcing (BPO) revenue, and the much faster recovery in foreign tourism receipts."

The central bank reported that cash remittances coursed through banks increased 2.7% to \$2.836 billion in January. However, the growth in cash remittances slowed to 2.7% from 3.8% in December. This represented the slowest pace of remittance growth since the 2.6% posted in September. — **Luisa Maria Jacinta C. Jocsos**

## ADB provides \$20-M revolving facility to Lhoopa for PHL housing project

THE Asian Development Bank (ADB) and real estate investment firm Lhoopa, Inc. have signed an agreement of up to \$20 million to finance housing in the Philippines, a portion of which will meet green-building standards.

In a statement on Monday, ADB Director General for Private Sector Operations Suzanne Gaboury said this would represent the bank's first foray into private-sector housing in the Philippines.

The \$20-million loan will help Lhoopa acquire, renovate, construct, and sell property estimated to cost an average of \$15,000 (P850,000).

"This is ADB's first private-sector housing project in the Philippines, and Lhoopa is a fitting partner as it caters to people who

are often unable to adapt to the impacts of climate change. The project not only provides livable spaces for these communities, but also enhances their climate resilience," Ms. Gaboury said in a statement.

At least 25% of the houses sold will hold an EDGE (Excellence in Design for Greater Efficiencies) certification, a green building standard developed by the International Finance Corp.

"This will also be ADB's first infrastructure project to use a revolving credit facility, allowing Lhoopa to repay the loan and withdraw it again as needed, without having to reapply for financing. This innovative facility is well suited for small-scale companies that are experiencing rapid growth," Ms. Gaboury added. — **Beatriz Marie D. Cruz**

## Israel's Ratio Petroleum tapped for Sulu Sea seismic survey off Palawan

ISRAEL's Ratio Petroleum Ltd. will conduct a 3D seismic survey in the Sulu Sea east of Palawan within the month, according to the Department of Energy (DoE).

In a statement on Monday, the DoE said Ratio Petroleum, the operator of Petroleum Service Contract (SC) No. 76, has contracted Shearwater GeoServices for the use of its seismic survey vessel SW Thuridur.

The goal is to acquire 3D seismic data over an area in the SC 76 block, located about 150 kilometers east of Puerto Princesa.

The DoE said the seismic survey forms part of Ratio Petroleum's work commitments for SC 76, and enjoys the support of the Palawan government and other agencies.

The other agencies were named as the Maritime Industry Authority, National Security Council, Philippine Coast Guard, Philippine Ports Authority, Department of National Defense, Department of Environment and Natural Resources, Bureau of Fisheries and Aquatic Resources, Bureau of Customs, Bureau of Immigration, Bureau of Quarantine, and Palawan Council for Sustainable Development.

According to the DoE, the survey will seek to acquire high-resolution imaging of the subsurface geology of the area.

The activity will take around 35 days, covering approximately 1,500 square kilometers.

The Ratio Petroleum aims to "enhance its understanding of the basin's

geological characteristics, gather high-quality geophysical data, identify optimal drilling locations with greater precision, and assess the potential for new oil and gas discoveries in offshore East Palawan," the DoE said.

Ratio currently holds petroleum interests in Guyana, Atlantic Morocco, and the East Palawan Basin, according to its website.

The Philippines has experienced "a significant gap" in seismic surveys over the past eight years, according to the DoE.

"The DoE is confident that the insights gained from the 3D seismic survey will further de-risk prospects and unlock the hydrocarbon potential of East Palawan Basin," it said. — **Sheldeen Joy Talavera**

### OPINION

## SEC issues guidelines for eAMEND Portal

**Y**ou may have watched *Dune: Part Two* by now. The movie is set in the year 10191. Despite being set on the future, one thing that most viewers will notice is the lack of modern technology. There are no phones or computers, nor robots or AI. Based on the book series, there was a war that left society relying on thinking machines for most aspects of life, while the other believed that doing so was harmful to humanity. Relatively, the latter ideology prevails. I, personally, understand and agree that modernization and advancement in technology, when utilized correctly, greatly benefits our daily activities.

The Securities and Exchange Commission (SEC) recently issued SEC Memorandum Circular (MC) No. 3-2024, which discussed the guidelines for the use of the Electronic Application for Modification of Entity Data (eAMEND) Portal. Previously, when applying for amendments to the Articles of Incorporation (AoI) and/or By-Laws (BL), one had to manually accomplish the amendment forms and submit them together with the hard copies of the amended AoI and/or BL and other requirements. Applicants had to physically wait for their queue number to be called from a long line of applicants in the SEC office. The documents were physically reviewed by an examiner and the applicant had to wait for at least a week before receiving the approved amended AoI and/or BL. Under the SEC MC 3-2024, in pursuit of sustainable practices, streamlined and automated processes, the SEC allowed amendment applications through the eAMEND por-

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tal which eases the amendment application process.

#### COVERAGE AND APPLICABILITY

Currently, the circular is only applicable to registered and active partnerships and corporations. One of the major changes presented by MC 3-2024 is the issuance of a digital certificate.

A. Applications subject to issuance of the digital certificate

The circular presents the following applications for the amendment of the AoI and/or BL where a digital certificate is issued:

#### I. Articles of Incorporation:

a. Change in principal office address;

b. Increase or decrease in the number of board directors or trustees;

c. Fiscal year for One Person Corporations (OPC); or

d. Deletion and/or addition of new provisions in the existing AoI except those provisions on purposes, capitalization, and reclassification of share.

#### II. By-Laws

a. Date of annual meeting of the stockholders or members; or

b. Amendment of fiscal year.

B. Applications subject to regular processing through the eAMEND Portal

On the other hand, the following applications for amendment are subject to regular processing through the eAMEND portal:

- Amendment of partnership;
- Dissolution of partnership;
- Amendment of AOI and BL other than those indicated above;
- Application for conversion of OPC to an ordinary corporation and vice versa; or
- Application for increase of capital stock for OPC via cash.

It should be noted that those not mentioned above do not cover the application via the eAMEND Portal. Hence, any other applications not covered above must be filed via the official electronic mail of the SEC.

#### DOCUMENTARY REQUIREMENTS

A. Applications subject to issuance of the digital certificate

The eAMEND Portal also streamlined the required documents for amendment of the AoI or BL. The applicant is to submit a system-generated/downloaded cover sheet, and system-generated/downloaded, signed, and notarized or apostilled/authenticated Amendment Form. In addition to these two documents, applicants will also have to upload their compliance with the Monitoring Clearance requirement and the certification and/or favorable endorsement of appropriate government agencies for covered entities, if applicable.

B. Applications subject to regular processing through the eAMEND Portal

The required documents can be checked on the Commission's latest citizen's charter.

#### APPROVAL AND ISSUANCE OF CERTIFICATE

- Digital certification

The Digital Certificate of Filing of Amendment will automatically be issued via the eAMEND Portal upon payment of the amendment fees. Subject to post-evaluation / post-audit, the original Certificate of Filing of Amendment will be released upon submission of the hard copies of the application documents.

#### B. Original certification

For those applications that are covered by regular processing, the original certificate of amendment will be issued upon submission of the hard copies of the application documents and payment of the required fees. No digital certification is to be issued through the eAMEND Portal.

#### PURGING AND CANCELLATION OF APPLICATION

The circular also authorizes the SEC to purge applications on the following grounds:

a. Failure to complete the application and to upload the requirements within 60 calendar days from the creation of the eAMEND Portal account;

b. Failure to comply with SEC's compliance order within 30 calendar days from receipt of the e-mail compliance notifications;

c. Failure to pay the required fees within 45 calendar days from the Payment Assessment Form date.

In addition, the SEC may motu proprio cancel the application for non-submission of the three original sets of the application documents that have been approved via the portal within the 30 calendar days indicated in the digital certificate. This also covers any non-

compliance of any lawful order of the SEC in case of incomplete documents or if there are inconsistencies between the uploaded documents with the submitted hard copies.

The circular further provides that the amendment forms which will form part of the AoI and/or BL and any changes thereof will be considered official and legally valid when presented to other government agencies. The circular took effect on Feb. 23.

Although there is no timeline for the SEC to process and issue the digital or original certificates, we expect that by adopting this eAMEND portal, the processing time can be significantly shortened. Looking forward, we may hope that additional transactions will be included in the eAMEND Portal.

The eAMEND Portal is a great technological modernization of our transactions with the SEC, which is a welcome development to all stakeholders. This is a big step in easing the system for submitting amendment documents as well as the SEC's processing time.

*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.*

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