

BIR on track to hit April tax collection target

THE BUREAU of Internal Revenue (BIR) said it was confident it will hit its P400 billion-target for tax collections for April.

BIR Commissioner Romeo D. Lumagui, Jr. told reporters on Monday that the BIR was

confident due to the aggressive enforcement measures like a crackdown on the issue of fake receipts.

"We're expecting that we will be able to meet the P400-billion target for April. If we total the

income taxes for the year 2023, we're expecting to reach that," he said, referring to the April 15 filing deadline for income tax returns.

He said the 2023 collection target for income taxes is likely to

be met, with 4 million total filers, and only 5% yet to file before the April 15 deadline.

However, Mr. Lumagui noted that the BIR still faces challenges in collecting excise taxes from heated tobacco

products, and vapor products (vapes).

The BIR also extended by 90 days the transition period for online sellers to collect a 1% withholding tax from the original April 14 deadline.

Electronic marketplace operators and digital financial services providers now have until July 14 to comply, according to BIR Memorandum Circular No. 54-2024. — **Aaron Michael C. Sy**

Holcim to invest P2 billion in waste recycling, RE

CEMENT manufacturer Holcim Philippines, Inc. said it will be investing over P2 billion on sustainability initiatives at its four plants.

Horia Adrian, president and chief executive officer of Holcim, said that the company's investments for the next three years will focus on sustainability, innovation, and efficiency.

"With doing this, we are going to improve the output of our plants," Mr. Adrian said in a briefing on Monday.

"We have in the pipeline investments for Geocycle in the amount of 15-20 million Swiss francs, or P1 billion more or less," he added.

Holcim Chief Sustainability Officer Samuel Manlosa, Jr. said that the investment in its waste management arm, Geocycle, will help create the capacity for local



HOLCIM

government units (LGUs) to sort and segregate solid waste.

"There is also a side where, if we want to take in more volume, we need to increase our capacity to shred and prepare the materials," Mr. Manlosa said.

"And then, our cement plants, even as sophisticated and technologically advanced as they are, were constructed 20 years ago when norms were different, so we had to make changes in the process to make sure that the plants were able to accept more," he added.

Meanwhile, Mr. Adrian said that another P500 million to P1 billion will be invested in the plants' shift to renewable energy (RE) and in the electrification of its vehicle fleet.

"We are purchasing electricity right now, but we have plans to put in place solar (facilities) and we are looking at the possibility of using electricity generated from biowaste here," he said.

"By the end of the year, some of them should be ready," he added.

Mr. Manlosa said that the investments will be evenly distributed to the four plants in the next three years.

"The reason why it is paced in three years is because some plants will get it earlier than others because, of course, you have to pace spending," he said.

"The plants in Luzon — Bulacan and La Union — are in the perfect place for investments; for the plants in Davao and Lugait, Misamis Oriental, there has to be some enabling factor at the LGU-level to be able to make those investments, which is why we are delaying them a year later," he added.

He said that the Bulacan and La Union plants are ready to start investment activity this year, while the plants in Davao and Lugait will be ready next year for completion a year later. — **Justine Irish D. Tabile**



DOUG BERCH/UNISYS/ASA

A PROPOSED carbon tax could help provide the funding Southeast Asia needs to mitigate climate-related disasters, the Asian Development Bank (ADB) said in a webinar, noting that the region is lagging in raising such funding.

"I think carbon taxes are critical actually in our region. We need to be looking at how to increase revenues and fiscal resources for climate action," Naeeda Crishna Morgado, Senior Infrastructure Specialist (Climate Finance) at the ADB's Southeast Asia department, said at the webinar.

The Department of Finance said in January that it is studying a carbon tax that is "responsive and economically sensitive."

Southeast Asia receives 5% of the climate financing available in East Asia and the Pacific, according to research group Climate Policy Initiative.

Luthfyana Larasati, manager of its Climate Finance Program, said climate financing in Southeast Asia is one of the lowest, alongside 0.3% for the Pacific Islands.

"Up to \$1.7 trillion (in) annual finance flow will need to be invested in Asia and the Pacific in order to achieve their NDC (Nationally Determined Contribution) targets," Ms. Larasati told the webinar, referring to the commitments made under the Paris agreement. — **Beatriz Marie D. Cruz**

Singapore manufacturer plans air filter plant in Philippines

THE Department of Trade and Industry (DTI) said that a subsidiary of outsourcing firm Wagmi Solutions plans to establish a manufacturing facility in the Philippines to diversify operations away from Mexico and China.

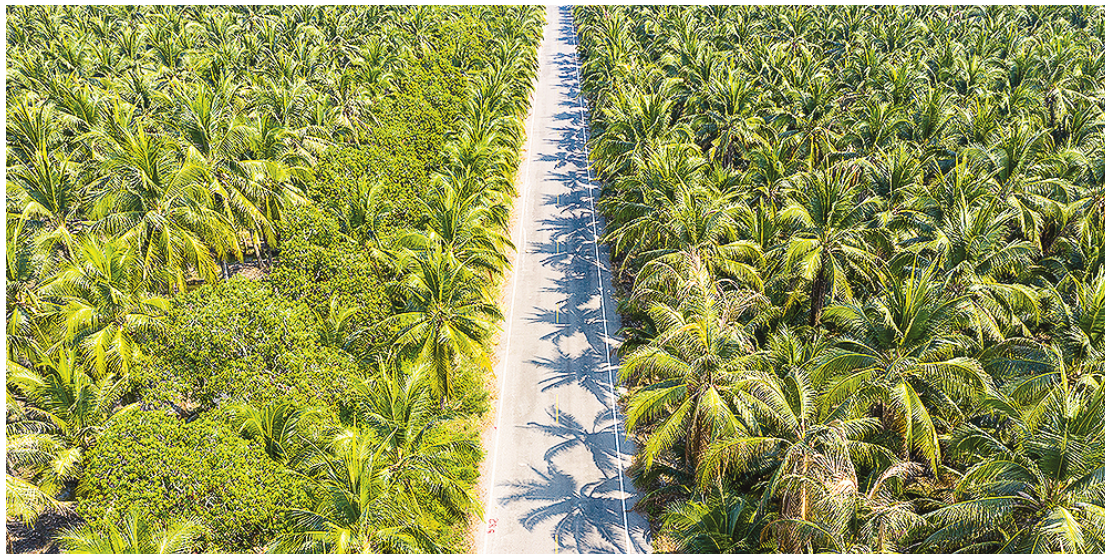
In a statement on Monday, the DTI said it met with representatives of Wagmi on the sidelines of the US-Japan-Philippines Trilateral Meeting to discuss the project of unit NanoForge Technologies.

"The proposed facility will specialize in the production of high efficiency particulate air (HEPA) filters, designed to remove a significant percentage of airborne particles, including dust, pollen, mold, bacteria, and viruses," the DTI said.

"Nanoforge will manufacture and export these HEPA filters to its main customer, Medify Air — a major air purifier brand in the US," it added.

The project is also expected to directly benefit coconut farmers, as the plant will use activated carbon sourced from coconut shells.

"We welcome NanoForge's investment, which aligns perfectly with our goals to strengthen the



FREEPIK

coconut industry and create more jobs," Trade Secretary Alfredo E. Pascual said.

"Through the Philippine Economic Zone Authority (PEZA), we are committed to ensuring that this venture is successful and beneficial for all parties involved," he added.

According to the DTI, NanoForge's air filters have residential, commercial, and industrial applications.

"In 2024, Wagmi registered NanoForge Technologies in the Philippines to produce HEPA filters for Medify Air, aiming to diversify manufacturing operations currently based in China and Mexico," it added.

Following the meeting with the DTI, Wagmi will meet with PEZA officials to discuss the incentives under the Corporate Recovery and Tax Incentives for Enterprises Act.

These incentives include an income tax holiday, reduced corporate income tax, and tax- and duty-free imports of capital equipment, raw materials, and spare parts.

"Additionally, they provide value-added tax exemptions, a substantial domestic sales allowance, and exemption from local government taxes and fees," the DTI said. — **Justine Irish D. Tabile**

DA to appoint new usec to oversee attached agencies

THE Department of Agriculture (DA) is set to appoint a new undersecretary who will be tasked with overseeing the DA's attached agencies.

"With the size of the DA's coverage, someone needs to focus on each area. Because the DA covers (a wide range of industries from) vegetables to fish to meat... to irrigation," Agriculture Secretary Francisco P. Tiu Laurel, Jr. told reporters.

He said roles within the DA are varied enough to accommodate even people from the private sector.

"As I said before, there are lots of appointments within the DA. There are also industry players *na nakakasama ko dati* (who I worked with previously)," he said. "Basically, it's a whole of nation approach... and we invited

everybody to join in. *Para 'pag may direction tayo, lahat, isa-isa 'yung takbo* (If we set a direction, all of us present a unified front)," Mr. Laurel added.

"(The DA) has about 29 bureaus and government-owned and -controlled corporations. It's one of the most complicated departments, I think," he said.

Last week, the department announced the appointment of Nora dela Cruz Oliveros as undersecretary in charge of finance, while Allan Q. Umali was appointed undersecretary for administration.

The DA's impending 14th undersecretary, who was not identified, is already at work while awaiting an official appointment, he said. — **Adrian H. Hallii**

OPINION

Taxing times for tax evaders; understanding tax evasion

LET'S TALK TAX RAMON VAUGHN F. DY III

can file a criminal case for tax evasion against any taxpayer who willfully attempts in any manner to evade or defeat payment of any tax imposed by the Tax Code. The penalty includes fines of up to P10 million and imprisonment for up to 10 years. Tax evasion is committed by a taxpayer who knowingly and willfully files a fraudulent return with intent to evade and defeat a part or all of the tax (People v. Mendez, G.R. Nos. 208310-11 & 208662, March 28, 2023). Under Section 254 of the Tax Code, as amended (which penalizes tax evasion in general), it must be proven that: 1) the accused is a registered taxpayer; 2) the source of income is proved; and 3) the income was not declared in the corresponding returns.

Tax evasion connotes the integration of three factors: (1) the end to be achieved, i.e., the payment of less than that known by the taxpayer to be legally due, or the non-payment of tax when it is due; (2) an accompanying state of mind which is described as being "evil," in "bad faith," "willful," or "deliberate and not accidental"; and (3) a course of action or failure of action which is unlawful. (CIR v. Estate of Toda, Jr., G.R. No. 147188, Sept. 14, 2004)

On the other hand, under Section 255 of the Tax Code, as amended (which pe-

nalizes the failure to supply correct and accurate information), the following elements must be present: 1) the taxpayer is required to pay any tax, make a return, keep any record or supply correct and accurate information; 2) the taxpayer failed to comply with the directive in No. 1; and 3) the taxpayer willfully failed to pay such tax, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld (Kingsam Express, Inc. v. People, C.T.A. EB Crim. Case No. 054, Oct. 24, 2019).

Tax Evasion can be committed by "any person." Person here can mean a natural person or a juridical person. Thus, there are two possible offenders in this crime: individuals or juridical persons. In the case of corporations, Section 253 of the Tax Code states that the penalty will be imposed on the officers responsible for the violation.

In a string of cases decided by the Supreme Court and the Court of Tax Appeals, it was ruled that the prosecution must prove beyond reasonable doubt that the taxpayer knew his legal duty to file a return, yet the taxpayer knowingly, voluntarily, and intentionally neglected to do so.

The term "willful" is defined as voluntary and intentional. In Merten's Law of Federal Income Taxation, "willful" in tax crimes statutes is defined as a voluntary, intentional violation of a known legal duty.

Applying the foregoing, the element of willful failure to supply correct and accurate information must be fully established as a positive act or state of mind. It cannot be presumed or attributed to mere inadvertent or negligent acts.

Since several taxpayers solely rely on their accountants, will the defense of good faith and faithful reliance upon such accountants hold up against a charge for tax evasion?

The answer is no. The Supreme Court, in the case of People v. Mendez (G.R. Nos. 208310-11 & 208662, March 28, 2023), held that mere reliance on one's accountant without inquiring and ensuring that the ITR filed with the BIR reported all income is a violation of Section 255 of the Tax Code. This neglect constitutes willful blindness. Willful blindness is defined as the deliberate avoidance of knowledge of a crime, especially by failing to make a reasonable inquiry about suspected wrongdoing despite being aware that it is highly probable.

In the Mendez case, the Supreme Court acknowledged that the accused was a medical doctor and businessman by profession. However, the accused was presumed to take ordinary care of his concerns and is expected to comply with the usual undertakings of his profession. By reason of his blind reliance on this accountant without inquiring and ensuring that his ITR was correctly

and timely filed and paid, the Honorable Court convicted him of violating Section 255 of the Tax Code, as amended.

The crime of tax evasion continues to be a pernicious and injurious threat to our society by depriving the government of taxes. By persistently prosecuting tax evaders, the BIR sends a clear deterrent message to would-be violators, encouraging them to instead faithfully comply with their obligations to pay their taxes responsibly.

The BIR's ardent and principled approach towards educating taxpayers while apprehending tax evaders continues to yield results in the form of record collections and improved tax compliance.

With these pronouncements, taxpayers should be proactive in understanding their tax obligations by knowing how and when to pay the correct amount of taxes.

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.

RAMON VAUGHN F. DY III is an associate from the Tax Advisory & Compliance division of P&A Grant Thornton, the Philippine member firm of Grant Thornton International Ltd. pgran Thornton@ph.gt.com

