

NFA starts paying higher palay buying prices

THE National Food Authority (NFA) said Monday that it started paying the new, increased rates for procuring palay (unmilled rice), with prices paid to farmers varying by location.

"This is unique in a sense that provinces will have different prices depending on the conditions in the province such as prevailing farmgate price, remaining harvest, and most importantly the target palay procurement for the area," NFA Acting Administrator Larry Lacson said in a statement.

The NFA Council, earlier approved the increased buying price for palay at P23 to P30 per kilogram (kg) for dry and clean palay and P17 to P23 per kg for fresh palay.

Clean and dry palay should at least be 90% pure and have a moisture content of no more than 14%, while fresh and wet palay must have a moisture range of 22-29.9%.

"The NFA Council had to raise buying prices for palay after prolonged high farmgate prices," it said, citing the need to

obtain supply in the face of competition from private traders.

Traders were reportedly buying dry palay at P27 to 30 per kg, according to the Department of Agriculture (DA).

The old purchase prices for dry and wet palay were set last year at P19-P23 (dry) and P16-P19 per kg (wet).

"This new pricing scheme will mark a new era for NFA palay buying," Mr. Lacson added.

The NFA said that it discontinued the one-price scheme

for palay purchases to consider the support price provided by some local government units as an alternative to private traders.

The agency is required to maintain a buffer stock of rice of about 300,000 metric tons (MT), which is sufficient for nine days' consumption.

The national inventory of rice declined 3% to 1.37 million MT, the Philippine Statistics Authority said.

Stocks held by NFA facilities declined 59.9% year on year to 41,290 MT. — **Adrian H. Halili**

Impact of import streamlining on food prices deemed uncertain

By **Adrian H. Halili**
Reporter

THE streamlined approval process for agricultural imports may not result in lower food prices while endangering the livelihoods of domestic producers, analysts said.

"There is no assurance that relaxing non-tariff measures will result in lower consumer prices. And it might only encourage smuggling, undervaluation and misdeclaration of imports," Federation of Free Farmers National Manager Raul Q. Montemayor said in a Viber message.

Administrative Order No. 20 (AO 20) instructed the Departments of Agriculture (DA), Finance (DoF), and Trade and Industry (DTI) to simplify the administrative procedures for agricultural imports, as well as remove non-tariff barriers.

President Ferdinand R. Marcos, Jr. said the order was issued to ensure food security and bolster supply.

The DA was also tasked with reviewing the guidelines for importing sugar and fisheries products.

"The government (has) reduced the tariffs on prime commodities like rice, pork, and corn. Tariffs on other products are already very low. But these (measures) have not reduced retail prices," Mr. Montemayor added.

Last year, the President approved Executive Order (EO)

No. 50, extending the reduced tariff regime for rice imports to 35% for another year, applicable to shipments within or exceeding the minimum access volume.

Corn tariffs were set at 5% and 15% for in-quota and out-of-quota shipments, respectively. Pork tariffs were retained at 15% for shipments within the quota and 25% for those exceeding the quota.

Leonardo A. Lanzona, an economics professor with the Ateneo de Manila, said the order will not solve the country's long-term supply problem.

"Allowing more imports can be a way of reducing inflation, mostly favoring consumers. General prices might have been reduced but remain higher than expected," Mr. Lanzona said in a Messenger chat.

Inflation picked up to 3.7% in March from 3.4% in February and 7.6% a year earlier. Food inflation accelerated to 5.7%, the strongest reading since the 5.8% posted in November.

Daniilo V. Fausto, president of the Philippine Chamber of Agriculture and Food, Inc. said in a Viber message that AO 20 may have a short-term impact on inflation but may "damage agricultural production over the long term."

"AO 20 will encourage and incentivize imports... If producers cannot compete with imports... farmers will leave farming and do something else to earn a living," Mr. Fausto added.

NEDA supports 'well-targeted' RCEF as DA seeks extension

THE National Economic and Development Authority (NEDA) said it supports a Rice Competitiveness Enhancement Fund (RCEF) that is well-targeted, amid a campaign by the Department of Agriculture (DA) to extend the fund's operating life.

"NEDA is looking at that issue. There are pros, there are cons (to extending). I would like to think that keeping the RCEF and targeting it well, using it well to improve the productivity on rice is not a bad idea," NEDA Secretary Arsenio M. Balisacan told reporters on the sidelines of a forum Monday.

"But at the same time, the President has also issued an Adminis-

trative Order reducing unnecessary barriers to imports especially when there are domestic shortages so that inflation will be averted, so things like that would need to be examined," he said.

The Philippines has been beset by high rice prices and damage caused by El Niño, threatening the harvest and raising the prospect of supply constraints exerting upward pressure on prices.

The RCEF seeks to allocate funds from import tariffs to improve the competitiveness of the rice industry.

The fund is a component of the Rice Tariffication Law of 2019, which went into the books as Re-

public Act No. 11203. RCEF was originally set to operate for five years, receiving P10 billion worth of rice import tariffs each year to improve farm productivity. The tariff allocations are set to expire in June.

The DA has said it wants to extend RCEF's life to further fund postharvest facilities, farm mechanization, and the distribution of fertilizer.

The DA is also preparing a proposal to increase the P10-billion annual allocation, Agriculture Secretary Francisco T. Laurel, Jr. said last week.

If the extension is approved, Mr. Balisacan said the govern-

ment must ensure that the tariffs collected from rice imports be solely dedicated to improving productivity in the rice industry.

On the proposal to increase the P10-billion allocation, NEDA Undersecretary Rosemarie G. Edillon said the performance of RCEF needs to be reviewed.

Senator Cynthia A. Villar has proposed to raise the RCEF allocation to P20 billion a year, with a six-year extension of operations.

Rice inflation hit 24.4% in March, the highest since the 24.6% posted in February 2009. Rice was a major contributor to the 3.7% uptick in March inflation. — **Beatriz Marie D. Cruz**

PHL, Qatar to promote expanded visitor flow

THE Department of Tourism (DoT) said it signed a memorandum of understanding (MoU) with Qatar State Minister for Foreign Affairs Sultan bin Saad Al-Murairki to expand two-way tourism as well as conferences targeted at both countries' business communities.

"Fortifying tourism cooperation between the Philippines and Qatar by way of the signing of this memorandum of cooperation forges a stronger partnership for increased tourism exchanges between our nations," Tourism Secretary Ma. Esperanza Christina G. Frasco said in a statement Monday.

"With this significant step forward, we unlock the opportunities for growth as we explore new avenues for collaboration, particularly on the aspect of tourism and business events," she added.

The MoU was among the almost a dozen agreements signed during Qatar Emir Sheikh Tamim bin Hamad Al Thani's official visit to Manila.

Under the agreement, the Philippines and Qatar will encourage two-way tourism by creating favorable conditions for visitor movement and communications.

Both countries pledged to encourage tourism investment, the exchange of expertise, statistics, and best practices, familiarization visits for media and tourism experts, and the development of tourism worker skills.

The two countries also agreed to stage exhibitions and conferences for business visitors.

"A joint working team between the Philippines and Qatar will be formed to undertake and set up the work program, execution, follow-up, and evaluation of the activities in line with the implementation of the provisions of the agreement," the DoT said.

For 2023, the Philippines received 10,438 visitors from Qatar. — **Justine Irish D. Tabile**

OPINION

Refund of excess input VAT clarified

LET'S TALK TAX
FELIPE L. JUBAN, JR.

It is a well-settled doctrine that tax refunds are in the nature of tax exemptions and, hence, are construed strictissimi juris against the taxpayer. A claim for a tax refund is a statutory privilege; thus, the rules and procedures for claiming a tax refund should be faithfully complied with by the taxpayer. However, due to the reforms of the tax system (TRAIN Law, CREATE Law, EoPT Act), changes in the processes and rules for the application for tax credits and refunds caused confusion as to the proper procedure and timelines in the value-added tax (VAT)-refund process.

Thankfully, the Bureau of Internal Revenue (BIR) issued Revenue Regulations (RR) No. 5-2024 clarifying the rules on tax refunds, which covers claims that are filed starting July 1, 2024 onwards, to give ample time for the taxpayers and the BIR to adjust to the new requirements and procedures prescribed.

RISK-BASED VERIFICATION OF VAT REFUND CLAIMS

The EoPT Act introduced the risk-based approach to verifying and processing VAT refund claims under Section 112(C) of the Tax Code. VAT refund claims filed pursuant to Section 112(A) of the Tax Code are to be classified into low, medium, and high-risk claims. For a low-risk claim, the scope of verification requires the submission of complete documentary requirements prescribed by the BIR, with no verification required for sales and purchases. On the other hand, a claim classified as medium or high risk is required to submit complete documentary requirements and be subjected to 50% and 100% verification of sales and purchases, respectively.

In establishing the risk level of each claim, the BIR will be considering risk factors such as, but not limited to, the size of the VAT refund claim, the frequency of filing VAT refund claims, tax compliance history, and other risk factors that may be identified.

Note, however, that the classification and scope of verification may change, such as when the prior claim was denied in full. The succeeding claim will then be classified as high-risk. Also, claims filed by a first-time claimant are automatically considered high-risk and will remain as such for the succeeding three VAT refund claims. Further, for medium-risk claims, if the assigned revenue examiner finds at least 30% disallowance of the amount of the VAT refund claim, verification is to be adjusted to 100%,

and finally, claims classified as low-risk for three consecutive filings of VAT refund claims are to be subject to mandatory full verification on the fourth VAT refund claim, regardless of risk classification.

SEPARATE REGULAR AUDIT, VERIFICATION AND PROCESSING OF VAT REFUND CLAIMS

What is the effect of the verification and processing of VAT refund claims on a regular audit that may be conducted by the BIR? The regulations state that the verification and processing of VAT refund claims are to be separate from the regular audit, if any, of internal revenue taxes, particularly VAT, conducted by the appropriate BIR office that has jurisdiction over the taxpayer-claimant. Any findings during the verification of the VAT refund claim that have no effect on the amount to be refunded are to be incorporated into the existing audit for the taxable year covered by the claim if processed within the same BIR office that has jurisdiction over the claimant, or endorsed for further verification and/or consolidation with the existing audit if the processing is conducted by an office other than the BIR office that has jurisdiction over the claimant.

90 DAYS TO PROCESS AND DECIDE VAT REFUND APPLICATIONS

The BIR is given 90 days to process and decide on VAT refund applications, starting from the filing of the claim with complete documentary requirements. This is a very welcome development for the taxpayers to ensure that their application is acted upon, since failure on the part of any official, agent, or employee of the BIR to act on the application within the 90-day period may subject the concerned party to administrative liability.

PERIOD AND VENUE OF APPEAL

Just like any other application, approval for a claim for a refund is not always guaranteed. The claim may be fully or partially denied, or worse, unacted upon. In the case of full or partial denial of the claim for VAT refund, the taxpayer affected may, within 30 days from receiving the decision denying the claim, appeal the decision to the Court of Tax Appeals (CTA).

In case the VAT refund is not acted upon by the Commissioner within the

90-day period, the taxpayer-claimant has two options: (i) appeal to the CTA within the 30-day period after the expiration of the 90 days required by law to process the claim; or (ii) forego the judicial remedy and await the final decision of the Commissioner of Internal Revenue on the application of the VAT refund claim.

When the BIR fails to render a decision within the 90-day period and the taxpayer-claimant opts to seek a judicial remedy within 30 days of such a period, the administrative claim for refund will be considered moot and no longer be processed.

This provision in RR No. 5-2024 sheds light on the varying opinions in the interpretation of RR No. 13-2018 implementing VAT provisions in the TRAIN Law, which is silent as to the option of the taxpayer to file an appeal with the CTA within 30 days after the expiration of the 90-day period.

PRESCRIPTIVE PERIOD OF CLAIM FOR VAT REFUND

It is already settled that only the administrative claim (with the CIR) must be filed within the two-year prescriptive period. This is the ruling in the case of *CIR vs. Aichi Forging Company of Asia*, G.R. No. 183421, Oct. 22, 2024, which ruled that Section 112(A) of the Tax Code provides for a two-year prescriptive period after the close of the taxable quarter when the sales were made, within which a VAT-registered person whose sales are zero-rated or effectively zero-rated may apply for the issuance of a tax credit or refund of creditable input tax. The Court clarified that the two-year period refers to the filing of an administrative claim with the BIR and does not cover the judicial claim with the Court of Tax Appeals (CTA).

Further, *CIR vs. San Roque Power Corp.* (G.R. No. 187485, 196113, and 197156) and the recent case of *Energy Development Corp.* (G.R. No. 203367, March 17, 2021) clarified and reiterated the jurisdictional doctrines in *Aichi*. As held in these cases, failure to comply with the 120-day (now 90-day) waiting period violates a mandatory provision of law. It violates the doctrine of exhaustion of administrative remedies and renders the petition premature and thus without a cause of action, with the effect that the CTA does not acquire jurisdiction over the taxpayer's petition. The phrase "within two years... apply for the issuance of a tax credit certificate or refund" in Section 112(A) of the NIRC, as amended, refers to applications for refund or credit

filed with the CIR and not to appeals made to the CTA. This is apparent in the first paragraph of subsection (C) of the same provision, which states that the CIR has "120 days (now 90 days) from the submission of complete documents in support of the application filed in accordance with Subsections (A) and (B)" within which to decide on the claim. Thus, a taxpayer must wait for the expiration of the 90-day period before it may appeal to the CTA.

This should not be confused with the rule of prescription on refund of taxes erroneously or illegally collected under Section 204(C) and Section 229 of the Tax Code, which follows the Doctrine on Twin Prescription, meaning both the administrative (CIR) and judicial (CTA) appeals must be made within the two-year prescriptive period.

TAXPAYER-CLAIMANT, BIR LIABILITY IN CASE OF COA DISALLOWANCE

As provided in Section 112(D) of the Tax Code as amended, VAT refunds are subject to post audit by the Commission on Audit. RR No. 5-2024 mandates that in case of disallowance by the Commission on Audit (CoA), only the taxpayer is liable for the disallowed amount, without prejudice to the administrative liability on the part of any employee of the BIR who may be found to be grossly negligent in the grant of the refund.

Thus, as the rules are now clear, it is imperative for taxpayers to keep abreast of these changes. The success in the implementation of the recent legislation aimed at improving the tax system requires the support not only of the government agencies concerned but, more importantly, the cooperation of the taxpayers to fully attain the goal of ease of doing business in the Philippines. The improvements and clarity in the tax refund process could make our country a leading choice for investment by entrepreneurs and foreign investors, which would ultimately result in economic growth and development.

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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If anyone has a valid and/or enforceable claim against the Representative Office. He/She is requested to call the +63 (2) 79188000 and arrange an appointment to present his/her claim on or before 10 August 2023.

Rubie Joy N. Pregoner
Authorized Representative
for The Resident Agent, TMF Philippines