EVAP not seeking to extend EV zero-tariff policy past 2028

THE Electric Vehicle Association of the Philippines (EVAP) said it is not seeking to extend the current zero-tariff policy for electric vehicles (EV), which runs until 2028, citing the need to support the domestic production of EVs.

"At the moment we're not (seeking an extension) ... we're fine (2028). If we extend the tariff, this encourages imports. We're pushing for localization," EVAP President Edmund A. Araga said on the sidelines of the 12th Philippine Electric Vehicle Summit 2024 last week.

In May, the National Economic and Development Authority Board, chaired by President Ferdinand R. Marcos, Jr. expanded the coverage of Executive Order (EO) No. 12 to temporarily reduce tariffs on EVs to zero until 2028.

The zero-tariff policy covers e-motorcycles, e-bicycles, nickel metal hydride accumulator batteries, e-tricycles and quadricycles, hybrid EVs and plug-in hybrid EV jeepneys or buses.

EO 12, which was signed in 2023, temporarily removed the tariffs on EVs and parts and components for five years.

Mr. Araga has said that the EO helped improve the sales of EVs in the Philippines.

The group is projecting a 6.6 million EV fleet by 2030, mainly driven by hybrid and other light electric vehicles.

The Department of Trade and Industry said it hopes to issue the incentive scheme for EVs within the year.

The scheme outlines the perks for businesses that invest in domestic EV manufacturing, and will cover potential investors in the e-mobility industry. — **Ashley Erika O. Jose**

Clarity on mining fiscal regime to benefit ore processing sector

By Justine Irish D. Tabile
Reporter

CLARITY on the provisions of the mining fiscal regime is expected to attract more investment in mineral processing, the Chamber of Mines of the Philippines (CoMP) said.

On the sidelines of the 13th Arangkada Philippines Forum, CoMP Chairman Michael T. Toledo said investors have cited unstable regulation and the uncertain fiscal regime as behind their reluctance to invest in the Philippines.

"The first thing that they say always will be 'The problem with mining is that your laws always change and then your fiscal regime is unclear and there seems to be no transparency or flip-flopping of policies' ... So those are the reasons why they have been very hesitant," Mr. Toledo said.

However, he said this will be addressed once the government signs into law the proposed fiscal regime for the mining industry.

At the same event, Senate President Francis G. Escudero said Congress is hoping to pass the measure in the remaining 41 session days until June 30, 2025.

"This was passed in the Lower House months before, so now it's pending in the Senate. And we are hoping that it will be passed, and it will be the first time that we will have in place a mining fiscal regime bill that will actually govern the industry," Mr. Toledo said.

"With a law clearly defining and governing the rights of all those into the industry, government, the mining operators, and the other related government agencies and other stakeholders, it will attract more investment," he added.

He said that the passage of the bill will help ensure transparency and predictability, which will allow investors to make long-term plans.

The House of Representatives approved its version of the measure in September last year, while the bill is awaiting second reading at the Senate.

Senate Bill No. 2826 aims to establish a five-tier margin-based royalty rate range of 1-5% and a five-tier windfall profit tax range of 1-10%.

Meanwhile, House Bill No. 8937 aims to charge large-scale miners 4% of their gross output and to set up a margin-based royalty range of 1.5–5% with eight tiers and a 1–10% windfall profit tax with 10 tiers.

According to Mr. Toledo, the Senate's version of the bill incorporates input from the CoMP, the Department of Finance, the Anti-Red Tape Authority, the Department of Trade and Industry, and other stakeholders.

"The technical working group hearings were very exhaustive ... because we really want this bill to be passed because if not, it might be hard to get another bill on mining," he said.

"This is only what businessmen from overseas are waiting for before they invest billions of dollars here so they can help the industry ... Mining can do many things as long as it is responsible and sustainable," he added.

Aside from pushing for the passage of a mining fiscal regime, Mr. Toledo said that the industry is also seeking local ordinances to not go against the laws passed by the Congress.

"Why are we allowing a local ordinance issued by a local government, for example, to ban mining or ban a certain methodology of mining, like open-pit mining, when there is a law that states that it is allowed? Isn't that a violation of the law?" he said.

"If you are a local government official, you are supposed to execute the laws that were passed by Congress, who is tasked under the Constitution to pass laws and to legislate, and the Supreme Court and the courts to interpret the law," he added.

Attractiveness of PHL to be tested by Taiwan supply chain de-risking

THE PHILIPPINES can leverage its free trade agreements (FTAs) and proximity to Taiwan to attract multinational companies (MNCs) looking to de-risk global supply chain away from greater China, the Philippine Economic Zone Authority (PEZA) said.

In a Facebook post, PEZA Director General Tereso O. Panga said Taiwan is also looking to strengthen its Southbound Policy, which aims to make Taiwan less dependent on China.

"With the Taiwan government's resolve to further strengthen its New Southbound Policy, the current administration of President William Lai Ching-te is looking beyond cooperation and exchange between Taiwan and 18 countries in Southeast Asia, South Asia, and Australasia," he said over the weekend.

"Taiwan companies operating in China and even Taiwan have adopted the China+1 and Taiwan+1 strategies to de-risk the global supply chain through the establishment of alternative manufacturing sites, diversification of supply chains, and improvement of domestic production," he added.

The trend is for Taiwan companies set up offshore facilities in ASEAN to avail of lower tariffs on exports to the European Union and the US but also to take advantage of the host economy's domestic markets.

"As such, PEZA aims to target strategic and high-tech industries from Taiwan that will provide for ecozone product sophistication, export diversification, labor-intensive and highly skilled jobs, knowledge transfer, enhanced local supply chain, and creation of industry clusters," said Mr. Panga.

To attract these investments, he said that the Philippines can leverage the Indo-Pacific Framework, the Regional Comprehensive Economic Partnership, and other FTAs.

He added that the trilateral agreement with the US and Japan in developing the Luzon Economic Corridor as well as the US CHIPS & Science Act can also help steer these investments to the Philippines.

"We need to capture as well those MNCs that relocate their export-manufacturing facilities from China to ASEAN," Mr. Panga said.

PEZA and other investment promotion agencies can capture business from these MNCs by promoting their economic zones' strategic locations, thriving business ecosystems, and the fiscal incentives package on offer under the Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy regime.

Mr. Panga also sees proximity to Taiwan as one of the reasons why the Philippines could be a beneficiary of the Taiwan+1 Strategy and New Southbound Policy. — **Justine Irish D. Tabile**

BIR extends tax deadlines for areas hit by 'Kristine' to end of October

THE Bureau of Internal Revenue (BIR) has extended until Oct. 31 a few tax deadlines falling on Oct. 25 as a form of relief to taxpayers and BIR personnel affected by Typhoon Kristine.

"The BIR is hereby extending the deadline for the filing of tax returns and the payment of taxes due thereon, including submission of certain documents," it said in a circular dated Oct. 25.

"The extension is intended to provide ample time for taxpayers and BIR personnel within the following affected revenue district offices (RDOs) including affected authorized agent banks (AABs), to comply with the statutory tax deadlines."

The extension covers the physical and electronic filing of BIR Form 2550Q (quarterly value-added tax return) and BIR Form 2551Q (quarterly percentage tax return) for the quarter ending Sept. 30.

The deadline of the quarterly summary list of sales/purchases/importations by a VAT taxpayer for Non-eFPS (Electronic Filing and Payment System) filers for the quarter ending Sept. 30 was also extended to Oct. 31.

Also extended was the deadline for submitting the sworn statement of a manufacturer's or importer's volume of sales of each particular brand of alcohol products, tobacco products and sweetened beverage products for the quarter ending Sept. 30.

RDOs covered by the deadline extension include those in the Ilocos Region, Cagayan Valley, and Cordillera Administrative Region.

In Central Luzon, tax deadlines have also been extended in RDOs 17A, 17B, 18, 19, 20, 21A, 21B, 21C, 22, 23A, 23B, 25A, and 25B.

In the National Capital Region, the following RDOs were granted extensions: 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53A, 53B, 116, 121, 124, 125, and 126.

The extension was also granted to RDOs 46, 54A, 54B, 55, 56, 57, 58 59, 60, and 61 in the Calabarzon region.

In Mimaropa, the BIR extended the deadlines for RDOs 35, 36, 37, 62, and 63.

Bicol Region RDOs 64, 65, 66, 67, 68, 69, and 70 were also granted an extension of the tax deadline.

"If the extended due dates fall on a holiday or non-working day, the submission and/or filing contemplated herein shall be made on the next working day," the bureau said.

At the end of September, the BIR has collected P2.9 trillion in taxes, falling short of its P2.12-trillion goal for the period. This also accounted for 73.52% of the total P2.8-trillion full-year collection target.

The BIR collects around 70% of the government's overall revenue. — **Beatriz Marie D. Cruz**

OPINION

The far-reaching effects of VAT on digital services

SUITS THE C-SUITE
VICTOR C. DE DIOS

IN BRIEF:

- As more countries legislate on the imposition of consumption tax on digital services, the Philippines joins the list with the recent signing of Republic Act No. 12023, commonly known as the VAT on digital services law.
- The law defines digital service providers (DSPs) as the suppliers of digital services consumed in the Philippines, and sets certain VAT obligations upon them, both resident and non-resident.
- The far-reaching effects of the new law are to be felt more by non-resident DSPs who are assigned unprecedented VAT responsibilities.

For the very first time, a Philippine law calls the attention of non-resident businesses, DSPs in particular, to comply with local VAT requirements such as registration, invoicing, and more importantly, VAT payment.

The digital economy significantly changed the landscape of doing business worldwide, and with this change comes the obvious need for governments to regulate, as well as the opportunity to conceptualize measures for raising revenue. As more countries legislate on the imposition of consumption tax on digital services, the Philippines joins the list with the recent enactment of Republic Act No. 12023, commonly known as the VAT on digital services law.

This new law took effect on Oct. 18. According to the Department of Finance, the initiative is set to generate an estimated P16-billion VAT collection annually, and somehow level the playing field between traditional and digital businesses.

It introduces amendments to the general VAT provisions of the Tax Code, putting emphasis on 'digital service' as among the services subject to VAT. It defines digital service as any service supplied over the internet or other electronic network with the use of information technology, describing the supply as essentially automated. Included in the definition of digital service are online search engines, online marketplace or e-market places, cloud services, online media and advertising, online platforms, and digital goods.

DEFINING DIGITAL SERVICE PROVIDERS

The law defines digital service providers (DSPs) as the suppliers of digital services consumed in the Philippines, and sets certain VAT obligations upon them, both resident and non-resident.

Resident DSPs, being local service providers, are presumed to have been operating within the purview of the old VAT provisions. Thus, for them, the new law would serve as a reaffirmation of the obligation to report and remit VAT.

The far-reaching effects of the new law are to be felt more by non-resident DSPs who are assigned unprecedented VAT responsibilities. These responsibilities are anchored on the core of the law, which treats digital services by non-resident DSPs as performed or rendered in the Philippines, provided that they are consumed in the country, thus subjecting them to VAT.

VAT IMPLICATIONS

The following are VAT implications of the new law as far as non-resident DSP transactions are concerned, highlighting what transacting parties should be on the lookout for:

VAT registration. The law requires non-resident DSPs to register with the BIR for VAT purposes if their gross sales for the past three months exceed P3 million or if there are reasonable grounds to believe that their gross sales for the next 12 months will exceed the same threshold. The actual requirements and process for VAT registration are not yet clearly set out. In any case, non-resident DSPs are advised to watch out for the 'simplified automated registration system' that the BIR is tasked with establishing.

Invoicing and accounting. The law requires non-resident DSPs to issue VAT invoices for digital services consumed in the Philippines. In any case, the law ensures that a non-resident DSP's invoice is simplified in terms of contents as compared to mandatory contents of a regular local invoice. A non-resident DSP invoice only needs to reflect the date, transaction reference number, consumer identification, brief description of the transaction, amount, and breakdown of sale price by component if subject to VAT at 12%, VAT zero-rated, or VAT exempt, if necessary. Non-resident DSPs are advised to be on standby for announcements on when the government will operationalize the invoicing requirement. For accounting purposes, non-resident DSPs are not required to maintain subsidiary sales and purchase journals.

VAT payment. The law lays down the manner of VAT remittance, which depends on whether the non-resident DSP transacts with a non-VAT consumer or VAT-registered consumer in the Philippines. For transactions with non-VAT registered consumers, the non-resident DSPs are the ones required to directly remit the VAT to the BIR. For transactions with VAT-registered consumers, these consumers are the ones supposed to withhold VAT and remit the same to the BIR. This process is referred to as the "reverse charge mechanism," a similar mechanism to our existing withholding VAT. The BIR will likely soon release mechanics for VAT payment, whether via direct remittance or reverse charge. In either case, transacting parties are advised to assess whether the imposition of VAT on the digital services would have an effect on agreed pricing between them.

Special rule for online marketplaces or e-marketplaces. Online marketplaces may also be required under the law to remit the VAT on behalf of their non-resident sellers, if the online marketplaces are involved in setting the terms and conditions of supply, or are involved in the ordering or delivery of goods.

RECOGNIZING THE FAR-REACHING EFFECTS OF VAT ON DIGITAL SERVICES

For the very first time, a Philippine law calls the attention of non-resident businesses, DSPs in particular, to comply with its VAT requirements such as registration, invoicing, and more importantly, VAT payment. The law even goes on to say that, in case of failure to register and non-compliance, the BIR, through the Department of Information and Communications Technology, can suspend business operations by blocking access to their digital services in the Philippines.

At the same time, the law subtly calls the attention of Philippine customers transacting with DSPs. With a tax ecosystem that encourages taxpayers to comply, Philippine customers, especially businesses placed on the receiving end of tax audits, should assess its implications from various angles. Questions around the consequences of transacting with unregistered non-resident DSPs, transacting with DSPs that issue non-compliant VAT invoices, and the applicability and proper implementation of the reverse charge mechanism are just some of the valid concerns consumers should recognize in view of the recent VAT law development.

The effects of the VAT on digital services law are far-reaching. For now, taxpayers can expect further clarifications to come from the tax authority as it designs the rules and regulations for effective implementation.

This article is for general information only and is not a substitute for professional advice where the facts and circumstances warrant. The views and opinion expressed above are those of the authors and do not necessarily represent the views of SGV & Co.

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