

Senate passes mining tax regime measure

THE SENATE approved on third and final reading on Monday a bill setting up a five-tier margin-based royalty and windfall profit system for the mining industry, which is expected to raise the government's share of mining profits.

By a vote of 18-1 with zero abstentions, the chamber approved Senate Bill No. 2826, a priority measure that sets royalty tiers ranging range from 1% to 5%, while the five-tier windfall profit tax system will range from 1% to 10%.

Currently, mining firms pay corporate income tax, excise tax, royalty, local busi-

ness tax, real property tax and fees to indigenous communities.

The House of Representatives approved its version of the bill in September.

Under House Bill No. 8937, large-scale miners inside mineral reservations must pay the government only 4% of their gross output, while the Senate version requires them to pay 5%.

The House version proposes an eight-tier margin-based royalty regime ranging from 1.5% to 5% and a 10-tier windfall profit tax system ranging from 1% to 10%.

According to the third-reading copy of the Senate bill, mining companies will be

barred from exporting raw ore five years after the measure takes effect.

Senator Joseph Victor G. Ejercito, who sponsored the measure, told a news briefing last week that the provision would encourage investment in domestic mineral processing, compelling mining companies to construct their own plants.

“The rationale is for the mining firms to establish their processing plants because we want the finished product instead of just putting out raw materials for export,” he said last week.

The Chamber of Mines of the Philippines backs the bill but called on senators

to scrap the raw ore export ban, saying it would lead to hundreds of thousands of job losses.

The chamber said mining companies are unlikely to finish building their plants within five years, adding that the ban could disrupt mineral trading.

“It’s still an additional tax take. Considering our increased budget, every little increase in the tax collection is important,” Eleanor L. Roque, tax principal of P&A Grant Thornton, said via Viber, commenting on the bill’s approval.

She said the Department of Finance’s estimate of additional revenue

of P6.26 billion would not be a substantial boost to state revenue in the long run.

In October, Australian Ambassador to the Philippines Hae Kyong Yu said that the Australian Embassy in Manila had brought in Australian mining tax experts to work with their Philippine counterparts while Congress was working on the mining tax bill.

The embassy has also been encouraging Australia’s mining industry to partner with their Philippine counterparts on best practices. — **John Victor D. Ordoñez**

Site search is on for north terminal exchange

THE Department of Transportation (DoTr) said it is evaluating candidate sites for an integrated transport terminal in northern Metro Manila.

“We’re still looking for a suitable site which can connect to either the North-South Commuter Railway or Metro Manila Subway,” Transportation Jaime J. Bautista told reporters on the sidelines of a groundbreaking event in Taguig City on Monday.

Mr. Bautista said the DoTr is preparing a feasibility study which is expected to be complete within a few months.

Mr. Bautista said the proposed terminal is different from the new transport hub planned fort a three-hectare lot in Quezon City owned by the Government Service Insurance System.

In April, Mr. Bautista said the DoTr was in talks with bus company Victory Liner for a possible private-public partnership to establish an integrated terminal exchange in northern Metro Manila, similar in concept to the Parañaque Integrated Terminal Exchange (PITX). One of Victory Liner’s major terminals is in Caloocan City.

Also on Monday, the DoTr signed an agreement with San Miguel Corp. (SMC), Ayala Land, Inc., the Veterans Federation of the Philippines, and other government agencies for the right

of way for the first phase of the Southeast Metro Manila Expressway (SEMME).

SEMME is a 32.7-kilometer toll road project expected to cost over P45 billion. It aims to connect the South Luzon Expressway Skyway system at the Arca South estate in Taguig City to the Batasan Complex in Quezon City.

The expressway is expected to provide an alternate route from the south to eastern Metro Manila, including Rizal province. It will benefit up to 88,338 motorists daily.

The project is expected to cut travel time from Bicutan to Batasan to under 30 minutes from about two hours.

According to a timetable given to reporters during the event, Section 1A (Skyway to FTI), Section 1B (FTI to C5/Diego Silang), and Section 2 (C5/Diego Silang to C6/Taguig) will each be finished in 24 months.

On the other hand, Section 3 (C6/Taguig to Ortigas Ave. Ext.), Section 4 (Ortigas Ave. Ext. to Marcos Highway), Section 5 (Marcos Highway to Tumana), and Section 6 (Tumana to Batasan) will each be completed in 36 months.

The project will be operated by SMC, with the Philippine National Construction Corp. as joint venture partner. — **Revin Mikhael D. Ochave**

IPAs targeting more types of electronics firms

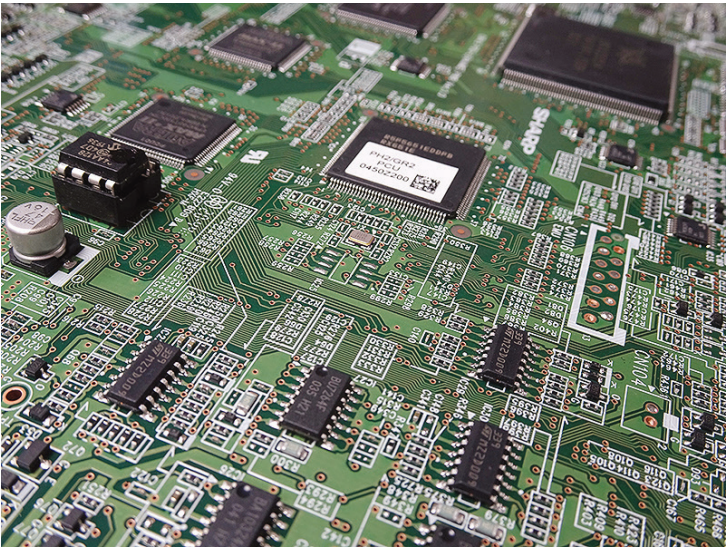
INVESTMENT promotion agencies (IPAs) are seeking to attract more types of companies engaged in electronics manufacturing services and semiconductor manufacturing services (EMS-SMS).

In a statement on Monday, the Philippine Economic Zone Authority (PEZA) said it discussed the next steps for the EMS-SMS industry with the Board of Investments (BoI) during a Semiconductor and Electronics Industries in the Philippines Foundation (SEIPI) board meeting.

In particular, PEZA said that the discussion revolved around the push to explore other types of EMS-SMS businesses to attract to the Philippines.

During the meeting, PEZA pitched the inclusion of power electronics and printed circuit board (PCB) design companies in the priority investment list.

This subsector’s products include multi-layer ceramic capaci-



THE electronics manufacturing services and semiconductor manufacturing services industry is among the industries identified to attract investment from this year.

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sign, and electronics manufacturing services,” PEZA said.

“Leveraging the Philippines’ strong partnership with the US and its performance in the ASEAN region, PEZA strengthens initiatives towards attracting more industries into the country, especially those into electronics and semiconductor manufacturing,” it added.

The EMS-SMS industry is among the industries identified by the Marcos administration as a priority industry to attract investment from this year.

This dovetails with “the various advantages the Philippines is presented with, like the US CHIPS and Science Act and the renewed talks for a PH-US free trade agreement (FTA).”

Last month, the Department of Trade and Industry said that it will renew its efforts to secure a bilateral FTA with the US. — **Justine Irish D. Tabile**

GSIS launches loan consolidation program

THE Government Service Insurance System (GSIS) has launched a loan consolidation program offering relief for indebted government workers.

“Through the MPL (Multi-Purpose Loan) max, we are throwing a lifeline to our members who are weighed down by debt. This goes beyond consolidating loans — we are helping our members rebuild their lives by creating a clear path to financial recovery and stability,” GSIS President and General Manager Jose Arnulfo A. Veloso said in a statement on Monday.

Under the program, GSIS will sign a memorandum of agreement with government agencies, whose employees will be able to combine all their loans into a single loan that offers lower interest rates and extended payment terms.

Qualified borrowers may borrow up to 19 times their salary or P5 million, whichever is lower, with payment terms extending up to 10 years.

Loan insurance coverage is also included in the program at no additional cost, as well as the option to pre-terminate without penalty.

The GSIS also eliminated surcharges on existing GSIS loans and waived all service fees.

To qualify for MPL max, members must have paid at least one month of premium contributions within the past six months, have no active multi-purpose loans, and have not defaulted on any GSIS Financial Assistance Loans.

“They must also be free of administrative or criminal cases, and have sufficient net take-home pay as required by the General Appropriations Act,” GSIS added. — **Aaron Michael C. Sy**

OPINION

Non-taxability of employee de minimis benefits

Capping off the first month of 2025, the Bureau of Internal Revenue (BIR) issued Revenue Regulations (RR) No. 004-2025 (RR No. 4-25), amending the rules on certain de minimis benefits. It increased the uniform and clothing allowance to P7,000, which was formerly P6,000 under RR No. 11-2018 (RR No. 11-18); and included cash and gift certificates used as employee achievement awards.

BUT WHAT EXACTLY ARE DE MINIMIS BENEFITS ?

De minimis benefits can be best described as non-taxable compensation granted by employers to their employees holding managerial and rank-and-file positions that are mandated by law. Although RR No. 2-98, as amended by RR No. 11-18, defines de minimis benefits to form part of compensation, it must be made clear that these benefits are not subject to income tax, as well as withholding tax on compensation income.

Thus, the following shall be considered de minimis benefits and form part of the non-taxable compensation of employees as of RR Nos. 4-25, amending certain provisions of RR No. 11-18, and RR No. 2-98:

- Monetized unused vacation leave credits of private employees up to 10 days;
- Monetized value of vacation and sick leave credits paid to government officials and employees;
- Medical cash allowance to dependents of employees up to P1,500 per semester or P250 per month;
- Rice subsidy up to P2,000 or one 50kg sack of rice per month amounting to not more than P2,000;
- Uniform and clothing allowance not exceeding P7,000 per annum.
- Actual medical assistance, e.g., medical allowance to cover medical and healthcare needs, annual medical/ex-

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ecutive check-up, maternity assistance, and routine consultations, not exceeding P10,000 per annum;

- Laundry allowance up to P300 per month;
- Employee achievement awards, e.g., for length of service or safety achievement, in any form, whether in cash, gift certificate or any tangible personal property, with an annual monetary value not exceeding P10,000 received by the employee under an established written plan which does not discriminate in favor of highly paid employees;
- Gifts given during Christmas and major anniversary celebrations not exceeding P5,000 per employee per annum;
- Daily meal allowance for overtime work and night/graveyard shift not exceeding 25% of the basic minimum wage on a per region basis;
- Benefits under a Collective Bargaining Agreement and productivity incentive schemes provided that the total annual monetary value received from both CBA and productivity incentives schemes combined up to P10,000 per employee per annum;
- To highlight, the uniform and clothing allowance was increased from P6,000 per annum to P7,000 per annum, or by P1,000. This uniform and clothing benefit should be distinguished from the requirement of a business that exposes employees to hazardous processes or environments. The classification of protective gear should be a necessary business expense rather than a benefit. For example, Rule 1080 of the Occupational Safety and Health Standards in the

Philippines requires employers to provide personal protective equipment (PPE) at their own expense to ensure workplace safety.

On the other hand, in the case of employee achievement awards, the previous provision on de minimis recognized only tangible personal property, other than cash or gift certificates, as the acceptable form of benefits. Specifically, the provision reads “Employee achievement awards, e.g., for length of service or safety achievement, which must be in the form of a tangible personal property other than cash or gift certificate, with an annual monetary value not exceeding P10,000 received by the employee under an established written plan which does not discriminate in favor of highly paid employees.” The amendment now recognizes that any form either in cash and gift certificates, in addition to the previously allowed tangible personal property, may be considered to form part of the benefit for employee achievement awards.

In previous BIR issuances, employee achievement awards contemplated an occasion where such benefits are given in tangible personal property. However, this entails administrative work, both for the employee and employer, to ensure that invoices/receipts as proof of purchase were submitted by the employee. Employers have utilized other ways of providing perks to their employees, such as by giving gift certificates, including electronic gift certificates (eGCs) during the pandemic. It is worth noting that employees prefer to receive eGCs/GCs rather than cash, and even employers prefer the same form for purposes of easy documentation and disbursement of the awards. Thankfully, the BIR has also adopted and considered cash and gift certificates as valid de minimis benefits under achievement awards.

Some reminders regarding non-taxable de minimis benefits are as follows:

- In general, any incentives given to employees form part of the compensation subject to income tax, unless specifically exempted under a special law or included in the list of non-taxable de minimis. Accordingly, other de minimis benefits, such as flowers, fruits, books or similar items (given to employees under special circumstances, e.g., on account of illness, marriage, birth of a baby, etc.), death aid, and paternity benefit, are generally taxable since these are not included in the list of non-taxable de minimis benefits.
- Benefits given in excess of the maximum amount allowed as de minimis benefits shall be included as part of “other benefits” which are subject to a P90,000 ceiling.

Revenue Memorandum Circular (RMC) No. 50-2018 states that any amount in excess of P90,000 is subject to income tax, and consequently, to the withholding tax on compensation. The RMC further provided an example wherein Ms. A received an annual clothing allowance amounting to P10,000 and a 13th month pay of P80,000. No other benefits were received for the entire year. In this case, since the prescribed maximum amount for clothing allowance is only P6,000 (prior to RR 4-2025), the excess of P4,000 shall be added to the 13th month pay, such that the entire benefit received amounted to P84,000. In this scenario, the benefit is still exempt from income tax since the ceiling for these other benefits is P90,000.

As early as BIR Ruling DA-230-02, the BIR recognized clothing allowances to be exempt from the computation of withholding tax as long as it does not reach the ceiling prescribed. And in BIR Ruling DA-218-08, the BIR further opined that the monthly clothing al-

lowance and cost of uniform form part of an employee’s de minimis benefits. Anything in excess of the threshold of clothing allowance shall no longer be de minimis and will be subject to the appropriate income tax.

- The rules and regulations on de minimis benefits do not allow aggregation of the amounts set for each type of benefit.

In one BIR Ruling, the BIR explained that each item of de minimis benefits must be treated independently of each other. Accordingly, there can be no aggregation of de minimis values for rice and meal and food benefits through meal and food vouchers. In order to clearly conform to prescribed de minimis standards, therefore, separate vouchers should be used for the rice allowance and the meal and food benefit.

The above enumeration can be described as some of the best tools employers can utilize to extend an extra hand to their employees. Not to mention, it’s also a great tool in boosting the morale of employees without worrying about additional tax liabilities. With the recent amendments to the de minimis benefits, one can’t help but recognize the BIR’s effort in ensuring employees receive what they really deserve. Certainly, we can all agree that there is great anticipation as to the upcoming amendments and how it will benefit employees.

JOSELLE MARIANO is an associate of the Tax Advisory & Compliance Practice Area of P&A Grant Thornton. One of the leading audits, tax, advisory, and outsourcing firms in the Philippines, P&A Grant Thornton is composed of 29 Partners and 1,500 staff members.

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