Offshore wind auction to offer capacity of 3,300 MW


FREEPIK

By Sheldeen Joy Talavera
Reporter

THE Department of Energy (DoE) said it opened up for stakeholder comment on the rules for fifth round of the green energy auction (GEA-5), which will offer 3,300 megawatts (MW) of capacity.

In a statement on Wednesday, the DoE said this round will focus on fixed-bottom offshore wind technology, with installation targeted for between 2028 and 2030.

"By prioritizing fixed-bottom offshore wind for GEA-5, we are investing in a technology that is ready to deliver," Energy Secretary Raphael P.M. Lotilla said. "This allows us to set a strong and credible foundation for the country's offshore wind sector, one that can deliver first power by 2028."

The DoE said it opted for fixed-bottom as the focus of GEA-5 due to its "established global track record, cost-efficiency, and scalability."

"This approach positions the DoE to expedite the near-term deployment of offshore wind, supporting large-scale and reliable renewable energy generation aligned with the country's energy security and climate objectives," the DoE said.

It said floating offshore wind technology remains in the early stages of development, pending which the Philippines must exploit "a critical window for proactive planning and capacity-building."

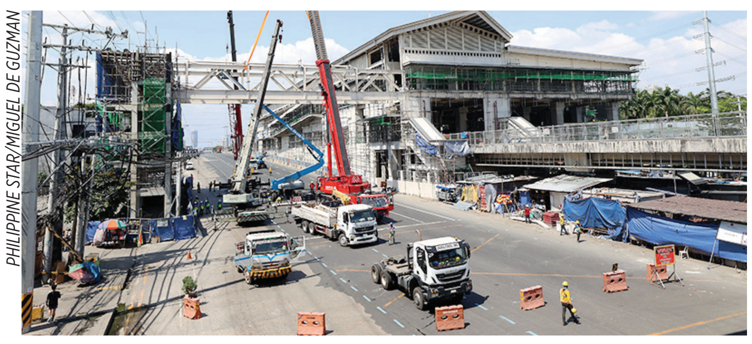
Energy Undersecretary Rowena Cristina L. Guevara said the DoE remains open to floating offshore wind technology.

"As global experience grows and the technology matures, the DoE will reassess its inclusion in future auction rounds. For now, our focus is to build momentum with fixed-bottom projects that can succeed under current technical, regulatory, and infrastructure conditions," she said.

The DoE is inviting offshore wind developers, port operators, transmission companies, and other parties to review the GEA-5 terms of reference and submit inputs, comments, or clarifications on or before June 18.

GEA-5 is expected to facilitate market access for offshore wind developers, ensuring long-term demand for their generation capacities.

The DoE expects offshore wind to play a key role in achieving the Philippine target of increasing renewable energy's share in the power mix to 35% by 2030 and 50% by 2040.


PHILIPPINE STAR/MIGUEL DE GUZMAN

PPPs expected to take off after RoW bill becomes law

THE new Right-of-Way (RoW) bill, when signed into law, is expected to help fast-track public-private partnerships (PPPs), according to the Federation of Filipino Chinese Chambers of Commerce and Industry, Inc. (FFCCCII).

"The FFCCCII lauds the historic passage of the Right-of-Way bill, a transformative legislative achievement that will accelerate the Philippines' infrastructure renaissance," FFCCCII President Victor Lim said in a statement on Wednesday.

"By dismantling bureaucratic bottlenecks that have stalled critical projects for years, this law empowers our nation to finally bridge its infrastructure gap and fuel equitable progress," he added.

He said that the bill's final reading approval at the Senate reflects the government's priorities of job creation, enhancing logistics, and improving the quality of life.

"The FFCCCII particularly welcomes its potential to fast-track PPPs, enabling timely delivery of airports, seaports, and industrial corridors that will elevate our global competitiveness," he added.

Senators on Monday approved Senate Bill No. 2821, the Accelerated and Reformed Right-of-Way Act, which aims to facilitate easier acquisition of right-of-way in infrastructure construction.

It seeks to amend the Republic Act No. 10752, also known as the Right-of-Way Act.

The FFCCCII said "costly delays in land acquisition, legal disputes, and procedural gridlock" have hindered the completion of infrastructure projects.

The bill "cuts through these obstacles with clarity, efficiency, and fairness, ensuring public and private projects can advance without sacrificing due process or just compensation," Mr. Lim said.

"We extend our deepest gratitude to policymakers for their courage in passing this long-stalled measure. As we move forward, we urge vigilant execution to balance swift implementation with transparency, protecting stakeholders' rights while safeguarding the greater public interest," he added. — **Justine Irish D. Tabile**

Immediate return of 35% tariff on rice seen fueling price shocks

THE Department of Agriculture (DA) warned legislators that raising rice tariffs to 35% from 15% too quickly could trigger price shocks, and advocated for a gradual increase instead.

At a committee hearing, Nueva Ecija Rep. Rosanna V. Vergara said: "I strongly urge the Secretary of Agriculture to reconsider reverting the tariff rates to the pre-existing rate of 35% and to review Executive Order No. 62, which had lowered the rate to 15%."

"That might create a big shock in the market, and even to the world market," Agriculture Secretary Francisco P. Tiu Laurel, Jr. said in response. "A gradual increase has been our suggestion."

The hearing of the agriculture committee was exploring measures to curb food prices and bolster agriculture development, including restoring the National Food Authority's (NFA) market regulatory powers.

The government in July 2024 slashed tariffs on rice imports to 15% from 35% until 2028 to tame rice prices. The rate is subject to review every four months.

"The last review, which was two months ago, our position with NEDA (National Economic and Development Authority) is to recommend a gradual increase towards attaining 35%," Mr. Laurel said.

He said rates could be incrementally increased, by 10% first and then subsequent 5% hikes to slowly prime the rice market.

"It's difficult if we raise it to that level immediately," he said. "The price of rice will definitely increase suddenly."

Meanwhile, the committee also recommended restoring the NFA's regulatory powers, such as having the ability to intervene in the market to help keep rice affordable.

"(We) support the reinstatement of regulatory trade mandates of the NFA to enable market interventions, thereby stabilizing supply and prices of grains," Albay Rep. Jose Ma. Clemente S. Salceda told the panel.

NFA Administrator Larry R. Lacson has said that he is seeking the restoration of the power to sell rice directly to the public to influence the market during times of high prices.

The DA is seeking an P18-billion budget to fund next year's subsidized rice program, Mr. Laurel said.

He said the department has requested about P160 billion in funding for next year, with the bulk to be used to fund rice and livestock programs. — **Kenneth Christiane L. Basilio**


PHILIPPINE STAR/EDD GUMBAN

Egypt targeted for mango, banana exports

THE Department of Agriculture (DA) said it is targeting Egypt as a new market for high-value produce such as mangoes and bananas.

Agriculture Secretary Francisco Tiu Laurel, Jr. recently met with Egyptian Ambassador Nader Nabil Zaki as part of a larger effort to diversify export markets destinations in North Africa, the DA said in a statement.

The DA noted that Egypt, Africa's second-largest economy, recently opened its doors to Philippine durian, which could pave the way for similar access for other produce.

"They already granted us access for durian. We are hopeful they will do the same for our mangoes and bananas," Mr. Laurel was quoted as saying.

Egyptian grapes and potatoes are currently in the final stages of their Pest Risk Assessment and food safety analysis for export to the Philippines, the DA said.

"In addition, the opportunity of sourcing garlic and onions from Egypt was explored and technical assistance and information exchange for the two commodities are planned in the near future," it added.

Agricultural trade between the two countries is around $7.5 million annually, with Egypt currently running a surplus.

The Philippines primarily exports desiccated coconut and carrageenan to Egypt, while importing broths, soups, and dried kidney beans. — **Kyle Aristophere T. Atienza**

OPINION

A guide to navigating software licenses in light of recent tax developments

TAXWISE OR OTHERWISE
ADRIEL JOSHUA ZAKI SIM

Software is a cornerstone of modern business innovation and efficiency. From streamlining operations to enhancing the customer experience, it enables organizations to scale, adapt, and thrive. The dynamic nature of software — whether through cloud-based solutions, enterprise applications, or specialized tools — has transformed industries and redefined how businesses operate. However, as software becomes increasingly integral to business strategy and continues to expand, so does the complexity of its taxation.

This article revisits the taxation of software licenses in light of recent tax developments, specifically Revenue Memorandum Circular (RMC) Nos. 5 and 38-2024, which covers cross-border transactions, and Republic Act (RA) No. 12023, or the VAT on Digital Services Act, along with its implementing rules and regulations (IRR).

To arrive at the correct taxation, it is crucial to first determine whether payments for software licenses qualify as business profits or royalties, according to guidelines established in RMC No. 44-2005. A common mistake by software purchasers is categorizing the payments as royalties even when no copyright rights are transferred — only the "right to use" the software is granted. This distinction is vital because, in the Philippines, cross-border royalty payments are typically subject to a 12% VAT and 25% Final Withholding Tax (FWT), unless a lower rate is applicable under a tax treaty. Conversely, business profits may be exempt from Philippine taxes.

In mixed contracts, where necessary, the total consideration payable should be broken down based on contract information or reasonable apportionment, with appropriate tax treatment applied to each part. If one part constitutes the principal purpose of the contract and other parts are ancillary, the treatment of the principal part should apply to the entire consideration.

Once the nature of the software payment is established, business profits should be further assessed to determine whether they are considered Philippine-sourced income, following the factors laid down by RMC Nos. 5 and 38-2025:

1. Whether an integral stage/s in the rendition of services occurred in the Philippines, without which, the transaction would not have been accomplished; or

2. Whether the foreign vendor used any facilities and/or equipment situated in the Philippines to deliver the service; or

3. Whether the foreign vendor's accrual of income depends on the successful use, consumption or utilization of the services by the Philippine purchaser.

Based on the RMCs, meeting at least one of the above-mentioned factors will constitute the payment as Philippine-sourced income subject to 25% FWT, but exemption is available under applicable tax treaties.

The final step is to assess whether the transactions would qualify as digital services. If so, the full amount is subject to 12% VAT. Otherwise, only the portion corresponding to the service rendered in the Philippines is subject to VAT.

RA No. 12023 and its IRR provided a broad definition and non-exclusive list of what would qualify as digital services. As defined, digital services are those supplied over the internet or other electronic network with the use of information technology and where the supply of the service is essentially automated. On the other hand, digital goods are intangible goods that are delivered or transferred in digital form, such as digital content purchases, subscription-based supplies of content, supplies of software services and maintenance, among others.

This definition can lead to confusion, particularly regarding which types of services are considered supplied over the internet and when they are deemed automated. Typically, software payments are covered under mixed contracts, granting the right to use software combined with the provision of after-sale services. Often, these after-sale services include technical assistance via conference calls, potentially considered as supplied over the internet; or bug fixes, which might be deemed automated despite the involvement of IT personnel. This implies that all services related to the software license could qualify as digital services subject to the 12% VAT.

Pending further guidance from the tax authority, I believe that the active conduct of the service should be considered when making an assessment. This means that if the active conduct of the service is performed manually or a significant portion of the service requires human intervention, it should not qualify as a digital service, even if supplied over the internet.

Navigating the complexities of software license taxation requires planning and proactive compliance measures. Businesses can consider the following actions to optimize their tax position and ensure adherence to the new tax rules:

• Reassess the nature of the software payments for proper classification and imposition of tax.

• Discuss with the foreign vendors to include/clarify the scope and details of the delivery and specify them in the contracts, as necessary. These would include considerations such as: the place of rendition of the service, including the location of any facilities used; the party who will shoulder the applicable taxes; and the transactions which will be supplied over the internet or automated.

• Avail of tax treaty benefits, if applicable, and file an application with the BIR for a Certificate of Entitlement to Treaty Benefits.

As software continues to drive innovation, understanding and adapting to the evolving tax environment is crucial. By embracing these changes, businesses can ensure they remain compliant while leveraging the transformative power of software to propel their growth and success in the digital age.

The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general Information purposes only, and should not be used as a substitute for specific advice.

ADRIEL JOSHUA ZAKI SIM is a manager at the Tax Services department of Isla Lipana & Co., the Philippine member firm of the PwC network.
adriel.joshua.zaki.sim@pwc.com