BoI sticks to P1.75-T goal for approved investments

THE Board of Investments (BoI) said it maintained its target for approved investment applications this year at P1.75 trillion.

"We will stick to that. And next year we're hosting ASEAN 2026, so that will open the Philippines to our counterparts," BoI Chairman and Trade Secretary Ma. Cristina A. Roque said on the sidelines of the media launch of the 51st Philippine Business Conference and Expo.

"We will show our best. We are preparing for that," she added.

The P1.75-trillion approvals target, if achieved, would represent an 8% rise from the P1.62 trillion worth of approvals in 2024.

The Philippine Statistics Authority reported that BoI-approved investments hit P382.24 billion in the first half, about 60% behind the year-earlier approval pace.

Ms. Roque said approvals have been affected by the uncertainty surrounding US reciprocal tariffs.

When the tariff situation for Southeast Asia clears up, "then, businesspeople can already choose to really stay here," she said.

"But I think we'll still have an edge because 19% is not that big compared to others," she added.

On Aug. 7, the US started collecting a reciprocal tariff of 19% on Philippine goods entering the US market.

To attract more foreign investment, she said that the government will be sending more trade missions throughout the year.

"We are scheduled to go to Cambodia, Osaka, Japan, and New York. We are hoping for France plus other countries," she said.

"Despite the tariffs, I think it's business as usual. If you're a businessperson, you don't stop your business because of all of these tariffs ... We still have to go on and maneuver using (every opportunity) offered to us," she added. — **Justine Irish D. Tabile**

Rice import freeze not expected to affect inflation; stocks ample

THE temporary ban on rice imports is not expected to stoke inflation as rice stocks remain substantial, according to the Department of Agriculture (DA).

"We had a record harvest in the first half, plus we are expecting a record harvest for the wet season," DA spokesman Arnel V. De Mesa told reporters.

"This means that we have lots of rice and palay (unmilled rice) in circulation. (We do not expect) sudden surges in rice prices," he added.

President Ferdinand R. Marcos, Jr. suspended rice imports between September and October to provide relief to farmers, who have had to sell their grain to traders for as little as P8 per kilo in some places, well below production costs.

Mr. De Mesa noted that due to the upcoming import ban, the international price of Vietnamese rice declined.

He noted that the Philippines accounts for 45% of Vietnam's rice shipments.

PHILIPPINE STAR/JOHN RYAN BALDEMOR

Palay production in the first half of 2025 rose 6.4% year on year to 9.08 million metric tons (MMT), of which 4.38 MMT came in during the three months to June, the highest second-quarter output since 1987.

The Philippine Statistics Authority reported that the national rice inventory as of July 1 rose 27% year on year to 2.8 MMT.

Rice carries a 9% weighting in the basket of goods used to estimate inflation.

The Department of Economy, Planning, and Development (DEPDev) has said that the sustained drop in rice prices has significantly eased the cost of living for low-income households.

Mr. De Mesa said rice tariff collections, which go towards supporting the Rice Competitiveness Enhancement Fund (RCEF), were substantial during the earlier months of the year, adding that the import suspension will not affect the RCEF's funding.

The Bureau of Plant Industry (BPI) reported that imported rice landed between January and July totaled 2.44 MMT.

Mr. De Mesa urged legislators to give equal attention to water impounding and irrigation projects after flood control projects came under scrutiny following their failure to prevent floods during the spate of July rains.

He noted that floods result in the loss of 500,000-600,000 metric tons of palay annually.

Central Luzon, the leading rice-producing region, was heavily affected by flooding in July.

Irrigation systems, which have separate drainage systems, are "long-term" investments, Mr. De Mesa noted. — **Kyle Aristophere T. Atienza**

5-month foreign debt service bill creeping up to $5.9 billion

THE debt service bill on foreign borrowing was nearly $5.9 billion in the five months to May, according to preliminary data from the Bangko Sentral ng Pilipinas (BSP).

Debt service rose 0.51% to $5.869 billion in the first five months, from $5.839 billion a year earlier.

Principal payments rose 2.68% in the first five months to $2.645 billion. Interest payments declined 1.23% to $3.224 billion.

The debt service burden represents principal and interest payments after rescheduling, according to the BSP.

These totals include principal and interest payments on fixed medium- and long-term credits, including International Monetary Fund credits, loans covered by the Paris Club and commercial bank rescheduling, and New Money Facilities.

They also cover interest payments on fixed and revolving short-term liabilities of banks and nonbanks.

The debt service data exclude prepayments on future years' maturities of foreign loans and principal payments on fixed and revolving short-term liabilities of banks and nonbanks.

"The external debt service burden is largely a function of matured foreign debt versus year-ago levels, in view of the fact that the NG (national government) borrowings increased since the COVID-19 pandemic started in March 2020," Rizal Commercial Banking Corp. Chief Economist Michael L. Ricafort said via Viber.

Mr. Ricafort noted, however, that most of the NG's foreign debt is long-term, "some of which have started to mature and have increased since the pandemic."

The Bureau of the Treasury reported that gross borrowing rose 78.16% to P263.99 billion in June, driven by both domestic and foreign debt.

Mr. Ricafort added that the net increase in US interest rates since the pandemic were a factor, "offset by the total Fed rate cuts of minus 1 percentage point since September 2024 and the possible half percentage point Fed rate cuts for the balance of 2025," he said.

The Federal Reserve is expected to deliver its first interest rate cut this year in September, followed by another before year's end, Reuters reported.

As of May, the debt service burden as a share of gross domestic product (GDP) fell to 2.8% from 3.1% a year earlier.

Outstanding external debt grew 14.02% to $146.737 billion at the end of March, consisting of $91.535 billion in public-sector debt and $55.202 billion in private-sector debt.

This brought the external debt-to-GDP ratio to 31.5%, up from 29% a year earlier.

The BSP's external debt data cover borrowings of Philippine residents from nonresident creditors, regardless of sector, maturity, creditor type, debt instruments or currency denomination. — **Katherine K. Chan**

OPINION

Traversing the taxation of cross border services

LET'S TALK TAX
JOHN PAULO D. GARCIA

Over a year since the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circulars (RMC) Nos. 05-2024 and 38-2024, taxpayers continue to navigate the complexities that these twin issuances introduced in the taxation of cross-border services.

In particular, payments to foreign service providers have become a common focus during BIR audits, often resulting in assessments for final withholding tax (FWT) and final withholding value-added tax (FWVAT). In order to manage potential tax exposure and ensure compliance with tax obligations in relation to these cross-border services, taxpayers should undertake deliberate measures such as conducting a thorough review of cross-border service arrangements and strengthening documentation, among others.

RMC Nos. 05-2024 and 38-2024 were issued by the BIR to clarify the tax treatment of cross-border services in light of the Supreme Court's En Banc Decision in Aces Philippines Cellular Satellite Corp. v. Commissioner of Internal Revenue, G.R. No. 226680. These circulars adopt the "benefit-received theory" in determining the situs or location of taxation for purposes of income tax and value-added tax (VAT). Under this approach, the source of income is deemed to be in the Philippines if the property, activity, or service generating the income is situated within Philippine territory. Consequently, where the flow of wealth originates from or occurs within the Philippines — benefiting from the protection provided by the Philippine government — the income is subject to Philippine income tax and VAT and consequently, to FWT and FWVAT.

The framework effectively subjects cross-border services to FWT and FWVAT, even when the services are rendered entirely outside the Philippines, if the services are consumed or utilized in the Philippines. This interpretation appears to conflict with Section 42 of the Tax Code, which simply provides the "place of performance" of the service as the determining factor in assessing whether income is sourced within the Philippines and with Section 108 of the Tax Code, which provides that performance of services in the Philippines (except for digital services, which are taxed where consumed) is subject to VAT.

Given that the BIR actively applies the rules outlined in the circulars during tax audits despite some issues in the framework it sets forth, what can the taxpayers do to possibly mitigate the possible tax risks in relation to cross-border services, particularly those performed outside the Philippines?

In line with long-standing principles governing the taxation of services rendered by non-residents under the Tax Code, taxpayers should maintain robust documentation demonstrating that such services are performed outside the Philippines. These can include contracts and agreements, as well as invoices issued by the non-residents, expressly indicating that services are rendered outside the Philippines, and certifications from the suppliers confirming that services were rendered abroad, among others.

Nonetheless, in light of the rules laid down in the circulars, taxpayers should reassess whether their cross-border services arrangements fall within the scope of these issuances. Specifically, RMC No. 38-2024 outlines that the source of income is considered to be in the Philippines if the property, activity, or service generating the income is located within the country. Crucial factors in this determination include, among others:

1) whether the accrual of income depends on the successful use, consumption, or utilization of the service by a Philippine-based purchaser;

2) whether the performance of the service relies on facilities in the Philippines; and

3) whether specific stages of the service conducted within the country are integral to the overall transaction, such that the business activity could not be completed without them.

RMC No. 38-2024 also clarifies that an affected taxpayer is not precluded from applying a tax treaty relief to assert that the income by the non-residents from cross-border services (i.e., business profits) is exempt from income tax for lack of permanent establishment in the Philippines.

As background, a tax treaty, also referred to as a Double Taxation Agreement (DTA), is a bilateral agreement between the Philippines and another country. These treaties allocate taxing rights between the contracting states and typically provide for reduced tax rates or exemptions on certain types of income, such as dividends, interest, royalties, and business profits, depending on the conditions set forth in the tax treaties. Should there be transactions subject to income tax in the Philippines, tax treaties override the domestic taxation law.

Taxpayers may file a Request for Confirmation (RFC) with the BIR to assert that the income derived from cross-border services rendered by non-residents is exempt from Philippine income tax under an applicable tax treaty. For business profits, such as the income from cross-border services, the income tax exemption applies if the non-resident does not have a permanent establishment (PE) in the Philippines, as defined in the relevant treaty with the non-resident's country of tax residence.

Typically, a permanent establishment (PE), as defined in tax treaties, generally refers to a fixed place of business through which the non-resident conducts its operations. This may include a place of management, branch, office, factory, or workshop located in the Philippines. There may also be a PE created if services are performed in the Philippines by employees or personnel of the non-resident for a specified duration, as outlined in the relevant treaty.

Therefore, if the services are performed entirely outside the Philippines, no PE is created solely based on the duration of service provision and the related income should not be subject to income tax, and consequently, to FWT.

The Certificate of Entitlement (CoE) to Treaty Benefits to be issued by the BIR can then be used by taxpayers to support the non-withholding of FWT on the transactions with non-residents for cross-border services.

RFCs for business profits must be filed at any time after the close of the taxable year but not later than the last day of the fourth month following the close of such taxable year when the income payment is accrued or recorded as an expense in the books, or at the issuance of invoice and other adequate documents by the seller, whichever comes first. Late filing does not automatically result in denial, as denials will purely be based on the merits of the case. However, penalties for late filing will be imposed.

For transactions under ongoing assessment where no RFC has been filed, the Supreme Court has consistently held that tax treaties have the force of law and must be honored in good faith. Administrative issuances cannot override treaty obligations. The requirement to file a tax treaty relief application is procedural and should not, by itself, disqualify a taxpayer from claiming treaty benefits.

Moreover, while the general rule for availing of tax treaty relief is the existence of a case of double taxation for which a tax relief is sought, i.e., there is a taxable transaction in the Philippines, and even with RMC No. 38-2024 providing that a tax treaty can be invoked once the source of income is established to be within the Philippines using the guidelines provided therein, the filing of RFC should not be construed as a concession that income for services rendered entirely abroad is earned in the Philippines and therefore subject to tax in the Philippines. The BIR has previously issued numerous rulings which included discussions on the non-applicability of tax treaties on transactions that do not result in cases of double taxation, such as services purely rendered outside the Philippines.

All else considered, even if a tax treaty relief application is technically not required for cross-border services purely rendered outside the Philippines following the provisions of the Tax Code, a taxpayer may need to file an RFC to have stronger documentation in case of audit.

However, it is hoped that the BIR will also clarify the provision of the circular stating that the application of the benefits of the tax treaty presupposes that the situs of the source of income is in the Philippines, particularly for cross-border services purely done outside the Philippines. This may raise further issues regarding the VAT implication of the transactions since tax treaties cover only income tax and not VAT.

Nonetheless, it should be noted that VAT rules under the Tax Code remain the same. It is worth noting that the Aces case, which is the basis of the circulars, only addressed the rules on determining the source of income for purposes of income tax and not VAT. Accordingly, it cannot serve as a basis for asserting that payments to non-residents for services rendered abroad but utilized and consumed in the Philippines are subject to VAT.

In addition, recent changes in VAT rules apply only to those classified as digital services. Republic Act No. 12023, or the VAT on Digital Services Act, introduced a specific rule for digital services, stating that such services provided by non-resident digital service providers (DSPs) are considered performed or rendered in the Philippines if they are consumed within the country. However, for traditional services that do not fall under the definition of digital services, the general VAT rule remains unchanged — VAT applies only to services that are actually performed in the Philippines.

As RMC Nos. 05-2024 and 38-2024 continue to shape BIR audit practices and trigger assessments, particularly on payments to non-resident service providers, it is imperative for taxpayers to take more proactive measures to manage the tax risks tied to cross-border services. Until clearer guidance is promulgated or the issues are resolved in the courts, staying informed, seeking expert advice, leveraging treaty benefits and maintaining thorough documentation should help taxpayers navigate the complexities and challenges brought about by these circulars.

On the possible tax risk related to cross-border services, prudence dictates a clear course of action — do not wait but mitigate.

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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