“MAPping the Future” Column in the INQUIRER – 25 January 2016

ASEAN Integration – Will it lead to a TAX WAR in the Region?

Benedicta *“Dick”* Du-Baladad

One of the cornerstone of the ASEAN economic integration (AEI) is to make the ASEAN region a single market and production base characterized by the presence of the five (5) freedoms – free flow of goods, services, capital, labor and investments within the ASEAN region – and make it fully integrated in the world economy.

To achieve these 5 freedoms, ASEAN states are now working to harmonize their laws (to a certain extent), rules and practices, removing the differences and aiming to offer a single platform.

But in all these ongoing efforts for harmonization, little is said about taxation. There are only 2 provisions in the AEC Blueprint relating to taxes. These are: (1) enhancing withholding tax structure to promote the broadening of investor base in ASEAN debt issuance (*Item 31, Action iv*); and (2) completing the network of bilateral agreements on tax avoidance among all member countries (*Item 58*).

The AEC Blueprint does not require transformative tax measures nor tax harmonization. The reason is clear. Taxation is an act of sovereignty, something beyond the bounds of what an international body could dictate and AEC cannot divest a member country of its basic right to determine the level of income and expenditures it so desires. The wide disparity in the level of economic development of the ASEAN member countries (AMCs) makes it even more hopeless to aspire for a harmonized taxation in the region.

Thus, TAX will remain to be the differentiating factor. It will remain to be a powerful tool for each AMC to attract investments not only from extra-regional sources (outside the region) but even for intra-regional flows. The differentiation in taxation will remain to cause distortion and be a carrot to induce investors in favoring one member state over the other.

As each member country try to grab a bigger share of the so called “investment pie”, AMCs will use taxation as leverage and this will eventually lead to the lowering of taxes in the region. There will be a race in having the lowest tax regime and having the best tax incentive in the region. A tax war will happen and this will characterize the AEC era.

The good thing about this is that it will drive taxes low, but the bad thing is that it will cause the national treasury to bleed.

Regional Tax War has begun

A tax war is now apparent in the region. In preparation for the ASEAN integration, Malaysia and Thailand already reduced their corporate income taxes (CIT) beginning 2016, the official start of AEI. Malaysia reduced CIT from 25% to 24% while Vietnam reduced it from 22% to 20%.

Ongoing proposals for the reduction of both personal income tax (PIT) and corporate income taxes (CIT) are also being undertaken in the other member states. *Table 1* shows the ongoing tax reforms in selected five (5) AMCs:

Table 1

COUNTRY	REFORMS
Indonesia	The government plans to reduce the corporate income tax rate from 25% to around 17.8% or 17.5%.
Malaysia	Personal income tax rates to be cut by one to three percentage points. Families with monthly income of less than RM4,000 (approx. $908) will not have to pay tax. From 2016, the corporate tax rate will be reduced by one percentage point from 25% to 24%, and for small and medium sized enterprises to 19% from 20%.
Thailand	Beginning 2016, the corporate income tax rate for SMEs will be reduced from 15%-20% to 10%. The government also plans to announce a reduction in the personal income tax rate from 35% to 28% beginning 2016.
Singapore	Individual taxpayers will receive a 50 per cent rebate beginning 2015, capped at S$1,000. There are recent plans to increase personal tax rates from 20% to 22% for income above S$320,000 but with widening of brackets, beginning 2017. Corporations are granted a 30% corporate income tax rebate for year 2015, capped at S$30,000 and for years 2016 to 2017, capped at S$20,000.

Vietnam	Passed a law further reducing the corporate income tax rate from 22% to 20% beginning 2016. For enterprises with total revenues of less than VND20 billion (equivalent to approximately US$1 million), the 20% rate will apply from 2014.

Notably, there is a general trend to reduce income taxes with more concentration on reducing CIT as apparent in almost all AMCs cutting off on CIT rates. Only Malaysia and Thailand proposed a cut on personal income tax.

Interestingly also, there seems to be a new trend of imposing a lower tax rate on small and medium enterprises (SMEs), something we need to consider in our country. Malaysia and Thailand, for example, have a 2-tiered CIT - a higher rate imposed on regular corporations and a much lower rate for SMEs. Vietnam, on the other hand, allowed SMEs a retroactive application of the reduced rate of 20% beginning 2014.

In the Philippines, there are also attempts to lower the corporate rates to 25% and the top PIT rates to 25% but all efforts failed. Proponents are however hopeful of its passage under a new administration.

Table 2 shows the landscape of the taxation in the region post reforms.

Table 2

COUNTRY	Corporate Income Tax	Post reform	Personal Income Tax	Post Reform
Philippines	30%	25% (HB 4829)	32%	25% - 2017 (HB 4829/SB 2149)
Indonesia	25%	17.5%	30%	same
Malaysia	25%	24% 19-20% (SME)	25%	Reduce by 1-3%, increased exemption
Vietnam	22%	20% - 2016/ SME - 2014	35%	same

Thailand	20%	20% 10%(SME)	35%	28%
Singapore	17%	rebates	20%	22% but with widening of brackets

Table 2 shows the beginning of a tax war in the ASEAN region. The tax competition is expected to continue.

Where does Philippines situate?

As it is now, the Philippines has consistently ranked as having the highest tax rate in the region in all types of taxes. *Table 3* clearly shows this.

Table 3

COUNTRY	Corporate Income Tax	TOP Personal Income Tax	Dividend (Non-Res)	ROYALTY (Non-Res)	Interest (Non-Res)	VAT/ GST	CGT
Philippines	**30%**	**32%**	**30%**	**30%**	**30%**	**12%**	**YES**
Indonesia	25%	30%	20%	20%	20%	10%	YES
Malaysia	25% 24% 2016	26% 25% 2016	None	10%	15%	6%	No, Yes real prop
Vietnam	22% 20% 2016	35%	0-Corp 10- Ind	10%	5%	10%	YES
Thailand	20%	35%	10%	15%	15%	7%	None
Singapore	17%	20%	0%	10%	15%	7%	None
Brunei	20%	0%	0%	10%	15%	None	None
Cambodia	20%	20%	14%	14%	14%	10%	None

Laos	24%	24%	10%	**5%**	10%	10%	None
Myanmar	25%- Corp 35% - branch	20- salary 30 - regular	**0%**	20%	15%	5% 3-100	10% - res 40% - NR

**Non-Resident – rate may be reduced under a tax treaty*

Clearly, the Philippines is an outlier in the region with the highest tax rate imposed on all types of tax on income. And when the rate cut in other AMCs kicks in, this will further keep the country afar from the rest of the region.

I need not explain more but with the current tax structure we have, we will not only lose in the race for investments but it will be difficult for us to retain even those we have right now.

Now is the time to seriously consider a genuine tax reform. With all the developments happening in other Asian member countries, yet if we do nothing to reform our current tax system, we die in the battlefield with eyes wide open.

(The author is the Chair of the Tax Committee of the Management Association of the Philippines (MAP), and the Managing Partner and CEO of the Du-Baladad and Associates [BDB Law]. Feedback at <map@map.org.ph> and <dick.du-baladad@bdblaw.com.ph>. For previous articles, please visit <map.org.ph>)