Transfer Pricing Law Review Sought
June 20, 2012, 3:39pm

MANILA, Philippines --- The country is being robbed of its resources. This is how Atty. Benedicta "Dick" Du-Baladad of BDB Law described the possible effect of having no implemented transfer pricing law in the country. "We are missing out on potential income that is due us," she said.

Atty. Baladad is referring to revenues that can be generated from foreign subsidiaries operating in the country through tariffs, charges and corporate income taxes.

But without appropriate taxation policies in place, the country may be missing out on unrealized yield from international trade. The Philippines, for one, has no standard rules on transfer pricing.

"The problem with the absence of transfer pricing rules is both taxpayers and BIR examiners are at a quandary as to how the right transfer price is to be determined," explained Atty. Baladad.

Transfer pricing refers to prices of goods or services charged by individual entities of a conglomerate or controlling interest to one another. It could occur between or among domestic enterprises belonging to a conglomerate or it may involve a Philippine entity member of a multinational enterprise and a related party outside the country.

Atty. Baladad added that because the consolidated income of the conglomerate or group is the utmost priority, prices are managed in a way that the profit of the multinational enterprise is maximized.

"Most multinational enterprises operating in multiple territories employ a complex web of transaction route to take advantage of the differences in tax rates, tax systems, incentive schemes and duties in the countries in which they operate," she said.

Revenue loss is not as apparent with transactions among domestic entities as compared with transactions between a Philippine subsidiary and its Mother Company or counterpart abroad.

She advised the government to consider this matter as one of the primary issues in its fiscal agenda.

"The government has to address this by coming up with a clear, simple and fair transfer pricing rules and regulations to serve as a guide to all – taxpayers, tax administrators and even the courts," she added.

In many jurisdictions, aggressive transfer pricing policies have been implemented to effectively regulate transfer pricing and ensure that the transfer pricing scheme being employed will not deprive their government of its merited revenues.

A report done by US based auditing and tax firm KPMG indicated that Asian countries Japan, India and China ranked as the top three countries with the most aggressive tax authorities for transfer pricing in the world, outpacing Western nations like Canada, US, France and Germany.

“Other countries in the region like Malaysia, Thailand, Taiwan, Australia and New Zealand, Korea, among others, have already administered stringent transfer pricing rules in their respective territories. Unfortunately, the Philippines has yet to act on this,” pronounced Atty. Baladad.