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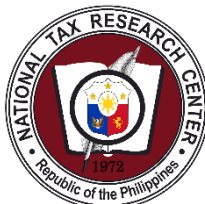
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May – June 2024

Implementation of Real Property Tax Online Payments on Selected Local Government Units



Local Franchise Tax: Issues and Concerns



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Implementation of Real Property Tax Online Payments on Selected Local Government Units*

I. Introduction

Local government units (LGUs) function through the revenues they generate within their respective jurisdictions and the powers granted to them by the Philippine 1987 Constitution and expounded through Republic Act (RA) No. 7160¹, otherwise known as the “Local Government Code (LGC) of 1991”, as amended. Local governments generate their revenues from local and other external sources. Local taxes include property taxes, business taxes, and other taxes that provinces, cities, and municipalities may impose in their respective jurisdictions. On the other hand, external sources include the National Tax Allotment, shares from national taxes, grants and aids, and borrowings. To keep up with the times, LGUs have come up with ways to efficiently collect the said taxes, and a 21st-century-friendly method is through online payments.

This paper assesses the transition of selected LGUs in the National Capital Region on integrating technological advancements in government transactions, particularly the use of online payment systems for real property tax (RPT) payments in the Philippines.

II. Background Information

The RPT in the Philippines is governed by the LGC of 1991, as amended. Property taxes include the following: basic RPT, special education fund (SEF) tax, idle land tax (ILT), special levy, socialized housing tax (SHT), and tax on the transfer of real property ownership (transfer tax). Under the LGC, provinces, cities, and municipalities within Metro Manila are authorized to levy an annual ad valorem tax on real property such as land, building, machinery, and other improvements based on the assessed value of the property derived from the application of the assessment levels (in percentage) to the fair market value (FMV) of the property (LGC, 1991, Sections 232 and 198). In addition to the basic RPT, the SEF tax is an annual tax imposed by the province or city, or municipality within Metro Manila at a rate of 1% on the assessed value of the real property. The proceeds will exclusively accrue to the local

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¹ Entitled, “An Act Providing for a Local Government Code of 1991”, 10 October 1991.

school boards in support of the primary and secondary education of the concerned LGUs (LGC, 1991, Sections 235 and 272).

Correspondingly, the transfer tax is imposed on the sale, donation, barter, or any other mode of transferring ownership or title of real property at the rate not exceeding 50% of 1% of the total consideration involved in the acquisition of the property or the FMV in case the monetary consideration involved in the transfer is not substantial, whichever is higher (LGC, 1991, Section 135). In the same manner, the ILT is imposed at a rate not exceeding 5% of the property's assessed value (LGC, 1991, Section 236). On the other hand, the SHT as provided under Section 143 of the RA 7279 (1992)², or the "Urban Development and Housing Act of 1992", authorizes all LGUs to impose an additional 0.5% tax on the assessed value of all lands in urban areas in excess of P50,000. The proceeds of which will fund the urban development and housing program of the LGUs.

From 2017-2021, the revenues from property taxes showed an annual average of P74.67 billion, with an average growth rate of 6.83% (see Table 1). Additionally, the annual aggregate revenues of RPT gradually increased from P60.81 billion in 2017 to P77.17 billion in 2021. However, the collections from the SHT and the ILT decreased gradually from 2019 to 2021. From P26.29 million in 2019, the SHT revenues went down to P17.25 million in 2021, the same as the ILT which declined from P414.48 million in 2019 to P334.33 million in 2021. (see Annex A).

Table 1

*Average Property Tax Revenues of Local Government Units, By Source, CYs 2017-2021
(In Million Pesos)*

Source	Average		
	Amount	Distribution (%)	Growth rate (%)
Property taxes	74,672.60	100.00	6.83
Real property taxes	67,855.23	90.87	6.25
Basic	33,315.49	49.10	6.21
SEF	34,539.75	50.90	6.31
Transfer tax	6,420.77	8.60	16.84
SHT	21.07	0.03	11.81
ILT	375.53	0.50	-2.44

Notes. Basic data was gathered from the BLGF as of 23 June 2022. For the complete breakdown of figures, see Annex A.

For the past decade, the basic RPT and SEF taxes were the main revenue sources of the LGUs accounting for a combined 90.87% of the total property tax revenues. The SEF tax contributed more than the basic RPT considering that some of the cities may impose a maximum rate of 2% while the SEF tax is fixed at 1%. Meanwhile, the average annual growth

² Entitled, "An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for its Implementation, and for Other Purposes", 24 March 1992.

rates of the SHT and transfer taxes were likewise observed to have significantly increased during the period. Despite this, said taxes were still marginal compared to the other local revenue sources as they only contributed 0.03% and 8.60%, respectively.

The LGUs are encouraged to collect the taxes mandated by the LGC of 1991, as amended, which are considered their main sources of revenue, as well as using their shares from external revenues such as the utilization of national wealth, grants and aids, borrowings, and others, to finance local government programs and livelihood projects.

In accruing such taxes, it is imperative that the LGUs adapt well to the growing technological advancements. Electronic commerce (e-commerce) has been growing rapidly throughout the years, and with it comes electronic payment systems that are slowly replacing cash payment systems (Fatonah et al., 2018). An electronic payment system is defined by Gandawati (2007) as cited by Fatonah et. al. (2018) as a system that provides tools for the payment of goods or services conducted through or carried on the internet, whose efficiency and reliability enable faster payouts, transparent transactions, and reduced costs. Digital payment is defined by Alkhowaiter (2020) as cited by Acopiado et. al. (2022) as various payment methods which entail the use of digital instruments such as mobile payment, mobile wallet, and electronic payment. Remarkably, online payment became the popular method of transaction during the onslaught of the Coronavirus disease 2019 (COVID-19) in 2020 in the Philippines.

It is fair to mention that several laws have already been implemented to provide guidelines regarding the collection of payments and taxes. Moreover, these laws include methods for collecting entities to efficiently and easily perform revenue transactions. (see Table 2).

Table 2

List of Relevant Laws and Issuance Pertaining to Online Payments and/or Transactions

RA 8792 ³ – Electronic Commerce Act	The use of information and communications technology (ICT) in ensuring network security and connectivity for the national benefit. It aims to facilitate domestic and international dealings, transactions, arrangements, agreements, contracts and exchanges, and storage of information through electronic means, promoting the use of electronic transactions in the government and general public, applying to any kind of data message and electronic documents for the use thereof.
Department of Trade and Industry (DTI) – Department of	Guidelines on the use of access devices for payment of fees, charges, assessments, and other revenues through the Electronic Payment and Collection System (EPCS) of a government entity. It applies to all government entities that intend to use or already have existing EPCS

³ Entitled, “An Act Providing for the Recognition and Use of Electronic Commercial and Non-Commercial Transactions, Penalties for Unlawful Use Thereof, and Other Purposes”, 14 June 2000.

Finance (DOF) Joint Administrative Order No. 01-10 (2010)	for the collection of fees, charges, assessments, and revenues, covering all transactions made over the internet or other forms of transaction that do not require face-to-face with any government personnel or over-the-counter transactions.
RA 11032 ⁴ – Ease of Doing Business and Efficient Government Service Delivery Act of 2018	The acceptance of digital payments in government collections aims to promote efficient delivery of government services, expedite transactions, boost revenue, and reduce the risk of graft and corruption. It applies to all government offices and agencies, including LGUs, government-owned or controlled corporations, and other government instrumentalities.
RA 11127 ⁵ – National Payment Systems Act	Provides for a payment system that channels funds transferred among banks and other institutions to discharge payment obligations arising from economic and financial transactions across the entire economy.

III. Selected LGUs' Online RPT Payment Systems

Since the RPT is one of the main sources of revenue for LGUs, it is important to promote efficiency and effectiveness in its collection. Some LGUs have already implemented ordinances and other ICT interventions to generate online payment systems due to the high demand for easier and cashless transactions especially during the COVID-19 pandemic. Upon their implementation, online payment became essential in the collection of the RPT and other various government transactions that otherwise would have been difficult to handle due to the lockdown situation. Thus, more LGUs turned to online systems and processes that proved to be effective and easy to use during the COVID-19 pandemic.

Some LGUs with notable online RPT collection systems are the following cities: Makati, Manila, Muntinlupa, Valenzuela, and Quezon City.

Makati City

Prompted by the need to reduce the number of people going to the city hall in order to pay their taxes, the Makati City launched the “MAKA-Connect”, or the “Makatizen Online Assessment and Payment Portal”, during the middle half of 2020 for Makati citizens or “Makatizens” (City Government of Makati, n.d.). Payment of both business and RPT were made easier through the system, especially during the pandemic, wherein physical transactions

⁴ Entitled, “An Act Promoting Ease of Doing Business and Efficient Delivery of Government Services, Amending for the Purpose Republic Act No. 9485, Otherwise Known as the Anti-Red Tape Act of 2007, and for Other Purposes”, 28 May 2018.

⁵ Entitled, “An Act Providing for the Regulation and Supervision of Payment Systems”, 30 October 2018.

were nearly impossible, as the taxpayer has the option to pay through online banking or the Globe Telecom-powered e-payment system GCash.

In terms of collections, for the year 2020, it can be seen that Makatizens have made quite good use of the payment portal. Despite the quarantine restrictions prohibiting people from going out of their homes, there was no significant gap between the RPT collections for 2019 and 2020. The RPT collection increased from P2,502 million in 2019 to P2,571 million in 2020. Aside from the tax payment extensions that Makati City provided to its taxpayers, the implementation of the payment portal facilitated an effectual way for taxpayers to pay their RPT (City Government of Makati, 2020). Correspondingly, the 2021 and 2022 RPT collections have increased steadily. (see Table 3).

Table 3

Makati City Local Taxes Collection, CYs 2018-2022 (In Million Pesos)

Makati City	2018	2019	2020	2021	2022*
RPT	2,367.99	2,502.34	2,570.96	2,608.88	2,808.73
LBT	8,253.27	8,549.56	9,166.25	7,514.75	8,295.55
Others	622.33	722.99	472.48	744.94	782.81
Total	11,243.59	11,774.89	12,209.69	10,868.56	11,887.08

Notes. Basic data was gathered from the BLGF as of 23 June 2022.

* - Preliminary data gathered from the BLGF as of 03 April 2023.

Manila City

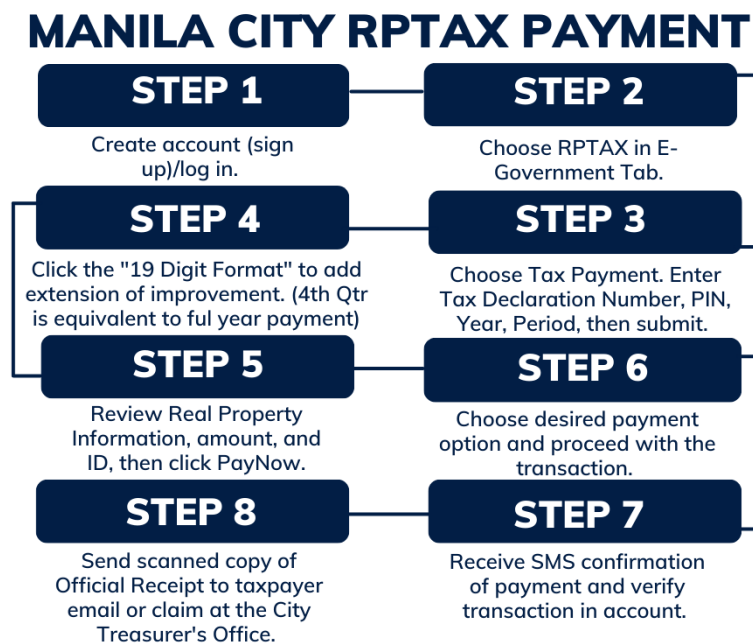
The city of Manila launched a website dedicated to providing a system for hassle-free payment of local taxes. In the simple and handy website, the local government services tab has an option for E-government services, which includes the following: (City of Manila, n.d.)

- a. Real property tax (RPTAX) – an electronic RPT taxing system enabling early assessment and appraisal of RPT, allowing online payments;
- b. Business tax (BTAX) – an electronic business permit and licensing system allowing the payment of business taxes, as well as securing business permits online;
- c. Local civil registry – apply online to get a copy of the birth certificate;
- d. Occupational permit/Health certificates – an electronic application that integrates occupational permit, health certificate, and laboratory processes;
- e. Community tax certificate (cedula) – allows individuals and corporations to apply and pay online the cedula securely.
- f. Ordinance violation receipts – an online payment for motorists that have been apprehended for traffic violations within the city;
- g. Notice of violations – an online facility for motorists who violated the ‘no contact apprehension’ service of the city; and
- h. Business permit licensing – allows taxpayers to file and pay applications for new and renewal of business permits online.

A video tutorial on how to use the Manila City RPTAX Payment website was uploaded in 2021 by the Manila Public Information Office's official Facebook page, featuring the steps that taxpayers need to follow in the online payment of their RPT. (see Figure 1).

Figure 1

Manila City RPTAX Payment Step-by-Step



Note. Manila Public Information Office (2021). *Facebook*. Retrieved from: <https://www.facebook.com/watch/?v=755909618402683>

The process is fairly easy. Taxpayers are enjoined to create an account on the online portal. Upon creating their accounts, they may then choose among the different online tax payment systems. When choosing the RPTAX option, they are prompted to fill out important information regarding their real property. After confirming the details entered, they are directed to the payment options available. Once successful, the transaction will be reflected in the taxpayer's account and will receive a text message. Afterwards, the City of Manila sends a scanned copy of the Official Receipt to the taxpayer's email, or it can be claimed personally at the City Treasurer's Office.

Aside from the online website, the City of Manila also launched an application called the "GO MANILA Mobile App", which aims to provide the same services as the website, but on a wider scale, as it can reach users outside Metro Manila, and even the country. The mobile app functions offer the same features as the website, and taxpayers can easily download the app on their mobile gadgets.

However, Manila's aggregate RPT collections significantly decreased from P2,910 million in 2019 to P2,544 million in 2020 (see Table 4). This may be due to the fact that not

all of the taxpayers were inclined to use the online portal, and that Manila City extended some of its tax payment deadlines (P&A Grant Thornton, 2020) as well as the tax amnesty⁶ granted by the national government, which may steer some taxpayers to take advantage of such incentives. The same can be said with the City's LBT collection, which declined from P5,091 million in 2019 to P4,430 million in 2020. Since the Philippine economy slowly regained its bearings in 2021 and 2022, it can be seen that Manila's RPT collection also regained its former momentum, increasing to P2,979 million in 2021.

Table 4

City of Manila Local Tax Collection, CYs 2018-2022 (In Million Pesos)

Manila City	2018	2019	2020	2021	2022*
RPT	2,672.79	2,909.79	2,544.04	2,978.97	2,832.19
LBT	4,146.58	5,091.30	4,822.57	4,430.25	4,444.11
Others	452.17	489.33	311.41	563.24	569.62
Total	7,271.54	8,490.41	7,678.02	7,972.47	7,845.91

Notes. Basic data was gathered from the BLGF as of 23 June 2022.

* - Preliminary data gathered from the BLGF as of 03 April 2023.

Muntinlupa City

Muntinlupa Resolution No. 19-145 (2019) issued the establishment of the Muntinlupa Online Real Property Payment System (MORPS), which introduced its internet payment gateway, a tool for the service online payment of citizens or clients of taxes, fees, and other charges. This was initiated through the Memorandum of Agreement (MOA) of the city of Muntinlupa with the Land Bank of the Philippines (LBP) and the Development Bank of the Philippines (DBP). The MORPS is an internet-based system designed to handle the real-time payment and collection of fees for the RPT in Muntinlupa City. This facility adopts Debit Card Authorization through the automated teller machine. (see Figure 2).

MORPS aims to course business transactions by electronic channel providing taxpayers with efficient and less time-consuming delivery services. An interface with MORPS will handle real-time property tax payments and can process transactions in less than 15 minutes. It is an easy and taxpayer-friendly application that will speed up government transactions for the convenience of taxpayers and reduce the red-tape and under-the-table propositions (Muntinlupa City, 2019).

⁶ RA 11213, entitled, "An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Impose by the National Government for Taxable Year 2017 and Prior Years with Respect to Estate Tax, and Other Internal Revenue Taxes Tax on Delinquencies", 14 February 2019.

Figure 2

Steps for the MORPS

1. Login to URL: www.muntinlupacity.gov.ph
2. Click the icon of MORPS and create account. Fill up the registration form. Client will receive an email for the activation of his/her application.
3. Start the transaction by adding property you want to pay online. You will be required to enter the Tax Declaration Number (TDN) and the Property Index Number (PIN).
4. Click the "Check and/or Pay Bill" button. Billing Statement Screen will appear.
5. Click the "Pay Now" button. You will be redirected to LBP ePayment System. On the LBP Authorization Screen, you will be required to encode your LBP ATM account no., JAI and PIN.
6. LBP ePayment System shall generate an Online Confirmation Receipt that you can print.

Note. Picture lifted directly from Landbank (n.d.).

The steps for the MORPS are similar to the Manila City RPTAX, which involves creating an account and filling in the necessary details after the account activation. Conversely, Muntinlupa's ePayment System generates the online confirmation receipt itself, which the taxpayer can print as his/her own personal copy.

In terms of tax collection, there was a slow but steady increase in the RPT collection of Muntinlupa City from P450 million to P634 million for the years 2018 to 2022, respectively. (see Table 5) This may be attributed to the MORPS's viable measures that made it easier for taxpayers to pay their taxes without leaving the comfort of their homes during the quarantine period.

Table 5

Muntinlupa City Local Tax Collection, CYs 2018-2022 (In Million Pesos)

Muntinlupa City	2018	2019	2020	2021	2022*
RPT	449.65	531.05	597.62	613.37	634.43
LBT	1,994.78	2,206.56	2,193.28	1,586.36	1,735.15
Others	167.87	204.15	231.62	236.22	247.65
Total	2,612.31	2,941.75	3,022.52	2,435.94	2,617.23

Notes. Basic data was gathered from the BLGF as of 23 June 2022.

* - Preliminary data gathered from the BLGF as of 03 April 2023.

Quezon City

Quezon City taxpayers now have the convenience of using the E-Services website of the city, allowing them to pay via credit cards, e-wallets, or bank transfers (Quezon City, 2021).

Like the other forms of online payment systems from other cities, the portal requires taxpayers to register or log in to the E-Services website. Upon logging in, the taxpayer must select the RPT option, and then type and search for the tax declaration number of the property, and comply with the steps to click the property once it appears. The system loads and takes the taxpayer to the payment options and will then be prompted to choose which payment method to use (mac puri TV, n.d.). After successfully completing the steps, an email with the payment confirmation will be received by the taxpayer after two to three days.

Quezon City's RPT collection also increased throughout the years, albeit it peaked in 2020 with a revenue collection of P3,061 million before plummeting in 2021 to P2,269 million (see Table 6), due to the effects of the pandemic. This was caused directly by the economic slowdown and indirectly by the tax policy measures the City government has taken in response to the COVID-19-related spending (QC Annual Report, 2021). However, as shown in the 2022 preliminary data, it is seen to be improving and regaining its former momentum.

Table 6

Quezon City Local Tax Collection, CYs 2018-2022 (In Million Pesos)

Quezon City	2018	2019	2020	2021	2022*
RPT	1,989.52	2,107.96	3,061.48	2,269.35	2,350.87
LBT	10,128.68	12,653.52	15,254.57	16,351.47	12,733.56
Others	936.54	915.40	753.78	1,230.79	1,147.10
Total	13,054.73	15,676.88	19,069.83	19,851.61	16,231.52

Notes. Basic data was gathered from the BLGF as of 23 June 2022.

* - Preliminary data gathered from the BLGF as of 03 April 2023.

Valenzuela City

Valenzuela City implemented an online payment system far earlier than other cities. As early as 2013, the city launched online and credit card payment facilities for business license fees, RPT, and engineering permits (Melican, 2013). Taxpayers are enjoined to register online for free and then choose which tax they want to pay online. They can then pay through a simple swipe of their credit card, debit card, or through GCash, an option added in 2014 (Valenzuela City, 2014). As of 2021, taxpayers may also pay for their RPT through the Union Bank (Valenzuela City, 2021).

Procedures for RPT online payment are quite simple after creating an account. The taxpayer must select the option 'Real Property Tax Online Billing and Payment' on the Valenzuela City e-payment services website, and then enter the registered email address and password to access the account (City Government of Valenzuela n.d.). Details regarding the real properties that the taxpayer wishes to pay for will be prompted, and after filling up the necessary details, the tax can now be paid. Computation for the tax is also made easier by the system, as there is a button 'Compute Tax' provided on the website the taxpayer can use after providing the payment period (City Government of Valenzuela, n.d.).

Despite the onslaught of the COVID-19 pandemic, the RPT collection of Valenzuela City continued to steadily increase from P818 million in 2020 to P946 million in 2021. (see Table 7) Preliminary 2022 RPT collection data showed P878 million, in contrast with the LBT collection that reached P1,318 million. Nevertheless, with the economy regaining its momentum, it is expected that the future collections of the RPT will increase again.

Table 7

Valenzuela City Local Tax Collection, CYs 2018-2022 (In Million Pesos)

Valenzuela City	2018	2019	2020	2021	2022*
RPT	680.32	677.22	817.86	946.14	877.67
LBT	1,036.93	1,178.81	1,252.59	1,286.24	1,318.46
Others	97.95	119.64	127.70	170.17	169.96
Total	1,815.20	1,975.67	2,198.15	2,402.55	2,366.09

Notes. Basic data was gathered from the BLGF as of 23 June 2022.

* - Preliminary data gathered from the BLGF as of 03 April 2023.

Other LGUs

Cebu City also has an online RPT payment system, which follows the same steps as the other cities mentioned above. However, for first-time users, it involves the registration of real property units and an assessment request before being able to pay the actual tax (City of Cebu, n.d.). Antipolo City also has an online portal for registration of real property and payment of RPT and business permits, with payment methods via e-wallet and credit or debit cards (Online Quick Guide, 2021). A page containing data privacy consent is shown after trying to create an account, after which, verification of and activation of the account will be created. Similar to Cebu City's online system, registration of the property is the first order of business, followed by the computation of the RPT, and then the payment options (Online Quick Guide, 2021).

Other LGUs have yet to implement online RPT payment systems. However, there are already steps taken in the right direction. To cite, Bacoor City has the Bacoor One Stop Shop (BOSS), which handles the online application for business and building permits, as well as the online application of RPT, business, and building permits, implemented in 2020 (Bacoor City, 2020).

IV. Limitations and Future Changes in Online Payment Systems

One of the main problems observed in the process of online payments is the technological illiteracy of some taxpayers, especially the older generation. There are senior citizens and those living in remote regions who are not familiar with nor have the knowledge of utilizing computers or smartphones. Thus, said limitations will stop them from using online payment methods. Undoubtedly, while the internet's main purpose is to be accessible to all, not everyone has the knowledge or the know-how on online operation. While it is recognized that creating a one-time account will save more time for payments in the future, it should be

acknowledged that not all taxpayers have the capacity or the means to do so. Hence, it is recommended that the LGU employees themselves, particularly in the city treasurer's office, which have implemented the system, to conduct information drives or seminars and guide taxpayers in creating accounts and navigating through the system.

According to the Bangko Sentral ng Pilipinas Financial Inclusion Survey, there are still 44% of the total adult population that do not have bank accounts (Anaviso, 2022). Filipinos who do not have a bank account tend to be oblivious to the limitations of being unbanked. People with low financial literacy also display a lack of awareness of the benefits of online payments. Promoting financial literacy in the Philippines is the first step towards boosting financial inclusion, thereby online payment may also be integrated.

Another concern is the country's poor internet quality, which can affect online payment innovations. Getting a decent internet connection is still a major concern in the provinces, hence online payments continue to be an inception to be established. And then there are technical glitches, which can sometimes take days to resolve. Reliable digital applications are useful and convenient, but such technological innovations will not work if there is no internet. It is fair to mention that the Philippine government is working on improving internet connectivity in rural areas so that more Filipinos may sooner enjoy the benefits of online payments. The Department of Information and Communications Technology is deploying satellite broadband with fiber connectivity to rural areas to provide free wi-fi access points including schools, rural health centers, and government offices (Arayata, 2021).

These are only two factors that restrict RPT digital payments in the country. There are still a number of technical issues that can prevent e-payment from being successful. Nevertheless, digital payments are shaping the e-commerce industry in many ways more than one. More LGUs are adopting RPT online payments to provide convenience and expediency to taxpayers. With proper precautions and management, taxpayers can overcome most of these disadvantages.

Correspondingly, the unnumbered senate bill to be known as "The Real Property Valuation and Assessment Reform Act (RPVARA)", seeks to promote the development and maintenance of a just, equitable, impartial, and nationally consistent real property valuation based on internationally accepted valuation standards, concepts, principles, and practices. Particularly, the RPVARA seeks to amend the current valuation system in the country.

Presently, the schedule of zonal values (SZV) used by the Bureau of Internal Revenue and the schedule of market values (SMV) used by the LGUs are used as the basis for property valuation. The differences in the valuation lead to disparities and fragmentation in RPT computation. Hence, once approved, the RPVARA will harmonize the two valuation methods by using the SMV as the catch-all schedule. This will serve to bring efficiency to the real property valuation system of the country and improve the RPT rates that are being implemented per LGU.

The RPVARA will also ensure the implementation of updating the SMVs, thereby ensuring that each real property will be appraised appropriately. It also proposes to create an electronic database for the SMVs, and this may be harmonized with the RPT online systems of LGUs for ease of viewing the values and transparency to the public. The electronic database

will serve as the link between all national government agencies, LGUs, and the private sector, thereby expediting access to essential data information needed for appraisal and assessment. Once implemented, this will also serve as guide for the RPT computation in each LGU's online tax payment systems and may urge other LGUs to implement the same online payment systems.

V. Conclusion and Recommendations

The effort of LGUs to revolutionize their way of collecting taxes by moving towards an electronic era is commended. In this time of globalization, it is best that LGUs take part in keeping up with the changing times. While the concept of RPT online payments is not entirely new, the COVID-19 pandemic has led almost everybody to prefer the use of online payment methods. These changes may seem daunting for some LGUs, but with the help of the national government, and a few LGUs that already succeeded in implementing RPT online payments, other LGUs can accomplish the same achievements. Online transactions offer many advantages, such as speed and convenience, but it is wise to be mindful of the hazards and additional security.

The cities of Makati, Manila, Muntinlupa, Quezon, and Valenzuela implementing the online payment systems may serve as role models for other LGUs. Although there are already other LGUs in the process of digitalizing their RPT payments, allowing their taxpayers to have efficient and effective means of paying their taxes should be the top priority of LGUs. Additionally, requiring taxpayers to create an account securely is a must-have for online payments, in order to ensure their safety, as well as ensuring the citizens that the online systems being used are aligned with the best interest of taxpayers.

Accordingly, LGUs that have implemented remote payment options have seen an uptick in their RPT revenue collections. Aside from providing convenience in making transactions, e-payment initiatives will further enhance LGU's competitiveness and improve the service delivery to their constituents. When used appropriately, technology can expand LGU's capacity to serve its constituents in an even higher magnitude.

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Annex A*Average Property Tax Revenues of Local Government Units, By Source, CYs 2017-2021
(In Million Pesos)*

Source	2017	2018	2019	2020	2021	Amount	Dist. (%)	Growth rate (%)
Property taxes	66,329.62	68,545.88	77,057.23	75,664.14	85,766.15	74,672.60	100	6.83
Real property taxes	60,808.33	61,872.25	69,373.13	70,056.14	77,166.32	67,855.23	90.87	6.25
Basic	29,792.07	30,082.20	33,953.65	34,976.43	37,773.09	33,315.49	49.10	6.21
SEF	31,016.26	31,790.04	35,419.48	35,079.71	39,393.23	34,539.75	50.90	6.31
Transfer tax	5,130.40	6,237.04	7,243.34	5,244.83	8,248.25	6,420.77	8.60	16.84
Special levy/ SHT	13.93	25.06	26.29	22.82	17.25	21.07	0.03	11.81
Idle land tax	376.97	411.54	414.48	340.34	334.33	375.53	0.50	-2.44

Notes. Basic data was gathered from the Bureau of Local Government Finance (BLGF) as of 23 June 2022. 2022 Preliminary data with detailed local tax breakdown is not available yet.

Local Franchise Tax: Issues and Concerns*

I. Introduction

Each local government unit (LGU) has the power to create its own sources of revenue and levy taxes, fees, and charges, consistent with the basic policy of local autonomy. One of the local impositions is the franchise tax levied on businesses enjoying a franchise at a rate not exceeding 50% of 1% of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized within its territorial jurisdiction (Tabunda, 1992).

The franchise tax refers to a tax paid by certain enterprises that want to do business in various areas. The said tax is also called a privilege tax, which means granting the business the right to be chartered and/or to operate within a certain region. Contrary to what the term implies, a franchise tax is not a tax imposed on the franchise. It is charged to corporations, partnerships, and other entities that do business within the boundaries of a jurisdiction. (Silver, n.d.)

This study will discuss the taxation of businesses enjoying a franchise. It will also present sample cases on the local franchise tax referred to the Bureau of Local Government Finance (BLGF) and the Supreme Court (SC) to provide clarifications on the implementation and imposition of the said tax under the Local Government Code (LGC) of 1991, as amended.

II. Background Information

Section 131(m) of the LGC of 1991, as amended, defined “franchise” as the right or privilege, affected with public interest, which is conferred upon private persons or corporations, under such terms and conditions as the government and its political subdivisions may impose in the interest of public welfare, security, and safety. Prior to the enactment of the LGC of 1991, the imposition of the local franchise tax was authorized under Section 9 of Presidential Decree (PD) No. 231¹, to wit:

“SECTION 9. Franchise Tax. – Any provision of special laws to the contrary notwithstanding, the province may impose a tax on business enjoying a franchise, based on the gross receipts realized within its territorial jurisdiction, at the rate of not exceeding one-half of one percent of the gross annual receipts for the preceding calendar year.

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The NTRC Tax Research Journal is the official publication of the National Tax Research Center. The views and opinions expressed are those of the NTRC and do not necessarily reflect the views and opinions of the Department of Finance, its bureaus and government corporations under its supervision.

¹ Entitled, “Enacting a Local Tax Code for Provinces, Cities, Municipalities and Barrios”, 01 July 1973.

In the case of a newly started business, the rate shall not exceed three thousand pesos per year. Sixty percent of the proceeds of the tax shall accrue to the general fund of the province and forty percent to the general fund of the municipalities serviced by the business on the basis of the gross annual receipts derived therefrom by the franchise holder. In the case of a newly started business, forty percent (40%) of the proceeds of the tax shall be divided equally among the municipalities serviced by the business.”

Section 23 of PD 231, on the other hand, states that the city has the authority to levy and collect taxes, fees, and other impositions that the province or the municipality may levy and collect.

The imposition of the local franchise tax was reiterated in Section 137 of the LGC of 1991, as amended, by providing the following provisions:

“SECTION 137. Franchise Tax. - Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.

In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.”

Moreover, under Sections 447(3), 458(3), and 468(3) of Book III of the LGC of 1991, as amended, the municipality, city, and province, respectively, through their respective Sanggunians, are expressly authorized to grant, among others, franchises subject to the provisions of Book II of the Code.

III. Selected Cases on the Local Franchise Tax

There are instances when taxpayers are confused about the imposition of both the business tax and the local franchise tax, especially in cases when both taxes are levied on the same gross receipts by the same taxing authority. This would seem that the said imposition is unjust and improper double taxation, especially if such a business holds a legislative franchise.

In such cases, it is justified that the imposition of the business tax and local franchise tax are separate and distinct taxes. They are of different natures and are imposed under different provisions of the LGC of 1991, as amended. Further, there had already been previous SC decisions that upheld the imposition of the said taxes by the LGU and ruled that such does not constitute double taxation. The law does not allow the same taxation body from imposing two taxes on the same matter for the same purpose. Double taxation must be of the same kind or character to be a valid issue.

In applying this definition, while both the business tax and the local franchise tax are based on gross receipts and sales, they are different in nature or character. The local franchise tax is imposed on the exercise of enjoying a franchise, while the business tax is imposed on the privilege of engaging in one's line of business.

The following are selected cases related to the local franchise tax handled by the BLGF and the SC, and corresponding opinions and decisions, respectively, on the matter.

Case 1: Radio Communications of the Philippines, Inc. position on the municipality's imposition of the franchise tax (BLGF Opinion, 1993)

Representation: The Radio Communications of the Philippines, Inc.'s (RCPI's) stand that the municipality may not impose the franchise tax already granted to the province pursuant to Section 137 of the LGC of 1991, as amended.

Issue: Whether the RCPI's contention that the power to impose a tax on business enjoying a franchise has been vested by the Code to the province, hence, the municipality may no longer exercise the imposition of the same.

BLGF Opinion: This contention is correct insofar as municipalities that belong to a province are concerned. However, this does not apply to the municipalities of Metropolitan Manila, which are authorized under Section 144 of the LGC of 1991, as amended, as implemented by Article 236 of its Implementing Rules and Regulations (IRR), to levy the franchise tax imposable by provinces under Section 137 of the Code. Accordingly, the Municipality of Pateros may exercise the power to impose and collect the franchise tax under Section 137 of the LGC of 1991, as amended, as implemented by Article 226 of the IRR on businesses holding a franchise located within its territorial jurisdiction such as the RCPI.

Case 2: Motorized Tricycle Operators Permit and franchise fee considered as franchise tax (BLGF Opinion, 2000)

Representation: The Municipal Treasurer of Bayombong, Nueva Vizcaya is imposing both a permit fee and a local franchise fee from the Motorized Tricycle Operators.

Issue: The Provincial Legal Officer, Bayombong, Nueva Vizcaya seeking clarification on whether:

- i. The Motorized Tricycle Operators Permit (MTOP) franchise fee is considered as franchise tax;
- ii. The P100.00 franchise fee is considered an excess payment for a franchise tax or fee granted by the Sangguniang Bayan; and
- iii. The said collection by the Municipal Treasurer from tricycle operators is illegal, there being no authority in Tax Ordinance No. 035-1992.

BLGF Opinion: Query (i): Under Section 131 of the LGC of 1991, as amended, as implemented by Article 220 (l) and (m) of the IRR, the term ***Fee*** means a charge fixed by law or ordinance for the regulation or inspection of a business activity. It shall also include charges fixed by the law or agency for the service of a public officer in the discharge of his official duties. On the other hand, a ***Franchise*** is a right or privilege, affected with public interest which is conferred upon private persons or corporations, under such terms and conditions as the government and its political subdivisions may impose in the interest of public welfare, security, and safety. Thus, it is clear that a fee is distinct and different from a franchise and therefore, the MTOP and franchise fee cannot be considered as a franchise tax.

Query (ii): The power to impose franchise fees, upon prior public hearings, is vested with local governments, through the enactment of the appropriate ordinance pursuant to Section 186 of the Code, which states as follows:

“SECTION 186. Power to Levy Other Taxes, Fees or Charges. — LGUs may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended, or other applicable laws: Provided, That the taxes, fees or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.”

Given the foregoing, Section 186 does not prescribe any fixed amount or ceiling for the rates of a fee or charge that the local Sanggunian may impose in a local tax ordinance. However, it is well-settled in jurisprudence that fees and charges must only be commensurate to the expenses incurred or for the service rendered by the LGU in the regulation or inspection of a business activity. For this purpose, there is no reason to say that the P100.00 franchise fee is excessive.

Query (iii): It must be pointed out that before any tax, fee or charge may be collected from a taxpayer, the same must first be levied under a duly enacted tax ordinance. In the absence of such a tax ordinance, there will be no basis for the collection of any tax, fee or charge from the said taxpayer.

Case 3: Imposition of the local franchise tax of both province and municipality (BLGF Opinion, 1993)

Representation: Query of the Municipal Vice-Mayor of Sibulan, Negros Oriental regarding the collection of franchise tax pursuant to Republic Act (RA) No. 7160.

Issue: Whether the contention of the Vice Mayor of Sibulan, Negros Oriental that both the province and municipality are authorized to collect franchise tax pursuant to Sections 137 and 447 of the LGC of 1991, as amended, quoted as follows:

“SECTION 137. Franchise Tax. — Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses

enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.

xxx xxx xxx

SECTION 447. Powers, Duties, Functions, and Compensation. — (a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions, and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

xxx xxx xxx

(3) Subject to the provisions of Book II of this Code, grant franchises, enact ordinances authorizing the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the municipality, and pursuant to this legislative authority shall:

xxx xxx xxx"

BLGF Opinion: Under the said provisions, it is clear that the municipality has the authority to grant franchises. However, the authority to collect franchise tax is under the taxing power of the province and not the municipality pursuant to the provision of Section 142 of the LGC of 1991, as amended, which provides that "Except as otherwise provided in this Code, municipalities may levy taxes, fees, and charges not otherwise levied by provinces." There is no provision in the LGC of 1991, as amended, that authorizes municipalities to levy the franchise tax. Accordingly, municipalities may only levy taxes, fees, and charges not otherwise levied by provinces and these are taxes on business, fees, and charges that cover the cost of regulation, inspection, and licensing for sealing and weights and measures, and fishing rentals.

Case 4: City Treasurer of Koronadal City requests opinion regarding the implementation of the provisions of Section 150 of RA 7160 (BLGF Opinion, 2003)

Representation: Marbel Telephone System, Inc. (MTSI) with its principal office located in Koronadal City, has three toll exchange offices situated in Polomolok and Surallah, both in the province of South Cotabato and in said City. It is represented further that the exchange toll in Koronadal City covers four areas, namely: Koronadal City and the municipalities of Tupi, Tampakan, and Tantangan, all in South Cotabato through wireless connections. Furthermore, sales derived from the operations of said toll exchange covering said areas are recorded in its principal office.

Issue: The Provincial Treasurer of South Cotabato demanded from the MTSI that the gross receipts collected from the three municipalities mentioned above be segregated from the

revenues collected from Koronadal City allegedly as the basis for the imposition of franchise tax accruing to the three municipalities, which are all within the jurisdiction of said province. Accordingly, the MTSI paid to the province the supposed franchise tax based on the gross receipts from said municipalities. However, the City Treasurer contends that the action of the Provincial Treasurer is not in accordance with the provisions of Section 150 (a) of the LGC of 1991, as amended, as quoted hereunder:

"SECTION 150. Situs of the Tax. — (a) For purposes of collection of the taxes under Sec. 143 of this Code, manufacturers, xxx xxx xxx, maintaining or operating branch or sales outlets elsewhere shall record the sale in the branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality."

BLGF Opinion: Article 226 (b) of the IRR implementing Section 137 of the LGC of 1991, as amended, the pertinent portions of which are quoted hereunder:

"ART. 226. Franchise Tax. — (a) Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts, which shall include both cash sales and sales on account realized during the preceding calendar year within its territorial jurisdiction, excluding the territorial limits of any city located in the province.

(b) The province, however, shall not impose the tax on business enjoying franchise operating within the territorial jurisdiction of any highly-urbanized or component city located within the province."

Article 226 emphasized that the province shall impose the tax on businesses enjoying a franchise within its territorial jurisdiction, excluding the territorial limits of any city located therein. Considering that the Municipalities of Tupi, Tampakan, and Tantangan are within the territorial jurisdiction of South Cotabato, the action taken by the Provincial Treasurer thereof is in full accord with the law.

Case 5: Imus became a component city on June 30, 2012, and its City Ordinance was only enacted on March 10, 2014 (BLGF Opinion, 2014)

Representation: Sangguniang Panlungsod (SP) Resolution No. 02-2014-91 enacted by the Sangguniang Panlungsod of Imus authorizing and empowering the OIC-City Treasurer to put on hold all remittances with the Cavite Provincial Treasurer's office until such time that the Province of Cavite has remitted and transferred the local tax, including the LFT that is due to the City of Imus.

Issue: Whether the OIC-City Treasurer's request for the Provincial Treasurer of Cavite to remit and transfer to the City of Imus the LFT remitted by the Manila Electric Company (MERALCO) from July 2012 up to April 2014, is valid.

BLGF Opinion: Before any tax, fee, or charge may be collected from a taxpayer, the same must first be levied under a duly enacted tax ordinance. In the absence of such a tax ordinance, there will be no basis for the collection of any tax, fee, or charge from the taxpayer. As mentioned above, Imus became a component city on 30 June 2012, and its City Ordinance was only enacted on 10 March 2014. Thus, it is evident that the City of Imus shall have to remit to the Provincial Government the corresponding shares for prior years' real property tax (RPT) collections, including local taxes, fees, and charges imposed by the City of Imus. Likewise, the City of Imus is advised to submit a copy of its Ordinance enacted after its conversion into a component city together with a copy of the approval of the Energy Regulatory Commission before the franchise tax remitted by MERALCO to the Province is transferred to and remitted to the City of Imus.

Case 6: Exemption of the Lanao del Norte Electric Cooperative Inc., (LANECO) from payment of the franchise tax (BLGF Opinion, 1997)

Representation: On 15 October 1996, the Provincial Treasurer of Lanao del Norte sent a demand letter to the Manager of LANECO to collect the payment of franchise tax covering the years 1993 to 1996 equivalent to 50% of 1% of the gross annual income receipts of the preceding year.

Issue: Whether LANECO, an electric cooperative, which is a non-stock and non-profit corporation, is exempted from the payment of franchise tax.

BLGF Opinion: The Department of Finance (DOF) has expressed a uniform view on previous similar cases concerning the tax exemption of cooperatives. For so long as a cooperative is duly registered with the Cooperative Development Authority (CDA) under the provisions of RA 6938², it shall remain exempt from the payment of local taxes. It was emphasized, however, that the exemption enjoyed by such cooperatives does not include payment of service charges or rentals for the use of property and equipment or public utilities owned by local governments such as charges for actual consumption of water, electric power, toll fees for use of public roads and bridges, and the like.

Case 7: The Philippine Telephone Corporation operating within the jurisdiction of a province is liable to pay the LFT pursuant to the provision of Section 137 of RA 7160 (BLGF Opinion, 1994)

Representation: The Philippine Telephone Corporation (PILTEL) is not liable to pay the franchise tax imposed under Section 9, Article 3 of Provincial Tax Ordinance No. 1, series of 1992 enacted pursuant to RA 7160, in view of the provisions of Section 6 of RA 7293³,

² Entitled, "An Act to Ordain a Cooperative Code of the Philippines", 10 March 1990.

³ Approved 27 March 1992.

which is an Act further amending RA 6030⁴, as amended by RA 6531⁵, entitled “An Act granting the Pilipino Telephone Corporation a franchise to install, operate and maintain telephone systems in certain areas throughout the Philippines, extending the term of its franchise to another 25 years from date of its expiration, and for other purposes”.

Issue: Whether the PILTEL operating within the jurisdiction of the province of Marinduque is liable to pay franchise tax pursuant to the provision of Section 137 of RA 7160.

BLGF Opinion: RA 7293 became effective on 27 March 1992, while RA 7160 took effect on 01 January 1992. On the other hand, the taxes and other impositions levied under Provincial Ordinance No. 1 of the province of Marinduque, which became effective on 23 February 1992, began to accrue at the beginning of the following quarter, or on 01 April 1992. It follows, therefore, that PILTEL shall be exempt until the term of its franchise expires, which was extended for 25 years from 03 August 1994 to 03 August 2019. It should be noted, however, that the exemption refers only to the payment of the franchise tax imposable by provinces (and cities) but not to real property and other taxes referred to in Section 6 of RA 7293. Likewise, the company shall be liable to pay regulatory fees and service charges which the LGUs may impose under duly-approved local tax ordinances.

Case 8: The opinion of the Eastern Telecommunication Phils., Inc. that said corporation is exempt from payment of local franchise and business taxes under the LGC (BLGF Opinion, 1997)

Representation: The Eastern Telecommunication Phils., Inc. (ETPI) is a congressional/statutory franchise grantee pursuant to RA 808⁶, as amended by PD 489⁷ and RA 5002⁸ authorizing it to construct and operate telecommunications systems and services

⁴ Entitled, “An Act Granting the Pilipino Telephone Corporation a Franchise to Install, Operate and Maintain Telephone System in and Between the Provinces, Cities and Municipalities in the Bicol Province and Mindanao”, 04 August 1969.

⁵ Entitled, “An Act Amending Republic Act Numbered Six Thousand Thirty, entitled “An Act Granting the Pilipino Telephone Corporation a Franchise to Install, Operate and Maintain Telephone Systems in and Between the Provinces, Cities, and Municipalities in the Bicol Provinces and Mindanao””, 22 July 1972.

⁶ Entitled, “An Act Granting to “The Eastern Extension Australasia and China Telegraph Company Limited” and Its Permitted Assigns, A Franchise to Land, Construct, Maintain, and Operate at Manila in the Philippines A Submarine Telegraph Cable Connecting Manila with Hongkong and Prescribing the Conditions of the Same”, 21 June 1952.

⁷ Entitled, “Authorizing the Eastern Extension Australasia and China Telegraph Company, Limited, the Franchise Granted to the Company Under Republic Act No. 808, as Amended by Republic Act No. 5002, to the Eastern Telecommunications Philippines, Inc.”, 24 June 1974.

⁸ Entitled, “An Act Amending Certain Sections of Republic Act Numbered Eight Hundred Eight, Entitled “An Act Granting to ‘The Eastern Extension Australasia and China Telegraph Company Limited’ and Its Permitted Assigns, A Franchise to Land, Construct, Maintain, and Operate at Manila in the Philippines a Submarine Telegraph Cable Connecting Manila with Hongkong and Prescribing the Conditions of the Same””, 17 June 1967.

within the Philippines and internationally. The ETPI franchise was approved on 21 June 1952 and has a term of 50 years which will expire on 21 June 2002. Section 8 of said franchise, likewise, contains the "in lieu of all taxes" *proviso*.

Issue: Whether the ETPI is exempt from payment of local franchise and business taxes under the LGC of 1991, as amended.

BLGF Opinion: Section 193 of the LGC of 1991, as amended, states that *"Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, cooperatives duly registered under RA No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code."* Considering that the franchise holders of the telecommunications industry are not among those specifically mentioned in the aforequoted Section 193, then any tax exemption they may have been enjoying shall be deemed withdrawn upon the effectivity of the LGC on 01 January 1992.

On the other hand, Section 23 of RA 7925⁹, quoted hereunder, which was approved on 01 March 1995, provides for the equality of treatment in the telecommunications industry:

"SEC. 23. Equality of Treatment in the Telecommunications Industry. — Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall ipso facto become part of previously granted telecommunications franchises and shall be accorded immediately and unconditionally to the grantees of such franchises: Provided, however, That the foregoing shall neither apply to nor affect provisions of telecommunications franchises concerning territory covered by the franchise, the life span of the franchise, or the type of service authorized by the franchise."

Accordingly, the ETPI shall be exempt from the payment of franchise and business taxes imposable by LGUs under Sections 137 and 143, respectively, of the LGC of 1991, as amended, upon the effectivity of RA 7925 on 16 March 1995. However, the ETPI shall be liable to pay the franchise and business taxes on its gross receipts realized from 01 January 1992, up to 15 March 1995, during which period the ETPI was not enjoying the "most favored clause" *proviso* of RA 7925. Moreover, the said company shall still be liable to pay annually the mayor's permit and other regulatory fees or service charges that the LGU concerned may have imposed under a duly-enacted tax ordinance, the exemption being applicable to the LFT and business taxes only. Likewise, all other real properties of the ETPI not used in connection with the operation of its franchise shall remain taxable, or subject to the RPT imposed by the LGU or LGUs where such properties are located.

⁹ Entitled, "An Act to Promote and Govern the Development of Philippine Telecommunications and the Delivery of Public Telecommunications Services", 01 March 1995.

Case 9: Exemption of the Liberty Broadcasting Network, Inc. from payment of franchise and business taxes (BLGF Opinion, 1998)

Representation: The Liberty Broadcasting Network, Inc. (LBNI) is a telecommunications company seeking a ruling relative to its exemption from the payment of franchise and business taxes.

Issue: Whether the LBNI should be exempt from the payment of franchise and business taxes similarly as its competitor telecommunication companies are enjoying. Section 4 of RA 4154¹⁰, as amended, granting the LBNI a congressional franchise provides that:

"Sec. 4. In the event of any competing individual, partnership or corporation receiving from the congress a similar franchise in which there shall be any term or terms more favorable than those herein granted or tending to place the herein grantee at any disadvantage, then such term or terms shall ipso facto become a part of the terms hereof and shall operate equally in favor of the grantee as in the case of said competing individual, partnership or corporation."

In relation thereto, Section 23 of RA 7925, otherwise known as the "Public Telecommunication Policy Act of the Philippines", which was approved on 01 March 1995, provides as follows:

"Sec. 23. Equality of Treatment in the Telecommunication Industry. — Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall ipso facto become part of previously granted telecommunications franchises and shall be recorded immediately and unconditionally to the grantees of such franchises; Provided, however, That the foregoing shall neither apply to nor affect provisions of telecommunications franchises concerning territory covered by the franchise, the life span of the franchise, or the type of service authorized by the franchise."

BLGF Opinion: On the basis of the aforequoted Section 23 of RA 7925, the LBNI as a telecommunications franchise holder becomes automatically covered by the tax exemption provisions of RA 7925, which took effect on 16 March 1995. Accordingly, the LBNI shall be exempt from the payment of franchise and business taxes imposable by LGUs under Sections 137 and 143, respectively, of the LGC of 1991, as amended, upon the effectivity of RA 7925. However, the LBNI shall be liable to pay the franchise and business taxes on its gross receipts realized from 01 January 1992, up to 15 March 1995, during which period the LBNI was not enjoying the "most favored clause" proviso of RA 7925.

¹⁰ Entitled, "An Act to Amend Republic Act Numbered Fifteen Hundred and Fifty-Three, Entitled "An Act Granting Eliseo B. Lemia Temporary Permit to Construct, Maintain and Operate Radio Broadcasting Stations and Stations for Television in the Philippines"", 20 June 1964.

Case 10: Applicability of the LFT to Isla Communications Co., Inc. (BLGF Opinion, 1998)

Representation: Section 14 of RA 7372¹¹ granting the Isla Communications Co., Inc. (ISLACOM) a congressional franchise which was approved on 10 April 1992, containing the "in lieu of all taxes" clause, quoted as follows:

"Sec. 14. The grantee, its successors or assigns shall be liable to pay the same taxes on their real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations which are now or hereafter may be required by law to pay. In addition, thereto, the grantee, its successors, or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the business transacted under this franchise by the grantee, its successors, or assigns and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof: . . ."

Issue: Whether the ISLACOM is not subject to the LFT.

BLGF Opinion: Considering, therefore, that RA 7372 having been approved on 10 April 1992, is a later law, its provisions should prevail over those of the LGC of 1991, which took effect on 01 January 1992. Thus, the ISLACOM should be considered exempt from the franchise tax the local governments may impose under Section 137 of the Code. However, the corporation shall be liable to pay the Mayor's permit and other regulatory fees or service charges that the local government concerned may have imposed under a duly-enacted tax ordinance, its exemption being applicable only to local franchise and business taxes.

Case 11: Innove Communications, Inc. claiming exemption from the LFT by express provision of its legislative franchise (BLGF Opinion, 2010)

Representation: Innove Communications, Inc. expresses its legislative franchise (RA 7372), particularly Section 14 thereof which reads:

"Sec. 14. The grantee, its successors or assigns shall be liable to pay the same taxes on real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations which are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the business transacted under this franchise by the grantee, its successors or assigns and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof: Provided, that the grantee, its successors or assigns shall continue to be liable for income taxes payable under Title II of the NIRC pursuant

¹¹ Entitled, "An Act Renewing for Another Twenty-five (25) Years the Franchise Granted to the Isla Communications Company, Inc., Presently Known as Innove Communications Inc., Amending for the Purpose Republic Act No. 7372, Entitled "An Act Granting Isla Communications Co. a Franchise to Install, Operate and Maintain Telecommunications Services within the Territory of the Republic of the Philippines and International Points for Other Purposes"", 14 December 2018.

to Sec. 2 of Executive Order No. 72¹² unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.”

Issue: Whether Innove Communications, Inc. is exempted from the LFT.

BLGF Opinion: The SC ruling in the case of *SMART Communications, Inc. vs. The City of Davao* (G.R. No. 155491, 16 September 2008) denied the claim for exemption from the payment of the LFT. The pertinent portion thereof is quoted as follows:

“... the 'in lieu of all taxes' clause applies only to national internal revenue taxes and not to local taxes. As appropriately pointed out in the separate opinion of Justice Antonio T. Carpio in a similar case involving a demand for exemption from local franchise taxes: [T]he 'in lieu of all taxes' clause in Smart's franchise refers only to taxes, other than income tax, imposed under the NIRC. The 'in lieu of all taxes' clause does not apply to local taxes. The proviso in the first paragraph of Sec. 9 of Smart's franchise states that the grantee shall 'continue to be liable for income taxes payable under Title II of NIRC.' Also, the second paragraph of Sec. 9 speaks of tax returns filed and taxes paid to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the NIRC.” Moreover, the same paragraph declares that the tax returns 'shall be subject to audit by the Bureau of Internal Revenue (BIR).' Nothing is mentioned in Sect. 9 about local taxes. The clear intent is for the 'in lieu of all taxes' clause to apply only to taxes under the NIRC and not to local taxes. Even with respect to national internal revenue taxes, the 'in lieu of all taxes' clause does not apply to local tax.”

Considering that the Innove Communications, Inc. is similarly situated as that of SMART Communications, Inc., it may be stated that the Innove Communications, Inc. cannot validly claim tax exemption based on Section 14 of its franchise, hence the City of Tanjay may impose a local franchise tax on the gross receipts thereof pursuant to a duly enacted tax ordinance of the said City.

Case 12: 1.0 MW Biomass Power Generation Plant and 23 MW Bunker Fired Power Plant, located at Brgy. Udiao, Rosario and Brgy. Quirino, Bacnotan, La Union, respectively (BLGF Opinion, 2015)

Representation: SurePEP, Inc. is registered as a Renewable Energy (RE) Developer of Biomass Energy Resources located in the Municipality of Rosario, La Union. There are no documents submitted with respect to the 23 MW Bunker Fried Power Plant located in Bacnotan of the same province. RA 9513, otherwise known as the “Renewable Energy Act of 2008”, does not provide for any local tax privileges except for the special realty tax rate of 1.5% provided under Section 15(c) of the Act.

¹² Entitled, “Providing for the Preparation and Implementation of the Comprehensive Land Use Plans of Local Government Units Pursuant to the Local Government Code of 1991 and Other Pertinent Laws”, 25 March 1993.

Issue: Clarification as to the specific taxes and fees that the Province and the Municipalities of Rosario and Bacnotan may impose, aside from the real property taxes on these businesses or entities.

BLGF Opinion: Section 6 of RA 9136, otherwise known as the “Electric Power Industry Reform Act of 2001 (EPIRA)”, the pertinent portion of which is quoted as follows:

“SEC. 6. Generation Sector. — . . . Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall not be required to secure a national franchise.”

In view of the aforequoted provision of the EPIRA Law, the SurePEP is not liable for the payment of the LFT to the province. Likewise, the operator of the 23 MW Bunker Fired Power Plant is not liable for the payment of the said franchise tax. For the operation of a power plant, the SurePEP, Inc. shall be subject to the local business tax pursuant to Section 143 of the LGC of 1991, as amended, as implemented under a duly enacted ordinance to the municipality of Rosario having jurisdiction over the place where the generating plant is located based on the gross sales derived from the locality. For the same reason, the Municipality of Bacnotan may likewise impose the business tax on the operator of the 23 MW Bunker Fired Power Plant located thereat.

Case 13: Franchise Tax Bill No. 14-02 of the Province of Bukidnon for the bulk water production venture of Rio Verde Consortium, Inc. at the Municipality of Baungon, Bukidnon which was denied payment by Rio Verde for reason that they are exempt from paying franchise (BLGF Opinion, 2015)

Representation: Rio Verde was given a tax holiday for four years from 2007-2010 by the Board of Investments. In 2012-2013, Rio Verde paid franchise taxes to the province amounting to P239,672.55 and P461,429.22, respectively. Rio Verde is supplying the bulk water to Cagayan de Oro Water District (CDOWD) and being sourced out from the municipality of Baungon, Bukidnon. Similarly, the CDOWD distributes water to the residents of the said City. Further, it is a private business operated under private contracts with selected customers and not devoted to public use.

Issue: Whether Rio Verde is exempt from paying franchise tax to the Provincial Treasurer, Province of Bukidnon relative to Franchise Tax Bill No. 14-02 dated 24 June 2014 of said province amounting to P660,417.28 for CY 2014.

BLGF Opinion: Rio Verde is not a grantee of any franchise. Thus, cannot be validly classified as a public utility as it does not sell directly to the consumer or the general public but supply the bulk water to the CDOWD. Hence, Rio Verde is not subject to Section 137 of the LGC of 1991, as amended, as implemented under Provincial Ordinance 92-03. However, considering that the 4-year tax holiday of Rio Verde lapsed in 2010, the company is subject to local business tax (LBT) for providing the bulk water to the CDOWD in case of a city or a municipality, as may be provided under its duly enacted revenue code or tax ordinance. On the other hand, since the CDOWD is the one selling water directly to consumers or the general public at large hence,

it may be classified as a public utility, provided a franchise for such operation is issued by the proper regulating agency of the government.

IV. Comments and Observations

On whether municipalities within a province can issue and impose a franchise tax

The franchise granted pursuant to the provision of the LGC of 1991, as amended, may be associated with the regular permit to operate issued by the office of the local chief executive, except that, since entities subject thereof are endowed with public interest, it requires an act of the legislative body of the local governments.

It is clear, under the LGC of 1991, as amended, that the authority to grant franchises is vested in the legislative body of the concerned local governments. However, the franchise referred to under the LGC of 1991, as amended, pertains only to businesses that can be operated within the jurisdiction, which affects the welfare, security, and safety of its constituents. A franchise may be granted by the Sanggunian Bayan for the establishment, construction, operation, and maintenance of markets, slaughterhouses, tricycle terminals, and similar enterprises within the municipality.

The authority to collect franchise tax is under the taxing power of the province and not the municipality, pursuant to the provision of Section 142 of the LGC of 1991, as amended, which provides that "Except as otherwise provided in this Code, municipalities may levy taxes, fees, and charges not otherwise levied by provinces." There is no provision in the LGC of 1991, as amended, that authorizes municipalities to levy the franchise tax. The province has the authority to impose the LFT and in such cases, the component municipalities may only charge reasonable fees and permits to said establishments. Only cities may levy the same as stated in Section 151 of the LGC of 1991, as amended.

To reiterate, as a catch-all provision, municipalities are allowed to impose a tax on any businesses not specifically mentioned in the Code, which the Sangguniang Bayan may deem proper to tax (Tabunda, 1992). It is fair to mention, however, that provinces are required to share with municipalities within their jurisdiction the proceeds from certain taxes and fees that they impose. One reason for this requirement is that it is the municipalities that collect such taxes and fees for the province.

On whether municipalities in the Metropolitan Manila Area may impose the tax on franchises provided under Section 137 of the LGC of 1991, as amended

Pursuant to PD 824, municipalities in the Metro Manila Areas (MMAs) were referred to as the cities of Makati, Mandaluyong, San Juan, Las Piñas, Malabon, Navotas, Pasig, Pateros, Parañaque, Marikina, Muntinlupa, and Taguig that were municipalities in the province of Rizal; and the municipality of Valenzuela, in the province of Bulacan, which were under the territorial jurisdiction of the Metropolitan Manila Commission. Presently, Pateros is the lone municipality in the MMA (GOVPH, 1975).

The IRR of the LGC of 1991, as amended, provides the following:

“Article 236 – *Rates of tax in Municipalities within the Metropolitan Manila Area* – (a) The municipalities within the MMA may levy the taxes on business enumerated in Article 233 of this Rule or the rules which shall not exceed 50% the maximum rates prescribed in the said businesses.

(b) The said municipalities within MMA, pursuant to Article 275 of this Rule, may levy and collect taxes which may be imposed by the province under Articles 225, 226, 227, 228, 229, 230 at rates not exceeding those prescribed thereof.”

The SC (G.R. No. 181710, 2018) held that the provision provided by the IRR on the imposition of the local franchise tax may not be given effect to the authorized municipalities in the MMA. The SC further explained that only the province under Section 137 and the city under Section 151 of the LGC of 1991, as amended, are authorized to impose the local franchise tax. In the case of municipalities in the MMA, there is no express provision in the basic law authorizing them to impose the taxes levied and collected by the province or granting them the status of a taxing power of a city. The conversion of the municipality into a city does not lend validity to a void ordinance, which grants an MMA the power to levy a franchise tax, which is contrary to the provisions of the LGC of 1991, as amended. It must be underscored that the transition to a cityhood does not cure the original infirmity of such regulation.

Citing the case of *US vs Tupasi Molina* (G.R. No. L-9878, 1914), the SC implies the administrative regulations adopted legislative authority by a particular department must be in harmony with the provisions of the law, and should be for the purpose of carrying into effect its general provisions. Thus, municipalities within the MMA may not rely on Article 136 of the IRR to impose the LFT. In the absence of a concrete provision of law, Section 142 of the LGC, which provides that, “*Except as otherwise provided in the Code, municipalities may levy taxes, fees and charges not otherwise levied by province*”, stands and applies to municipalities in MMA.

Furthermore, under the LGC of 1991, as amended, a municipality is bereft of authority to levy and impose a franchise tax on franchise holders within its territorial jurisdiction. That authority belongs to provinces and cities only. A franchise tax levied by a municipality is, thus, null and void. The nullity is not cured by the subsequent conversion of the municipality into a city (G.R. No. 181710, 2018).

On the imposition of the local franchise tax on entities enjoying a legislative franchise

Jurisprudence prior to the enactment of the LGC of 1991, as amended, was bent to honor existing franchise grants containing the “*in lieu of any and all taxes*” clause. This has been established by the consistent declaration of the SC in the cases of *Butuan Sawmill Inc. vs. City of Butuan* (G.R. No. L-21516, 1966) and *LANECO vs. Provincial Government of Lanao del Norte* (G.R. No. 185420, 2017) that, local governments are without power to tax electric companies already subject to franchise tax imposed by the national government. It must be noted prior to the enactment of the Local Taxation Code, entities with their respective legislative franchise exemptions from local taxes already existed. The enactment of the Local Tax Code did not change their exempt status from local taxes considering that the said Code did not expressly repeal the provision of the legislative franchise.

The pronouncement under Section 9 of the Local Tax Code, *“Any provision of special laws to the contrary notwithstanding, the province may impose a tax on business enjoying franchise x x x”*, did not convince the SC that there was an express repeal of the existing franchises considering the established rule against implied repeal.

The SC further stated that under the LGC, and in the absence of a court ruling to the contrary, it is argued that there is an expressed amendment of the exemption previously granted under any other laws and special laws prior to its entitlement, the opening statement of Section 137 provides, *“Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise x x x”*, specifically repealed the exemption previously enjoyed by the franchised entities. Thus, only those entities granted legislative franchises after the enactment of the LGC may be exempted from the imposition of local taxes including the LFT, if their franchise grant such exemption. Hence, the SC adopted the interpretation denying the provinces and cities the authority to impose the LFT only to holders of franchises, which constitute the “in lieu of all taxes” proviso, but not on grantees whose franchises do not contain such terms.

Conversely, the SC reversed its ruling stating that tax exemptions should be granted only by clear and unequivocal provision of law on the basis of language too plain to be mistaken. They cannot be extended by mere implication or inference (G.R. No. 143867, 2003). Earlier decisions and dicta to the contrary, that a statute authorizing or directing the grant or transfer of the “privileges” of a corporation that enjoys immunity from taxation or regulation should not be interpreted as including that immunity. Hence, in 2003 the “in lieu of all taxes” in the PLDT vs the City of Davao, the SC struck down the PLDT’s argument that the “in lieu of all taxes” clause in Smart, exempts the PLDT from the payment of the LFT imposed by the City of Davao.

The “in lieu of all taxes” clause in Smart’s franchise refers only to taxes, other than income tax, imposed under the NIRC of 1997, as amended. The “in lieu of all taxes” clause does not apply to local taxes. The clear intent is for the aforementioned clause to apply only to taxes under the NIRC of 1997, as amended, and not to local taxes. Accordingly, Congress did not expressly exempt Smart from local taxes. The Congress used the clause only in reference to national internal revenue taxes. The only interpretation, under the rule on a strict construction of tax exemptions, is that the “in lieu of all taxes” clause in Smart’s franchise refers only to national and not to local taxes.

V. Conclusion and Recommendation

The authority of municipalities to grant franchises should not be confused with the authority of the province to impose the tax. The former may levy reasonable fees and charges commensurate to the cost of regulation and services rendered, while the imposition and collection of the local franchise tax is within the taxing powers of the province.

Cases that caused confusion and misinterpretation have already clarified opinions provided by the BLGF and the SC. As in all revenue measures, it is up to the particular local

government to enact the necessary tax ordinance that would enable it to exercise its power to impose a given tax, in this case, the local franchise tax.

If there is a need to further clarify and strictly enforce the local franchise tax, the involvement of certain government agencies detailing the guidelines for the levy and imposition of the local franchise tax may be recommended.

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**LEGISLATION AND ISSUANCES WITH
REVENUE OR TAX IMPLICATIONS
May – June 2024**

REPUBLIC ACT (RA)

Legislation	Subject	Date of Issue	Date of Effectivity
RA 11999	Establishing the Bulacan Special Economic Zone and Freeport in the Province of Bulacan, Creating for the Purpose the Bulacan Special Economic Zone and Freeport Authority, and Appropriating Funds Therefor	Lapsed into law on 13 June 2024, without the signature of the President, in accordance with Article VI, Section 27(1) of the Constitution	Fifteen days following the completion of its publication in the Official Gazette or in a newspaper of general publication
RA 12001	Instituting Reforms in Real Property Valuation and Assessment in the Philippines, Reorganizing the Bureau of Local Government Finance, Granting of Tax Amnesty on Real Property and Special Levies on Real Property, and Appropriating Funds Therefor	13 June 2024	Fifteen days after its publication in the Official Gazette or in a newspaper of general publication

REVENUE MEMORANDUM ORDER (RMO)

Issuance	Subject	Date of Issue	Date of Effectivity
RMO 16-2024	Amendment to Revenue Memorandum Order No. 19-2006 Re: Guidelines and Procedures for the Processing of Pending Claims for Tax Credit/Refund of Excise Tax Paid on Petroleum Products	03 May 2024	Immediately

Issuance	Subject	Date of Issue	Date of Effectivity
RMO 17-2024	Amending Certain Provisions of Revenue Memorandum Order No. 6-2023	13 May 2024	Immediately
RMO 18-2024	Modification of Alphanumeric Tax Code (ATC) for Creditable Withholding Tax on Certain Income Payments by Joint Venture/Consortiums	28 May 2024	Immediately
RMO 20-2024	Amending Certain Provisions of Revenue Memorandum Circular No. 37-2024, re: TIN Inquiry Thru Electronic Mail (eMail)	17 May 2024	Immediately
RMO 23-2024	Guidelines, Policies, and Procedures in the Implementation of the Risk-Based Approach in the Verification and Processing of Value-Added Tax (VAT) Refund Claims, as Introduced in Republic Act (RA) No. 11976, Otherwise Known as the "Ease of Paying Taxes Act"	19 June 2024	01 July 2024

REVENUE MEMORANDUM CIRCULAR (RMC)

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 60-2024	Providing Clarifications and Guidance on Section 6 of Revenue Regulations No. 4-2024 on the Repeal of Section 34(K) of the National Internal Revenue Code of 1997, as Amended	09 May 2024	-
RMC 62-2024	Availability of the "Taxpayer Classification Inquiry" Functionality in the Online Registration and Update System (ORUS)	16 May 2024	-
RMC 63-2024	Availability of BIR Form No. 1702-MX January 2018 (ENCS) in the Electronic Filing and Payment System (eFPS)	27 May 2024	Immediately
RMC 64-2024	Clarification on the Ante-dating of Deeds of Sale Involving Real Properties	28 May 2024	Immediately

Issuance	Subject	Date of Issue	Date of Effectivity
RMC 65-2024	Clarifies Certain Issues Relative to the Implementation of Section 19 of R.A. No. 11976, Otherwise Known as “Ease of Paying Taxes Act”, which Added Section 110(D) of the National Internal Revenue Code (NIRC) of 1997, as Amended (Tax Code), that Introduced the Output VAT Credit on Uncollected Receivables	14 June 2024	-
RMC 67-2024	Clarifying the Deadline for Filing of Documentary Stamp Tax Return and Payment of the Corresponding Taxes	18 June 2024	Immediately
RMC 68-2024	Circularizing the Availability of the Revised BIR Form No. 2550Q [Quarterly Value-Added Tax (VAT) Return] April 2024 (ENCS)	19 June 2024	Immediately

OTHERS

Issuance	Subject	Date of Issue	Date of Effectivity
Bureau of Customs (BOC) Customs Memorandum Circular (CMC) No. 86-2024	Bangko Sentral ng Pilipinas (BSP) Notification on Non-Issuance of Post-Approval/Authorization of Philippine Currency Exceeding PHP50,000.00	13 May 2024	-
BOC CMC 87-2024	Letter dated 03 May 2024 from the Bangko Sentral ng Pilipinas re: Commodities Regulated by the BSP	07 May 2024	-
Administrative Order No. 23	Implementing a Digital and Integrated System for the Pre-Border Technical Verification and Cross-Border Electronic Invoicing of All Import Commodities	13 May 2024	Fifteen calendar days after publication in the Official Gazette or in a

Issuance	Subject	Date of Issue	Date of Effectivity
			newspaper of general circulation
Department Administrative Order No. 24-01	Implementing Rules and Regulations of Republic Act No. 11981 or the “Tatak Pinoy (Proudly Filipino) Act”	22 May 2024	Fifteen calendar days following its complete publication in the Official Gazette or in a newspaper of general circulation and from the filing of three certified copies at the Office of the National Administrative Register (ONAR) of the University of the Philippines Law Center
Department of Budget and Management Local Budget Memorandum No. 90	Indicative FY 2025 National Tax Allotment (NTA) Shares of Local Government Units (LGUs) and Guidelines on the Preparation of the FY 2025 Annual Budgets of LGUs	13 June 2024	-

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