



Republic of the Philippines  
**DEPARTMENT OF FINANCE**  
Roxas Boulevard Corner Pablo Ocampo, Sr. Street  
Manila 1004

LOCAL FINANCE CIRCULAR NO. 1-2013  
January 18, 2013

**SUBJECT :** PRESCRIBING GUIDELINES GOVERNING THE POWER OF MUNICIPALITIES AND CITIES TO IMPOSE BUSINESS TAX, FEES AND CHARGES ON TOLLWAY OPERATORS/ CONCESSIONAIRES PURSUANT TO SECTION 143(e), REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, AND ITS IMPLEMENTING RULES AND REGULATIONS.

**TO :** ALL REGIONAL DIRECTORS, BUREAU OF LOCAL GOVERNMENT FINANCE; DISTRICT TREASURERS OF METROPOLITAN MANILA; CITY AND MUNICIPAL TREASURERS, AND OTHERS CONCERNED.

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Pursuant to the provisions of Section 143(e) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (LGC), as implemented by Article 232(e) of the Implementing Rules and Regulations (IRR), municipalities and cities may impose a business tax on contractors and other independent contractors. However, there is a need to clarify the implementation of said provision with regard to its application to Tollway Operators/Concessionaires (TOCs) for purposes of local taxation.

In accordance therefore with Article 287 of the IRR, the following guidelines are hereby prescribed to supplement Article 232(e) thereof as it applies to TOCs.

**SECTION 1. Coverage.** – In order to ensure the uniform application by municipalities and cities of the provisions of Sections 143(e) and 151 of the LGC and Articles 232(e) and 237 of the IRR, the guidelines herein prescribed shall govern the levy of business taxes, fees and charges on TOCs, in relation to Section 131(h) of the LGC and other applicable laws.

**SECTION 2. Definition of Terms.** – As used herein, the term –

- (a) *Branch or Sales Outlet* – shall include a fixed place in a locality commonly referred to as *Toll Collection Facility*, where the *toll barriers/plazas are situated*, which conducts operations of the business as an extension of the principal office more specifically in the collection of toll.

- (b) "*Business*" – means trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit. (*Sec. 131[d], LGC*)
  - (c) "*Charges*" – refers to pecuniary liability, as rents or fees against persons or property. (*Sec. 131[g], LGC*)
  - (d) "*Contractor*" - shall include persons, natural or juridical, not subject to professional tax under Section 139 of the LGC, whose activity consists essentially of the sale of all kinds of services for a fee, regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees. (*Sec. 131[h], LGC*)
  - (e) "*Fee*" - means a charge fixed by law or ordinance for the regulation or inspection of a business or activity; (*Sec. 131[i], LGC*)
  - (f) "*Gross Sales or Receipts*" - shall include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax and value-added tax (VAT) paid by the taxpayer. (*Sec. 131[n], LGC*)
  - (g) "*IRR*" – shall mean the Implementing Rules and Regulations of the Local Government Code of 1991.
  - (h) "*LBT*" - shall mean Local Business Tax.
  - (i) "*LGC*" - shall mean the Local Government Code of 1991.
  - (j) "*Principal Office*" – the head or main office of the business appearing in the pertinent documents submitted to the Securities and Exchange Commission, or the Department of Trade and Industry, or other appropriate agencies, as the case may be.
- In case of a transfer or relocation of the principal or head office to another city or municipality, it shall be the duty of the TOC to give due notice of such transfer or relocation to the local chief executive of the city or municipality concerned within fifteen (15) days after such transfer or relocation is effected. (*Article 243(a), IRR of LGC*)
- (k) "*TOC*" – shall mean Tollway Operators/Concessionaires.

- (l) "Toll" – shall mean money received from users of the Toll Expressway System as payment for use of the System.
- (m) "Toll Barrier/Plaza" – a location or an area where tollbooths are located.
- (n) "Tollbooth" – a booth at a tollgate where the toll collector collects tolls.
- (o) "Toll Collection Facility" – means the location designated elsewhere within the Tollways System where tolls (fees) are charged and collected.

**SECTION 3. Imposition of Business Tax.** – Pursuant to Section 143(e) of the LGC and Article 232 of the IRR, municipalities/cities are authorized to impose taxes on contractors and other independent contractors, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross receipts for the preceding calendar year.

For purposes of collection of the tax, the following rules shall apply:

- a) The tax that the municipalities and cities may impose on a TOC shall be in accordance with the rates provided for in Section 143(e) and Section 151, respectively, of the LGC and as implemented under their duly-enacted tax ordinances. Such tax ordinances shall be in strict conformance with the LGC and this Circular.
- b) The above rate of business tax may be adjusted not oftener than once every five (5) years, but in no case shall the adjustment exceed ten percent (10%) of the rate authorized under Section 143(e) of the LGC, in case of a municipality, and Section 151, in case of a city, pursuant to Section 191 of the LGC.

**SECTION 4. Classification of TOCs.** – TOCs shall be classified as falling under the category of **contractors**.

**SECTION 5. General Guidelines in the Collection of Local Business Taxes (LBT).** – The following guidelines shall apply in the collection of business tax on TOCs:

- (a) The amounts realized by the TOC from the operation of tollways system shall be considered taxable gross receipts.

- (b) For purposes of calculating a TOC's LBT liability to any LGU traversed by the toll expressway system, the provisions of Section 150 of the LGC and Article 243 of its IRR shall apply, thus:
- 1) All receipts collected by the *Tollbooths* in a *Toll Barrier/Plaza* shall be recorded in said *Toll Barrier/Plaza* and the tax due thereon shall be payable to the city or municipality where the said *Tollbooth* or *Toll Barrier/Plaza* is located.
  - 2) In case an LGU hosts more than one (1) *toll barrier/plaza*, the combined Gross Sales or Receipts collected at these *toll barriers/plazas* shall also be recorded in said LGU and all LBT due shall be collected 100% by the same LGU.
  - 3) In case an LGU hosts the Head/Principal Office of the TOC, any LBT due shall be based only upon the Gross Sales/Receipts collected at the *toll barriers/plazas*, if any, located within the territorial jurisdiction of the same LGU. In this regard, no sales allocation contemplated under Section 150(b) of the LGC shall be applicable and the LGU hosting such Head/Principal Office shall have no share in the LBT due to other LGUs traversed by the toll expressway system. However, gross receipts realized by the Head/Principal Office of the TOC independent from the operation of the tollways system, if any, shall be recorded in and the tax due thereon shall be paid to the LGU hosting the same.
  - 4) Cities and municipalities traversed by the tollways system where the TOC does not maintain any *Tollbooth* or *Toll Barrier/Plaza* shall not be entitled to the collection of the LBT herein imposed. Conversely, an LGU that does not host a *Tollbooth* or *Toll Barrier/Plaza* within its territorial jurisdiction is not authorized to impose and collect LBT even if it hosts the Head/Principal Office of the TOC.
  - 5) All receipts from Electronic Toll Collection System (ETC) such as "EC Tag", "Easy Trip Tag", and "Badge/Magnetic Card" or any other modes of electronic collection, shall be recorded in the *Toll Barrier/Plaza* where the e-Card or e-Pass is used and the charges therefrom shall be recorded in said *Toll Barrier/Plaza* and the tax due thereon shall be payable to the city or municipality where the said *Tollbooth* or *Toll Barrier/Plaza* is located.
  - 6) The foregoing LBT guideline shall apply to all LGUs that may host a *Tollbooth* or *Toll Barrier/Plaza* that may be established in

the future along other segments, extensions, stretches, linkages, diversions, or expansions of the toll expressway system.

- c) No LBT shall be imposed on a newly-installed *Tollbooth or Toll Barrier/Plaza* during the initial period of operation thereof, except regulatory fees and service charges. However, on the ensuing quarter/year and thereafter, the same shall be assessed for LBT based on the gross sales/receipts realized during the preceding quarter/calendar, as the case may be.

Further, for purposes of local taxation, a *Tollbooth or Toll Barrier/Plaza* may be considered as *newly-installed* if it is tax mapped, recorded or assessed for the first time, whether for real property or local business tax purposes or for the issuance of a Mayor's permit or business license, whichever comes first.

#### SECTION 6. *Mayor's Permit Fee and Other Regulatory Fees.* –

- (a) Local government units are authorized to collect the Mayor's Permit fee and other regulatory fees and charges from the Head/Principal Office and/or *Tollbooth or Toll Barrier/Plaza* operating within their respective jurisdictions.
- (b) TOCs shall not be required to pay Mayor's permit and other regulatory fees in localities where they do not directly operate Head/Principal Office and/or *Tollbooth or Toll Barrier/Plaza*.
- (c) No such fee or charge shall be based on capital investment, gross sales of the business liable therefor, actual kilometer traversed in each LGU, or volumes of vehicles that use the tollways system.

#### SECTION 7. *Procedures for the Enactment of Tax Ordinance.*

(a) The tax on contractors and other independent contractors as provided herein may be imposed by the city or municipality only through an appropriate ordinance duly enacted by the *Sangguniang Panlungsod* or *Sangguniang Bayan* pursuant to Articles 107, 108, 275 and 276 of the IRR of the Code.

(b) Pursuant to the procedures on the conduct of public hearings as prescribed in Article 276(b) of the IRR, the *Sanggunian* concerned shall also cause the sending of written notices of public hearings for the proposed ordinances to the branch manager or the highest officer of the Head Office of affected contractors within their territorial jurisdictions prior to the enactment of the ordinance.

(c) Any tax ordinance which does not comply with the above provisions shall be deemed null and void. Enforcement of such ordinance shall be a ground for disciplinary action against the officials or employees responsible therefor as provided for in Article 280 of the IRR.

**SECTION 8. *Applicability.*** – This Circular shall be applicable to the operations of all tollway operators, concessionaires and/or contractors.

**SECTION 9. *Reportorial Requirements.*** - The LGUs concerned shall make available their records of the gross sales/receipts declared by TOCs in compliance with Executive Order No. 646 dated August 3, 2007, and implemented under Department Order 9-08 dated March 26, 2008 on the accessibility of information on taxpayers between BIR and the LGUs for tax collection purposes.

**SECTION 10. *Repealing Clause.*** – All rules, regulations, orders, and/or circulars previously issued by this Department and the Bureau of Local Government Finance (BLGF), which are contrary to, or inconsistent with, the provisions of this Circular are hereby repealed or modified accordingly.

**SECTION 11. *Effectivity.*** – This Circular shall take effect fifteen (15) days from its publication in the Official Gazette or in a newspaper of general circulation.

The foregoing LBT allocation shall apply prospectively from the time of the issuance and/or effectivity of this Circular.

The Regional Directors of the Bureau of Local Government Finance and District Treasurers of Metropolitan Manila Area are hereby instructed to disseminate the contents of this Circular to all City and Municipal Treasurers and all others concerned within their respective jurisdictions for information and guidance.

  
CESAR V. PURISIMA  
Secretary

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