



Republic of the Philippines  
**DEPARTMENT OF FINANCE**

**DOF-LOCAL FINANCE CIRCULAR NO. 3-95**

May 22, 1995

- SUBJECT** : Prescribing Guidelines Governing the Power of Cities and Municipalities to Impose Business Tax on Construction Contractors 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, Provincial, City, and Municipal Treasurers, and Others Concerned

Pursuant to the provisions of SEC. 143(e) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (LGC), as implemented by Art. 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 provisions with regard to its application to construction contractors.

Therefore, in accordance with Art. 287 of the IRR, the following guidelines are hereby prescribed to supplement Art. 232 (e) thereof as it applies to construction contractors.

**SECTION 1. Coverage.** — In order to ensure the uniform application by cities and municipalities of the provisions of Sections 143 (e) and 151 of the LGC and Articles 232 (e) and 237 of its IRR, the guidelines herein prescribed shall govern the levy of business taxes on construction contractors such as, but not limited to, general engineering, general building and specialty contractors as defined under Republic Act 4566 (as amended), known as the Contractors Licensing Law and other applicable laws.

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

- (a) **Contractor** — shall include persons, natural or judicial, not subject to professional tax under Sec. 139 of the LGC, whose activity consists essentially of the sale of all kinds of construction 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 construction contractor or his employees.
- (b) **Construction Contractor** — shall refer to the principal contractor who has direct contract with the contractee for a specific domestic project.
- (c) **General Engineering Contractor** — is a person whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subject: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, waste reduction plants, bridges, overpasses, underpasses, and other similar works, pipelines and other system for the transmission of petroleum and other liquid or gaseous substances, land levelling and earth moving projects, excavating, grading, trenching, paving and surfacing work.

- (d) General Building Construction Contractor — is a person whose principal contracting business is in connection with any structure built, for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its constructing the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof. Such structure includes sewers and sewerage disposal plants and systems, parks, playgrounds and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, cement and concrete works in connection with the abovementioned fixed works.
- (e) 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 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.
- (f) Subcontractor — is a person whose operations pertain to the performance of construction work requiring special skills and whose principal contracting business involves the use of specialized building trades or crafts.
- (h) Domestic Construction Project — refers to a project bidden out and implemented within the territorial jurisdiction of the Philippines by any foreign or domestic contractor.
- (i) Overseas Construction Project — shall mean a construction project undertaken by a construction contractor outside the territorial boundaries of the Philippines, paid for in acceptable freely convertible foreign-currency, as well as construction contracts dealing in foreign-currency denominated fabrication works with attendant installation works outside of the Philippines.

### SECTION 3. Rate and Manner of Imposition

- (a) As provided for in Section 143(e) of the LGC of 1991, as implemented under Article 232(e) of the IRR, municipalities shall impose a business tax on contractors and other independent contractors in accordance with the following schedule:

With gross receipts for the preceding calendar year in the amount of:		Amount of Tax Per Annum
Less than	P 5,000.00	P 27.50
P5,000.00 or more but less than	10,000.00	61.60
10,000.00 or more but less than	15,000.00	104.50
15,000.00 or more but less than	20,000.00	165.00
20,000.00 or more but less than	30,000.00	275.00
30,000.00 or more but less than	40,000.00	385.00
40,000.00 or more but less than	50,000.00	550.00
50,000.00 or more but less than	75,000.00	880.00
75,000.00 or more but less than	100,000.00	1,320.00
100,000.00 or more but less than	150,000.00	1,980.00
150,000.00 or more but less than	200,000.00	2,640.00
200,000.00 or more but less than	250,000.00	3,630.00
250,000.00 or more but less than	300,000.00	4,620.00
300,000.00 or more but less than	400,000.00	6,160.00

400,000.00 or more but less than	500,000.00	8,250.00
500,000.00 or more but less than	750,000.00	9,250.00
750,000.00 or more but less than	1,000,000.00	10,250.00
1,000,000.00 or more but less than	2,000,000.00	11,500.00
2,000,000.00 or more	at a rate not exceeding fifty percent (50%) of one percent (1%)	

The taxable gross receipts shall be the amounts received by the principal contractor as the total contract price less the amount paid to a sub-contractor under a subcontract arrangement, if there is any. The said sub-contractor, however, shall also be subject to the business tax imposed herein.

- (b) The rate of business tax that cities may levy exceed the maximum rates prescribed in paragraph (a) above by not more than fifty percent (50%) thereof.

SECTION 4. Non-separability of Business — Business activities which are inherent, related, necessary or incidental to the business of construction contractor shall be treated as one business activity subject to the same tax rate schedule under Sec. 3 hereof. However, the amount of tax due from the contractor shall be computed on the basis of the combined gross receipts of all such related activities.

In view hereof, the provisions of Art. 242 of the IRR requiring a person or entity to get a separate mayor's permit for each business activity shall not apply to construction contractors, as defined above.

SECTION 5. Situs of Tax.

(a) Definition of terms.

- (1) Head/Principal Office — shall refer to the main office of the construction contractor indicated in the pertinent documents submitted to either to the Securities and Exchange Commission (SEC) or other appropriate government agencies, as the case may be. The city or municipality specifically mentioned in the Articles of Incorporation and other official registration papers as being the official address of said Head/Principal Office shall be considered as the situs thereof.
- (2) Branch Office — is a fixed place in a locality which conducts operations of the business as an extension of the principal office.
- (3) Project Office — shall mean the field office in the construction site. It is equivalent to the factory of a manufacturer.

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

- (1) All gross receipts realized from domestic projects or contracts undertaken by the branch office shall be recorded in the said branch office and the tax thereon shall be payable to the city or municipality where the said branch is located;
- (2) In cases where there is no branch office, the gross receipts from domestic projects or contracts shall be recorded in the Head/Principal Office and the same shall be allocated as follows:
  - (i) Thirty percent (30%) of the gross receipts shall be taxable by the city or municipality where the principal office is located; and

- (ii) Seventy percent (70%) of the gross receipt shall be taxable by the city or municipality where the project office is located.
- (3) In cases where there are two (2) or more project offices located in different localities, the seventy percent (70%) allocation stated in subparagraph (2) (ii) above shall be prorated among the localities where such project offices are located in proportion to the work accomplished based on the cost of the projects or contracts actually undertaken in the locality during the tax period for which the tax is due.
- (4) In the case of overseas construction projects, the construction contractor shall declare separately the gross receipts realized therefrom, which shall not be subject to the business tax.
- (5) In the case of pre-fabricated works which are paid for in accepted freely convertible foreign currency with attendant installation works outside the Philippines, the gross receipts realized therefrom shall be subject to not more than one-half (1/2) of the rate prescribed for in Sec. 3 (a) hereof.
- (6) In case there is a transfer or relocation of the Head/Principal Office or of any branch to another city or municipality, the construction contractor shall give due notice to such transfer or relocation to the cities or municipalities concerned within fifteen (15) days before such transfer or relocation is effected.

**SECTION 6. Procedures for the Enactment of Tax Ordinances.**

- (a) The tax on construction contractors as provided herein may be imposed by the city or municipality only through appropriate ordinance duly enacted by the Sangguniang Panlungsod or Sangguniang Bayan pursuant to Arts. 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 Art. 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 construction 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 Art. 280 of the IRR.

**SECTION 7. Time of Payment.**—The business tax on construction contractors accruing to the LGUs shall be paid within the first twenty (20) days of January of each year or of each subsequent quarter, as the case may be.

**SECTION 8. Examination of Books of Accounts and Pertinent Records.**

- (a) The treasurer of the LGU concerned or through any of his deputies duly authorized in writing may examine the books of accounts and other pertinent records of construction contractors in order to ascertain, assess, and collect the correct amount of the tax due.
- (b) The examination shall be made during regular office hours not oftener than once a year for every tax period, which shall be the year immediately preceding the examination and shall be limited to verifying the summary of transactions submitted by the Head Office or branch office of the construction contractor being audited, upon which the

declaration of gross receipts for the preceding calendar year has been based and the tax paid thereon, and shall be certified by the examining official. Such certification shall be made of record in the books of accounts of the construction contractors examined.

SECTION 9. Repealing Clause — All rules, regulations, orders, and/or circulars issued by the Department of Finance which are contrary to, or inconsistent with the provisions of this circular are hereby repealed or modified accordingly.

SECTION 10. Effectivity — This Circular shall take effect immediately.

This Circular has been approved and recommended by the Oversight Committee for issuance by the Secretary of Finance in accordance with Art. 287 of the IRR.

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

(SGD.) **ROBERTO F. DE OCAMPO**  
Secretary of Finance