



Republic of the Philippines
DEPARTMENT OF FINANCE
BUREAU OF LOCAL GOVERNMENT FINANCE
8th Floor EDPF Building, BSP Complex, Roxas Boulevard, 1004 Manila
www.blgf.gov.ph | blgf@blgf.gov.ph | +63 2 527 2780 / 527 2790

BLGF MEMORANDUM CIRCULAR NO. 01-001-2017
05 January 2017

TO : All BLGF Central and Regional Directors; All Provincial, City and Municipal Treasurers and Assistant Treasurers

SUBJECT : Reminders in the Assessment of the Local Business Tax (LBT), Registration and Renewal of Business Permits and Licenses and Payment of Community Tax

It has come to the attention of this Bureau of reported erroneous assessment of taxes and fees in the local governments during the registration and renewal of business permits and licenses. In order to ease the process and prevent undue harassment on the part of the taxpayers, all concerned are reminded of the following:

A. Assessment of Local Business Tax (LBT) for Newly Started Business

1. Provinces and Cities. For businesses enjoying a franchise or on printing and publication, the tax shall be based on capital investment¹ at a rate provided in the duly enacted tax ordinance of the concerned LGU.
2. Cities and Municipalities. Newly started business entities shall not be subject to and/or liable to the payment of initial LBT² and shall ONLY be subject to the payment of Business Permit and other regulatory fees and charges.

B. Assessment of LBT for Renewal of Business Permit

1. In the absence of audited Financial Statement, the LBT shall be based on the Sworn Declaration of gross sales or receipts³ by the taxpayer or its Income Tax Returns (ITR)⁴. In case of suspected underdeclaration of gross sales/receipts, the application shall be tagged by the LGU, and the business may be subjected to the examination of books of accounts⁵ by the local treasurer, which shall be done after the business renewal period.
2. If applicable, the following shall not form part of the gross sales or receipts:
 - i. Receipts from the sale of real properties or realty assets, unless one is engaged in the business of buying or selling real estate⁶;
 - ii. Determinable discounts at the time of sales, sales returns, excise tax, and value-added tax (VAT)⁷;

¹ Sections 136, 137 and 151 of the Local Government Code (LGC)

² BLGF Opinion dated 22 February 2012 to Mr. Patrick Duffy, Sagittarius Mines, Inc.

³ *First Planters Pawnshop Inc. vs. City of Pasay*, Court of Tax Appeals En Banc Decision No. 501, 10 Dec 2010

⁴ JMC No. 01, Series of 2016 dated 30 August 2016

⁵ Sec. 171 of the LGC

⁶ BLGF Opinion dated 22 August 2011, 1st Indorsement, City Treasurer, Caloocan

⁷ Sec. 131(n) of the LGC

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- iii. Passive income, i.e., interest, dividends, and gains from sale of shares⁸; and
 - iv. Receipts from the printing and/or publishing of books or other reading materials prescribed by Department of Education as school text and reference, for those engaged in the business of printing and publication⁹.
3. The Presumptive Income Level Assessment Approach (PILAA) *may be used in computing the local business ONLY if the taxpayer is unable to provide proof of its gross sales or receipts*¹⁰. The PILAA *may be used in estimating the gross sales or receipts provided that the PILAA is in the local tax ordinance and has undergone public hearings and publications*¹¹. This is to ensure that the taxpayers are properly informed of the factors used in determining the presumptive income and for the taxpayers to agree to such level of presumptive income applicable to their industry. Absent such ordinance authorizing the use of the PILAA and embodying the presumptive income levels to be used by the Local Treasurer, the collection of additional local business taxes based on such PILAA is illegal and the petitioner may properly claim the refund of the excess business taxes collected¹².
4. The automatic application of additional 10% to 15% increase on the previous year's gross receipts as basis for LBT to meet LGU target or achieve higher collection efficiency without legal basis shall not be practiced.

C. Exemptions from LBT

- 1. Business enterprises certified by the BOI as pioneer and non-pioneer for a period of six (6) and four (4) years, respectively, from the date of registration¹³;
- 2. Business engaged in the production, manufacture, refining, distribution or sale of oil, gasoline, and other petroleum products¹⁴;
- 3. Cooperatives duly registered with the CDA¹⁵; and
- 4. PEZA-registered enterprises¹⁶ and other Special Economic Zones as may be provided for by the specific Republic Act.

D. Public Liability Insurance, if applicable. Any requirement that business registrants must secure only such insurance from LGU-accredited insurance companies puts undue limitation and has no legal basis. Clear is the rule under Section 193 of the Insurance Code, as amended, that:

No insurance company issued with a valid certificate of authority to transact insurance business anywhere in the Philippines by the Insurance Commissioner shall be barred, prevented, or disenfranchised from issuing any insurance policy or from transacting any insurance business within the scope or coverage of its certificate of authority, anywhere in the Philippines, by any local government unit or authority, for whatever guise or reason whatsoever, including under any kind

⁸ BLGF Opinion dated 23 Sep 2009 to Alsons Consolidated Resources, Inc.

⁹ Secs. 136 and 151 of the LGC

¹⁰ CTA EB No. 501 page 7

¹¹ Sec. 187 of the LGC

¹² CTA EB No. 501 page 9

¹³ Sec. 133 (g) of the LGC

¹⁴ Sec. 133 (h), *Ibid* and Article 232(h), IRR of the LGC

¹⁵ Sec. 133 (n), *Ibid*

¹⁶ Republic Act No. 7916, as amended by RA 8748

of ordinance, accreditation system, or scheme. **Any local ordinance or local government unit regulatory issuance imposing such restriction or disenfranchisement on any insurance company shall be deemed null and void ab initio.**¹⁷ (emphasis supplied)

E. Penalties for Delayed Payment of Business Permit Fee. Penalties for delayed payment of the Business Permit Fee shall only be imposed after the lapse of the prescribed period that is either after the 20th day of January or the extended period as determined in the revenue ordinance duly enacted by the *Sanggunian* concerned.¹⁸

F. Payment of Community Tax

1. Place of Payment. The Community Tax shall be paid in the city or municipality where the principal office of the juridical entity is located¹⁹ and not to any other LGU in case the juridical entity operates a branch or sales office.
2. Time of Payment. Corporations established and organized on or before the last day of June shall be liable for the community tax for that year. But corporations established and organized on or before the last day of March shall have twenty (20) days within which to pay the community tax without becoming delinquent. Corporations established and organized on or after the first day of July shall not be subject to the community tax for that year.²⁰
3. Penalties for late payment. If the tax is not paid within the prescribed period, there shall be added to the unpaid amount an interest of twenty-four percent (24%) per annum from the due date until it is paid. It is clarified, however, that the phrase "until it is paid" must be interpreted in accordance with the limitations of the LGC on other unpaid revenues imposed by the local government, which in no case shall the total interest on the unpaid amount or portion thereof exceed thirty-six (36) months²¹. Thus, for community tax, the penalty shall not go beyond 36 months or seventy two percent (72%) of the unpaid amount.

In case the existing ordinances or revenue measures of the LGUs are inconsistent with the foregoing, the local treasurers are enjoined to make the necessary and immediate representations with their respective Local Chief Executives and *Sanggunians* concerned for the amendment thereof to ensure compliance with the existing statutes of the land.

Strict compliance of all concerned is hereby enjoined.


NIÑO RAYMOND B. ALVINA
OIC Executive Director

¹⁷ Sec. 193 of Republic Act No. 10607 (Insurance Code of the Philippines, as amended)

¹⁸ Sec. 167 of the LGC

¹⁹ Sec. 160, *Ibid*; Sec. 2 of Memorandum Circular No. 153 s. 19192, Office of the President

²⁰ Sec. 161(b), *Ibid*

²¹ Secs. 168 and 169, *Ibid*