



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

MEMORANDUM CIRCULAR NO. 03-01-2017
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TO : All BLGF Central and Regional Directors, Officials, and Employees; All Local Treasurers of Provinces, Cities and Municipalities with Shares from National Wealth; and Others Concerned

SUBJECT : ENRDMT Advisory: Clarifications on Collections of Local Government Units from Selected National Government Agencies and Government-Owned and/or Controlled Corporations

This Memorandum Circular is issued to guide all concerned in complying with the requirements of Department Order (DO) No. 049.2016¹ issued by the Secretary of Finance, dated 05 September 2016, mandating the submission of environment and natural resources (ENR) data, particularly on the payments made by extractive industries and the detailed account of the LGU shares from national wealth, as part of the quarterly Statement of Receipts and Expenditures (SRE) reports of local treasurers.

The herein attached *Annex A* provides the guidelines in reporting such LGU shares from the collections of selected national government agencies (NGAs) and government-owned and/or controlled corporations (GOCCs)² and on the funds obtained by LGUs pursuant to DOE Energy Regulations No. 1-94, which are considered as shares from the development and utilization of national wealth. Likewise, collections from certain GOCCs³ based on earlier reports of the LGUs are herein clarified to be not considered as shares from national wealth.

It is reiterated that all concerned local treasurers are directed to regularly and accurately prepare and submit the ENR data through the Environment and Natural Resources Data Management Tool (ENRDMT) portal, pursuant to the said DO.

For strict compliance.


NIÑO RAYMOND B. ALVINA
OIC Executive Director

¹ Inclusion of Environment And Natural Resources Data in the Electronic Statement of Receipts and Expenditures System for Local Treasurers

² Philippine Coconut Authority (PCA); Laguna Lake Development Authority (LLDA); Philippine National Oil Company Exploration Corporation (PNOC EC); Philippine National Oil Company Renewables Corporation (PNOC RC); and National Resources Development Corporation (NRDC);

³ Philippine Racing Commission (PhilRaCom); Manila Jockey Club; and Philippine Racing Club (PRC)

ANNEX A

Clarifications on the Collections of Local Government Units from Selected National Government Agencies and Government-Owned and/or Controlled Corporations

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
1. <i>Philippine Coconut Authority (PCA)</i> ▪ Republic Act (RA) Nos. 8048¹ and 10593² provided for the regulation of the cutting of coconut trees as well as the promotion of the growth of the coconut industry by embarking on a sustainable and efficient replanting program. ▪ The PCA shall be the lead agency to implement the provisions and prescribe the necessary rules and regulations for the immediate and effective implementation of this Act. In coordination with the LGUs concerned, the PCA shall require the registration of all sawmills, lumberyards, coconut wood dealers and other persons or entities dealing in the processing and sawing of coconut trees. ▪ Section 5 of RA No. 8048, as amended by Section 2 of RA No.10593, mandates that: <i>"No coconut tree or trees shall be cut unless a permit therefore, upon due application being made, has been issued by the PCA pursuant to Section 6 of this Act.</i> <i>The applicant shall pay an application fee in the amount of One hundred pesos (P100.00) for every tree intended to be cut payable to the PCA. Forty pesos (P40.00) of the fee shall accrue in favor of the PCA, <u>Forty pesos (P40.00) in favor of the municipal government concerned</u> and Twenty pesos (P20.00) in favor of the barangay unit concerned. The fees allocated to the PCA shall be used for its replanting program and the <u>fees allocated to the municipality/ city government shall be used for the repair and rehabilitation of roads of the respective local government units which have been damaged by the continuous passage of heavy vehicles used for transporting coconut lumber.</u>"</i>	Collections made by the PCA and the remitted shares of LGUs relative to the cutting of coconut trees is considered as shares from national wealth and shall be encoded in the systems, as follows: ENRDMT System: Receipts of Shares from National Wealth → Forestry Charges <i>Please note in Remarks:</i> <i>Share from PCA</i> eSRE System: Shares from National Wealth → Forestry Charges

¹ An Act Providing for the Regulation of the Cutting of Coconut Trees, Its Replenishment, Providing Penalties Therefor and for Other Purposes also known as Coconut Preservation Act of 1995 dated 25 July 1994

² An Act Amending certain Sections of Republic Act No. 8048, entitled "An Act Providing for the Regulation of the Cutting of Coconut Trees, Its Replenishment, Providing Penalties Therefor and for Other Purposes" also known as Amendment of Coconut Act of 1995 dated 23 July 2012

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
2. Laguna Lake Development Authority(LLDA)	
▪ RA No. 4850³, as amended by Presidential Decree (PD) No. 813⁴ and Executive Order (EO) No. 927⁵, mandated the LLDA to lead, promote and accelerate the development and balanced growth of the Laguna de Bay area with adequate provision for environmental management and control, preservation of the quality of human life and ecological systems, and the prevention of undue ecological disturbances, deterioration and pollution. ▪ Section 3 of EO No. 927 states that: <i>"The Authority is hereby empowered to collect fees for the use of the lake waters and its tributaries for all beneficial purposes including but not limited to fisheries, recreation, municipal, industrial, agricultural, navigation, irrigation, and waste disposal purpose; Provided, that the rates of the fees to be collected, and the sharing with other government agencies and political subdivisions, if necessary, shall be subject to the approval of the President of the Philippines upon recommendation of the Authority's Board, except fishpen fee, which will be shared in the following manner: <u>20 percent of the fee shall go to the lakeshore local governments</u>, 5 percent shall go to the Project Development Fund which shall be administered by a Council and the remaining 75 percent shall constitute the share of LLDA. However, after the implementation within the three-year period of the Laguna Lake Fishery Zoning and Management Plan, the sharing will be modified as follows: <u>35 percent of the fishpen fee goes to the lakeshore local governments</u>, 5 percent goes to the Project Development Fund and the remaining 60 percent shall be retained by LLDA; Provided, however, that the share of LLDA shall form part of its corporate funds and shall not be remitted to the National Treasury as an exception to the provisions of Presidential Decree No. 1234."</i>	Collections made by the LLDA and the remitted shares of LGUs relative to environmental protection and sustainable development in the Laguna de Bay area (including fishpen fees) is considered as shares from national wealth and shall be encoded in the systems, as follows: ENRDMT System: Receipts of Shares from National Wealth → Others → Others, Specify → Fishery Charges <i>Please note in Remarks: Share from LLDA</i> eSRE System: Shares from National Wealth → Others

³ An Act Creating the Laguna Lake Development Authority, Prescribing its Powers, Functions and Duties, Providing Funds Therefor, and for Other Purposes dated 18 July 1966

⁴ Amending Certain Sections of Republic Act Numbered Forty Eight Hundred Fifty, otherwise known as the "Laguna Lake Development Authority of 1966" dated 17 October 1975

⁵ Further Defining Certain Functions and Powers of the Laguna Lake Development Authority dated 16 December 1983

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
3. <i>Philippine Racing Commission (PhilRaCom)</i> <i>Manila Jockey Club (MJC)</i> <i>Philippine Racing Club (PRC)</i>	
▪ Presidential Decree (PD) No. 420⁶, as amended by RA No. 7324⁷, created the PhilRaCom to promote and direct the accelerated development and continuous growth of horse racing to insure the full exploitation of the sport as a source of revenue and employment. ▪ The PhilRaCom has exclusive jurisdiction and control over every aspect of the conduct of horse racing, including the framing and scheduling of races, the construction and safety of racetracks, the allocation of prizes and the security of racing. ▪ Section 11 of PD No. 420 provides that: <i>“ x xx, one per centum of the gross receipt derived from the total sale of tickets for daily double, llave, forecast, jackpot and other similar events is hereby constituted as a special fund to be used by the Commission: Provided, however, That the one per centum of the gross receipts derived from the total sale of the tickets for parimutuel races, shall continue to be retained as special fund for use of the Games and Amusements Board: Provided, further, That to promote clean and honest horse-racing, licensed jockeys or trainers who are suspended by the Commission for violation of existing rules on horse racing shall be temporarily suspended from all benefits other than medical and hospitalization expenses during the period of suspension.”</i> ▪ The MJC and PRC were granted franchises to operate race tracks for horse racing through RA No. 6631⁸(as amended by RA No. 8407⁹) and RA No. 6632¹⁰ (as amended by RA No. 7953¹¹), respectively.	The collections made by the PhilRaCom relative to horse racing are not considered as shares from national wealth since LGUs do not get shares from these. The VAT collections made by the Bureau of Internal Revenue from race track operators like the MJC and PRC from which LGUs where the race tracks are located get shares are also not considered as shares from national wealth since horse racing does not involve the utilization and development of national wealth.

⁶ Creating the Philippine Racing Commission dated 20 March 1974

⁷ An Act Increasing the Members of the Board of the Philippine Racing Commission, Amending for the Purpose Presidential Decree Numbered Four Hundred Twenty, as Amended dated 30 March 1992

⁸ An Act Granting Manila Jockey Club, Inc., A Franchise to Construct, Operate and Maintain a Race Track for horse Racing in the City of Manila or in the Province of Bulacan dated 23 October 1972

⁹ An Act Amending Republic Act Numbered Sixty-Six Hundred Thirty-One entitled “An Act Granting Manila Jockey Club, Inc., A Franchise to Construct, Operate and Maintain a Racetrack for Horse Racing in the City of Manila or Any Place within the Provinces of Bulacan, Cavite or Rizal” and Extending the said Franchise by Twenty-Five (25) Years from the Expiration of the Term Thereof dated 23 November 1997

¹⁰ An Act Granting the Philippine Racing Club, Inc., A Franchise to Operate and Maintain a Race Track for Horse Racing in the Province of Rizal dated 23 October 1972

¹¹ An Act Amending Republic Act Numbered Sixty-Six Hundred Thirty-Two entitled “An Act Granting the Philippine Racing Club, Inc., A Franchise to Operate and Maintain a Race Track for Horse Racing in the Province of Rizal,

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
▪ Section 12 of RA No. 8407 states that: <i>"In consideration of the franchise, the grantee shall pay into the National Treasury a franchise tax equal to twenty-five per centum (25%) of its gross earnings from the horse races authorized to be held under this franchise which is equivalent to the eight and one-half per centum (8 ½%) of the total wager fund or gross receipts on the sale of betting tickets during the racing day as mentioned in Sec. 8 hereof, allotted as follows: (a) Five per centum (5%) for the national government; (b) Five per centum (5%) for the province or city/municipality where the racetrack is located; (c) Seven per centum (7%) for the municipal hospital where the racetrack is located;..."</i> ▪ Section 9 of RA No. 7953 states that: <i>"In consideration of the franchise and rights herein granted to the Philippine Racing Club, Inc., the grantee shall pay into the National Treasury a franchise tax equal to twenty-five per centum (25%) of its gross earnings from the horse races authorized to be held under this franchise which is equivalent to the eight and one-half per centum (8 ½%) of the total wager funds or gross receipts on the sale of betting tickets during the racing days as mentioned in Section 6 hereof, allotted as follows: (a) National Government, five per centum (5%); the province or city/municipality where the race track is located, five per centum (5%); (b) Philippine Charity Sweepstakes Office, seven per centum (7%);..."</i> ▪ In 2003, MJC moved its racing facility to Carmona, Cavite. In 2009, the PRC moved its race course to Naic, Cavite. ▪ On June 16, 2008, the DOF and DBM issued Joint Circular No. 2008-1¹² to guide the computation of the allocation of the Value Added Tax (VAT) payments by the MJC and PRC in lieu of the 25% franchise tax, in line with the provisions of RA No. 7716¹³, as amended by RA No. 8241¹⁴ and RA No. 9337¹⁵.	

and Extending the Said Franchise by Twenty-Five Years from the Expiration of the Term Thereof dated 30 March 1995

¹² DOF and DBM Joint Circular No. 2008-1 on the Guidelines and Procedure for the Release of the LGU Shares from the Value Added Tax (VAT) in lieu of Franchise Tax Collected from Racetrack Operations of the Manila Jockey, Inc., (MJCI) and the Philippine Racing Club, Inc. (PRCI) dated 16 June 2008

¹³ An Act Restructuring the Value Added Tax (VAT) System, Widening Its Tax Base and Enhancing Its Administration, and for These Purposes Amending and Repealing the Relevant Provisions of the National Internal Revenue Code, as Amended, and for Other Purposes dated 05 May 1994

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
4. Energy Regulations No. 1-94 (ER 1-94)	
▪ ER 1-94¹⁶ was issued by the Department of Energy (DOE) as the Implementing Rules and Regulations for Section 5 (i) of RA No. 7638¹⁷, which states that the DOE shall: <i>“devise ways and means of giving <u>direct benefits to the province, city or municipality, especially the community and people affected, and equitable preferential benefit to the region that hosts the energy resource and/or energy-generating facility: Provided, however, that the other provinces, cities, municipalities, or regions shall not be deprived of their energy requirements”</u></i> ▪ (G)(2) & (4) of Section 6 provides that: (2) <i>“The Development and Livelihood Fund shall be applied in an equitable, preferential manner for the exclusive benefit of the community and people affected, the host LGU or region in the following proportions: five percent (5%) to the barangays hosting the official resettlement/relocation sites of the community and the people affected, fifteen percent (15%) to the host barangay, twenty-five percent (25%) to the host municipality or city, twenty-five percent (25%) to the host province, and the remainder to the host region.”</i> (4) <i>“The power producer and the energy resource developer shall each hold its contribution to the Development and Livelihood Fund in trust for the beneficiaries as enumerated under Sec. 6 (e)(2). Such funds shall not be mingled with its general fund and must be deposited in interest bearing accounts. Interest earned on the development and livelihood fund shall accrue to the benefits enumerated under Sec. 6 (e)(2).”</i>	Funds obtained by LGUs pursuant to ER 1-94 are considered as shares from national wealth and shall be encoded in the systems, as follows: ENRDMT System: Receipts of Shares from National Wealth → Others → Others, Specify → Shares under ER 1-94 <i>Please note in Remarks:</i> Development and Livelihood Fund (DLF) or Reforestation, Watershed Management, Health and/or Environment Enhancement Fund (RWMHEEF) eSRE System: Shares from National Wealth → Others

¹⁴ An Act Amending Republic Act No. 7716, Otherwise known as the Expanded Value-Added Tax Law and Other Pertinent Provisions of the National Internal Revenue Code as Amended dated 20 December 1996

¹⁵ An Act Amending Sections 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 and 288 of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes dated 24 May 2005

¹⁶ Rules and Regulations Implementing Section 5 (i) of Republic Act No. 7638, otherwise known as the “Department of Energy Act of 1992” dated 24 May 1994

¹⁷ An Act Creating the Department of Energy Rationalizing the Organization and Functions of Government Agencies Related to Energy and for Other Purposes also known as “Department of Energy Act of 1992” dated 09 December 1992

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
▪ The PhP0.01 per kWh mandated by ER 1-94 is part of the rate imposed on the electricity end-users, duly approved by the Energy Regulatory Commission (ERC). ▪ Section 4 (a) & (b), Rule 29 of RA 9136¹⁸ states that: (a) <i>The Generation Company and/or energy resource developer shall set aside one centavo per kilowatt-hour (P0.01/kWh) of the total electricity sales as financial benefit of the host communities of such Generation Facility, where applicable.</i> (i) <i>For a Generation Facility and/or energy resource located in a non-highly urbanized city, the P0.01/kWh financial benefit shall be allocated as follows:</i> (1) <i>Fifty percent of one centavo per kilowatt-hour (P0.005/kWh) of the total electricity sales shall be set aside as an electrification fund (EF) to be applied in the following radiating order:</i> (a) Designated resettlement area/s; (b) Host barangay/s; (c) Host municipality/ies or city/ies; (d) Host province/s; (e) Host region/s; and (f) Other areas as may be prioritized/ determined by the DOE. (2) <i>Twenty five percent of one centavo per kilowatt-hour (P0.0025/kWh) of the total electricity sales as a development and livelihood fund (DLF) to be applied in the following manner:</i> (a) Designated resettlement area/s - 5% (b) Host barangay/s - 20% (c) Host municipality/ies or city/ies - 35% (d) Host province/s - 30% (e) Host regions - 10% <i>In the absence of a designated resettlement area/s, funds allocated for the resettlement shall form part of the host barangay/s.</i>	

¹⁸ Rules and Regulations to Implement Republic Act No. 9136, entitled "Electric Power Industry Reform Act of 2001" dated 27 February 2002

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Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
(3) <i>Twenty five percent of one centavo per kilowatt-hour (P0.0025/kWh) of the total electricity sales as a reforestation, watershed management, health and/ or environment enhancement fund (RWMHEEF) to be allocated in the following manner:</i> (a) <i>Designated resettlement area/s - 5%</i> (b) <i>Host barangay/s - 20%</i> (c) <i>Host municipality/ies or city/ies - 35%</i> (d) <i>Host province/s - 30%</i> (e) <i>Host region/s - 10%</i> <i>In the absence of a designated resettlement area/s, funds allocated for the resettlement shall form part of the host barangay/s.</i> x x x (b) <i>All interest earnings from EF, DLF, RWMHEEF shall be set aside into one trust account to be utilized for the electrification projects of the communities in the following order of priority:</i> (i) <i>Direct host barangay/s, and host municipality/ies or city/ies with insufficient accrued EF;</i> (ii) <i>Areas traversed by transmission lines, and sub-stations or similar facilities;</i> (iii) <i>Areas not directly connected to the Grid or national transmission system which include isolated or remote communities; and</i> (iv) <i>Other areas as may be prioritized/ determined by the DOE.</i>	
5. Philippine National Oil Company Exploration Corporation (PNOC EC)	
▪ PD No. 334¹⁹ created the Philippine National Oil Company (PNOC) that will help ensure a stable supply of petroleum products in order to sustain the growth of the economy and the social well-being of the nation.	Collections made by the PNOC EC and the remitted shares of LGUs relative to the exploration, development and production of oil, gas and coal resources is considered as shares from national wealth and shall be encoded in the systems, as follows:

¹⁹ Creating the Philippine National Oil Company, Defining Its Powers and Functions, Providing Funds Therefor, and for Other Purposes dated 09 November 1973

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Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
▪ The PNOC EC is the upstream oil, gas and coal subsidiary of the state-owned Philippine National Oil Company. A government owned and controlled corporation mandated by the government through the Department of Energy (DOE) to take the lead in exploration, development and production of the country's oil, gas and coal resources. ▪ Section 291 of RA 7160²⁰ mandates that: <i>"Local government units shall have a share based on preceding fiscal year from the proceeds derived by any government agency or government-owned controlled corporation engaged in the utilization and development of the national wealth based on the following formula whichever will produce a higher share for the local government unit:</i> (a) One percent (1%) of the gross sales or receipts of the preceding calendar year; or (b) <u>Forty percent (40%) of the mining taxes, royalties, forestry and fishery charges and such other taxes, fees or charges, including related surcharges, interests, or fines the government agency or government owned or controlled corporation would have paid if it were not otherwise exempt."</u> ▪ PNOC EC is required to share the net proceeds with the government for all services contracts and coal operating contracts entered into with the DOE on the exploration, development and utilization of the country's natural resources.	ENRDMT System: Receipts of Shares from National Wealth → Royalty Income from Energy Resources Production <i>Please note in Remarks:</i> <i>Share from PNOC EC</i> eSRE System: Shares from National Wealth → Utilization of Hydrothermal, Geothermal and Other Sources of Energy
6. PNOC Renewables Corporation (PNOC RC)	
▪ The PNOC RC is a fully owned subsidiary of state-owned PNOC organized last 07 March 2008. It is mandated to promote and undertake research, development, utilization, manufacture, sale, marketing, distribution and commercial application of new, renewable, non-conventional and environment-friendly energy sources and systems. ▪ Section 13 of RA No. 9513²¹ mandates that: <i>"The government share on existing and new RE development projects shall be equal to one</i>	Collections made by the PNOC RC and the remitted shares of LGUs relative to the exploration, development and production of the oil, gas and coal resource is considered as shares from national wealth and shall be encoded in the systems, as follows: ENRDMT System: Receipts of Shares from National Wealth → Royalty Income from Energy Resources Production

²⁰ An Act Providing for a Local Government Code of 1991 dated 10 October 1991

²¹ An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and for Other Purposes or the "Renewable Energy Act of 2008" dated 16 December 2008

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
percent (1%) of the gross income of RE resource developers resulting from the sale of renewable energy produced and such other income incidental to and arising from the renewable energy generation, transmission, and sale of electric power except for indigenous geothermal energy, which shall be at one and a half percent (1.5%) of gross income. To further promote the development of RE projects, the government hereby waives its share from the proceeds of micro-scale projects for communal purposes and non-commercial operations, which are not greater than one hundred (100) kilowatts. ▪ Government Share under Section 4 of said law refers to the amount due to the National Government and Local Government Units from the exploitation, development and utilization of naturally-occurring renewable energy resources. ▪ PNOC RC is entitled to the incentives provided under Chapter VII (General Incentives) of the said law.	Please note in Remarks: Share from PNOC RC eSRE System: Shares from National Wealth → Utilization of Hydrothermal, Geothermal and Other Sources of Energy
7. National Resources Development Corporation (NRDC)	
▪ EO No. 786 ²² created the Natural Resources Development Corporation (NRDC), a government-owned and controlled corporation attached to the Department of Environment and Natural Resources, that will promote investments in natural resource-based industries by providing financial, technical and management assistance. ▪ Sec 10 of EO No. 786 mandates that: <i>“Exemption from all Taxes, Duties, Fees, Imposts and Other Charges by Government and Government Instrumentalities. To enable the NRDC to effectively carry out its purposes and objectives, the NRDC is hereby declared exempt, for a period of ten (10) years from the effectivity of this Order, from the payment of the following:</i> 1. Taxes, duties, fees, impost, cost, and other charges provided for under the Tariff and Customs Code of the Philippines, as amended;	Collections made by the NRDC and the remitted shares of LGUs relative to the promotion of investments in natural resource-based industries is considered as shares from national wealth and shall be encoded in the systems, as follows: ENRDMT System: Receipts of Shares from National Wealth → Others → Others, Specify → Others Please note in Remarks: Share from NRDC eSRE System: Shares from National Wealth → Others

²² Creating the Natural Resources Development Corporation, Defining Its Functions, Powers and Responsibilities and for Other Purposes dated 19 March 1982

Legal Basis	Clarifications and Encoding Guidelines in the ENRDMT and eSRE Systems
2. <u>All income taxes, franchise taxes and realty taxes due to the national and/or local government agencies or instrumentalities;</u> 3. <u>All import duties, compensating taxes and advance sales tax, wharfage fees on foreign goods imported for its operations; and</u> 4. <u>All taxes, duties, fees, imposts and other charges imposed on all petroleum and related products used by the NRDC.</u> <i>Any provision of existing laws to the contrary notwithstanding, any donation, contribution, bequest, subsidy or financial aid which may be made to the NRDC shall be exempted from taxes of any kind, and shall constitute allowable deductions in full from the income of the donors or givers for income tax purposes."</i>	