



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 | central@blgf.gov.ph | +63 2 527 2780 / 527 2790

MEMORANDUM

TO : **All BLGF Central and Regional Directors;
and All Local Treasurers in the National Capital Region**

FROM :  **JOSE ARNOLD M. TAN, CESO V**
Deputy Executive Director III

SUBJECT : **Memorandum Circular No. 01-2020, entitled "*Updated Reminders in the Assessment of the Local Business Tax (LBT), Registration and Renewal of Business Permits and Licenses, and the Imposition of Local Taxes, Fees and Charges*"**

DATE : 08 January 2020

In line with this Bureau's mandate to exercise administrative and technical supervision over treasury operations of local government units, please be informed of the herein attached BLGF Memorandum Circular on "*Updated Reminders in the Assessment of the Local Business Tax (LBT), Registration and Renewal of Business Permits and Licenses, and the Imposition of Local Taxes, Fees and Charges*".

All BLGF Regional Directors and Central Office's (CO) concerned divisions are hereby instructed to immediately and widely disseminate the said MC to all Provincial, City and Municipal Treasurers, and all others concerned within their respective jurisdictions for information, guidance, and compliance.

Please be guided accordingly.



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MEMORANDUM CIRCULAR NO. 001.2020
JAN 02 2020

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

SUBJECT : **Updated Reminders in the Assessment of the Local Business Tax (LBT), Registration and Renewal of Business Permits and Licenses, and the Imposition of Local Taxes, Fees and Charges**

In the interest of the service and to provide guidance on the assessment of local taxes and fees in the local governments during the registration and renewal of business permits and licenses, among others, the following reminders are hereby reiterated:

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

1. *Cities and Municipalities*. Newly started business entities shall not be subject to and/or liable to the payment of initial LBT¹ and shall ONLY be subject to the payment of Business Permit and other regulatory fees and charges.
2. However, for newly started business on printing and publication, and on businesses enjoying a franchise, *Provinces and Cities* may impose a tax based on capital investment,² as prescribed by the LGC and implemented through a duly enacted tax ordinance of the concerned LGU.

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;
 - iii. Passive income, i.e., interest, dividends, and gains from sale of shares;⁸ and

¹ BLGF Opinion dated 22 Feb 2012 to Mr. Patrick Duffy, Sagittarius Mines, Inc.

² Sections 136, 137 and 151 of Republic Act (RA) No. 7160 or the Local Government Code (LGC) of 1991

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 Aug 2016

⁵ Sec. 171 of the LGC

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

⁷ Sec. 131(n) of the LGC

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



- 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 publication.⁹
3. The Presumptive Income Level Assessment Approach (PILAA) *may be used in computing the local business tax 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 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 collected.*¹²
4. The automatic application of an additional fixed percentage, e.g. 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. Exemption from Mayor's/Business Permit

1. Service contractors providing temporary and outsourced services to various clients outside of the LGU where it maintains its principal office, branch office, and administrative office are not required to secure a Mayor's/business permit thereat;
2. A professional who has paid his/her professional tax shall be exempt from the payment of business permit fee in the operation of his/her clinic or office. However, a professional shall still be required to secure a business permit, at no cost, from the concerned LGU during the registration of office/clinic and renewal thereof, subject to a duly enacted local ordinance. However, If, upon verification, a professional is actually engaged in any business activity that does not constitute the practice of profession, pursuant to applicable law/s governing the practice of such profession, he/she shall be liable to pay the annual LBT to the city or municipality concerned, pursuant to the applicable rates provided under Sections 143 and 146 of Republic Act (RA) No. 7160, otherwise known as the Local Government Code (LGC) of 1991, and as may be provided under a duly enacted local ordinance.¹³

D. Exemptions from Local Taxes

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 registration;¹⁴
2. Businesses engaged in the production, manufacturing, refining, distribution or sale of oil, gasoline and other petroleum products;¹⁵

⁹ Sec. 136 and Sec. 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 LFC No. 01-2019

¹⁴ Sec. 133 (g) of the LGC; G.R. No. 152675, dated 28 Apr 2004

¹⁵ Sec. 133 (h), *Ibid* and Article 232(h), IRR of the LGC



3. All cooperatives duly registered with the Cooperative Development Authority,¹⁶ regardless of the amount of accumulated reserves and undivided net savings, shall be exempt from payment of local taxes and taxes on transactions with banks and insurance companies.¹⁷
4. PEZA-Registered Enterprises¹⁸
 - i. A PEZA-registered enterprise, which is granted an incentive under the Income Tax Holiday (ITH), is not exempt from payment of real property tax (RPT) on land and/or buildings. However, an eligible enterprise is entitled to the three-year exemption from payment of the RPT on machinery and equipment for every machinery and equipment it acquires for its operation, at any point of its operation, and not only on those acquired during the start of its operation.¹⁹
 - ii. If a PEZA-registered enterprise is granted an incentive under the Gross Income Tax (GIT) regime, no taxes, local and national, except for RPT on land owned by developers, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income²⁰ earned shall be paid and remitted as follows:
 - a. Three percent (3%) to the National Government; and
 - b. Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.
5. Special Economic Zones, as may be provided for by the specific law.
6. Non-stock, non-profit educational institutions. To avail of the exemption, the taxpayer must factually prove that it used actually, directly, and exclusively for educational purposes the revenues or income sought to be exempted.²¹

E. Public Liability Insurance. Any requirement that business registrants must secure only such insurance from LGU-accredited insurance companies puts undue limitation and has no legal basis. Section 193 of the Insurance Code, as amended, clearly provides 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 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.**"²²*

F. Penalties for Delayed Payment of Business Permit Fee. Penalties for delayed payment of 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 so determined in the revenue ordinance duly enacted by the *Sanggunian* concerned.²³

¹⁶ Sec. 133 (n), *Ibid*

¹⁷ Art. 61(3) of RA No. 9520

¹⁸ RA No. 7916, as amended by RA No. 8748

¹⁹ PEZA Memorandum Circular No. 2004-24

²⁰ Section 24, RA No. 7916

²¹ G.R. No. 196596, dated 06 Nov 2019; BLGF Opinion, dated 05 Jun 2017

²² Sec. 193 of RA No. 10607 (Insurance Code of the Philippines, as amended)

²³ Sec. 167 of the LGC



G. Imposition and Collection of Local Taxes, Fees and Charges on Professionals.²⁴ All concerned shall be guided by Local Finance Circular (LFC) No. 01-2019, dated 12 June 2019, issued by the Secretary of Finance, which provides for the guidelines on the payment of taxes, fees and charges for those practicing their profession and/or maintaining private clinics or offices in the LGUs.

H. Payment of Community Tax²⁵

1. *Amount of Payment.* The basis for the payment of community tax are the following:
 - a. Basic tax - Php5.00
 - b. Additional tax of **not exceeding Php5,000.00** for the following:²⁶
 - i. Gross receipts or earnings derived from business during the preceding year – Php1.00 for every Php1,000.00
 - ii. Salaries or gross receipts or earnings derived from the exercise of profession or the pursuit of any occupation during the preceding year – Php1.00 for every Php1,000.00
 - iii. Income from real property during the preceding year – Php1.00 for every Php1,000.00
2. *Place of Payment.* The Community Tax shall be paid in the city or municipality where the principal office of the juridical entity is located²⁷ and not to any other LGU in case the juridical entity operates a branch or sales office.
3. *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 those established and organized on or after the first day of July shall not be subject to the community tax for said year.²⁸ 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.
4. *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) months.²⁹ Thus, the penalty for community tax shall not go beyond 36 months or seventy two percent (72%) of the unpaid amount.

I. Situs of Local Business Tax on Banks and Other Banking Institutions³⁰

1. The gross receipts derived from all transactions filed with or negotiated in the branch office shall be recorded in the said branch, particularly:
 - i. Transactions negotiated with and approved by the branch manager under his own authority; or

²⁴ Sec. 131 of the LGC and LFC No. 01-2019

²⁵ Article VI, Title I, Book II of the LGC

²⁶ Section 1(a) of Administrative Order (AO) No. 260, series of 1992, Office of the President

²⁷ Sec. 160 of the LGC; Sec. 2 of Memorandum Circular No. 153 s. 1992, Office of the President

²⁸ Sec. 161(b), *Ibid*

²⁹ Sec. 168 and Sec 169, *Ibid*

³⁰ BLGF MC No. 016-2018, dated 10 Aug 2018, reiterating BSP Circular Letter No. CL-2017-079

- ii. Transactions filed and negotiated in the branch but being beyond the approving authority of the branch manager, are forwarded to the head Office for final approval
 - iii. Transaction where the stated address in the loan application of the borrower is the city or municipality where the Bank has a branch, in which case the head office upon approval of the loan shall credit the transaction to the Bank Branch.³¹
2. The gross receipts from transactions made by the head office, except gross receipts recorded in the branches, shall be taxable by the city or municipality where the said head Office is located.
 3. In case there is a transfer or relocation of the head office or of any branch to another city or municipality, the bank shall give due notice of such transfer or relocation to the local chief executives of the cities or municipalities concerned within fifteen (15) days after such transfer or relocation is effected.
 4. At the time of the annual payment of the tax due, the head office or branch of a bank shall submit to the LGU concerned a notarized *Joint Statement of Annual Income [Schedule of Annual Income]* for the preceding calendar year, in accordance with the prescribed form of LFC No. 2-07 which shall be signed by a designated Officer of the Head Office and by the Branch Manager.³²

In case the existing local 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 existing laws, inasmuch as the Supreme Court has repeatedly ruled that “*ordinances passed by virtue of the implied power found in the general welfare clause must be reasonable, consonant with the general powers and purposes of the corporation, and not inconsistent with the laws or policy of the State*”.³³

Further, LGUs are reminded to observe the provisions of the Ease of Doing Business and Efficient Government Service Delivery (EODB-EGSD) Act of 2018 and its Implementing Rules and Regulations (IRR).


NIÑO RAYMOND B. ALVINA
 Executive Director
20258



³¹ LFC No. 2-07, amending Section 5 of LFC No. 1-93

³² *Ibid*

³³ G.R. Nos. L-42571-72, dated 25 Jul 1983; G.R. No. 138810, dated 29 Sep 2004; G.R. No. 195003, dated 07 Jun 2017