



Republic of the Philippines
PROVINCE OF LEYTE
Palo, Leyte
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COMMITTEE ON RULES, LAWS and PRIVILEGES

COMMITTEE REPORT

No. ____ S. 2024

Referred to this committee is Municipal Ordinance No. 2023-15 of the Municipality of Sta. Fe, Leyte entitled, "The Local Revenue Code of the Municipality of Santa Fe, Province of Leyte, series of 2023".

The subject ordinance was reviewed by the Provincial Legal Office and was endorsed back to the Sangguniang Panlalawigan with several observations and comments, hereto attached and made an integral part of this report. It opined that some provisions of the Ordinance shall be reviewed and may be subject for amendments as some of the provisions are contrary to existing policies and laws.

This Committee upon examination of the subject Ordinance finds the observation and comments of the Provincial Legal Office with merit and thereby adopts the same except for observation/comment No. 2 and 8, respectively.

As for observation No. 2 of the PLO, this Committee would like to note the Local Government Code authorizes the Local Government Units to adjust their tax rates, subject however to limitations set forth in Section 191 of the Code, which provides:

*"Section 191. Authority of Local Government Units to Adjust Rates of Tax Ordinances. - Local government units shall have the authority to adjust the tax rates as prescribed herein **not oftener than once every five (5) years, but in no case shall such adjustment exceed ten percent (10%) of the rates fixed under this Code.**" (Emphasis supplied)*

Clearly, Section 191 of the Local Government Code allows the adjustment of the rates which may be higher than what the Code provides. It limits however, the amount of each adjustment and the frequency by which this authority may be exercised. Otherwise stated, Local Government Units can only adjust tax rates once every five (5) years and the amount of adjustment should not exceed ten percent (10%) of the rates fixed under the Local Government Code.

In view of the foregoing and considering the need for legal basis for the imposition of new tax rates, fees and charges, the Committee requests that a copy/copies of the previous local revenue measures or ordinances, be submitted, highlighting the specific provisions where adjustments were made.

For observation No. 8 of the PLO, the committee would like to note that pursuant to the Local Government Code of 1991, Section 143, (c), Local Government Units or the municipalities as the case herein, are granted with the authority to actually charge a local

business tax which may be classified as local taxes, charges and fees imposable to mining operations or companies¹.

Sec. 143. Taxes and Business. The municipality may impose taxes on the following business:

xxx – xxx – xxx

(11) On any business, not otherwise specified in the preceding paragraphs, which the Sanggunian concerned may deem proper to tax: Provided, That on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.

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However, the committee notes that the said provision, which is Article D Section 2D.2 of the subject ordinance may be rephrased to conform with the language of the above cited provision.

In view however of the other findings of the Provincial Legal Office, the committee is constrained to return the subject ordinance to the Sangguniang Bayan of origin to review the specific provisions cited by the latter and make the necessary amendments to conform with the provisions of the Local Government Code and existing policies.

Submitted this 14th day of March, 2024, Palo, Leyte


Hon. Atty. Ronnar Christian M. Reposar
Chairperson


Hon. Atty. Carlo P. Loreto
Vice Chairperson

Hon. Wilson S. Uy
Member

Hon. Michael L. Cari
Member

Hon. Ma. Martina L. Gimenez
Member

¹ Congressional Policy and Budget research Department, House of Representatives; November 2018 (No. 42); Mining Act of 1995 (R.A. 7942) and the Local Government Code of 1991 (R.A. 7160)

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Republic of the Philippines
PROVINCE OF LEYTE
Palo, Leyte

PROVINCIAL LEGAL OFFICE

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Divine

2nd INDORSEMENT
January 8, 2024



Respectfully returned to the Sangguniang Panlalawigan of Leyte, through the SP Secretary, the attached Ordinance No. 2023-15 of the Sangguniang Bayan of Sta. Fe, Leyte, with the following comments and recommendations;

1. That said ordinance seeks to establish and codify the Revenue Code of the municipality of Sta Fe;
2. That the rates prescribed by Section 2A.2 (a), (b) and (e) of the ordinance are higher than that provided for by the Local Government Code, and thus, to the opinion of this office, subject to review and amendment;
3. That Section 2A.2 (g) item number 2, seeks to Tax :

Amusement places, including places wherein costumers thereof actively participate without making bets or wagers, including but not limited to night cl or day clubs, cocktail lounges, cabarets or dance halls, karaoke bars, skating rinks, bath houses, swimming pools, exclusive clubs such as country and sports clubs, resorts and other similar places, billiard and pool tables, bowling alleys, circus carnivals, merry-go-rounds, roller coasters, ferris wheels, swings, shooting galleries, and other similar contrivances, theaters and cinema houses, boxing stadia, race tracks, cockpits and other similar establishments.

4. That Chapter 2 Article 1, Section 140 of the Local Government Code states that;

Amusement Tax. (a) The province may levy an amusement tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia,

and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees.

hence, it is the opinion of this office that such authority is reposed on the Provincial Government and thus Section 2A.2 (g) item number 2 should be reviewed as not to contradict the above-mentioned provision;

5. That Section 2A.2 (h) seeks to collect P 100 from peddlers annually, while the Local Government Code prescribes;

Section 143. Tax on Business. - *The municipality may impose taxes on the following businesses:*

(g) On peddlers engaged in the sale of any merchandise or article of commerce, at a rate not exceeding Fifty pesos (P50.00) per peddler annually.

Thus it is opined by this office that it should be amended to comply with the provision provided above;

6. That Section 2A.2 (i) of this ordinance imposes "Tax on operators of PUV" for maintaining Booking offices, terminals or waiting stations. The Provincial Legal office is of the opinion that pursuant to DILG Memo Circular 2012531, the tax base should be 2% of the total number of vehicles, without distinction as to the type of vehicles as provided below ;

ii. Tax on Operators of Public Utility Vehicles Taxing Authority : City /Municipality
Maximum Tax Rate : 3% /2%

Tax Base: : Number of vehicles

Remarks : Transportation contractors can still be subject to the business tax if imposed on bases other than gross receipts, i.e. type of vehicle, number of vehicles, capacity, etc. This imposition is deemed valid on transport companies maintaining terminals or booking offices in the LGU concerned

7. That Section 2A.3 of the ordinance aims to implement the Presumptive Income Level to approximate the gross receipts of each business classification. The PLO is of the opinion that a specified and accurate methodology of the PIL be laid out for review to ensure its effectivity and fairness.

8. That Article D imposes Tax on mining operations. The Provincial Legal Office is of the opinion that consultations be made with the DENR to insure that the imposition does not run contrary to any policy, rules or regulations of the said Department;
9. That Section 3A.4 of the ordinance aims to impose a Business Inspection fee of P200 for the services rendered by business permit and license inspectors. It is the opinion of this office that the cost for such services should be covered already by the business permit fee and not a separate inspection fee;
10. That Section 3B.4 of the ordinance cites Article 99 Section (a) subsection (3) Paragraph (v) of the rules and regulations implementing the Local Government Code of 1991. It should be noted that the provision pertains to a Sangguniang Panlungsod. Considering that Sta Fe is a municipality and not a city, this office recommends citing the appropriate provision applicable;
11. That Section 3N.1 of the ordinance imposes an annual inspection fee on internal combustion engines generators and other machines. On the other hand, Pursuant to DOLE DEPARTMENT ORDER NO. 15 ;

1182.02: Inspection

1. The Regional Labor Office through its duly authorized representative shall conduct inspection of internal combustion engine accompanied by the representative of the owner and/or the supervising plant mechanical engineer for operation and maintenance and those who installed the internal combustion engine on the following phases of work:

- a. During the construction phase of the foundation and/or installation of the internal combustion engine;
- b. Before being placed into service after installation;
- c. Before being placed into service after modification; and
- d. Periodically at intervals not exceeding 12 months.

Hence, this office opines that such fees and inspection be in collaboration with the appropriate office and authorities;

12. That Section 3W.5 an 3W.6 of the ordinance pertains to public auction of impounded vehicles and disposition of the proceeds thereof. It is the opinion of this office that a legal basis is necessary for such actions;

13. That Article G refers to rental fees on Mineral lands. Considering that the Province and the municipality already impose taxes and fees on the permit of mining operations, it is opined by this office that the imposition of rental fees on Mineral lands will tantamount to double taxation.

ATTY. JOSE RAYMUND A. ACOL

Asst. Provincial Legal Officer 