



TAX LAW FOR BUSINESS
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Situs: Local taxation

ASIDE from the national government, which collects national internal-revenue taxes specified under the National Internal Revenue Code and other tax laws, local government units (LGUs) are equally given the power to create their sources of revenues through the imposition of taxes, fees and charges on businesses and pieces of property within their respective jurisdictions.

This power is granted by no less than the Constitution and specifically defined by the Local Government Code (LGC) of 1991 and its amendments.

One source of revenues of LGUs is the taxation of business or what is usually referred to as local business tax. As the name implies, this tax is imposed only on persons engaged in business, i.e., trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit. (*G.R 154993, October 25, 2005*) If the activities are not geared toward maintaining a livelihood or obtaining profit, the taxpayer is not required to pay local business tax.

Unlike the national taxes that are imposed by one taxing jurisdiction, the local business tax is administered by cities and municipalities. Since there is one national government, there is no dispute with respect to which unit has the authority to collect internal-revenue taxes—except on the question of venue. In local taxation, however, it is not unusual for different cities and municipalities to be claiming the right to impose taxes on the same subject. Thus, one of the usual disputes in local taxation is the jurisdiction of a city or municipality to impose local business tax. This controversy arises when a taxpayer has its administrative office, principal office, branch, sales office, warehouse, factory, project office or sites or business operations conducted in different localities.

The rule in local taxation is quite clear, yet there are inconsistencies in its enforcement among different LGUs. And sometimes, their interpretations of the rule are influenced by their belief that they should be entitled to their fair share of the pie.

The situs rule is precisely provided in the LGC to avoid this controversy. And regardless of the reasons advanced by competing LGUs, there is only one rule governing the authority of an LGU to levy taxes on businesses.

It is a basic rule in local taxation that if a business maintains a branch or sales outlet in a city or municipality outside the city or municipality where its principal office is located, the local business tax accrues to the city or municipality where the branch or sales outlet that made the sale is located. Only the city or municipality where the branch is located and recorded the sales has the authority to impose tax.

On the other hand, taxes due on transactions in cities or municipalities where there is no branch or sales outlet shall be recorded in the principal place of business and all taxes due thereon shall be paid to the city or municipality where the principal place of business is located (CTA AC 40, May 29, 2008). Some LGUs still take the view that if there is no branch or sales outlet in the locality where the transaction is made, the sale shall be recorded in the principal place of business but the taxes due thereon shall be paid to the city or municipality where the sale is made. But the rules and regulations implementing the LGC had made it clear that the city or municipality referred to is that of the principal place of business.

In some cases though, the locality where the principal office is located is not authorized to tax the full amount of sales recorded in the principal office. Where there is factory, project office, plant or plantation, only 30 percent of the sales recorded in the principal office shall be taxable in the city of the principal office, while the other 70 percent is taxable in the locality where the factory, project office, plant or plantation is located. This 70 percent shall be further allocated or prorated if the factory, plantation, plant or project offices are in different cities or municipalities.

Payment of national tax in a wrong venue only attracts penalty. Other than the penalty, the proper revenue district office may not reassess the same tax paid in a different venue. This is not so in local taxation. Payment of local tax with the wrong jurisdiction does not relieve the taxpayer from its obligation with the appropriate LGU. It is thus a must for businesses to know the appropriate LGU authorized to impose the rightful taxes and pay the taxes due only in that locality.

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