

# TAXATION 101



Prepared by:

**STSR** 

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Republic of the Philippines  
**Senate**  
Pasay City

## **PREFACE**

This is prepared specifically for the Senators, their Staff, Officers and Secretariat personnel of the 17th Congress.

This latest publication of the Senate Tax Study and Research Office (STSRO) aims to inform the reader of the fundamentals and basics of taxation in a clear and concise format.

The subject of taxation is presented in its simplest form and discussed in an easily understandable manner.

It is hoped that this publication - TAXATION 101 - would serve as a guide to the lawmakers, their staff complement and to the Senate Secretariat.

July 18, 2016.

**STSRO's Officers and Staff**



Republic of the Philippines  
Senate  
Pasay City


### MESSAGE

I commend the Senate Tax Study and Research Office (STSRO) for the release of its latest version of **Taxation 101**, which informs readers of the major theories and principles of taxation and other related information. It is a must read for any policymaker who will help decide the direction of our systems of revenue collection.

To read this primer is to gain or refresh one's knowledge regarding the basics of taxation - its why's, how's - and as well as a general overview of the major taxes which we require of our public. To read it is to also gain a more profound appreciation for how our taxes, as our nation's lifeblood, breathes life into the many state services needed by our people, such as on education, health and transportation.

It is undeniable that taxes are agents of national progress, and if effectively managed and implemented, can drive progress and help our citizenry - especially the underprivileged. I am confident that the information and awareness to be gained by the readers in this primer will help them forge a fair and successful taxation policy that will benefit the state and ordinary Filipino.

Mabuhay po kayong lahat!

  
**Sen. Franklin M. Drilon**  
Senate President





Republic of the Philippines  
Senate  
Pasay City

### MESSAGE

To say that laws on taxation are complex and perplexing is an understatement. I laud the Senate Tax Study and Research Office (STSRO) on the publication of Taxation 101, which contains theories and principles of taxation, as well as the latest statistical data that cover the major taxes under the National Internal Revenue Code, to serve as guide to the incoming senators of the 17th Congress.

The Ways and Means Committee and the STSRO will take on a focal and challenging role next Congress as the new administration has put tax reform among the top of its 10-point socioeconomic agenda—**“to institute progressive tax reform and more effective tax collection, indexing taxes to inflation.”** While the Senate has already been pushing for a more progressive and equitable tax system in past Congresses, it is our hope that this Taxation 101 will help senators better understand tax legislation so that we can enlist their support for the much-needed passage of a comprehensive tax reform. Such reform would not only lead to lower tax rates and higher take-home pay for our workers, it also aims to widen the tax base and improve revenue collection, and make the economy more competitive to attract more foreign direct investment and boost job generation in the country.

A handwritten signature in blue ink, appearing to read "Sonny Angara", with a long, sweeping flourish extending to the right.

**Sen. SONNY ANGARA**  
Chairperson, Committee on Ways and Means



Republic of the Philippines  
Senate  
Pasay City

### MESSAGE

Congratulations to the Senate Tax Study and Research Office (STSRO) on the publication of **TAXATION 101**.

This is an excellent reference material as it provides a wealth of information on the major taxes under the National Internal Revenue Code, as well as theories and principles of taxation.

I commend the STSRO for consistently providing the Senate Committee on Ways and Means and the honorable members of the Senate with outstanding technical support.

I am proud of the accomplishments of the STSRO. I am certain that its professional and dynamic officers and staff led by Director General Rodelio T. Dascil will continue to render the same brand of service to the Senators of the 17th Congress.

A handwritten signature in blue ink, appearing to read "Oscar G. Yabes".

**Atty. OSCAR G. YABES**  
Secretary of the Senate



Republic of the Philippines  
Senate  
Pasay City

## MESSAGE

This Handbook on taxation was prepared by the officers and staff of the Senate Tax Study and Research Office (STSRO), the Secretariat of the Committee on Ways and Means, chaired by Senator Sonny Angara, for the purpose of explaining the very basics of said subject matter.

The divergent components encompassing taxation is presented in a concise manner, avoiding the details, so as to enable the reader to comprehend the topics in an instant.

It is hoped and prayed that this publication would be of assistance to the lawmakers and their personnel.

  
**Atty. RODELIO T. DASCIL, MNSA**  
Director General

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**Introduction - Basic Concepts on Taxation**

The power of taxation is an inherent and plenary prerogative of the State, its exercise being only limited by the Bill of Rights enshrined in the 1987 Philippine Constitution. It is the Legislative Department which primarily exercises this function. However, local government units (LGUs) are now allowed to create their own sources of revenue (Article X, Section 5). Additionally, it is stated in Section 25, Article II that "*The State shall ensure the autonomy of local governments.*" This has been implemented with the enactment of the Local Government Code (LGC) of 1991 (Republic Act [RA] No. 7160).

Constitutional Provisions on Taxation. - The 1987 Philippine Constitution contain stipulations relating to taxation, viz:

**Article II - Declaration of Principles and State Policies**

*Section 25. The State shall ensure the autonomy of local governments.*

**Article III – Bill of Rights**

*Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.*

*Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.*

*Section 10. No law impairing the obligation of contracts shall be passed.*

*Section 20. No person shall be imprisoned for debt or non-payment of a poll tax.*

**Article VI – The Legislative Department**

*Section 24. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the House of*

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*Representatives, but the Senate may propose or concur with amendments.*

*Section 28. (1) The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation.*

*(2) The Congress may, by law, authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government.*

*(3) Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.*

*(4) No law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of the Congress.*

*Section 29. (1) No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.*

*(2) No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, or other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.*

*(3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.*

Article VIII - Judicial Department (*Appellate Jurisdiction of the Supreme Court*)



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(2) *Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:*

- (a) *All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.*
- (b) *All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.*
- (c) *All cases in which the jurisdiction of any lower court is in issue.*
- (d) *All criminal cases in which the penalty imposed is reclusion perpetua or higher.*
- (e) *All cases in which only an error or question of law is involved. (Sec. 5)*

#### Article X - Local Government

*Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.*

*Section 20. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:*

- (1) *Administrative organization;*
- (2) *Creation of sources of revenues;*
- (3) *Ancestral domain and natural resources;*
- (4) *Personal, family, and property relations;*
- (5) *Regional urban and rural planning development;*
- (6) *Economic, social, and tourism development;*
- (7) *Educational policies;*

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- (8) *Preservation and development of the cultural heritage; and*
  - (9) *Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.*

#### Article XII - National Economy and Patrimony

*Section 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.*

#### Article XIV - Education, Science and Technology, Arts, Culture and Sports

*Section 4. (1) The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.*

*(2) Educational institutions, other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens. The Congress may, however, require increased Filipino equity participation in all educational institutions.*

*The control and administration of educational institutions shall be vested in citizens of the Philippines.*

*No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. The provisions of this subsection shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.*

*(3) All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.*

*Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment.*

*(4) Subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax.*

*Section 5. (1) The State shall take into account regional and sectoral needs and conditions and shall encourage local planning in the development of educational policies and programs.*

*(2) Academic freedom shall be enjoyed in all institutions of higher learning.*

*(3) Every citizen has a right to select a profession or course of study, subject to fair, reasonable, and equitable admission and academic requirements.*

*(4) The State shall enhance the right of teachers to professional advancement. Non-teaching academic and non-academic personnel shall enjoy the protection of the State.*

*(5) The State shall assign the highest budgetary priority to education and ensure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment.*

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3. The basic laws governing taxation are: (1) National Internal Revenue Code (NIRC) of 1997 [RA 8424], as amended; (2) Customs Modernization and Tariff Act (CMTA), RA 10863 [May 30, 2016]; and (3) Local Government Code of 1991 [Republic Act (RA) No. 7160, specifically on provisions of local taxation (Section 129 up to Section 156)]. Other laws which impose taxes are: A] *Motor Vehicle User's Charge* (MVUC) under RA 8794 [June 27, 2000]; B] *Travel Tax* pursuant to Presidential Decree (PD) No. 1183, as amended [August 21, 1977]; C] *Head Tax* - by virtue of Commonwealth Act [CA] No. 613 as amended [August 26, 1940]; D] *Forest Charges* - imposed under RA 7161 [October 10, 1991]; and E] *Energy Consumption Tax* - based on (Batas Pambansa [BP] Blg. 36 [September 7, 1979], and other amendatory laws on NIRC.

3.1 Executive Order (EO) No. 226, otherwise known as the Omnibus Investment Code (OIC) of 1987 (February 27) is the major law governing the grant of fiscal and non-fiscal incentives in preferred areas, pioneer or non-pioneer, export production and rehabilitation or expansion of existing operations. Fiscal incentives granted are: (1) Tax exemption; (2) Tax credits; and, (3) Additional deductions from taxable income. On the other hand, the non-fiscal incentives are: (1) Employment of foreign nationals; (2) Simplification of customs procedure; (3) Unrestricted use of consigned equipment; and, (4) Access to bonded manufacturing/trading warehouse system. Incentives to multinational companies are likewise provided such as, multiple entry visa; withholding tax of 15% on compensation income; tax and duty free importation of personal and household effects, under certain conditions; travel tax exemption.

3.2 Another pertinent law is RA 7916 (*The Special Economic Zone Act of 1995*), as amended (February 24, 1995). It endows the framework for the transformation, formation and monitoring of designated areas or places in the country labeled as Economic Zones (ecozones). Locators in these 'zones' are extended special privileges and incentives such as those mentioned above.

Other laws granting incentives are: RA 7227, as amended (Bases Conversion Development Act – BCDA [March 13, 1992]; RA 7903, creating the Zamboanga City Special Economic Zone; RA 7922, creating the Cagayan Special Economic Zone and Freeport; RA 9490, establishing the Aurora Special Economic Zone; RA 9728, converting the Bataan Economic Zone into the Freeport Area of Bataan (FAB); RA 9593 or the Tourism Act of 2009 (May 12, 2009); RA 7844, the Export Development Act of 1994 (December 21, 1994); RA 7718 (May 5, 1994), amends certain provisions of RA 6957, An Act Authorizing The Financing, Construction, Operation And Maintenance Of Infrastructure Projects By

The Private Sector, And For The Other Purposes or the Build Operate and Transfer (BOT) Law; Executive Order (EO) No. 93 (December 17, 1986), withdrawing privileges of government and private entities; EO 1037 (July 4, 1985), incorporating the Philippine Retirement Authority or PRA.

3.3 The Tax Incentives Management and Transparency Act – TIMTA (December 9, 2015) was enacted to **promote fiscal accountability and transparency** in the grant and management of tax incentives by developing means to promptly measure the government's fiscal exposure on these grants and to enable the government to monitor, review, and analyze the economic impact thereof and thereby optimize the social benefit of such incentives. (Section 2, emphasis provided)

#### **Principles of a Sound Tax System. –**

Certain fundamental rules in crafting a tax system have been forwarded, to wit:

- A) Equity. - Taxes must be paid on the basis of an individual's ability to pay. This is the ability-to-pay principle.
- B) Certainty. - This mandates that the subjects should know which taxes to pay and mode of payment.
- C) Convenience. - This refers to the ease of paying the imposition. The convenience and manner of paying taxes. (Adam Smith's *Canons of Taxation* as cited in *Philippine Tax System: Romualdez, Yoingco and Casem*)

Other authors have referred to the above as: (1) Fiscal Adequacy – The sources [proceeds] of tax revenue should coincide with, and approximate the needs of, government expenditures; (2) Theoretical Justice – Must be fair to the average taxpayer and based upon his ability to pay; and (3) Administrative Feasibility – Capable of being properly and efficiently administered by the government and enforced with least inconvenience to the taxpayer. (Vitug and Acosta: *Tax Law and Jurisprudence*)

Limitations on Taxation. - In a nutshell, aside from certain Constitutional provisions quoted above, the ensuing are the inherent restrictions on the power of taxation: (1) Must be exercised for a public purpose; (2) It is a legislative prerogative; (3) It is territorial; and (4) Must comply with international agreements or comity.



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**Impositions Under Basic Philippine Tax Laws. -  
National Internal Revenue Code (NIRC), as amended -**

The Tax Code imposes the following:

- A. Income tax;
- B. Estate and donor's taxes;
- C. Value-added tax (VAT);
- D. Other percentages taxes;
- E. Excise taxes;
- F. Documentary stamp taxes (DST); and
- G. Others.

**A. Income Tax -**

Income tax is imposed on: Individuals; Corporations; Estates under Judicial Settlement; and, Irrevocable Trusts.

**A.1. Individual Income Tax. -**

7. Individual taxpayers may be classified into: (a) *Citizen*: [1] Resident or [2] Non-Resident; (b) *Alien*: [1] Resident alien or [2] Non-resident alien.

- 7.1. The incomes of individuals which are subject to tax are:  
a. Compensation income; business income and from profession; and passive and other sources of income.

- 7.2. *Establishing taxable income.* - Taxable income refers to the items of gross income less deductions and/or personal and additional exemptions, if any.

[a] Citizen:

- (1) Resident - on incomes from sources within and without the Philippines: [a] *Compensation income* - on modified gross income basis, i.e., gross compensation income less deductions and/or personal and additional exemptions; [b] *Profession, business, trade* - based on net income, i.e., gross income from profession, etc, less itemized deductions or optional standard deduction (OSD) equivalent to 40% of gross sales or receipts and personal and additional exemptions; and [c] *Passive income* - on

the gross amount.

- (2) Non-resident – similarly taxed as resident citizen on incomes from within the Philippines.

[b] Alien:

- (1) Resident - similarly taxed as resident citizen on incomes from within the Philippines.
- (2) Non-resident - [a] Engaged in trade or business - similarly taxed as resident citizen on incomes from within the Philippines; [b] Not engaged in trade or business – on gross income from sources within the Philippines; [c] employed by regional or area headquarters, etc – on gross income derived from such employment.

Exclusions from gross income. - The following are not included in the computation of gross income:

- a] Proceeds of life insurance policies;
- b] Return of premiums;
- c] Value of property acquired gratuitously;
- d] Compensation for injuries;
- e] Treaty-exempt income;
- f] Retirement benefits;
- g] Miscellaneous Item such as:
  - 1) Those derived by foreign governments, etc from their investment, etc;
  - 2) Those derived from public utility;
  - 3) Prizes and awards in recognition of religious achievement, etc;
  - 4) Prizes and awards granted to athletes;
  - 5) 13<sup>th</sup> month pay and bonuses not exceeding P82,000.00;
  - 6) GSIS, SSS, etc contributions and union dues;
  - 7) Gains realized from sale or exchange or retirement of bonds, etc;
  - 8) Gains realized by the investor upon redemption of the shares of stocks in a mutual fund company.

Deductions from gross income. -

A] Citizen

Resident Citizen. -

- (a) Compensation Income - Premium payments on health and/or hospitalization not exceeding P2,400.00 a year provided the family

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income for the taxable year is not more than P250,000.00.

(b) Business and/or Professional Income - The ensuing payments incurred in connection with taxpayer's profession, trade or business:

- 1] Ordinary and Necessary Trade, Business or Professional Expenses;
- 2] Interest;
- 3] Taxes;
- 4] Losses;
- 5] Bad Debts;
- 6] Depreciation;
- 7] Depletion of Oil and Gas Wells and Mines;
- 8] Charitable and Other Contributions;
- 9] Research and Development;
- 10] Pension Trusts;
- 11] Optional Standard Deduction;
- 12] Premium Payments on Health/Hospitalization Insurance;

(c) Passive Income - No deductions are allowed.

Non-Resident Citizen. -  
Same deductions as with Resident Citizen.

B] Alien

Resident Alien. -  
Same as with resident citizens.

Non-Resident Alien. -

(a) Engaged in Trade or Business in the Philippines. Same as resident citizens, except as to: (1) Taxes; (2) Losses; (3) Depreciation; (4) Depletion.

(b) Not engaged in Trade or Business in the Philippines. No deductions are allowed.

(c) Employed by multinational corporations (MNCs)  
No deductions are allowed

Items Not Deductible from Gross Income. -

Section 36 states that in computing net income, no deduction shall be allowed with respect to:

- (1) Personal, living, or family expenses;
- (2) Amount paid out for new buildings or for permanent improvements, or betterments made to increase the value of any property

or estate;

- (3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;
- (4) Premiums paid on any life insurance policy pursuant to some conditions;
- (5) Losses from Sales or Exchanges of Property under certain conditions.

#### Personal Exemptions. –

Personal and additional exemptions are permitted to be deducted from gross compensation and net incomes arising from the profession or business of the taxpayer. With respect to individuals earning compensation and other incomes, the amount of exemptions shall be deducted first from the latter and the excess from the former.

##### a] Citizen

###### (1) Resident and Non-Resident

- Personal Exemption: P50,000.00 for each individual taxpayer
- Additional Exemption for Dependents: P25,000.00 for each legitimate, illegitimate or legally adopted child or foster child provided that the number of dependents shall not exceed four (4).

##### b] Alien

###### (1) Resident

- Same exemptions allowed to resident citizens and subject to same limitations.

###### (2) Non-Resident

- [a] Engaged in trade or business - Subject to reciprocity
- [b] Not engaged - No personal/additional allowed

The tax rates under this Title are mainly found under Section 24 to Section 28, inclusive. This is implemented by Bureau of Internal Revenue (BIR), Revenue Regulation (RR) No. 2-98, as amended, the Withholding Tax Rates for Individuals.

#### A.2] Corporate Income Tax (CIT). -

The CIT is imposed on domestic and foreign corporations. The former are those created under Philippine laws. The latter are those organized under a foreign country but is engaged in trade or business in the Philippines. Non-resident foreign corporations are those organized pursuant to the laws of any foreign country and not engaged in trade or business in the country but derives

**HISTORICAL COLLECTION FROM INCOME TAX**  
From Corporations and Individuals  
2000 to 2014 (in million pesos)

	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
<b>TAXES ON NET INCOME AND PROFIT</b>															
<b>CORPORATIONS</b>															
Income tax	187,018.39	174,918.04	154,742.86	150,421.52	120,694.77	113,504.50	141,956.94	123,038.12	96,020.03	69,047.46	59,677.46	54,664.14	44,797.56	42,103.85	44,135.86
Withholding tax at source	268,080.21	249,578.69	215,382.51	187,021.17	159,349.01	140,867.67	143,312.39	118,195.86	103,652.37	87,151.77	71,494.87	57,691.97	55,955.47	56,428.85	41,730.00
<b>INDIVIDUALS</b>															
Income tax	14,893.40	14,308.68	12,947.78	10,188.46	7,391.66	7,329.54	6,318.56	5,480.50	5,822.84	8,425.30	4,854.86	3,713.33	3,837.70	4,148.28	7,918.18
Withholding on wages	232,430.23	200,776.05	181,624.96	158,856.43	135,133.38	111,813.37	126,787.27	120,057.48	105,886.53	94,061.97	84,289.80	76,671.82	71,869.38	66,303.99	64,035.23
Capital gains tax	12,479.93	10,702.27	9,493.05	8,642.87	7,396.76	6,109.02	6,588.76	3,946.45	4,805.37	4,579.78	4,220.59	4,102.95	4,135.25	3,179.71	3,496.57
Withholding tax at source	23,643.48	20,793.39	18,697.79	15,836.78	17,168.56	11,439.83	11,261.52	12,189.06	9,626.20	8,874.28	7,553.74	6,873.48	6,569.97	6,604.46	7,547.54
<b>OTHERS</b>															
Tax on bank deposits	46,068.80	47,283.50	49,652.39	40,929.57	42,145.44	44,307.77	46,042.06	15,531.10	18,589.02	15,691.12	46,126.84	40,410.58	39,326.61	44,647.44	33,760.93
Tax on government securities	12,493.73	13,301.68	14,500.34	14,978.80	15,293.89	17,293.70	14,397.14	15,531.10	18,589.02	15,691.12	13,906.42	12,418.67	14,812.04	20,560.15	15,956.88
<b>TOTAL</b>	784,756.44	718,360.62	642,501.34	571,896.80	489,299.58	435,371.70	482,247.50	398,378.57	344,602.46	287,831.66	278,213.66	244,128.27	226,511.94	223,416.58	202,636.00

Source: BIR



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**B. Estate and Donor's Tax -****1. Estate Tax. -**

*"The estate tax is imposed on the transfer of the decedent's estate to his lawful heirs and beneficiaries based on the fair market value of the net estate at the time of the decedent's death. It is a tax imposed on the privilege of transmitting property upon the death of the owner." [National Tax Research Center, Short Guide to Philippine Taxes, p. 72] "The estate tax, like all death duties, is not a tax on property. Nor is it an inheritance tax which is imposed on the right to receive property. Instead, it is a tax on the right to transmit property at death, and is measured by the value of the property. To prevent undue avoidance of the tax, every transfer which is deemed to be in lieu of a testamentary disposition, as for example, a gift made in contemplation of death, is also taxable." [Umali, Roman M.: Reviewer in Taxation, p. 287]*

Section 85 of the Tax Code states that *"the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated: Provided, however, that in the case of a nonresident decedent who at the time of his death was not a citizen of the Philippines, only that part of the entire gross estate which is situated in the Philippines shall be included in his taxable estate."*

Gross estate embodies property belonging under any of the ensuing groupings:

- (a) Decedent's interest;
- (b) Transfers in contemplation of death;
- (c) Revocable transfers;
- (d) Property passing under general power of appointment;
- (e) Proceeds of life insurance;
- (f) Prior interests; and
- (g) Transfers for insufficient consideration.

The following are the allowable deductions under the NIRC, as amended:

**A] Citizens/Residents of the Philippines:**

- (1) Expenses, Losses, Indebtedness, and Taxes;
- (2) Property Previously Taxed;
- (3) Transfers for Public Use;
- (4) The Family Home;
- (5) Standard Deduction;

- 
- (6) Medical Expenses; and
  - (7) Amount Received by Heirs Under RA 4917 (*An Act Providing That Retirement Benefits Of Employees Of Private Firms Shall Not Be Subject To Attachment, Levy, Execution, Or Any Tax Whatsoever, June 17, 1967*)

Certain acquisitions and transmissions of property are not taxable, viz:

- (A) *The merger of usufruct in the owner of the naked title;*
- (B) *The transmission or delivery of the inheritance or legacy by the fiduciary heir or legatee to the fideicommissary;*
- (C) *The transmission from the first heir, legatee or donee in favor of another beneficiary, in accordance with the desire of the predecessor; and*
- (D) *All bequests, devises, legacies or transfers to social welfare, cultural and charitable institutions, no part of the net income of which inures to the benefit of any individual: Provided, however, That not more than thirty percent (30%) of the said bequests, devises, legacies or transfers shall be used by such institutions for administration purposes. (Sec. 87)*

## 2. Donor's Tax. –

The pertinent proviso of the Tax Code states:

**"SEC. 104. Definitions.** - *For purposes of this Title, the terms 'gross estate' and 'gifts' include real and personal property, whether tangible or intangible, or mixed, wherever situated: Provided, however, That where the decedent or donor was a nonresident alien at the time of his death or donation, as the case may be, his real and personal property so transferred but which are situated outside the Philippines shall not be included as part of his 'gross estate' or 'gross gift': Provided, further, That franchise which must be exercised in the Philippines; shares, obligations or bonds issued by any corporation or sociedad anonima organized or constituted in the Philippines in accordance with its laws; shares, obligations or bonds by any foreign corporation eighty-five percent (85%) of the business of which is located in the Philippines; shares, obligations or bonds issued by any foreign corporation if such shares, obligations or bonds have acquired a business situs in the Philippines; shares or rights in any partnership, business or industry established in the Philippines, shall be considered as situated in the Philippines: Provided, still further, that no tax shall be collected under this Title in respect of intangible personal property:*

*“(a) if the decedent at the time of his death or the donor at the time of the donation was a citizen and resident of a foreign country which at the time of his death or donation did not impose a transfer tax of any character, in respect of intangible personal property of citizens of the Philippines not residing in that foreign country, or*

*“(b) if the laws of the foreign country of which the decedent or donor was a citizen and resident at the time of his death or donation allows a similar exemption from transfer or death taxes of every character or description in respect of intangible personal property owned by citizens of the Philippines not residing in that foreign country.” X x x.*

Section 98 imposes a tax upon the transfer by any person, resident or nonresident, of the property by gift, as computed under Section 99. The same is based on the fair market value (FMV) of the total net gifts during the calendar year.

Subject to certain conditions, the following gifts or donations are exempt from the donor's tax (Sec. 101):

**Resident of the Philippines. –**

- A] Dowries;
- B] Those made to the National Government (NG);
- C] Those in favor of educational/charitable, etc, institutions;

**Nonresident alien. –**

- A] Those made to the NG;
- B] Those in favor of educational/charitable, etc, institutions.

**C. Value-Added Tax (VAT) –**

*Codal Provisions:* Sections 105 to 115 of the NIRC, as amended

*Definition:*

It is an indirect tax imposed on any person who, in the course of trade or business (as a rule) sells, barter, exchanges, leases goods or properties, renders services, or engages in similar transactions, and/or any person who imports goods.<sup>1</sup> (See also Sec. 105)

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1. Justice Jose C. Vitug and Judge Ernesto D. Acosta, Tax Law and Jurisprudence, (Manila: REX Book Store, 2003) p. 227-228.

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Value-Added Tax is a form of sales tax. It is a tax on consumption levied on the sale, barter, exchange or lease of goods or properties and services in the Philippines and on importation of goods into the Philippines.<sup>2</sup>

*Rate & Base of Tax:* **12%** of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged (Sec. 106).

Exceptions:

1. **Zero Rated Transactions** [Sec. 108(B)] – mean services made by VAT registered persons that are subject to a zero percent (0%) rate such as processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, and sale of power or fuel generated through renewable sources of energy, among others. For the complete list, please see *Sec. 108 (B)*. The seller or importer earns a tax credit or **input tax** from this transaction.
2. **Exempt Transactions** (Sec. 109) – refer to the sale of goods and services, or the importation of goods that are not subject to the payment of the VAT such as sale or importation of agricultural and marine food products in their original state, and the transport of passengers by international carriers, among others. Goods and services covered under this provision fall under the category of basic commodities, agriculture, education, and cooperatives, among others. For the enumeration of exempt transactions, please see *Sec. 109*. In this case, the seller or importer does not earn any tax credit or input tax from the transaction/s made.

*Pertinent Terms/Concepts:*

1. **Goods or properties** shall mean all tangible and intangible objects whose monetary value may be determined or estimated.(Sec. 106)
2. **In the course of trade or business** means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental there, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization or government entity.<sup>3</sup>
3. Gross selling price is the total amount of money or its equivalent which is paid by the purchaser to the seller for the sale, barter or exchange of goods and services.

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<sup>2</sup> Retrieved from <http://www.bir.gov.ph/index.php/tax-information/value-added-tax.html>

<sup>3</sup> *Supra* Note 1, at 228.

<b>VAT COLLECTIONS FROM 2006 - 2015</b>	
<b>YEAR</b>	<b>COLLECTIONS (In Millions)</b>
2006	140,934.08
2007	145,013.28
2008	140,318.44
2009	168,294.02
2010	173,283.51
2011	183,082.37
2012	229,594.34
2013	250,148.94
2014	278,793.77
2015	295,502.32

At the current rate of 12%, the Philippines stands as the country with the highest VAT rate among our ASEAN neighbors, to wit:

#### **VAT RATE IN ASEAN COUNTRIES<sup>4</sup>**

<b>COUNTRY</b>	<b>VAT RATE (%)</b>
Philippines	12
Indonesia	10
Cambodia	10
Vietnam	10
Laos	10
Thailand	7
Singapore	7
Malaysia	6
Myanmar	5

<sup>4</sup> Retrieved from the following sources:  
<http://www.vatlive.com/vat-rates/international-vat-and-gst-rates/>  
<http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/Documents/2015-asia-pacific-indirect-tax-country-guide.pdf>



4. **Input Tax** means the VAT due from or paid by a VAT registered person in the course of his trade or business on importation of goods or local purchase of goods or services, including lease or use of property, from a VAT-registered person. It shall also include the transitional input tax determined in accordance with Section 111 of this Code. (Sec. 110)
5. **Output Tax** means the VAT due on the sale or lease of taxable goods or properties or services by any person registered or required to register under Section 236 of this Code. (Sec. 110)

#### **D. Other Percentage Taxes**

*Codal Provisions:* Sections 116 – 128 of the NIRC, as amended

*Definition:* Percentage tax is a business or sales tax imposed on persons or entities/transactions who sell or lease goods, properties or services in the course of trade or business and are exempt from value-added tax (VAT) under Section 109 (W) of the National Internal Revenue Code, as amended, whose gross annual sales and/or receipts do not exceed P1,919,500 and who are not VAT-registered.<sup>5</sup>

*Types and Rates of Percentage Tax:*

<b>Coverage</b>	<b>Basis</b>	<b>Tax Rate</b>
Persons exempt from VAT under Section 109 (W)	Gross Receipts on sale or lease of goods, properties or services	3%
Domestic carriers and keepers of garages	Gross Receipts on transport of passengers by land (except those thru animal drawn two-wheeled vehicles)	3%
<b>International Carriers:</b>		
International air/shipping carriers doing business in the Philippines	Gross Receipts from transport of cargo from the Philippines to another country	3%
<b>Franchise Grantees:</b>		
Gas and water utilities	Gross Receipts	2%
Radio and television broadcasting companies whose annual gross receipts of the preceding year do not exceed P10,000,000 and did not opt to register as VAT taxpayer	Gross Receipts	3%
Overseas dispatch, message or conversation originating from the Philippines	Gross Receipts	10%

<sup>5</sup> Retrieved from <http://www.bir.gov.ph/index.php/tax-information/percentage-tax.html>

Banks and non-bank financing intermediaries performing quasi-banking functions	On interest, commissions and discounts from lending activities as well as income from financial leasing, on the basis of remaining maturities of instruments maturities of instruments from which receipts are derived:	
	• Maturity period is five years or less	5%
	• Maturity period is more than five years	1%
	On dividends and equity shares and net income of subsidiaries	0%
	On royalties, rentals of property, real or personal, profits from exchange and all other items treated as gross income under Sec. 32 of the Tax Code, as amended	7%
	On net trading gains within the taxable year of foreign currency, debt securities, derivatives and other similar financial instruments	7%
Other non-bank financial intermediaries	Interest, commissions and discounts and all other items treated as gross income under the Tax Code, as amended	5%
	Interest, commissions and discounts from lending activities, as well as income from financial leasing on the basis of remaining maturities of instruments:	
	• Maturity period is five years or less	5%
	• Maturity period is more than five years	1%
Life Insurance Companies (except purely cooperative companies or associations)	Total premiums collected	2%
Agents of foreign insurance companies (except reinsurance premium):		
Insurance agents authorized under the Insurance Code to procure policies of insurance for companies not authorized to transact business in the Philippines	Total premiums collected	4%
Owners of property obtaining insurance directly with foreign insurance companies	Total premiums paid	5%
Proprietor, lessee or operator of the following:		
Cockpits	Gross receipts	18%

Cabarets, Night or Day Clubs videoke bars, karaoke bars, karaoke televisions, karaoke boxes and music lounges	Gross receipts	18%
Boxing exhibitions	Gross receipts	10%
Professional basketball games	Gross receipts	15%
Jai-alai and race track (operators shall withheld tax on winnings)	Gross receipts	30%
Winnings on horse races	• Winnings or 'dividends'	10%
	• Winnings from double forecast/quinella and trifecta bets	4%
	• Prizes of owners of winning race horses	10%
Sale, Barter, Exchange of Shares of Stock Listed and Traded through the Local Stock Exchange or Through Initial Public Offering		
Sale, barter, exchange or other disposition of shares of stock listed and traded through the Local Stock Exchange other than the sale by a dealer of securities [Sec. 127 (A)]	Gross selling price or gross value in money	½ of 1%
Sale, barter or exchange or other disposition through initial public offering (IPO) of shares of stock in closely-held corporations [Sec. 127 (B)]	Gross selling price or gross value in money Proportion of disposed shares to total outstanding shares after the listing in the local stock exchange:	
	• Up to 25%	4%
	• Over 25% but not over 33 1/3%	2%
	• Over 33 1/3%	1%

Source: BIR

## **E. Excise Taxes**

*Codal Provisions:* Sections 129 – 168 of the NIRC, as amended

*Definition:* An excise tax is levied on goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition and to things imported. (Refer to Sec. 129)

*Types of Excise Tax:*

- **Specific Tax** – refers to the excise tax imposed which is based on weight or volume capacity or any other physical unit of measurement; and
- **Ad Valorem Tax** – refers to the excise tax which is based on selling price or other specified value of the goods/articles.<sup>6</sup>

*Major Classification:*

1. Alcohol Products (Sections 141-143)
  - a. Distilled Spirits (Section 141)
  - b. Wines (Section 142)
  - c. Fermented Liquors (Section 143)
  
2. Tobacco Products (Sections 144-146)
  - a. Tobacco Products (Section 144)
  - b. Cigars & Cigarettes (Section 145)
  - c. Inspection Fee (Section 146)

*Rates under RA 10351, otherwise known as the 2012 Sin Tax Law<sup>7</sup>:*

PRODUCT	2016 RATE	2017 RATE
<b>DISTILLED SPIRITS</b>		
a. Ad Valorem tax	20%	20%
b. Specific tax	P20.80	P21.63

<sup>6</sup> Retrieved from <http://www.bir.gov.ph/index.php/tax-information/excise-tax.html>

<sup>7</sup> Starting 2018, there will be an annual increase of 4% in rates through revenue regulations to be issued by the Secretary of Finance. Note also that starting 2017, there will be a uniform rate for all fermented liquor

<b>WINES</b>		
a. Sparkling wines/champagne –		
• P500 or less	P281.22	P292.47
• More than P500	P787.40	P818.90
b. Still Wines/ Carbonated Wines with 14% Alcohol or less	P33.75	P35.10
c. Still Wines/Carbonated Wines with 15% to not more than 25% Alcohol	P67.50	P70.20
d. Fortified wines	Taxed as Distilled Spirits	Taxed as Distilled Spirits
<b>FERMENTED LIQUORS</b>		
If P50.60 & below	P21.00	P23.50
More than P50.60	P23.00	P23.50
Brewed and sold at Microbreweries or small establishments	P31.50	P32.76
<b>TOBACCO</b>		
Tobacco products	P1.97	P2.05
Chewing Tobacco Unsuitable for use in any other manner	P1.68	P1.75
<b>CIGARS</b>		
a. Based on the Net Retail Price (NRP) per cigar	20% P5.62	20% P5.85
b. Per Cigar		
<b>CIGARETTES</b>		
a. Packed by hand	P21.00	P30.00
b. Packed by machine		
• P11.50 & below	P25.00	P30.00
• More than P11.50	P29.00	P30.00

<b>Collections from Alcohol &amp; Tobacco Products</b> (in Billion Pesos) 2012 - 2015	
<b>YEAR</b>	<b>COLLECTIONS</b>
2012	55.70
2013	100.97
2014	111.64
2015	139.23

Source: BIR (2016)

### 3. Petroleum Products (Section 148)

*Rates for Petroleum Products under the NIRC, as amended:*

<b>Petroleum Product</b>	<b>Tax Base</b>	<b>Tax Rate (in Php)</b>
Lubricating oils & greases including but not limited to base stock for lube oils & greases	Per liter of volume capacity	4.50
Processed gas	Per liter of volume capacity	0.05
Waxes & petrolatum	Per kilo	3.50
Denatured alcohol to be used for motive power	Per liter of volume capacity	0.05
Naptha, regular gasoline & other similar products of distillation	Per liter of volume capacity	4.35
Premium gasoline, unleaded	Per liter of volume capacity	4.35
Premium gasoline, leaded	Per liter of volume capacity	5.35
Aviation turbo jet fuel	Per liter of volume capacity	3.67
Asphalts	Per kilo	0.56
Kerosene	Per liter of volume capacity	0.00
Diesel fuel oil & similar fuel oils having more or less the same generating power	Per liter of volume capacity	0.00
Liquefied petroleum gas (LPG)	Per liter of volume capacity	0.00
Bunker fuel oil & similar fuel oils having more or less the same generating power	Per liter of volume capacity	0.00
Naptha, when used as raw material in the production of petrochemical products	Per liter of volume capacity	0.00

<b>Collections on Petroleum Products</b> (in Billion Pesos) 2012 - 2015	
<b>YEAR</b>	<b>Collections</b>
2012	10.00
2013	8.37
2014	9.34
2015	11.83

Source: BIR (2016)

4. Miscellaneous Articles (Section 149-150)  
 a. Automobiles (Section 149)  
 b. Non-essential Goods (Section 150)

Rates for Automobiles<sup>8</sup> under RA 9224:

<b>Net manufacturer's/importer's selling price</b>	<b>Excise tax rate</b>
Up to Php600,000	2%
Over Php600,000 to Php1,100,000	Php12,000 + 20% of value in excess of Php600,000
Over Php1,100,000 to Php2,100,000	Php112,000 + 40% of value in excess of Php1,100,000
Over Php2,100,000	Php512,000 + 60% of value in excess of Php2,100,000

<b>Collections on Automobiles (in Billion Pesos) 2012 - 2015</b>	
<b>YEAR</b>	<b>Collections</b>
2012	2.34
2013	2.35
2014	2.33
2015	2.45

Source: BIR (2016)

5. Mineral Products (Section 151)

Rates for Minerals and Mineral Products under the NIRC, as amended:

<b>PRODUCT TYPE</b>	<b>TAX RATES</b>
On coal and coke	Ten Pesos (P10.00) per metric ton
All mineral and mineral products (non-metallic), quarry resources	Two percent (2%) bases on the actual market value, in the case of those locally-extracted or produced; and, in the case of importation or the value used by the Bureau of Customs in determining tariff and customs duties, net of Excise Tax and Value-Added Tax.
On locally-extracted natural gas and liquefied natural gas	P0.00
On indigenous petroleum	Three percent (3%) of the fair international market price thereof

<sup>8</sup> Note that the definition of **motor vehicles** as used in this section does not include truck or cargo van, jeep/jeepney/jeepney substitutes, bus, single cab chassis, and special purpose vehicles, (e.g. ambulance, cement mixer and fire truck).



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**F. Documentary Stamp Taxes**

*Codal Provisions:* Sections 173 – 201 of the NIRC, as amended

*Definition:* Documentary Stamp Tax is a tax on documents, instruments, loan agreements and papers evidencing the acceptance, assignment, sale or transfer of an obligation, right or property incident thereto.<sup>9</sup>

*The Stamp Tax is collected on original issue of shares of stocks, bank drafts, all debt instruments and insurance policies, among others. The complete list is provided in Sections 174 to 198 of the Tax code as amended.*

*Rate and Base of Tax:* Depending on the type of document concerned, the rate usually ranges from P0.30 to about P1.00 on each two hundred pesos (P200) or fractional part thereof of the issue price/face value of the document (see Sections 174, 175, 177, 179, 180, 181, 182, 185 & 186). However, the other provisions also provide for a fixed rate such as is the case of stamp tax of proxies in Sec. 192 (rate is P15), and in Sec. 193 re stamp tax on powers of attorney (rate is P5), among others.

*Exempt Instruments/Documents/papers.*

The instruments, documents and papers exempt from the documentary stamp tax include loan agreements or promissory notes whose total does not exceed P250,000 certificates of oaths to any government Officials in his official capacity and bank deposit accounts without a fixed term or maturity. The list of exempt instruments/documents papers is in Section 199 of the Tax Code as amended.

*Effects of Failure to Affix Documentary Stamps:* (refer to Sec. 201, NIRC as amended)

1. Inadmissibility of documents in evidence
2. Non-recording of documents in government registry
3. Non-acknowledgement of document
4. Criminal liability of offender (see Secs. 253 & 254, NIRC as amended)  
– the law imposes a fine or imprisonment to a person who fails to affix the correct amount of documentary stamps to any taxable document or instrument or to cancel the same.

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<sup>9</sup> Retrieved from <http://www.bir.gov.ph/index.php/tax-information/documentary-stamp-tax.html>

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**G] Others. –**

The following taxes are collected under special laws:

- (a) *Motor Vehicle User's Charge* (MVUC) - imposed upon each application for registration (RA 8794);
- (b) *Travel Tax* - levied on individuals (citizens of Philippines; permanent resident aliens; non-resident aliens, under certain conditions) who are departing or leaving the country [Presidential Decree (PD) No. 1183, as amended, August 21, 1977];
- (c) *Head Tax* - collected upon aliens, subject to some qualifications (Commonwealth Act [CA] No. 613, as amended);
- (d) *Forest Charges* - imposed upon the right or privilege of harvesting or exploiting the country's forest resources, with the end in view of environmental protection and sustainable development (RA 7161, October 10, 1991); and
- (e) *Energy Consumption Tax* - based on the monthly electric power consumption of each residential user/customer of electric power utilities (Batas Pambansa [BP] Blg. 36, September 7, 1979).

**H] Impositions Under Basic Philippine Tax Laws. –  
Local Government Code (LGC) of 1991**

The Local Government Code (LGC) of 1991 was approved on October 10, 1991 and took effect on January 1, 1992. The laws repealed by the LGC were the following:

“Section 534. Repealing Clause. (a) Batas Pambansa Blg. 337, otherwise known as the Local Government Code, Executive Order No. 112 (1987),<sup>10</sup> and Executive Order No. 319 (1988)<sup>11</sup> are hereby repealed.

“(b) Presidential Decree Nos. 684,<sup>12</sup> 1191,<sup>12</sup> 1508,<sup>14</sup> and such other decrees, orders, instructions, memoranda and issuances related to or concerning the barangay are hereby repealed.

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<sup>10</sup> Placing All Budget Officers of Provinces, Cities and Municipalities Under the Administrative Control and Technical Supervision of the Ministry of Budget and Management (Dec. 24, 1986).

<sup>11</sup> Providing the Reorganization of the Local Development Councils (March 4, 1988).

<sup>12</sup> Strengthening and Defining the Role of the Barangay Youth in Every Barangay (April 15, 1975).

<sup>13</sup> Constituting the Pambansang Katipunan ng Kabataang Barangay ng Pilipinas, Vesting It With Powers and Attributes of a Corporation, Defining Its Roles and Functions, and for other purposes (September 1, 1977).

<sup>14</sup> Establishing A system of Amicably Settling Disputes at the Barangay Level (June 11, 1978).

- (c) The provisions of Sections 2, 3, and 4 of Republic Act No. 1939<sup>15</sup> regarding hospital fund; Section 3, a (3) and b (2) of Republic Act No. 5447<sup>16</sup> regarding the Special Education Fund; Presidential Decree No. 144<sup>17</sup> as amended by Presidential Decree Nos. 559 and 1741; Presidential Decree No. 231<sup>18</sup> as amended; Presidential Decree No. 436<sup>19</sup> as amended by Presidential Decree No. 558; and Presidential Decree Nos. 381,<sup>20</sup> 436,<sup>21</sup> 464,<sup>22</sup> 477,<sup>23</sup> 526,<sup>24</sup> 632,<sup>25</sup> 752,<sup>26</sup> and 1136<sup>27</sup> are hereby repealed and rendered of no force and effect.
- (d) Presidential Decree No. 1594<sup>28</sup> is hereby repealed insofar as it governs locally-funded projects.
- (e) The following provisions are hereby repealed or amended insofar as they are inconsistent with the provisions of this Code: Sections 2, 16, and 29 of Presidential Decree No. 704;<sup>29</sup> Section 12 of Presidential Decree No. 87,<sup>30</sup> as amended; Sections 52, 53, 66,

<sup>15</sup> An Act Prescribing the Proportionate Share of the National, Provincial, City and Municipal Governments in the Financial Contributions for the Operation and Maintenance of Free Beds in Government Hospitals and/or the Establishment of Additional Wards or Hospitals in the Philippines (June 22, 1957).

<sup>16</sup> An Act Creating A Special Education Fund to be Constituted from the Proceeds of An Additional Real Property Tax and a Certain Portion of the Taxes on Virginia-Type Cigarettes and Duties on Imported Leaf Tobacco, Defining the Activities To Be Financed, Creating School Boards for the Purpose, and Appropriating Finds Therefrom (September 25, 1968).

<sup>17</sup> Revising the Present System of National Internal Revenue Allotments to Local Governments (March 3, 1973).

<sup>18</sup> Enacting A Local Government Code for Provinces, Cities, Municipalities and Barrios (July 1, 1973).

<sup>19</sup> Increasing the Specific Tax on Lubricating Oils Gasoline, Bunker Fuel Oil, Diesel Fuel Oil, and other Similar Petroleum Products Levied Under Section 142, 144 and 145 of the National Internal Revenue Code, as amended, and Granting Provinces, Cities and Municipalities Certain Shares in the Specific Tax On Such Products (April 16, 1974).

<sup>20</sup> Requiring the Approval of the Philippine Tourism Authority on Certain Development Projects and Loans Applied for to Finance Construction, Etc. (January 24, 1974).

<sup>21</sup> Increasing the Specific Tax on Lubricating Oils Gasoline, Bunker Fuel Oil, Diesel Fuel Oil, and other Similar Petroleum Products Levied Under Section 142, 144 and 145 of the National Internal Revenue Code, as amended, and Granting Provinces, Cities and Municipalities Certain Shares in the Specific Tax on Such Products (April 16, 1974).

<sup>22</sup> Enacting a Real Property Tax Code (June 1, 1974).

<sup>23</sup> Decree On Local Fiscal Administration (June 3, 1974).

<sup>24</sup> Providing For An Improved System of Acquisition, Utilization, Care, Custody and Disposal (August 2, 1974).

<sup>25</sup> Providing for the Budgetary Administration of the Integrated National Police (January 6, 1975).

<sup>26</sup> Decree on Credit Finance for Local Governments (July 25, 1975).

<sup>27</sup> The Local Government Personnel Administration and Compensation Plans Decree of 1977 (May 5, 1977).

<sup>28</sup> Prescribing Policies, Guidelines, Rules and Regulations for Government Infrastructure Contracts (June 11, 1978).

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67, 68, 69, 70, 71, 72, 73, and 74 of Presidential Decree No. 463,<sup>31</sup> as amended; and Section 16 of Presidential Decree No. 972,<sup>32</sup> as amended, and

- “(f) All general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this Code are hereby repealed and modified accordingly.”

*Constitutional Provisions.* - Under Article X of the 1987 Constitution, several provisions exist that govern local governments, viz:

*General Provisions*

“Section 1. The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.

“Section 2. The territorial and political subdivisions shall enjoy local autonomy.

“Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of local units.

“Section 4. The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their respective powers and functions.

**“Section 5. Each local government unit shall have power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic**

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<sup>29</sup> *Fisheries Decree of 1975 (May 16, 1975).*

<sup>30</sup> *The Oil Exploration and Development Act of 1972 (December 1, 1972).*

<sup>31</sup> *Mineral Resources Development Decree of 1974 (May 17, 1974).*

<sup>32</sup> *Coal Development Act of 1976 (July 28, 1976).*

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**policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.** (Emphasis supplied)

"Section 6. Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

"Section 7. Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

"Section 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

"Section 9. Legislative bodies of local governments shall have sectoral representation as may be prescribed by law.

"Section 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.

"Section 11. *The Congress may, by law, create special metropolitan political subdivisions, subject to a plebiscite as set forth in Section 10 hereof. The component cities and municipalities shall retain their basic autonomy and shall be entitled to their own local executives and legislative assemblies. The jurisdiction of the metropolitan authority that will hereby be created shall be limited to basic services requiring coordination.*

"Section 12. Cities that are highly urbanized, as determined by law, and component cities whose charters prohibit their voters from voting for provincial elective officials, shall be independent of the province. The voters of component cities within a province, whose charters contain no such prohibition, shall not be deprived of their right to vote for elective provincial officials.

"Section 13. *Local government units may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them in accordance with law.*

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“Section 14. The President shall provide for regional *development councils and other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non-governmental organizations within the region for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region.*”

*Autonomous Region*

“Section 15. There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

“Section 16. The President shall exercise general supervision over autonomous regions to ensure that the laws are faithfully executed.

“Section 17. All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

“Section 18. The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multisectoral bodies. The organic act shall define the basic structure of government from the region consisting of the executive department and legislative assembly, both of which shall be reflective and representative of the constituent political units. The organic act shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws.

“The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favorably in such plebiscite shall be included in the autonomous region.

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“Section 19. The first Congress elected under this Constitution shall, within eighteen months from the time of organization of both Houses, pass the organic acts for the autonomous regions in Muslim Mindanao and the Cordilleras.

“Section 20. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:

- (1) Administrative organization;
- (2) Creation of sources of revenues;
- (3) Ancestral domain and natural resources;
- (4) Personal, family, and property relations;
- (5) Regional urban and rural planning development;
- (6) Economic, social, and tourism development;
- (7) Educational policies;
- (8) Preservation and development of the cultural heritage; and
- (9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

“Section 21. The preservation of peace and order within the regions shall be the responsibility of the local police agencies which shall be organized, maintained, supervised, and utilized in accordance with applicable laws. The defense and security of the regions shall be the responsibility of the National Government.”

Revenue Raising Powers of LGUs Under the LGC. – The Local Government Code of 1991 enhances the taxing powers of LGUs. Under Book II<sup>33</sup> thereof, and based on Section 5, Article X of the 1987 Constitution, LGUs have the following revenue-raising powers:

“Section 129. *Power to Create Sources of Revenue.* Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units (Chapter 1, General Provisions).

*Provinces (Article One)*

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33 The LGC is divided into Four (4) Books. Book I: General Provisions; Book II: Local Taxation and Fiscal Matters; Book III: Local Government Units; and, Book IV: Miscellaneous and Final Provisions.



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"Section 135. *Tax on Transfer of Real Property Ownership.* (a) The province may impose a tax on the sale, donation, barter, or on any other mode of transferring ownership or title of real property at the rate of not more than fifty percent (50%) of one percent (1%) of the total consideration involved in the acquisition of the property or of the fair market value in case the monetary consideration involved in the transfer is not substantial, whichever is higher. The sale, transfer or other disposition of real property pursuant to R.A. No. 6657<sup>34</sup> shall be exempt from this tax.

"(b) For this purpose, the Register of Deeds of the Province concerned shall, before registering any deed, require the presentation of the evidence of payment of this tax. The provincial assessor shall likewise make the same requirement before cancelling an old tax declaration and issuing a new one in place thereof. Notaries public shall furnish the provincial treasurer with a copy of any deed transferring ownership or title to any real property within thirty (30) days from the date of notarization.

"It shall be the duty of the seller, donor, transferor, executor or administrator to pay the tax herein imposed within sixty (60) days from the date of the execution of the deed or from the date of the decedent's death.

"Section 136. *Tax on business of Printing and Publication.* The province may impose a tax on the business of persons engaged in the printing and/or publication of books, cards, posters, leaflets, handbills, certificates, receipts, pamphlets, and others of similar nature, at a rate of not exceeding fifty percent (50%) of one percent of the gross annual receipts for the exceeding calendar year.

"In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any function thereof, as provided herein.

"The receipts from the printing and/or publishing of books or other reading materials prescribed by the Department of Education, Culture and Sports as school texts or references shall be exempt from the tax herein imposed.

"Section 137. *Franchise Tax.* Notwithstanding any exemption granted by any law or other special law, the province may impose a

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34 The Comprehensive Agrarian Reform Law of 1988.

tax on businesses enjoying a franchise, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.

"In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.

"Section 138. *Tax on Sand, Gravel and Other Quarry Products.* The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources<sup>35</sup>, as defined in the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

"The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sangguniang panlalawigan.

"The proceeds of the tax on sand, gravel and other quarry resources shall be as follows:

- "(1) Province – thirty percent (30%);
- "(2) *Component City or Municipality where the sand, gravel, and other quarry resources are extracted – thirty percent (30%); and*
- "(3) *Barangay where the sand, gravel, and other quarry resources are extracted – forty percent (40%).*

"Section 139. *Professional Tax.* (a) The province may levy an annual professional tax on each person engaged in the exercise or practice of his profession requiring government examination at such amount and reasonable classification as the sangguniang panlalawigan may determine but shall in no case exceed Three hundred pesos (P300.00).

"(b) *Every person legally authorized to practice his profession*

<sup>35</sup> Any common stone or other common mineral substances as the Director of the Bureau of Mines and Geo-Sciences may declare to be quarry resources such as, but not limited to, marl, marble, granite, volcanic cinders, basalt, tuff and rock phosphate: *Provided*, That they contain no metal or other valuable minerals in economically workable quantities (Excise Tax on Minerals, Sec. 153[B][4]).

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shall pay the professional tax to the province where he practices his profession or where he maintains his principal office in case he practices his profession in several places, *Provided, however,* That such person who has paid the corresponding professional tax shall be entitled to practice his profession in any part of the Philippines without being subjected to any other national or local tax, license, or fee for the practice of such profession.

“(c) Any individual or corporation employing a person subject to professional tax shall require payment by that person of the tax on his profession before employment and annually thereafter.

“(d) The professional tax shall be payable annually, on or before the thirty-first (31<sup>st</sup>) day of January. Any person first beginning to practice a profession after the month of January must, however, pay the full tax before engaging therein. A line of profession does not become exempt even if conducted with some other profession for which the tax has been paid. Professionals exclusively employed in the government shall be exempt from the payment of this tax.

“(e) Any person subject to the professional tax shall write in deeds, receipts, prescriptions, reports, books of account, plans and designs, surveys and maps, as the case may be, the number of the official receipt issued to him.

“Section 140. *Amusement Tax.* (a) The province may levy an amusement tax to be collected from 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.

“(b) In the case of theaters or cinemas, the tax shall first be deducted and withheld by their proprietors, lessees, or operators and paid to the provincial treasurer before the gross receipts are divided between said proprietors, lessees, or operators and the distributors of the cinematographic films.

“(c) The holding of operas, concerts, dramas, recitals, painting and art exhibitions, flower shows, musical programs, literary and oratorical presentations, except pop, rock, or similar concerts shall be exempt from the payment of the tax herein imposed.

“(d) The sangguniang panlalawigan may prescribe the time, manner, terms and conditions for the payment of tax. In

case of fraud or failure to pay the tax, the sangguniang panlalawigan may impose such surcharges, interests and penalties as it may deem appropriate.

- “(e) The proceeds from the amusement tax shall be shared equally by the province and the municipality where such amusement places are located.

“Section 141. *Annual Fixed Tax for Every Delivery Truck or Van of Manufacturers or Producers, Wholesalers of, Dealers, or Retailers in, Certain Products.* (a) The province may levy an annual fixed tax for every truck, van or any vehicle used by manufacturers, producers, wholesalers, dealers or retailers in the delivery or distribution of distilled spirits, fermented liquors, soft drinks, cigars and cigarettes, and other products as may be determined by the sangguniang panlalawigan, to sales outlet, or consumers, whether directly or indirectly, within the province in an amount not exceeding Five hundred pesos (P500.00).

- “(b) The manufacturers, producers, wholesalers, dealers, and retailers referred to in the immediately foregoing paragraph shall be exempt from the tax on peddlers prescribed elsewhere in this Code.”

*Municipalities (Article Two)*

“Section 142. *Scope of Taxing Power.* Except as otherwise provided in this Code, municipalities may levy taxes, fees, and charges not otherwise levied by provinces.

“Section 143. *Tax on Business.*<sup>36</sup> The municipality may impose taxes on the following businesses:

- “(a) On manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers, and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature
- “(b) On wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature
- “(c) On exporters, and on manufacturers, millers, producers, wholesalers, distributors, dealers or retailers of essential commodities
- “(d) On retailers
- “(e) On contractors and other independent contractors

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<sup>36</sup> The rates are found under Section 143, LGC.

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- “(f) On banks and other financial institutions on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium
  - “(g) On peddlers engaged in the sale of any merchandise or article of commerce
  - “(h) 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 excise tax, value-added tax or percentage tax under the National Internal Revenue Code, as amended, the rate shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.

“Section 144. *Rates of Tax within the Metropolitan Manila Area.* The municipalities within the Metropolitan Manila Area may levy taxes at rates which shall not exceed by fifty percent (50%) the maximum rates prescribed in the preceding Section.

“Section 147. *Fees and Charges.* The municipality may impose and collect such reasonable fees and charges on business and occupation and, except as reserved to the province in Section 139 of this Code, on the practice of any profession or calling, commensurate with the cost of regulation, inspection and licensing before any person may engage in such business or occupation, or practice such profession or calling.

“Section 148. *Fees for Sealing and Licensing of Weights and Measures.* “(a) The municipality may levy fees for the sealing and licensing of weights and measures at such reasonable rates as shall be prescribed by the sangguniang bayan.

“(b) X X X.

“Section 149. *Fishery Rentals, Fees and Charges.* (a) Municipalities shall have the exclusive authority to grant fishery privileges in the municipality waters and impose rentals, fees or charges therefore in accordance with the provisions of this Section.

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- “(b) X X X
  - “(1) X X X.
  - “(2) X X X.
  - “(3) X X X.”

*Cities (Article Three)*

“Section 151. Scope of Taxing Powers. Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: *Provided, however,* That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.

“The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except rates of professional and amusement taxes.”

*Barangays (Article Four)*

“Section 152. Scope of Taxing Powers. The barangays may levy taxes, fees, and charges, as provided in this Article, which shall exclusively accrue to them:

- “(a) *Taxes.* On Stores or retailers with fixed business establishments with gross sales or receipts of the preceding calendar year of Fifty thousand pesos (P50,000.00) or less, in the case of cities and Thirty thousand pesos (P30,000.00) or less, in the case of municipalities, at a rate of not exceeding one percent (1%) on such gross sales or receipts.
- “(b) *Service Fees or Charges.* Barangays may collect reasonable fees or charges for services rendered in connection with the regulation or the use of barangay-owned properties or service facilities such as palay, copra, or tobacco dryers.
- “(c) *Barangay Clearance.* No city or municipality may issue any license or permit for any business or activity unless a clearance is first obtained from the barangay where such business or activity is located or conducted. For such clearance, the sangguniang barangay may impose a reasonable fee. The application for clearance shall be acted upon within seven (7) working days from the filing thereof. In the event that the clearance is not issued within the said period, the city or municipality may issue the said license or

permit.

“(d) *Other Fees and Charges.* The barangay may levy reasonable fees and charges:

“(1) On commercial breeding of fighting cocks, cockfights and cockpits;

“(2) On places of recreation which charge admission fees; and

“(3) On billboards, signboards, neon signs, and outdoor advertisements.”

*Common Revenue-Raising Powers (Article Five)*

“Section 153. *Service Fees and Charges.* Local government units may impose and collect such reasonable fees and charges for services rendered.

“Section 154. *Public Utility Charges.* Local government units may fix the rates for the operation of public utilities owned, operated and maintained by them within their jurisdiction.

“Section 155. *Toll Fees and Charges.* The sanggunian concerned may prescribe the terms and conditions and fix the rates for the imposition of toll fees or charges for the use of any public road, pier or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by the local government unit concerned: *Provided*, That no such toll fees or charges shall be collected from officers and enlisted men of the Armed Forces of the Philippines and members of the Philippine National Police on mission, post office personnel delivering mail, physically-handicapped, and disabled citizens who are sixty-five (65) years or older.

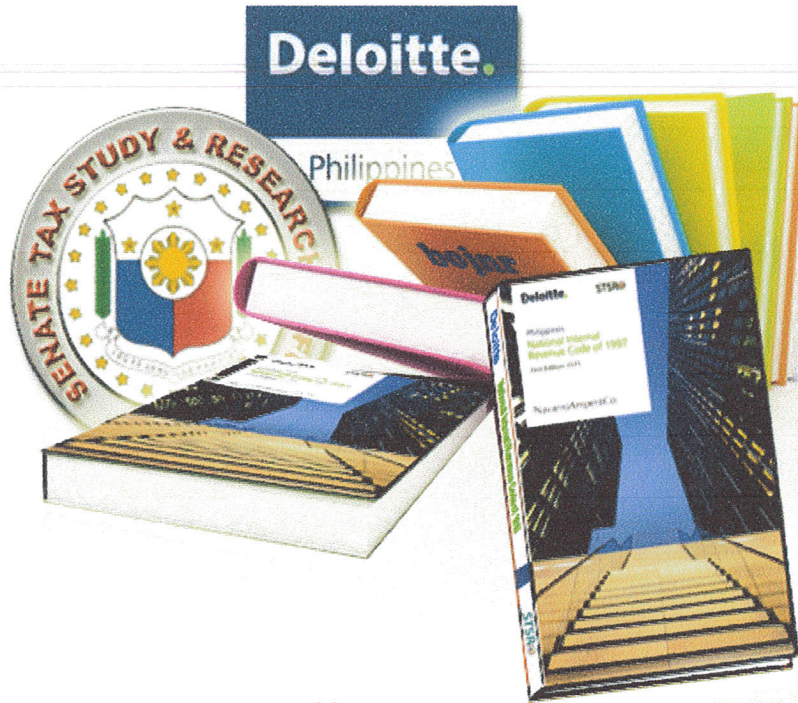
“When public safety and welfare so requires, the sanggunian concerned may discontinue the collection of the tolls, and thereafter the said facility shall be free and open for public use.”

*Community Tax (Article Six)*

“Section 156. *Community Tax.* Cities or municipalities may levy a community tax in accordance with the provisions of this Article.”



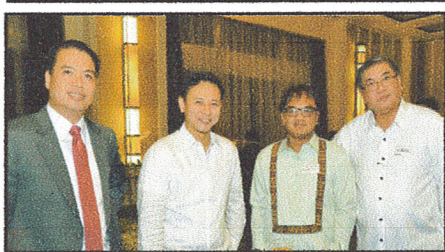




## **STSR collaborates with NavarroAmper for 2015 edition of National Internal Revenue Code of 1997, as amended**











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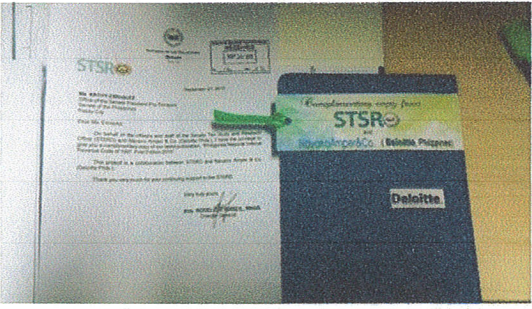


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