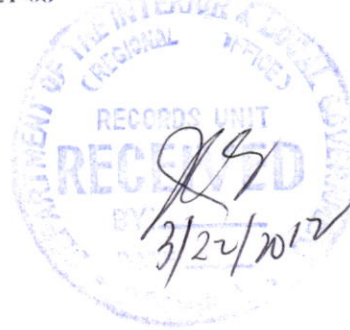




Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
REGIONAL OFFICE NO. I. SAN FERNANDO CITY (LA UNION)
Tel. Nos. 888-31-06; 888-33-10; 888-22-89; 888-22-94
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February 27, 2012

JEREMY JESUS DP. BUENO III
Municipal Mayor
Santa, Ilocos Sur



Dear Mayor Bueno:

This is in relation to your letter seeking the Department clarification regarding the following issues, which we hereunder quoted, to wit:

1. Whether or not our interpretation of section 256 and 258 is correct, or whether or not the remedial measures of levy or judicial action is available to treasurers of the municipalities outside of the Metro Manila Area?
2. Can the right to avail the remedies of levy or judicial action be delegated by the Provincial Treasurer to the Municipal Treasurer?
3. Is the failure of the Provincial Treasurer to avail the remedies of collection of delinquent realty tax sufficient ground for the filing of a criminal or an administrative case?

This office opines that municipal treasurers of LGUs outside Metro Manila has no power to levy real property taxes (RPT) since it is expressly stated in **Sec. 258** of the Local Government Code of 1991. Real Property Taxes are direct taxes imposed on the privilege to use real property such as land, building, machinery and other improvements unless specifically exempted. (**Province of Nueva Ecija vs. Imperial Mining Co., Inc. G.R. No. 59463, November 19, 1982**). In **Sec. 199** of the Local Government Code (LGC) of 1991, the basis of assessment of real property taxation is the actual use even if the user is not the owner.

Under **Sec. 258** of the LGC of 1991, the Local Government Units (LGUs) authorized to levy the taxes are the Provinces, Cities and Municipalities within Metro Manila. Municipalities outside Metro Manila don't have such power because it is the Provinces that have such power. The Provinces, Cities and Municipalities within Metro Manila do not only have the power to levy RPT but also authorized to fix tax rates. The power to fix tax rates on RPT do not extend to Municipalities outside Metro Manila because the only local bodies authorized to fix tax rates are the Provincial board in the case of Province and the City Council in the case of a city pursuant to **Sec. 233** of the LGC of 1991.

The collection of RPT and the enforcement of the remedies in relation thereto, as provided in **Sec. 247** of the LGC of 1991, shall be the responsibility of the city or municipal treasurer concerned. The provincial, city or municipal treasurer shall immediately cause a notice of delinquency in case the collection of RPT becomes delinquent. (**Sec. 254** of the LGC of 1991).

In view of the above discussion, it is the standing of this office that local treasurers (LT) of Municipalities outside Metro Manila cannot levy RPT. It is the Provincial Treasurer that has the



power to do so. The only duty of LT is the collection of RPT and the issuance of Notice of Delinquency against those delinquent RP Taxpayers.


As to the power to delegate, it is of the opinion of this Office that such power can be delegated provided that the appraisal, assessment, levy and collection of RPT shall not be delegated to Private Person pursuant to the fundamental principles governing RP Taxation. (Sec. 198 of the LGC of 1991). Hence, the Provincial Treasurer may delegate the levy to LT of the municipalities.

As to the failure of the Provincial Treasurer to avail of these remedies, please be informed that this Department refrains from addressing issues which enjoy the presumption of regularity on the part of the Public Officer concerned and similar instances.

We hope to have enlightened you on the issues at hand. Our opinion, however, is without prejudice to any ruling, circular or opinion rendered by a higher authority or a competent tribunal.

Warm regards.

Very truly yours,


DR. JULIE J. DAQUIOAG, CESE
OIC-Regional Director