

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3957

Introduced by Honorable Jerry P. Treñas

EXPLANATORY NOTE

The autonomy of local governments is guaranteed by the Constitution.¹ An integral aspect of the autonomy of Local Government Units (LGUs) is the fiscal independence granted to the local governments. The fiscal autonomy of LGUs is enshrined in the Constitution, to wit:

“Each Local Government unit shall have the power to create its own sources of revenue, 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.**”²

Yet the Local Government Code of the Philippines³ unduly deprives the LGUs of their legally-collected business taxes by automatically allocating thirty percent (30%) of these taxes to the city or municipality where the principal office of a business is located. This notwithstanding the fact that the business establishment and the point of sale are both located within the LGU that imposed the business tax, allowing another LGU which has no stake or participation in the sale that transpired to benefit from the taxable transaction. The system of allowing the territory where the principal office is located to share in the business tax proceeds of another LGU is clearly contrary to the Constitutional mandate of fiscal local autonomy for LGUs.

¹Section 25, Article II. The 1987 Philippine Constitution.

²Section 5, Article X. The 1987 Philippine Constitution (*emphasis supplied*).

³Republic Act No. 7160 (1991)

In addition, the Local Government Code itself guarantees fiscal autonomy. It proudly declares that it is the policy of the State that LGUs shall “enjoy genuine and meaningful local autonomy to enable them to attain their fullest development of national goals.” Moreover, local fiscal autonomy shall be promoted “through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources.”⁴ Hence, the Local Government Code provision that automatically deprives LGUs of 30% of their business tax collections from branch sales of commercial establishments is inconsistent with the other provisions of the Code.

It is also noteworthy that the Local Government Code explicitly provides that taxes, fees and charges imposed by LGUs shall accrue exclusively to the local government units⁵ and that the revenue collected by the *LGUs shall inure solely to the benefit of, and subject to the disposition by, the local government unit levying the tax, fee, charge or other imposition.*⁶ It is therefore inconsistent with the very letter and spirit of the Local Government Code to allow another territorial jurisdiction to enjoy the collections of business taxes of another LGU.

The power of taxation is founded on the reciprocal duties of support and protection between the citizens and the state in every organized society. The *situs* of business taxation is the territory that has jurisdiction to levy the business tax on persons, properties, rights, or businesses. It is based on the symbiotic relationship of the state and the citizens, as the commercial establishment enjoys the protection granted by the political unit where it conducts business.⁷ Hence, it is solely the LGU wherein the branch of a commercial establishment is located that has the right to collect business taxes. It is the branch which makes the sale that is protected and supported by the LGU. On the other hand, the political unit that houses the principal office does not spend a single centavo in ensuring the welfare of the branch establishment. In the present context, the political unit of the principal office is sharing from the income of another LGU without incurring any expenses.

The fiscal autonomy of LGUs is of great importance. The Supreme Court observed that fiscal autonomy has received greater affirmation than ever following the 1987 Constitution and the Local Government Code, and that “previous

⁴ Section 2, R.A. No. 7160

⁵ Section 129, R.A. No. 7160

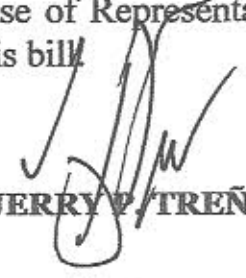
⁶ Section 130, R.A. No. 7160

⁷ Angelina Arandia-Villanueva, *Taxation Simplified* pgs 2 and 15 (2004)

decisions that have been skeptical of the viability, if not the wisdom, of reposing fiscal autonomy to local government units have fallen by the wayside.”⁸ The High Tribunal also noted in the case of *National Power Corporation vs. City of Cabanatuan*⁹ that:

“For a long time, the country’s highly centralized government structure has bred a culture of dependence among local government leaders upon the national leadership. It has also ‘dampened the spirit of initiative, innovation and imaginative resilience in matters of local development on the part of local government leaders.’ The only way to shatter this culture of dependence is to give the LGUs a wider role in the delivery of basic services, and **confer them sufficient powers to generate their own sources** for this purpose.”

In view of the foregoing, I earnestly urge the House of Representatives to strengthen local fiscal autonomy through the passage of this bill



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⁸ Petron Corporation vs. Tiangco, et al., G.R. No. 158881 (2008)

⁹ National Power Corporation vs, City of Cabanatuan, G.R. No. 149110 (2003) (*emphasis supplied*)

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**AN ACT AMENDING SECTION 150 (b), (c), AND (d) OF REPUBLIC ACT
NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT
CODE OF 1991.**

Be it enacted by the Senate and House of Representatives duly assembled:

Section 1. Paragraphs (b), (c), and (d), Section 150, of Republic Act No. 7160 are hereby amended to read as follows:

(b) FOR MANUFACTURERS, ASSEMBLERS, CONTRACTORS, PRODUCERS, AND EXPORTERS WITH FACTORIES, PROJECT OFFICES, PLANTS, AND PLANTATIONS IN THE PURSUIT OF THEIR BUSINESS, ONE HUNDRED PERCENT (100%) OF ALL SALES RECORDED IN THE PRINCIPAL OFFICE SHALL BE TAXABLE BY THE CITY OR MUNICIPALITY WHERE THE FACTORY, PROJECT OFFICE, PLANT, OR PLANTATION IS LOCATED.

(c) In case of a plantation located at a place other than the place where the factory is located, SAID ONE HUNDRED PERCENT (100%) MENTIONED IN THE IMMEDIATELY PRECEDING PARAGRAPH SHALL BE DIVIDED AS FOLLOWS:

(1) Sixty percent (60%) to the city or municipality where the factory is located; and

(2) Forty percent (40%) to the city or municipality where the plantation is located.

(d) In case where a manufacturer, assembler, producer, exporter or contractor has two (2) or more factories, project offices, plants, or plantation located in different localities, **ONE HUNDRED PERCENT (100%) OF THE TAXABLE SALES RECORDED** shall be prorated among the localities where the factories, project offices, plants, and plantations are located in proportion to their respective volume or production during the period for which the tax is due.

Section 2.Repealing Clause. - All laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

Section 3.Separability Clause. - If any provision of this Act is held invalid or unconstitutional, the other provisions not affected hereby shall remain valid and subsisting.

Section 4.Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,