



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-B-2002-01

SUBJECT : Local Government Budgeting – Internal Revenue Allotment

ISSUE : Whether or not the Internal Revenue Allotment (IRA) Monetization Scheme under DBM Circular Letter (CL) No. 2002-4 is valid.

FACTS : In letter dated 21 January 2002, Governor Pablo P. Garcia of the Province of Cebu, challenged the legality and morality of CL No. 2002-4 dated 11 January 2002 [SUBJECT: Acknowledgment of the Unreleased Three-Fourths (3/4) of One Month Internal Revenue Allotment (IRA)].

Governor Garcia contends that CL No. 2002-4 clearly violates Section 286 of Republic Act (R.A.) No. 7160, otherwise known as the Local Government Code of 1991, which provides that the shares of local government units (LGUs) in the IRA shall be automatically released and shall not be subject to any lien or holdback for whatever purpose.

OPINION : CL No. 2002-4 did not treat of any holdback by the National Government of the three-fourths (3/4) of the unreleased one (1)-month CY 2000 IRA shares of LGUs. On the other hand, said CL acknowledged the National Government's obligation to fully release the same and declared the intended mode of its payment, that is, six (6) equal annual installments, in view of current fiscal constraints.

The discounting scheme under the IRA Monetization Program of the Union of Local Authorities of the Philippines-Department of the Interior and Local Government as mentioned in Item 5.0 of the same CL, is not mandatory but is an option made available to LGUs under which the latter may collect in advance the discounted value of the six (6) annual guaranteed cash payments to be made by the National Government.

Accordingly, if an LGU opted to collect the lump-sum amount pertaining to such guaranteed installment payments in advance, it is given an available recourse to do so, consistent with Section 207 of R.A. No. 7160, to wit:

"Sec. 297. *Loans, Credits, and Other Forms of Indebtedness of Local Government Units.* – (a) A local government unit may contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institutions to finance the construction, installation, improvement, expansion, operation, or maintenance of public facilities, infrastructure facilities, housing projects, the acquisition of real property, and the implementation of other capital investment projects, subject to such terms and conditions as may be agreed upon by the local government unit and the lender. The proceeds from such transaction shall accrue directly to the local government unit concerned.

(b) A local government unit may likewise secure from any government bank and lending institution short, medium and long-term loans and advances against security or real estate and other acceptable assets for the establishment, development or expansion of agricultural, industrial, commercial, house financing projects, livelihood projects, and other economic enterprises.

(c) Government financial and other lending institutions are hereby authorized to grant loans, credits and other forms of indebtedness out of their loanable funds to local government units for purposes specified above." (emphasis supplied)

Relatedly, it should be noted that in such discounting scheme the National government is not imposing a lien or holdback on the IRA as prohibited under Section 286 of R.A. No. 7160 but, like in any other commercial financial transactions, the discount is the consideration on the part of the government financial institutions (GFIs) concerned which will accommodate to pay in advance the expected cash receipts of LGUs. In turn, the National Government shall be paying the GFIs the full amount of the delayed IRA pertaining to the LGU which exercised such option. Hence, it is clear that there is no violation of Section 286 of R.A. No. 7160 in this case.

Notwithstanding the above, the discretion on which arrangement will be most acceptable to an LGU lies upon the LGU itself. Whatever option that may be chosen by the LGU will be respected by all parties concerned.

REFERENCE: Letter of the Secretary dated 05 February 2002 to Gov. Pablo P. Garcia

Recommended:


EDUARDO P. OPIDA
Assistant Secretary, OIC-LLS

Approved:


EMILIA T. BONCODIN
Secretary