



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-B/M-2001-02

SUBJECT : Local Government Budgeting – Share in Proceeds from Utilization and Development of National Wealth

ISSUE : Whether or not the Municipality of Sta. Cruz, Davao del Sur, is entitled to its share in the gross collection/proceeds in the utilization and development of water as national wealth located within its territorial jurisdiction.

FACTS : The Municipality of Sta. Cruz, Davao del Sur, is a home to various industries which utilize water as a necessary component in processing their products. Among others, San Miguel Brewery which has a plant in the Municipality and has been extensively utilizing water for its beer production. In 1997 and 1998, the total excise/specific taxes collected from San Miguel was P552,969,883.43 and P583,809,469.87, respectively.

Accordingly, the Municipality is claiming its share from the proceeds in the utilization and development of its water resources, as national wealth.

OPINION : Sections 289 and 290 of the Local Government Code of 1991 (Code) as implemented by Article 386 of its Implementing Rules and Regulations provide that local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their territorial jurisdiction.

Article 386 explicitly states that the term "national wealth" includes "waters". However, Special Provision No. 2 of Special Shares of Local Government Units in the Proceeds of National Taxes in Republic Act (R.A.) No. 8760, FY 2000 General Appropriations Act, as reenacted in FY 2001, provides:

"2. Allocation, Release and Use of Share of National Wealth. The amount herein appropriated for the share in utilization and development of national wealth shall be allocated among entitled provinces, cities, municipalities and barangays in accordance with the formula prescribed under Section 292 of R.A. No. 7160 and shall be automatically released directly by the Department of Budget and Management to the provincial, city, municipal or barangay treasurers, as the case may be: PROVIDED, That the computation of

the share of each local government in the proceeds from the utilization and development of the national wealth realized in 1999 shall be submitted by the revenue collecting agencies to the Department of Budget and Management not later than 15 March 2000: x x x." (underscoring supplied)

Accordingly, without the computation submitted by the Bureau of Internal Revenue (BIR) to this Department, no automatic release of said shares to the LGUs may be allowed. To date, no computation of the subject share of the Municipality was submitted by the BIR to this Department, hence, the request cannot be favorably acted upon. The matter shall be discussed with the DILG and the Oversight Committee on Devolution, created under the Code.

REFERENCE: Letter dated 22 August 2001 to Hon. Joel Ray L. Lopez of Sta. Cruz, Davao del Sur

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary