



Fiscal Autonomy and Fundamentals of Local Taxation

Atty. Alberto C. Agra

Local Government Law Professor and

Political Law Bar Reviewer

Principal Author, *Amicus Imperiorum Locorum*

Local Government Law-for-All Advocate



Bases of Fiscal Autonomy

- Express constitutional mandate
 - Local Autonomy
 - Fiscal autonomy of Judiciary, 3 Constitutional Commissions and Ombudsman
- LGU Fiscal Autonomy is an **implied constitutional mandate** (*Article X, 1987 Constitution*) from:
 - Section 2: *“Local Autonomy”*
 - “Local autonomy includes both administrative and fiscal autonomy.”
 - Section 5: *“Create own sources of revenues”*



Fiscal Autonomy Defined

- “Fiscal autonomy means that local governments have the power to ***create their own sources of revenue*** in addition to their equitable share in the national taxes released by the national government,
- as well as the power to ***allocate*** their resources in accordance with their own priorities.
- It extends to the ***preparation of their budgets***, and local officials in turn have to work within the constraints thereof.”
- “They are ***not formulated at the national level*** and imposed on local governments, whether they are **relevant to local needs and resources or not.**”

4 Aspects

1. Sources
2. Usages
3. LGU-
Prepared
4. Relevant



Limits of Fiscal Autonomy

- Like Local Autonomy, the exercise of Fiscal Autonomy *is not without limits*
- **Boundaries/ Limitations** (*Subordinate Legislation*)
 1. Constitution
 2. Statutes
 3. Charter
 4. Case Law
 5. Rules

Examples

1. Public funds for public purposes
2. Subject to audit
3. Disbursement based on appropriations
4. Ordinance

Limits to Limiting Fiscal Autonomy



Executive Supervision

NGA cannot impose a limitation when there is none imposed by law

- DBM on fixing a cap on allowances for judges
- DILG limiting usage of development funds

Legislative Control

- Limitations on revenue sources must be consistent with local autonomy
- National Government cannot have share from local funds
- Just share in National Taxes
- Equitable share in National Wealth

Ancillary Values to Fiscal Autonomy



1. No **meaningful local autonomy** (*responsive and accountable*) without fiscal autonomy and *vice-versa*.
2. Principle of **Subsidiarity** (*LGUs know better.*)
3. “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 the purpose.”
4. National Government must share in the **burden of devolution**.
5. Doubts shall be resolved in favor of LGUs in **interpreting** municipal fiscal powers.
6. LGUs and local officials as **accountable persons**.



Sources of Funds

Constitutional

1. Taxes
2. Fees and Charges
3. Other Sources
4. Just Share in National Taxes
5. Equitable Share in Utilization and Development of National Wealth

Only Statutory

1. Loans
2. Grants
3. Public-Private Partnerships
4. Bonds and Debentures



Power to Tax

- **Object:** “Widen tax base of LGUs”
(curb State dependency)
- **Nature of Grant:** Constitutional *(and statutory)*
- **Legislative Control:** Congress can impose limitations *(but must not be inconsistent with local autonomy)*
- **Nature:** Governmental *(not proprietary)*



Power to Tax

- **Contrasted with Regulatory Fees:** Regulatory fee must not produce revenue in excess of the cost of the regulation (*police power*)
- **Form:** Ordinance (*not resolution*)
- **Inclusive List:** Not exclusive but not absolute (*LGU residual power*)



Power to Tax

- **Exclusive LGU Benefit:** Exclusively accrue to levying LGU (*unlike National Tax Allotment*)
- **Taxes are LGU-specific:** Congress allocates and delineates (*no overlapping*)
- **Administrative Review:** DOJ Review before Judicial Relief (*unless exception from Exhaustion of Administrative Remedies*)



Power to Tax

Liable

- Removal of blanket Pre-LGC Exemption
- Beneficial use by Taxable Person
- Exemption not categorical
- Government-Owned and -Controlled Corporations

Exempt

- Property owned by Republic (*used by Government*)
- Post-LGC exemption
- Charitable Institution
- Government Instrumentalities
- Public Domain Properties



www.albertocagra.com



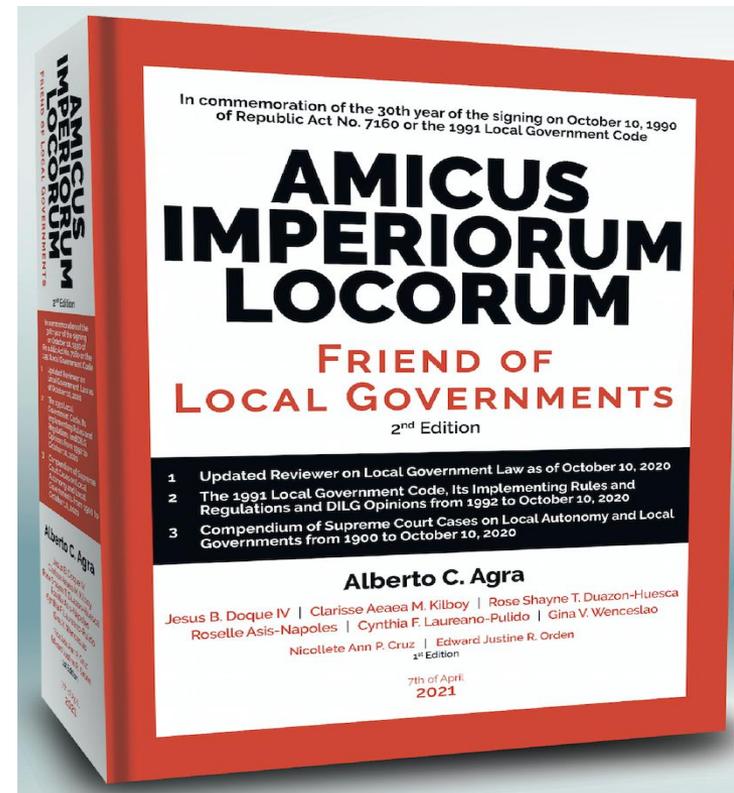
09175353823



alberto agra



alberto.c.agra@gmail.com



Thank you.