



# **Fiscal Autonomy and Fundamentals of Local Taxation**

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# 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



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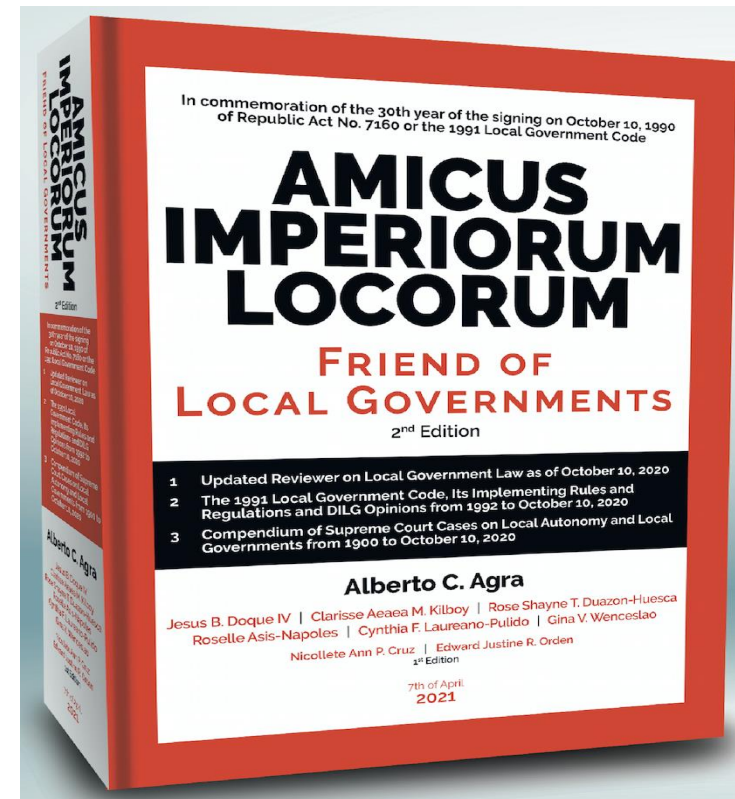
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Thank you.