



THIRD REGULAR SESSION

RESOLUTION NO. 137

RESOLUTION REQUESTING THE DEPARTMENT OF BUDGET AND MANAGEMENT (DBM) TO APPRISE THE BANGSAMORO GOVERNMENT ON THE EFFECT OF THE MANDANAS RULING ON THE INTERNAL REVENUE ALLOTMENT (IRA) OF THE LOCAL GOVERNMENT UNITS (LGUs) IN BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO (BARMM)

WHEREAS, Section 6, Article X of the 1987 Constitution states that local government units shall have a just share as determined by law, the national taxes shall be automatically released to them;

WHEREAS, Section 6(e), Article XII, R.A. No. 11054 or the Bangsamoro Organic Law (BOL) states that one of the sources of revenues of the Bangsamoro Government include a share in the National Government taxes, fees, and charges collected in the Bangsamoro territorial jurisdiction;

WHEREAS, Section 10, Article XII, Bangsamoro Organic Law (BOL), further states that national government taxes, fees, and charges shall be collected in the Bangsamoro Autonomous Region other than tariff and customs duties shall be shared as follows:

- a. Twenty-five percent (25%) of the National Government: Provided; That for the first ten (10) years following the effect of the Organic Law this share shall accrue to the Bangsamoro Government: Provided; Further, That after the first ten (10)-year period upon petition of the Bangsamoro Government. The National Government may extend the period as it shall deem necessary; and*
- b. Seventy-five percent (75%) of the Bangsamoro Government inclusive of the shares of the constituent local government units.*

The shares in taxes, fees charges provided under this section shall be separate and distinct from the annual block grant appropriated to the Bangsamoro Government under Section 15, Article XII;

WHEREAS, Section 284 of the Local Government Code (LGC) provides that Local Government Unit (LGU) shall have a share in the National Internal Revenue Taxes (NIRT);

WHEREAS, the phrase "National Internal Revenue Taxes" as en-grafted in Section 284 of the Local Government Code (LGC) is more restrictive or limiting the term "national taxes" written in Section 6, Article X, 1987 Constitution, which should be the base from the just share of the Local Government Unit (LGU) comes;

WHEREAS, the Supreme Court ruled in the case of *Mandanas vs. Ochoa* (G. R. No. 199802, July 3, 2018) that the exclusion of other national taxes like custom duties form the base for determining the just share of the Local Government Unit (LGU) contravened the express constitutional edict in Section 6, Article X of the 1987 Constitution, thus, the just share of Local Government Unit (LGU) from the national taxes is not and should not be limited to "National Internal Revenue Taxes (NIRT)";

WHEREAS, in the same Mandanas case, it was held that Value-Added Taxes (VAT) collected pursuant to R.A. No. 7643 should be included in determining the base for computing the just share because such Value-Added Taxes (VAT) are national taxes and nothing can validate to justify their exclusion;

WHEREAS, in the Mandanas ruling, the Supreme Court categorically ruled the national taxes to be included in the base for computing the just share of the Local Government Unit (LGU) shall henceforth and it should not be exceeded from the following:

1. *The National Internal Revenue Taxes (NIRT's) enumerated in Section 21 of the National Internal Revenue Code (NIRC's) as amended, to be inclusive of the Value-Added Tax (VATs), excise taxes, and Documentary Stamp Tax (DSTs) collected by the Bureau of Internal Revenue (BIR) and Bureau of Custom (BOC) and their deputized agents;*
2. *Tariff and customs duties collected by the Bureau of Customs;*
3. *50% of the Value Added Taxes (VATs) collected in the Autonomous Region in Muslim Mindanao (ARMM) and 30% of all other national taxes collected in the Autonomous Region in Muslim Mindanao (ARMM); the remaining 50% of the Value-Added Taxes(VAT) and 70% of the collections of the other national taxes in the Autonomous Region in Muslim Mindanao (ARMM) shall be the exclusive share of the Autonomous Region in Muslim Mindanao (ARMM) pursuant to Section 9 and Section 15 of R.A. No. 9054;*
4. *60% of the national taxes collected from the exploitation and development of the national wealth; the remaining 40% will exclusively accrue to the host Local Government Unit (LGU) pursuant to Section 290 of the Local Government Code (LGC);*
5. *85% of the excise taxes collected from locally manufactured Virginia and other tobacco product; the remaining 15% shall accrue to the special purpose funds pursuant created in R.A. No. 7171 and R.A. No. 7227;*
6. *The entire 50% of the national taxes collected under Section 106, Section 108, and Section 116 of the National Internal Revenue Code (NIRC) in excess of the increase in collections for the immediately preceding year; and*
7. *5% of the franchise taxes in favor of the national government paid by franchise holders in accordance with Section 6 of R.A. No. 6631 and Section 8 of R.A. No. 6632.*

WHEREAS, the change in the base for computing the just share of Local Government Unit (LGU) as instructed by the decision of the Supreme Court in the Mandanas case which used the provisions in the amended R.A. No. 9054 (50/50 and 30/70 sharing arrangements for Value-Added Tax (VAT) and for other national taxes.) Respectively, the categorical provisions of the Bangsamoro Organic Law (BOL) (25/75 effective after ten (10) years of validity of the Bangsamoro Organic Law (BOL) will inevitably affect on the just share or Internal Revenue Allotment (IRA) of the Local Government Unit (LGU) in Bangsamoro Autonomous Region in Muslim Mindanao (BARMM);

NOW, THEREFORE, be it

RESOLVED, as it is hereby resolved by the Bangsamoro Transition Authority, to request the Department of Budget and Management (DBM) to apprise the Bangsamoro government on the effect of the Mandanas ruling on the Internal Revenue Allotment (IRA) of the Local Government Units (LGUs) in Bangsamoro Autonomous Region in Muslim Mindanao (BARMM).

RESOLVED, FURTHER, to forward this Resolution to the Department of Budget and Management (DBM) for information and appropriate consideration.

ADOPTED, July 15, 2021.

Certified Correct


PROF. RABY B. ANGKAL
Secretary General

Attested:


ATTY. ALI PANGALIAN M. BALINDONG
Speaker

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