



Fiscal Autonomy and the “National Tax Allotment”

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Fundamental Principles

All LGUs enjoy local autonomy.

Local Autonomy is Administrative/ Political and Fiscal Autonomy.

Fiscal autonomy is an implied constitutional policy.

No genuine local autonomy without fiscal autonomy, and vice-versa.

Under a unitary set-up, no national development without local development, and vice-versa.

Totality of powers per LGU-type is differentiated.

2 Aspects of Fiscal Autonomy: Source and Utilization.

Under Executive Supervision and Legislative Control (re: limitations, review).

National government shares in the burden of devolution/ delegation/ decentralization.

Inclusive list of sources of funds.

Like local autonomy, fiscal autonomy is not unbridled.

Liberal Interpretation of fiscal autonomy.



Local Sources of Funds

Constitutional

1. Taxation (*Inclusive list; National Government no share; Blanket Withdrawal of Tax Exemptions; GOCC vs. GI; DOJ Review*)
2. Fees and Charges (*Regulatory Power*)
3. National Tax Allotment (*not Internal Revenue Allotment*)
4. National Wealth Tax (*Equitable share in the utilization and development of natural resources*)
5. Other Sources (*Inclusive*)

Statutory

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

Residual/No Prohibition

1. Incorporation of Subsidiaries/ Quasi-Municipal Corporations
2. Securitization (*NTA, BT and RPT*)



10 Questions we will answer

1. Is 5% **just**?
2. Is the just share **part of the income** of an LGU?
3. What should be the **base** of the just share?
4. What are the **levies/ components** of the base?
5. Can Congress, in the GAA, earmark the just share **elsewhere**?
6. Can the President **impound**?
7. Can the President **lower** the current share?
8. Can an NGA **impose conditions** on the release of the share?
9. Is there a need for the inclusion of the just share in the **annual GAA**?
10. What is the extent of the **control of Congress**?

1987 Constitution

1991 Local Government Code



Local government units shall have a **just share**, as **determined by law**, in the **national taxes** which shall be **automatically released** to them.

*Section 6, Article X,
1987 Constitution*

IRA: Allotment of Internal Revenue Taxes. — Local government units shall have a share in the **national internal revenue taxes** based on the collection of the third fiscal year preceding the current fiscal year as follows: xxx (c) On the third year and thereafter, forty percent (**40%**) Provided, That in the event that the national government incurs an **unmanageable public sector deficit**, the **President** of the Philippines is hereby authorized, upon the **recommendation** of Secretary of Finance, Secretary of Interior and Local Government and Secretary of Budget and Management, and subject to **consultation** with the presiding officers of both Houses of Congress and the presidents of the “liga”, to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (**30%**) of the collection of national internal revenue taxes of the third fiscal year preceding the current fiscal year: (*Section 284, 1991 LGC*)



Scan of 6 Cases on Section 6, Article X

Nature

Base

Release

Withholding/
Impoundment

Appropriation

Congressional
Control



Pre-Mandanas Ruling

Legislative Withholding

- Placement of IRA in LG **Special Equalization Fund** violative of fiscal autonomy and automatic release provision (*Batangas 2004*)
- Earmarking of IRA in **Unprogrammed Funds** does not conform with automatic release provision; GAA cannot amend the 1991 LGC since rider (*ACORD 2005*)

Executive Withholding

- Withholding of IRA amounted to control and infringed on fiscal autonomy; **Requirements** under the 1991 LGC not followed (*Pimentel 2000*)
- “**No Report, No Release**” policy runs counter to automatic release provision (*CSC 2005*)

IRA part of income (*Alvarez 1996*)



Mandanas v. Ochoa

G.R. No. 199802, July 3, 2018

Base of the Just Share

- Congress has exceeded its constitutional boundary by **limiting to the National Internal Revenue Taxes (NIRTs)** the base from which to compute the just share of the LGUs.
- Section 284 has **effectively deprived** the LGUs from deriving their just share from **other national taxes, like the customs duties**.
- The phrase “**as determined by law**” follows and qualifies the phrase “**just share,**” and cannot be construed as qualifying the succeeding phrase “national taxes.”

IRA → NTA



Mandanas v. Ochoa

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National Taxes (Inclusive list)

1. The NIRTs enumerated in Section 21 of the NIRC, as amended, to be inclusive of the **VATs, excise taxes, and DSTs** collected by the BIR and the BOC, and their deputized agents
2. Tariff and customs **duties** collected by the **BOC**
3. 50% of the VATs collected in the **ARMM**, and 30% of all other national taxes collected in the ARMM; the remaining 50% of the VATs and 70% of the collections of the other national taxes in the ARMM shall be the exclusive share of the 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 LGUs pursuant to Section 290 of the LGC
5. 85% of the excise taxes collected from locally manufactured Virginia and other **tobacco products**; 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 NIRC in excess of the increase in collections for the immediately preceding year
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



Mandanas v. Ochoa

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Automatic Release

- Just share of the LGUs in the national taxes shall be released to them **without need of yearly appropriation**
- Inclusion of the just share of the LGUs in the **annual GAAs** is unnecessary, if not superfluous



More Funds ≡

- Greater fiscal independence
- Enhanced execution of devolution
- Bigger development fund
- More projects (hard and soft)
- Room for innovation
- Substantial contribution in PPPs/ JVs
- Expanded corporate and personal accountability



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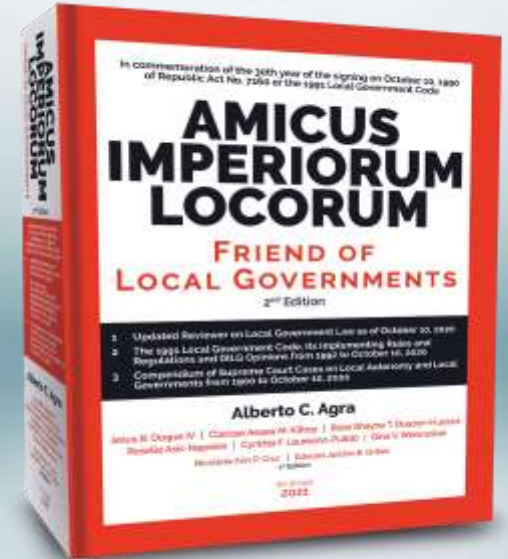


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This marks the 30th year of the signing on October 10, 1991 of the 1991 Local Government Code.



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Thank you. Good luck to all.