The Failure of the Real Property Tax in Local Governments

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Introduction

In deficit and in debt, for more than three decades now, the national government has hardly been able to shoulder the expenditures needed to provide social and other development services. Problems of poverty and unemployment beset the Philippine population. Access to health and social services, to educational facilities, to housing opportunities and infrastructure cannot be adequately addressed because of lack of funds.

Tax and revenue efforts from 2001 to 2008 averaged at 13% and 15% respectively[1]. The tax and revenue efforts figures for November 2009 were even lower, at 12.8% and 14% respectively.[2] With the payment of debt obligations ensured by automatic appropriation, the burden of myriad unnecessary fiscal incentives and an apparent inability to exercise stronger supervisory control of its revenue collection agencies, the national government has resorted to improving its deficit position by increasing its indebtedness, the imposition of new taxes, higher tax rates, greater reliance on indirect taxes, increases in non-tax revenues and the privatization of government assets.[3]

However, the national government is not solely responsible for the provision of development and welfare services. RA 7160, otherwise known as the Local Government Code (LGC) of 1991 defines the obligations of local government units (LGUs) to share in these responsibilities. According to its Declaration of Policy, the intent of the Law is to ensure "that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them

[1] According to the Department of Finance, Philippine tax and revenue efforts are several basis points lower than those of its Asian neighbors Indonesia, Malaysia and Thailand even if these countries impose similar if not lower tax rates.
[2] Dela Cruz,Roderick, "Tax Effort Seen to Deteriorate", Manila Standard Today, November 6, 2009.
[3] For a discussion of the fiscal position of the Philippine government and its policies in recent years, see Gomez, M., "Tunnel Vision in our Fiscal Policy", Institutions and Economic Growth, Action for Economic Reforms.

more effective partners in the attainment of national goals." and to "provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources." (Section 2)[4]

In the LGC, each local government unit is recognized "as a corporate entity representing the inhabitants of its territory" (Section 15) and tasked with ensuring the general welfare of those within their respective jurisdictions. Among the LGUs' responsibilities for basic services and facilities enumerated in Section 17 of the LGC are: the development of infrastructure for local use (low-cost housing, roads, bridges, communal irrigation networks, public markets, cemeteries, elementary and high school buildings), industrial research and support services, tourism promotion programs and investment support (micro-credit) services, primary health care and the management and maintenance of the ecological balance. LGUs exercise these functions in coordination with national government agencies that provide policy, technical and on occasion material support.

In addition, the LGC states that (Section 17) LGUs shall "discharge the functions and responsibilities of national agencies and offices devolved to them…" Devolution of functions is defined as the transfer of assets, records, regional offices and personnel to the LGUs. Subsequent to its enactment, the functions of the Department of Health (DOH) (with the exception of its tertiary health care facilities), Social Welfare and Agriculture were gradually devolved to local government units. Peace and order forces were also placed under the supervision of local officials.

Corresponding to the devolution of national government functions, local governments were allotted an automatic share of national tax revenues. To encourage self-reliance, the LGC defines the revenue-raising prerogatives of LGUs. Provinces, municipalities, cities and *barangays* (villages, the basic political units) are granted the power to levy taxes with specified maximum rates as well as to impose fees and charges for various services.

Table 1 presents a summarized version of the taxes imposed by most LGUs. However, it must be noted that with the exception of the business tax and the taxes on real property, the many items taxed by LGU do not have a broad base and/or carry minimal rates, such that they are not major contributors to locally generated revenues. The amusement tax carries a high rate but these activities are occasional rather than continuing business activities, e.g. cockfights and concerts. Quarrying activities carry the next highest tax rate but the value of these products is relatively low.

[4] RA 7160, Local Government Code of 1991

Table 1. LGU Taxes in RA 7160, the Local Government Code

Tax	Maximum Rate
Business Taxes	50% of 1% of gross annual receipts (depending on category of business activity), except for retail which carries a rate of 2%
Sand, gravel and other quarrying resources	10% of fair market value
Amusement activities	30% of gross sales
Fixed annual tax on the practice of professions that require government licenses	Not greater than P 300
Fixed annual tax on delivery vehicles	Not greater than P 500
Annual Community Tax	Based on income, from P 5 to P5000 for individuals and P 500 to P10,500 for corporations
TAXES ON REAL PROPERTY	
Real Property Taxes (RPT), also termed Basic Real Property Tax	1% of assessed value (depending on classification) Cities are entitled to charge up to 1% more
Special Education Fund (SEF)	1% of assessed value in addition to basic RPT
Transfer of ownership of real property	50% of 1% of total consideration involved in acquisition of property
Special Assessments	No specified rate, LGU can impose levy to recover up to 60% of cost of infrastructure it developed that benefited the property owners
Idle Land Tax	5% in addition to basic RPT

Source: Local Government Code, Book II. Sections 135 -147,233-245

In a few LGUs, where commerce and industry are highly developed, the business tax is the major source of tax revenues. But, such is not the case, even in the majority of Metro Manila cities. (table 2) In general, real property taxes (RPT) account for the bulk of internally generated tax revenues, with local business taxes coming in second. For most LGUs, the tax on ownership of real property is the most significant internal source of revenue. From 2003-2007, the basic RPT together with SEF accounted for 49% of total tax revenues. All taxes on real property, taken together, accounted for 52 % of LGU tax revenues. Business taxes accounted for only 39% of LGU tax revenue.

Table 2. Percent Distribution of Tax Revenues for Metro Manila Cities, 2001-2007

City	Real Property Taxes (Basic RPT & SEF)	Business Taxes	Others
Kalookan	49	47	4
Las Piñas	48	44	8
Makati	47	48	5
Malabon	60	37	4
Mandaluyong	41	56	5
Manila	39	56	5
Marikina	62	34	4
Muntinlupa	53	40	7
Parañaque	58	38	4
Pasay *	63	34	4
Pasig	46	50	4
Quezon	36	53	11
Valenzuela	45	46	5
Metro Manila Average	46	49	5
National Average[5]	49	39.5	11.5

Source: Bureau of Local Government Finance, Department of Finance * Total is greater than 100 due to rounding.

The major sources of tax revenue— levied on donations, estates, individual and corporate incomes; excise, value-added (VAT), documentary stamp taxes on goods, services and transactions; as well as customs duties—are collected by the national government through its revenue agencies, the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC), under the Department of Finance (DOF), not by local government units. It is from these tax revenues that LGUs receive an annual Internal Revenue Allotment (IRA), equivalent to 40% of the amount collected in the 3rd fiscal year preceding a current fiscal year (Section 284). Other external sources of revenue of LGUs are grants and shares in the proceeds from the development of national wealth located in their territories, shares from taxes collected in export processing and other special economic zones, shares from the tobacco excise tax, etc. but these are relatively insignificant in terms of contribution to overall LGU revenue.

Table 3. Average Percent Distribution of Local Government Revenues CYs 2003-2007

Revenue Source	% of Total Revenues	
EXTERNAL		66
IRA	64.54	
Other External Sources	1.88	
INTERNAL		34
Property Taxes	13.10	
Local Business Taxes	9.99	
Non-Tax Revenues	8.20	
Other Taxes	2.29	
TOTAL		**100**

Source: Rhea, Caro L., "Revenue Performance of Local Governments", NTRC- Tax Research Journal, Vol.XX.6

[5] NTRC- TRJ 2008, Vol, XX.6, pp.35-39

In practice, the IRA is first allocated to the different levels of local government: 23% each for provinces and cities, 34% for municipalities and 20% for barangays. Individual shares of LGUs in each category are then calculated on the basis of a formula that gives a 50% weight to population and 25% to land area. The remaining 25% is shared equally. (Section 285)

There are two much-debated issues that have been raised in relation to the allocation of the IRA. The first concern is whether or not the formula is equitable. Since the formula is not based on the costs of shouldering the devolved functions, the question has been raised on whether or not the IRA allocations are sufficient to cover these expenditures and if not, whether or not it allocates a fair share to less developed LGUs.

Local government units are a heterogeneous group that face varied administrative, technical, and financial challenges in revenue generation. Ironically, the level of their economic development is negatively related to their ability to raise revenues but positively related to their need for these revenues. Since 50% of the IRA is allocated on the basis of population, there is a tendency for more developed and more densely populated areas, with greater revenue opportunities to receive larger shares. For example, Prosperous Makati City's IRA amounted to more than twice the combined IRA of 14 fifth class municipalities in Laguna.[6]

Another major issue is whether or not the IRA promotes dependence rather than self-reliance on revenues from the national government. Several studies[7] have pointed out that since the tax assignment for LGUs is insufficient to cover their corresponding expenditure assignment, it necessarily creates dependence on the IRA and that the IRA may constitute a disincentive to more effective LGU generation of revenues from their own sources.

It is evident that LGUs are dependent on the IRA. On the aggregate, the IRA contributes 66% of total LGU revenues (table 3). Cities are less dependent on the IRA, which represents about 46% of their total revenues but provinces and municipalities rely on the IRA for more than three-fourths of their revenues.[8]

However, there is an even more disturbing concern: Given a situation where the national government has a poor record of revenue generation and heavy fiscal obligations, particularly debt service, the IRA represents a strain on the national budget. In the period, 1995-1999, it averaged at 14.6% and grew to 17.8% from 2003-2007.[9] On the other hand, the majority of local governments rely mainly on taxes on real property for local revenue generation but studies have shown that less than 60% of property taxes are effectively collected.[10]

Consequently, development expenditures for the benefit of the Philippine population are held in abeyance by the combined inefficient performances of both the national and local governments. Reforms are much-needed and overdue, at the national as well as the local levels.

This paper seeks to address the problems and obstacles faced by LGUs in the generation of revenues from their most stable and to date most substantial source, real property. Keeping in mind the importance of enabling the fulfillment of development objectives and service provision that go with effective and responsible governance, it is hoped that some small contribution may be made towards the achievement of greater efficiency in local government tax collection, particularly in the collection of real property taxes.

[6] Diaz-Manalo, Pamela, "Reform Directions on the IRA" Policy Advisory No. 2007-01, Congressional Planning and Budget Office, p.10.

[7] See Manasan 2005 and Diaz-Manalo 2007

[8] Ibid, p.6

[9] Diaz- Manalo (2007) p. 5.

[10] NTRC TRJ 2007, Vol. XIX.1, p.7

Objectives, Methodology and Scope

The objectives of this paper are to (1) identify the problems that face real property taxation at the local government level, (2) identify the acts of commission and omission, or methods by which real property taxes actually due are unpaid or uncollected and thus evaded, (3) identify the administrative, political and possibly socio-economic factors that contribute to the persistence of these practices, (4) present an analysis of their relationship and (5) make recommendations for curbing negative practices and enhancing positive practices towards more effective implementation of the real property tax (RPT) in local government units.

Based on a review of current literature, the theoretical framework of the study (Section III) briefly presents factors that affect tax compliance. Distilled into the Philippine context where development is uneven, technological backwardness is the condition of many LGUs and a general perception of widespread corruption, these factors are presented as existing in combination and influencing each other. Technological/administrative factors and socio-political factors are understood as complementary to the other, i.e., aiding or deterring the other and consequently the success or lack of success in LGU taxation.

Section IV contains the implementation details of real property taxation as defined in the Local Government Code of 1991 and the revenue performance of real property taxes which provides a useful background for the presentation of findings that follows in Section V. Evidence gathered from previous studies and other secondary material is presented and supplemented by interview results of key informants. The failure of RPT implementation is discussed—from record keeping, estimation, and the employment of various tools and civil remedies for collection. Section VI deals with corruption and methods of evasion. Finally, conclusions and recommendations follow in Section VII.

Time and budgetary constraints allowed only for field work in Metro Manila cities. Nevertheless, it was presumed that lessons could be learned from the performance of the more developed LGUs that have greater access to modern technology. Interviews were conducted with tax officials of six Metro Manila cities.

Cities targeted for interview were not randomly selected. But an effort was made to have a representative sample. Three of the cities rely more on real property taxes and the other three - major business centers – generate more revenues from business taxes than real property. In addition, three of the cities whose officials were interviewed were among those that ranked highest for increased tax revenues and the other three ranked lowest from the period of 2001 to 2007. These interviews were supplemented by brief interviews with 25 taxpayers and one official of the Civil Service Commission.

A total of 8 LGU officials were interviewed: 6 City Treasurers, 1 Assistant City Treasurer, 1 Assessor, 1 Assistant Assessor. It was not easy to get city officials to spare the time for interviews. In some cases, the research was delayed for weeks in order to secure appointments with city officials. There was also a perceived wariness on their part. Some made vague or defensive statements and had to be assured that their responses were confidential before they became comfortable enough to engage in a fruitful discussion. Others were unwilling to share city documents. Because of the assurance of confidentiality, the respondents and cities are not referred to by name in this paper.

The questions posed to city officials were the following: (1) Is it possible to avoid paying RPT in your city? (2) How has computerization improved your ability to collect the RPT? and (3) What collection remedies are utilized to collect delinquent RPT? Are these effective? Under what circumstances?

To the extent that respondents warmed to the discussion, they shared more details on their efforts to improve collection, on past and current problems and even on the detection and prevention of corruption. Otherwise, the questions were limited to how they improved collection, and what programs and methods were used by the city government to keep and update records as well as track and collect unpaid taxes that were past due. Lastly, an interview with an officer of the Civil Service Commission was conducted in response to various comments from city officials about the difficulty of removing erring and or dishonest city personnel.

Taxpayers were asked if they paid their property taxes and if not, if they had been notified of their delinquency. Since the interview involved tax evasion, only taxpayers that were believed amenable to cooperating with the research were approached. The pool of respondents was therefore limited to 25 personal acquaintances and even then, despite assurances of confidentiality, some of those approached were clearly unappreciative of the inquiries and defensive in their replies.

The focus of the study is on the poor performance in RPT collection, on acts and practices that abet, enable and constitute partial or complete evasion of these taxes. The problem of tax avoidance where lawful means are employed, a discussion of which is too detailed, is not covered by this paper. Nor is it within the scope of this study to estimate the extent of evasion in respect to real property taxation. Furthermore, the study is limited to real property taxes. Although the RPT is imposed on ownership of property, i.e., land, buildings and other improvements on the land and machinery, this study does not include a discussion on the taxation of machinery because the base and rates applied are too varied to allow for a tight discussion of the issues. For example, photo-copying machines are taxed as real property but their rates differ greatly from the taxation of machinery used in manufacturing as would their significance for revenue-generation. Other taxes on real property are not treated as thoroughly as the Basic RPT.

Incidence of Real Property Taxes.

The question of incidence speaks to who is responsible for paying the tax and corollary to this, who would have the motivation to make sure that it is paid or to evade paying the tax. The statutory incidence of real property taxes is on the owner of a property. Although there are various theories on how to assign the actual incidence of this tax, for the purposes of this paper, the view that the owner bears the incidence of the tax is adopted.

First, such is plain in cases where the property is for personal use, such as a residential property. Second, in cases where the property is utilized commercially and is a source of income for the owner, if the tax is not paid, it is the owner who risks losing the property and the income derived from it.[11] It is easily conceivable that the tax can be passed on to a user or leaseholder of the property since the rent can be easily calculated to include the cost of the tax. But, if the owner can pass on the burden of the tax and at the same time decrease the amount of the payment due, then she/he stands to gain more from the rental income whereas the renter will be none the wiser or better off. Thus, the benefits of keeping the property safe from expropriation as well as the risks and potential savings from successfully evading the tax redound to the owner.

Corruption.

Corruption is perceived to be prevalent in the Philippine political system. Studies abound that take note of this in relation to tax collection and it is often noted as a factor that affects both government performance and public perception of the government. In the latest Social Weather Stations survey on sincerity in fighting corruption, the two revenue agencies of the national government, the Bureau of Customs and the Bureau of Internal Revenue not only had negative ratings but were in the bottom three. However, it should be mentioned that city and municipal governments rated positive and moderately good.[12] Nevertheless, this study assumes that prevailing conditions in the Philippine economy are largely responsible for the poor revenue performance of tax collection in general and in particular in the collection of property taxes by the LGUs.

A taxpayer may decide to evade a tax entirely on his own, i.e., without the collusion of any government party. But tax evasion is less difficult and less risky when it is carried out with the cooperation, assistance or facilitation of a government agent or office. While savings are reduced because of the cost of the "assistance", attendant risks are also reduced, especially in cases where the evasion or non-compliance has already been discovered.

In general, the procedure for such evasion is for a taxpayer to secure the "assistance" of a person or persons in government, who can assist in reducing the tax liability. Payment is made once there is agreement on the amount to be paid. BIR agents and revenue officers have a rather infamous reputation and have been known to pocket a portion of "negoti-

[11] It is conceivable that a renter may continue to rent a property even after the owner has lost it at least for some period of time.

[12] Social Weather Stations, 2008 Survey on Corruption, http://www.sws.org.ph/pr081121.htm

ated" payments that is larger than the portion submitted to government. Taxpayers have attested that the official receipts they received after making a "negotiated" payment did not even approach one-third of the total amount paid. [13] The Philippine Center for Investigative Journalism has published a recent case where the taxpayer's receipt was for no more than 7% of what he actually paid.[14] Thus, revenue due the government is twice reduced, first by the act of negotiation and second by the diversion of part of the amount paid into the pockets of government officials.

Collusion with revenue officers and other government agents can take place at each stage of the collection process: upon declaration of the asset to be taxed, during assessment to determine the amount of tax liability, upon receipt of notices of non-payment, during inspection, audit and foreclosure procedures.

Close and cooperative relationships in Philippine society.

It is a common practice in Philippine society to seek out a connection whenever there is occasion to deal with a government body. This is done when dealings with government entail the payment of taxes and other charges or just the procurement of a document, e.g. a certification, a copy of a land title.

It may be a practice that is somewhat reduced by the less affective and cooperative relations in big cities but in provincial communities and most local government units, where people know each other or know of each other, the practice of sharing connections and extending assistance to connections of connections, is not an uncommon practice. Close family relations where each member can expect to be provided with assistance whenever such is needed extends to members of the extended family and the community. In fact, it is normally considered an undesirable personal quality in a person, if she/he cannot be approached for such a favor or refuses to accommodate this sort of request. Politicians and important community figures are considered kindly if they are "*madaling lapitan" , i.e.,* approachable in this sense.

Perhaps, it is a practice that has developed from an awareness of the impersonal and uncaring attitude of government towards people who are "nobodies" and can at times be of help to ordinary citizens. However, in a context where corruption exists, this custom facilitates citizens' access to opportunities for collusion with government personnel in pursuit of corrupt practices.

[13] For more evidence and discussion, see Gomez, M. and Malaluan, N., (2006), "Evasion in Philippine Estate Taxes"
[14] LLanto, Jesus F., "BIR Provides a Rich Broth for Corruption", http://www.pcij.org/stories/2000/bir.html

Factors that affect tax compliance

There is a rich literature on tax evasion that identifies many factors that abet or deter from tax compliance. Although the studies cited below do not apply to property taxes in particular, they are applicable to the subject at hand in that they identify factors that are applicable to the payment of taxes in general.

The decision to comply or not comply with a tax obligation is akin to a portfolio choice, where the utility of noncompliance, in the form of savings for the taxpayer, is weighed against the disutility of incurring penalties which increases if the risk of detection is high. (Allingham and Sandmo 1972). If evasion and corrupt practices are perceived possible, the decision to evade is made by both the taxpayer and the corrupt official, the latter weighing the utility of added income against penalties in case of detection. If the official is in a position to decrease the probability of detection, or even effectively eliminate it, as would be the case where corruption is generally practiced or accepted, then evasion is the "winning choice" for both the official and the taxpayer.

The probability of evasion is strengthened by the belief that it can be done and is generally practiced. To the extent that taxpayers perceive it possible to achieve evasion, the motivation to commit tax evasion is strengthened. If such is the case, then a notice of delinquency may lead a taxpayer to consider evasion as the route of choice before she/he even considers simply complying with a tax obligation.

In a study on income taxes, Bloomquist concluded that individuals at higher income levels are less likely to fully comply with their tax obligations whereas the opposite is true of with those at lower income levels. The assets and transactions of the former are generally visible, whereas those of the latter are subject to third party reporting. The reverse may be true in the case of property taxes, because the real properties of higher income individuals, presumably prime properties, are probably more visible. However, this does not obviate the influence of other

One finding was that the use of a lawyer or accountant was positively related to non-compliance in cases where the tax obligation was more ambiguously defined (Andreoni, et.al. 1998). Applying this result to the subject under study, it can be surmised that such expertise can more likely be employed by those who have the means to do so. However, it was also found that the most common reason for initial tax delinquency was a lack of funds (Ritsema, et.al. 2003). Several of the city revenue officials forwarded a similar opinion in the course of the interviews.

Increases in tax liability, administrative requirements and heavy handed enforcement were also found to have a negative relationship to tax compliance (James 2004). Several city officials interviewed also added that it was important for taxpayers to perceive that the taxes imposed on them as fair and that LGU expenditure was responsible and provided better services as a result of better tax revenues.

Allingham and Sandmo (1972) found that moral factors had no effect on the compliance decision but Andreoni, Erard and Feinstein (1998) found that guilt and shame encouraged compliance. While there is no unanimity on the effect of social/moral factors, it should be pointed out that these factors do not come as heavily into play if evasion and corruption are institutionalized and/or perceived to be the norm. The worst part of this situation is that at least some of those who have not gone down the road of evasion, may feel cheated, not because they complied when others did not, but because they did not find the opportunity to do otherwise.

Table 4. Factors that affect tax compliance

Factor	Compliance	Source
↑ Probability of detection	↑	Allingham and Sandmo (1972), , Manasan (2000) and Alm (2006)
↑ Transaction visibility	↑	Bloomquist (2003)
Higher income level(because of less transaction visibility)	↓	
Lower income level (usually subject to 3rd party reporting)	↑	
Income inequality and unemployment	↓	
Younger age and single status (due to greater information and higher education)	↑	Ritsema, Thomas and Ferrier (2003)
Lack of funds	↓	
Prior state contact (receipt of notice)	↑	
Use of a lawyer or CPA in unambiguously defined items	↑	Adreoni, Erard and Feinstein (1998)
Use of a lawyer or CPA in ambiguously defined items	↓	
Social factors, such as guilt and shame	↑	
↑ Increase in tax liability	↓	James (2004)
↑ Heavy handed enforcement	↓	
↑ Greater administrative requirements	↓	
↑ Perception of tax fairness	↑	Alm, Jackson and Mckee (1992)
↑ Public perception of unfair tax structure	↓	Etzioni (1986)

Implementation of Basic RPT and SEF.

Real Property Taxation by Local Government Units

The annual tax on ownership is generally referred to as the basic real property tax. To determine the amount due for basic RPT, fair market value (FMV) of the property is first determined by the LGU. Assessment levels, the percentage of FMV to which the tax rate is applied, are assigned to each property classification, according to actual use. Even if two properties are located in the same vicinity, i.e., have the same FMV, assessment levels for properties that are income-producing are generally higher than those that are purely for personal use. For provinces and municipalities, a rate of 1% is computed against the assessment value. For cities, the Local Government Code (LGC) sets a maximum rate of 2%.[15]

Example: If a parcel of land is estimated to have a fair market value (FMV) of P10 million, and it is classified as industrial or commercial, then the assessment level for the land is 50% of FMV or P5 million. The 1% property tax on land is multiplied against P5 million and the tax due is P50,000. If the parcel of land is located in Metro Manila, the tax rate can be as high as 2% and the tax due is P100,000. If there is a building on the property and its FMV is estimated at another P10 million, the assessment level is 80% or P8,000,000. If it is located in Metro Manila, up to 2% tax is imposed against the assessment value and the property owner is taxed P160,000 for the building.[16] For the Special Education Fund, an additional 1% tax is calculated against the total assessed value of the property.

Table 5.: Tax Computation for a Hypothetical Commercial Property (land and building) in Metro Manila

A. Tax Due on Land			**P 100,000**
Fair Market Value of Land		P 10,000,000	
Assessment Level for industrial /commercial land	x	0.50	
Assessed Value of Land	=	P 5,000,000	
Tax rate	x	0.02	
B. Tax Due on Building			**P 160,000**
Fair Market Value of Building		P 10,000,000	
Assessment Level	x	0.80	
Assessed Value of Structures	=	P 8,000,000	
Tax rate	x	0.02	
C. Special Education Fund			**P 130,000**
Total Assessed Value of Property (Land + Building)		P 13,000,000	
Tax rate	x	0.01	
Total RPT Due = (A +B)+C = Basic RPT +SEF			**P 390, 000**

[15]All tax, interest and penalty rates cited from the LGC are maximum rates.
[16] The rate applied here is the maximum rate defined by the LGC. The rate applied by Metro Manila cities is usually lower. See Annex for examples.

If the land is unused, a special tax on idle lands, an additional 5%, is imposed. LGUs can also impose a special levy on properties that have benefitted from public works projects funded by the LGU. The local government is allowed to raise up to 60% of the cost of these projects from the imposition of the special levy. With the exception of transfer taxes which become due upon registration of ownership, all other taxes on property are annual taxes. Transfers of the ownership of property are taxed by local governments at the rate of not more than 50% of 1% of the total consideration involved in the acquisition or the fair market value as determined by the LGU, whichever is higher.

Government agencies make FMV estimates for different purposes. The Department of Public Works and Highways has an FMV schedule that it uses for the purpose of expropriating property for infrastructure. The Bureau of Internal Revenue has zonal valuations that are used for the determination of capital gains, documentary stamp and estate taxes. LGUs have their own FMV schedules that are generally lower than the zonal values of the BIR and curiously enough differ from one LGU to another.

Table 6: FMV Schedules for EDSA Across Several Metro Manila Cities

Caloocan	P 55,000
Quezon City	P 5,500
Mandaluyong	P 12,000
Makati	P 48,000
Pasay	P 25,000

Source: "Best Practices in Local Government Finance", Quezon City Treasurer Victor B. Endriga, Power Point Presentation

In accordance with the LGC most LGUs allow Basic RPT to be paid in four quarterly installments. If the RPT has not been paid within the quarterly deadlines, then the taxpayer's account becomes delinquent and the tax liability increases via the imposition of interest (2% per month for a maximum of 36 months) and penalties (a surcharge of not more than 25%). But LGUs have the discretion to charge less, for example, in Quezon City, interest is also 2% but only for a maximum of 18 months.[17]

Assessor's offices (AOs) of each LGU take charge of preparing schedules of fair market values and assessment levels. Upon their recommendations, the local legislature or *Sanggunian*, enacts all tax ordinances for fair market value, assessment levels, and rates to be applied. It also legislates exemptions, e.g., after calamities and authorizes tax amnesties and other tax-related programs. LGUs are allowed to raise their rates by no more than 10% at any given time and not more often than every 5 years.[18]

Owners of real property are required to make a declaration of their properties at least every three years at which time they are issued Tax Declarations, which contain the assessment values of the property and the amount payable for Basic RPT. In recognition that not a few taxpay-

[17] Quezon City Revenue Code 2009

[18] See Annex A for comparative rates and assessment levels.

ers may prefer to remain under the radar, so to speak, and forego an assessment of the tax or escape a re-assessment when improvements have been added to the property, AO personnel survey the territory of the LGU and on this basis update their records. RPT is collected by the Treasurer's Office (TO) of each LGU. Taxpayers are informed of their delinquency by notices sent out by the Treasurer's offices.

Unpaid RPT is a legal lien on property and places the owner in danger of forfeiting it to cover the tax obligation. The property can be sold at auction or if unsold, be forfeited in favor of the LGU. The owner of a real property that has been auctioned is entitled to the after-tax gains from the sale and after the cost of auctioning the property has been deducted. A property owner can still redeem his property by paying the tax, penalties and interest charges due within one year after the property has been sold. Uncollected RPT can be collected only within a five-year period from the time of delinquency unless fraud or evasion has occurred, in which case the LGU has a ten- year period to collect the tax.

Implementation of Other Taxes on Property.

It has been mentioned above that the overall collection efficiency of RPT is a mere 55%. The situation is no better for other LGU taxes on real property. With the exception of the SEF which is collected simultaneously with the Basic RPT, the other taxes on real property, suffer from ineffective or even non-implementation and contribute little to LGU tax revenues. (table 7)

The Special Education Fund (SEF) is collected as an addition to the annual tax on property ownership and no distinct or remarkable observations on its implementation were found, in secondary material or from interview respondents. In fact, even if its rate is often lower than for the Basic RPT, the tax has generated almost as much revenue. It can therefore be concluded that the tax is implemented just as well as or as poorly as is basic RPT.

The implementation of the tax on property transfers has a poor record. From 2003 -2007, its contribution to local tax revenues was a mere 2.74%. The rate of the tax is a maximum of ½ of 1% of the value of a property. An NTRC study concludes that "The prevalent practice among taxpayers to undervalue sales data has undermined the potential of the tax from generating sufficient revenue. The high cost of transferring properties in the Philippines (almost 8% compared to other countries which ranges from 0.5% to 4.5%) is seen as a major reason why taxpayers under-declare the value of property or worse, engage in informal transactions."[19]

Special Levies are of course only applicable when an LGU project has increased the value of given properties. But, according to the National Tax Research Center, the tax is often not implemented. "…some LGUs do not impose the special assessment due to lack of familiarity and expertise on the mechanism for its implementation. Others deem it irrelevant since government projects will anyway translate into higher market values of adjacent properties, thus resulting in higher realty tax due which would cover the cost of the public infrastructure." [20]

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[19] NTRC TRJ 2008, Vol. XX.6, p. 37
[20] NTRC-TRJ 2007, Vol. XIX.1 p.9

With respect to the idle land tax, the same study found that in 2004, only 1 province and 3 cities had reported that they implemented the tax and that only 4 more provinces and 1 city reported implementation of the tax in the following year. However, this research found other cities that were implementing the tax and has, in the past, observed that LGU reporting to national government agencies can often be far from adequate. Nevertheless, that the tax contributes so little to the RPT is indicative that it is often not implemented. The reasons cited by the study for this non-implementation are "… (a) lack of appropriate guidelines for its implementation; and (b) lack of a definite criterion on what is an 'idle land'."[21]

Most of reasons cited for the non-implementation of the idle land taxes do not appear to be reasonable. The law itself is quite clear on the base and other particulars of the tax including the definition of what constitutes idle lands. The only reasonable supposition for the non-imposition of these taxes is that LGUs perceive these taxes to be an additional burden or even an onerous burden, that their implementation would be unpopular with the taxpaying public or that gains from these taxes are not worth the bother entailed in implementing them.

Table 7. Average Contributions of Various Types of Property Taxes (2003-2007)

Tax	% Share
Basic RPT	47.55
SEF	46.92
Transfer Tax	5.32
Special Assessments	0.16
Idle Land Tax	0.05
Total RPT	**100.00**

Source: NTRC-TRJ 2008, Vol.XX.6

Revenue Performance of Property Taxes.

The bulk of LGU revenues comes from external sources. From 2001 to 2007, external sources accounted for 67% of total LGU revenues, while local sources (tax and non-tax revenues) accounted for a mere 33%. The Internal Revenue Allotment constituted 97 % of external sources of revenue received by LGUs.[22]

Among the various taxes imposed on property, the most significant contribution is made by the Basic RPT (that imposed on land, structures and machinery) and the Special Education Fund. Together these account for 94.5% to local tax revenues. The other taxes on property - Special Assessments, the Idle Land Tax and the Transfer Tax – contribute the remainder. (table 7)

From 2001-2007, taxes on real property accounted for 39% of locally generated revenues (tax and non-tax) and 52% of all LGU tax col-

[21] Ibid, p.10
[22] NTRC TRJ 2008, Vol. XX.6, pp.35 ff.

lections. However, relative to business taxes, the importance of RPT has been decreasing particularly in the more developed LGUs such as those in Metro Manila. (table 8)

Table 8. Average Shares of Real Property Taxes (RPT) and Business Taxes (BT) 2001-2007

	Share (%) of locally generated revenues		Share (%) of local tax revenues	
	National	Metro Manila	National	Metro Manila
RPT	39	40	52	46
BT	30	42	39	49

Sources: For national data: NTRC-TRJ , 2006 Vol.XVIII.1 and 2008, Vol.XX.6,
For Metro Manila data, Bureau of Local Government Statistics, DOF

Table 9. Growth Rates of the Sources of LGU Revenues (2001-2007)

	National	Metro Manila
Real Property Taxes	67	74
Business Taxes	90	95
Total Local Taxes	73	84
Non-tax Revenue	85	192.1
Total Tax and Non-tax Revenues	76	97

Sources: For national data: NTRC-TRJ Vol.XVIII.1 p.11 and Vol.XX.6 p.47,For Metro Manila data, Bureau of Local Government Statistics, DOF

In absolute terms, business taxes (BT) yield less than RPT, but RPT collections cannot account for the increase in tax take. Over the same period, the growth of business taxes is substantially greater than that of RPT and is apparently responsible for the growth of local tax revenues. Non-tax revenues have contributed to the overall growth in LGU sources of revenue but have much smaller yields. In sum, the tax and non-tax revenues of LGUs have grown and the growth of all other tax categories surpass that of the RPT.

Notwithstanding the increasing importance of business taxes, overall, RPT is still the most important revenue source of LGUs. Despite its poor performance, real property remains an important base for LGU taxation and revenue generation. This is especially true for the majority of LGUs which are less developed and whose opportunities for levying business taxes are limited.

Overall, RPT is still the most important revenue source of LGUs. Furthermore, its tax base has the characteristic of permanence and if faithfully and properly implemented can become a stable and relatively predictable source of revenue for LGUs. However, not a few studies conclude that the potential of RPT for revenue generation is underutilized.

Defined as the ratio of actual to potential collections, the estimated collection efficiency of RPT from 1993 to 2004, is a mere 58%.[23] From 2001-2005, it decreased to 55%.[24]

In consultation with the Bureau of Local Government Finance of the Department of Finance, LGUs in Metro Manila set targets for RPT collection in 2008. The targeted increases over previous year's collections varied for each city—from 7% to 100% increases. Eighty-five percent of the regional target was achieved. Less than half (6 out of 14 cities) reached and overshot their targets, a few by as much as 20%. The poorest performer had collected only 58% of the target.

The Successes and Failures of RPT Implementation

Record Keeping and Computerization.

The proper implementation of the RPT depends much on the record keeping of an LGU. AOs are supposed to have a complete listing of the individual units of the base of this tax. Prior to computerization, tax declaration records were handwritten into ledgers or in index cards. Aside from the possibility of human error in data recording, records were extremely easy to alter and could even be made to disappear. When an anomaly was discovered, human error was often used as an excuse for the discrepancy.

All Metro Manila cities have undertaken to computerize their record systems.[25] City A hired a private professional company to install its system. The City has done away with the index card system. Since the AO and TO have access to same data, it has become easy to identify delinquencies and the system automatically generates delinquency reports.

Property assessments are dependent on the data entered into the database. City A employs an electronic Geographic Information System (GIS) which displays and tracks the location and characteristics of real properties for assessment purposes. The system enables the AO to keep track of changes with respect to a property, e.g. if ownership has changed, if improvements are made or if the actual use of the property is being done or not, for possible re-assessment. Assessment values are integrated into the data base so there is little room for discretion and less opportunity for connivance between taxpayers and tax collectors. Computerization in City A has made it easy to identify fake Tax Declarations and Certificate to Authorize Registration which are used to evade taxes on the transfer of real property.

The computerization of real property records in City B was completed in 2005. In the process of converting taxpayers' index cards to computerized data, they found that some taxpayers had multiple records placed in different filing cabinets, implying that their records had been altered. But as a result of computerization, records have been cleansed and the official claimed that RPT collections subsequently doubled.

[23] NTRC-TRJ, 2006, Vol. XVIII.1, p.15
[24] NTRC-TRJ ,2007, Vol. XIX.1, p.7
[25] Computerization programs have been increasing among LGUs, some of them with the aid of foreign funding.

From pre-computerization levels (2004), it actually increased by 75% in the next year and had almost doubled by 2006.[26] Its system also included a **GIS,** but when a new mayor came into office two years later, its use was discontinued. According to the official interviewed, the Mayor "had other priorities."

The computerization of City B records has improved taxpayer service, making it easier to find and access their accounts upon entering the names of the registered owners and the location of the properties. It has also established a separate section for the billing of delinquent accounts. The official interviewed expressed confidence in their system and stated that there has been no attempt to hack into the computer system and change some of its information.

City C's RPT collection is fully computerized. The city official stated that their system has security features which disallow the manipulation of the assessed tax due and prevent the manipulation of the encoded data. However, he admitted that if the tax declarations entered into the data base contained discrepancies in the first place, then the system is at least partly compromised. Prior to computerization, it was more difficult to detect delinquency e.g., when taxpayers paid only the initial down payments for the tax and then discontinued payment.

The computerization of records in City D was not as successful as those previously mentioned. It took over five years to complete and they have experienced major glitches in the system. In several instances, IT personnel were able to manipulate the system. In one instance, an official receipt number was entered twice. This means that either the IT personnel pocketed the money or the taxpayer who received the second receipt number had not actually paid the tax. In another instance, a *cedula* (community tax certificate) number was used as the receipt number for a payment, which was not actually made. The program failed to detect and reject these discrepancies which were discovered only accidentally. According to the City official, she thought that their IT personnel had corrected this problem, but that it had happened again only a month ago.

The official interviewed stated that their computerized system had been compromised. She related that she had been temporarily transferred out and when she returned, what she called an audit trail in the program had disappeared. In fact, the entire records for 2004 up to June of 2007 records had gone missing. She added that they have a high turnover of IT personnel which affects the handling and maintenance of their records. But, she added, the situation in general, had improved. Before computerization, taxpayers sometimes made only partial payment of their delinquency but the records could be made to reflect full payment. Thus, they were able to redeem their property even if it was scheduled for or had been sold at auction.

The official of City E claimed that real property taxes (RPT), business taxes, and regulatory fees had been computerized and that the City has a GIS of taxable real properties. However, the official stated that the data on real properties needed updating and that the GIS was "not 100-percent operational." The City still experiences record-related problems, e.g., multiple tax declarations for a single property. He complained that the computerization program did not get enough funding and sometimes their machines bogged down because of age.

[26] Bureau of Local Government Statistics, DOF

Computerization of the records of City F has not been completed and the official interviewed expressed the view that the program would be helpful only if the records were kept up to date. Among the problems encountered by City F's system were: (1) changes in the status of a property were not always recorded e.g., they found that their records did not reflect that certain lands had been converted into roads; (2) some parcels of real property had multiple tax declarations because the taxpayer did not report to the city when the property was subdivided; (3) data encoded into the computerized system was based on data contained in handwritten ledgers which contained discrepancies. Thus, there have been instances when authentic records presented by taxpayers conflicted with the City's computerized data. The official also stated that there are cases when the computer data had been manipulated and surmised that someone from the assessor's office was very likely involved.

Estimating the Amount of Tax Due .

LGUs are required by law to revise FMV schedules every 3 years but "this is hardly observed" and the schedules used are "outdated" so that the FMV schedule used by LGUs are at least 25% below those used by the BIR.[27]

To give a few examples: City A's Assessor proudly stated that the City had the lowest FMV schedules when compared to other cities in the metropolis. The FMVs for City B were last revised in 1996. Instead of updating this schedule, assessment levels were raised in 2005. According to the official of City D, she did not expect any changes or increases in assessment levels because an election period was approaching. The last change in FMV for City E was in 1992. It is a city that often experiences flooding and the city official noted that this may account for the lower assessment levels of the city. This study cannot make evidence-based observations on why these LGUs failed to make upward adjustments in their FMV schedules. There appears to be an effort to keep FMV schedules at former levels and some hesitation to increase them, possibly for political purposes.

The official in City C identified a related problem. He criticized the practice of relying on what he referred to as "table assessments" as opposed to estimating individual assessments, which have to be based on field work and assiduously correcting tax declaration records.

Collection of Delinquent RPT.

Cities A and B explained that employing the help of *barangay* officials was an effective means of distributing notices of delinquency. *Barangay* officials have an intimate knowledge of their communities. In contrast, if the postal system is used to distribute notices, taxpayers can just avoid the notices by pretending that the person named in the notice does not reside there or is unknown to them.

[27] Senate Bill 1645, seeks to establish uniform and internationally-accepted standards for land valuation of real property. It states that there are "at least 23 government agencies undertaking real property valuation, each using its own system…"

The official of City B stated that their partnership with *barangay* officials had been in place for over ten years and was very successful. Upon initiation of this partnership , the City required *barangay* officials to attend lectures on tax collection and learned that they have a stake in tax collection. She said that *barangay* officials have taken to approaching the Treasurer's office to inquire if there are notices for distribution. She estimated that through them, 90-95% of the delinquency notices reached taxpayers.

The official of City D was doubtful about the wisdom of getting the assistance of *barangay* officials to locate delinquent taxpayers. In fact, he thought they were occasionally a deterrent to the delivery of delinquency notices. On occasion, he has received requests from *barangay* officials not to collect delinquent taxes, particularly on their personal property. Instead, the City hired volunteers to locate and deliver the notices to delinquent taxpayers. They are paid an allowance and the Treasurer was satisfied that this was less costly and more effective than sending the notices through the mail.

City E's Treasurer said that they often cannot locate some 90% of the delinquent tax payers so they have also sought the assistance of *barangay* officials to deliver notices of delinquency. He stated that that the post service performs poorly and cannot be expected to look for and locate taxpayers. However, he estimated that only 70% of the notices sent through the *barangays* reached taxpayers but added that only 3% of those who received the notices subsequently paid their delinquent taxes.

Of the 25 taxpayers interviewed, 14 stated that they paid their RPT annually. Two of these employed a government-connected person and claiming to have no knowledge of the details, were very vague about whether or not they paid the right amount. The reasons given for paying on time were that they wanted to avail themselves of the discounts and avoid incurring penalties.

The rest were delinquent in RPT payments for various reasons. One of them stated that she had no time to pay the tax. Another was discouraged by the arrears that had piled and claimed to be waiting for an amnesty. The rest said that they could not afford it. None of the delinquent taxpayers interviewed had ever received a notice of delinquency from their respective LGUs. One taxpayer had previously paid the tax for two years in advance but being under the impression that her advanced payment still applied did not immediately realize she was delinquent until she voluntarily went to the Treasurer's Office. Yet another taxpayer had bought a piece of land in a lower-end subdivision and was advised by a neighbor who works in the Assessor's office not to declare it because neither the city nor the *barangay* would bother to take notice of it. One taxpayer had bought a property that turned out to be delinquent for the last ten years and was attempting to negotiate terms of payment with the LGU.

Amnesties and Auctions.

Like carrot-and-stick tactics, LGUs declare amnesties for unpaid RPT and hold public auctions of delinquent property. According to several City Treasurers, the most effective combination was to hold a public auction immediately before and/or after the end of an amnesty period.

After an unsuccessful amnesty program which yielded very low collections in 2007, the Treasurer of City F, no longer wants to have anything to do with amnesties. The City now holds auctions every quarter. According to the Treasurer of City E, they hold one amnesty per political administration. The most recent, approved in 2008, condoned penalties on delinquent accounts. The amnesty contributed in identifying more taxpayers and raised P 22.7 Million. But this amount was only 68% of what the City expected to gain from the amnesty.

Based on their experience with an unsuccessful amnesty program in 1990's, the Treasurer of City D did not believe amnesties were effective. In 2009, the *Sanggunian* passed an ordinance for an "Incentive Plan for Delinquent Taxpayers" condoning 50% of interest and penalties. It also allowed payment in installments after a minimum down payment of 30%. Results were still much less than expected. According to the Treasurer, most of those who availed themselves of the benefits of the program were small taxpayers.

The last amnesty program of City B was in 2000. The official interviewed believes that amnesties help in collection especially during economic downturns. But, she added, when tax collection is good, there is no reason for a tax amnesty.

City C had tax amnesty programs in 2003 and 2006. In the City Treasurer's opinion, these amnesty programs successfully increased revenues. To maximize their impact, the City held auctions right before and right after the amnesties. The City has held 7 auctions since 2002. Prior to 2002, the last one was held some twenty years ago.

The City Treasurers'doubts about the usefulness of amnesty programs is supported by other evidence. A nationwide amnesty for RPT in the late 1980's, which ran for an extended period of two years, collected a mere 19.6% of estimated delinquent revenues.[28]

While unanimously considered as much more effective for generating revenues, several officials discussed the problems they had encountered in trying to auction off property. First, the law requires LGUs to ensure that they have proof of 3 notices sent to the taxpayer. Otherwise, the 1- year period of delinquency, after which the LGU can auction a property, is temporarily suspended. But there are many instances when it is very difficult to locate the owners, until of course, they seek to stop the auction by filing for a restraining order with the courts. To avoid legal problems city officials have to make sure that they follow the rules very carefully. As an aside, one Treasurer added that the most difficult to collect from were government-owned and-controlled corporations (GOCCs). However, government property cannot be auctioned.

Even if the rule is that a property can be auctioned after a delinquency period of one year, few cities follow this rule. First, there are more delinquencies than can be auctioned off at any one time. Second, city officials try to give taxpayers some leeway. In Cities D and F, commercial properties that have been delinquent for 3 or more years are eligible for the auction block as are residences that have been delinquent for 5 years.

Recognizing that auctions create politically volatile reactions, City C makes sure that properties from all the *barangays* are included in their auctions. In this manner, the City's determination to collect delinquent

[28] 2004, NTRC, TRJ, Vol. XVI,3, p.35.

taxes is also advertised more widely. According to the Treasurer, before they started to hold auctions, RPT delinquency rate was at 20-25%. After 3 auctions, it decreased to between 10% and 20%, and is currently down to 10%.[29]

All the respondents stated that auctions have a strong positive impact on tax collection because the threat of losing the property forced people to settle their delinquencies. But one Treasurer pointed out that the holding of auctions really depended on the Mayor's policy.

The previous and present mayors of City B were not too interested in holding auctions. They thought that RPT collections were sufficient and that the process is not without its costs. But three other City officials were more explicit about the influence of the political leadership on the holding of auctions. The Treasurer has to secure the approval of the Mayor and the Sanggunian before he can initiate an auction and they observed that auctions were seldom held when elections were approaching. Several of them mentioned that, on occasion, their mayors or city officials, having been approached by a taxpayer, have asked the TOs not to include a property in the auction. They noted that despite the potential of auctions for revenue generation, auctions are also affected by politics and their success depends on the political will of city officials.

In 2002, City A ranked 9th for collection efficiency among the 13 cities in Metro Manila and had accumulated an RPT delinquency of P 10.7 B. In that year the City implemented an amnesty program that was followed by a succession of auctions. The number of delinquent accounts compiled by the City's Real Estate Division was so large that the City had to implement a random selection scheme for properties to be auctioned. In the first auction, 46% of owners settled their delinquent accounts, 31% of properties with delinquent RPT were sold to the highest bidders and 23% were forfeited in favor of the City. In subsequent auctions, a relatively greater number of property owners (57% and 52%) chose to settle their tax obligations. [30] At present, the City holds regular quarterly auctions. Residential properties with a 5-year delinquency and commercial and industrial properties delinquent for 3 years are auctioned.

Auctions, despite their unpopularity, are a much more effective means of collecting delinquent RPT. An NTRC study asserts that "… the lack of political will to exercise the collection remedies, such as the sale of delinquent properties at public auction, has contributed to the low level of tax compliance….for the period 1992-1996, only 39.2% of the sample LGUs exercised the collection remedies."[31] Auctions are dependent on the determination of an LGU administration to collect taxes. Out of the officials of 6 cities interviewed, only the Treasurer of City A stated that he was given a clear mandate, was not interfered with and that his plans and decisions were supported by the City Mayor.

[29] City C was one of the 6 cities in Metro Manila that overshot its RPT collection target in 2008.
[30] NTRC 2004 TRJ, Vol. XVI.6, pp. 7-9
[31] Ibid., p.2

Collusion between private and public parties.

A taxpayer decide to evade taxes on his own and commit the act without the facilitation of any government personnel, if she/he thinks that detection is unlikely, at least for a limited period of time. But, when discovery happens, evasion cannot continue unless the taxpayer is able to find a person who is connected formally or informally, directly or indirectly to the taxing authority, one who will extend the needed "co-operation" or "assistance" for a fee. As the treasurer of City A put it quite plainly, evasion takes place because of "the connivance of taxpayers and collectors." Since such connivance does not occur without pecuniary gains for both the taxpayer and the corrupt public official, there is unanimity of purpose for both parties to commit evasion.

False information.

A taxpayer can manage not to pay the entire amount of the tax due by employing various methods of misrepresentation. The property can be misclassified, e.g. registered as residential or agricultural instead of commercial or industrial, i.e., placing it in a classification with a lower assessment level. The value of a property can also be diminished by omitting the existence of improvements or their value and misrepresenting the character of the improvements. Incorrect information, such as declaring that a property is surrounded by undesirables (e.g. squatters), can also be the basis for a lower FMV or assessment level to be applied to the property. In City A, such an arrangement was discovered only when a neighbor complained that his RPT tax was greater than that of his immediate neighbor's. Upon investigation, the City found out that the neighbor had secured a lower assessment by giving a misleading description of his property. One of the city officials interviewed stated that they required property owners to submit pictures of their property but if not verified by an honest public official, a misrepresentation easily escapes notice.

Information asymmetry can be profitable:

Real property cannot be taxed unless it is visible, i.e., listed in the rolls of an LGU. When a property is inherited, a taxpayer can evade the transfer tax[32] by simply taking possession of it without registering new ownership. Since the registration of new ownership requires proof that estate taxes have been paid, this practice occurs when the beneficiaries of

[32] The estate tax is collected by the BIR.

an estate find the estate taxes prohibitive or are simply unwilling to shoulder them. Even if the death of the owner is registered with the local Civil Registry, it is not automatically forwarded to tax authorities.[33] With regard to RPT, a new owner can just continue to pay the annual tax on the property for an indefinite period of time, without changing its registration.

If a property is large or of great value, it will inevitably be visible to LGU authorities. Smaller units of real property can more easily be invisible. Taxpayers are supposed to voluntarily seek Tax Declarations for their properties at least every 3 years. If an LGU is not assiduous in updating its roll of real properties and taxpayers believe that such is the case, the latter may not feel compelled to immediately pay the tax and decide to postpone doing so until a more opportune time.

Property owners are required to secure building and other permits in order to undertake improvements on a property. LGUs have these records, but only City A, from among those whose officials were interviewed, had taken steps to ensure coordination between its Engineering and Real Estate Divisions. Community Tax Certificates (CTCs) are needed for the notarization of any legal document and are based on income as well as the ownership of assets. Only City A requires proof of having paid taxes on real property before the issuance of a CTC. Thus, even assuming that the information available to LGUs is neither entirely accurate nor complete, few have taken the trouble to make full use of the information available to them.

Barring inertia, one of the reasons mentioned for the lack of cooperation and sharing of information between government offices, is the territorial protection of opportunities to engage in corrupt activities. For example, personnel from the local Register of Deeds will lose their usefulness in "doctoring" property titles and records if these can be shown to conflict with the Assessor's records. Similarly, prior to computerization, when Assessor's and Treasurer's Offices did not have access to the same data base, neither could act as a fiscalizer of the other.

Section 171 of the LGC mandates the sharing of information between the BIR and LGUs. But, until it was ordered by Executive Order (EO) 646 in 2007, the BIR treated its information as confidential and LGU requests were denied. Respondents attested that the situation has since improved but that it sometimes relies on the disposition of the BIR's Revenue District Officer (RDO) in charge, who can be accommodating or rude when she/he receives the LGU request. The Assessor of City A expressed the opinion that government agencies are not keen on computerization because it can put a stranglehold on under-the-table-transactions.

[33] For methods of evasion of estate taxes, mostly real property, see Gomez and Malaluan 2006.

A culture of accommodation?

Unfortunately, the evasion is not always done by just one unscrupulous person connected to a taxing authority. Often, there is cooperation among its personnel as well as a sharing of the benefits from such acts. At times, the cooperation merely constitutes turning a blind eye to or minimizing the gravity of these acts, when they are committed by others, in the expectation of a similar accommodation when the situation is reversed. For more complex transactions, they may involve several government personnel sharing in the gains from such a transaction.[34]

Based on the interviews with city officials, there is both difficulty and lack of determination to effectively remove corrupt personnel and thus deter corruption and evasion. Almost all the respondents complained of having to follow civil service rules that made it a long and tedious process to dismiss corrupt employees.

One Treasurer noted that she had already pressed charges against some of her subordinates. But while an investigation proceeded at a snail's pace, she could not fire them, and had to keep them in her office without allowing them to handle any transactions. In another case, the above-mentioned IT person that was involved in the manipulation of the program was relieved of his duties at the Treasurer's office but, pending investigation, had been transferred to another office. Charges against 6 of the erring personnel in City A (believed to be part of the syndicate that issued false receipts) had been filed, the rest had been transferred to traffic duty. From among the city officials interviewed, only one stated that a dishonest employee had been forced to resign.

According to the respondent from the Civil Service Commission (CSC) if the process of filing administrative action is followed assiduously, it can be completed in two months time. He said that the problem is that many investigating officers allow the respondents to use dilatory tactics and that they fail to deny pleas for postponement because of *pakikisama* (accommodation) since they are sympathetic to the respondent. He also mentioned that political considerations, such as issues of popularity, particularly with other government personnel, come into play.[35]

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[34] Ibid..
[35] A blatant example of this is the recent appeal of the BIR head not to apply the penalties of the Lateral Attrition Law that imposes penalties on personnel who failed to meet their revenue targets.

Conclusions and Recommendations

1. Computerization is not always a boon.

A complete and updated roll of the real properties that are the base of the tax is the first requirement for the collection of RPT. Manual recording systems, with the plethora of data they necessarily contain, are easily prey to replacement and alterations – on the classification of and characteristics of improvements on properties, their proper Tax Declarations, and their records of payment. In addition, the manual updating of these records is not only tedious but also presents an opportunity for unscrupulous individuals to alter or adjust them.

However, the Treasurers of only 3 out of 6 cities had confidence in the integrity of their systems and stated that tracking delinquencies and tax collections had improved. The other three had experienced post-installation problems, indicating that their systems had been compromised. These cities continued to chance upon multiple Tax Declarations for the same property, anomalous entries and missing data, i.e., unscrupulous persons were altering the cities' property records. In the case of these latter three cities, the political leadership had failed to undertake adequate measures to ensure and then protect the integrity of their records. Only one out of the three Geographic Identification Systems (that allow for the computerized generation of Tax Declarations) was being utilized.

Conclusion 1. Undertaking the computerization of tax records is only a boon, if the LGU takes steps to ensure the integrity of the system and serves to replace transactions where officials are able to exercise discretion and therefore eliminate opportunities for collusion with taxpayers to engage in acts that constitute evasion.

Recommendations 1. (a) Ensure that the data entered is accurate and complete. Random verifications of records vis-a-vis actual site inspections have to be continuously implemented until such time that the records are cleansed; (b) Allocate budgets for the continuous updating of data and the maintenance of hardware; (c) Incorporate security features against false or irregular entries and enable detection of unauthorized attempts to make new entries or manipulate the system; (d) Utilize the GIS and rely on the system to generate Tax Declarations as well as delinquency reports; (e) Ensure that the system is operated by persons of proven integrity and (f) Clearly designate responsibility and accountability for specific aspects and/or general protection of the system.

2. Information available to LGUs from its various licensing and registration offices was not being put to full advantage.

The computerized systems installed by the LGUs allowed Assessors and Treasurers offices access to a common data base. However, only one of the respondent cities took measures to gradually computerize and share data from other units within the LGU, as well as require consistency in their functions. For example, City A required proof of RPT payment for the issuance of the Community Tax Certificate, the amount of which is based on the income and assets of the taxpayer, for its engineering office to report the issuance of building permits to the Assessor's office, etc. These policies decrease the probability of discrepancies and evasive or dishonest transactions.

Conclusion 2. Failure to integrate and make full use of information available within its own organization weakens the administrative capability of an LGU to collect taxes.

*Recommendation 2 .*It is necessary for LGUs to gradually computerize all their sources of information, ensure that they are inter-linked—particularly, the Registry of Deeds and the Licensing and Permits Offices and the Assessors and Treasurers offices.

3. The lack of voluntary compliance from taxpayers and the lack of diligence from government personnel in the enforcement of remedies for collection combine to create a situation where delinquent taxes remain largely uncollected.

It was indeed surprising to learn that delinquency notices could often not be delivered because property owners could not be located. This is indicative of a lack of diligence by government personnel on the one hand and, when they refuse to divulge the whereabouts of a property owner, a cavalier attitude of taxpayers on the other. However, employing *barangay* officials to locate property owners proved to be effective in cases where the LGU took the trouble to make them understand their stake in tax collection. In two other respondent cities, young volunteers were hired to locate the owners and deliver the notices. In another two, no particular action was taken to solve this problem.

As remedies for collection, amnesties were largely considered ineffective by respondents while auctions, not without their attendant problems, were favorably considered. The statement of several Treasurers that combining the use of amnesties and auctions, with the latter immediately succeeding the former, is the most effective way to collect delinquent taxes is a most significant one. It implies that lessons were learned, i.e.., the use of carrot- and- stick tactics, where one is first given the opportunity to "come clean" and reduce or eliminate arrears or suffer the consequences. Furthermore, if auctions are held regularly (only two cities did this) the determination of the LGU to collect taxes is effectively made known and taxpayers have greater motivation to comply with their obligations.

Conclusion 3. Reliance on voluntary declarations and payments from taxpayers has to be balanced by actions and policies that demonstrate the determination of the LGU leadership to collect taxes.

Recommendation 3. Lessons can be learned from the experiences of the LGUs that (a) fostered a workable partnership with barangay officials to collect taxes and even more importantly (b)held regular quarterly auction sales of properties that were delinquent in RPT.

4. Information provided by respondents was interspersed with examples of outright corruption and unethical political accommodation.

Several treasurers stated that tax collection is ultimately a function of the political will of the LGU leadership. This applies to all aspects of the process—from ensuring that data is correct, complete and not tampered with, to the diligent application of enforcement measures without favor to particular parties, to making sure that LGU employees do not engage in corrupt and illegal activities. Failing to ensure any one of these obligations, unless it can be ascribed to an unlikely incompetence, cannot be without pecuniary or political gains. Unfortunately, only the respondents of one city gave a picture of professionalism in the operations of the city government.

It might be useful to treat corruption, not as individual acts of dishonesty but a set of systemic practices that have come to be accepted within government. If so, then the struggle to cleanse the ranks of LGU personnel is even more difficult. Most government employees are career personnel, i.e., civil servants with security of tenure, while the political leadership has a fixed term of office. This alone may be a disincentive to engage in a "clean-up" and a well-meaning political leader may tend to make modest improvements without substantially rocking the boat. However, one cannot discount the influence of other factors that may help tilt the balance in favor of reform. Socio-political factors interact with technological and administrative factors to uphold negative practices or reinforce improvements.

Conclusion 4. Just as poor and/or self-serving political leadership had a negative effect on the technical programs to improve tax collection, so can a thorough and loophole-free implementation of those programs, make it more difficult for government personnel to enable evasion and/or the practice of political accommodation and corruption.

ANNEX 1: Comparative Assessment Levels and Rates of Real Property Taxes: Local Government Code and Selected Cities

Assessment Levels for Land:

Classification	LGC (Statutory Limit)	Quezon City	Manila	Malabon
Residential	20%	18%	20%	20%
Agricultural	40%	18%	-	40%
Commercial	50%	45%	50%	50%
Industrial	50%	45%	50%	50%
Mineral	50%	-	-	50%
Timberland	20%	-	-	20%

Assessment Levels for Buildings and Other Structures

Classification	LGC (Statutory Limit)	Quezon City	Manila
RESIDENTIAL			
With FMV not > than P175,000	0%	0%	0%
With FMV from P175,000 to P10,000,000	10% to 60%	10% to 60%	10% to 60%
COMMERCIAL/INDUSTRIAL			
With FMV not > than P300,000	30%	30%	30%
With FMV from P300,000 to P10,000,000	35% to 80%	35% to 80%	35% to 80%

Rates

BASIC RPT			
Residential	1% for provinces and 2% for Metro Manila area	1.5%	1%
Commercial/Industrial		2%	1.25%
SEF	1%	1%	1%
IDLE LANDS	5% in addition to basic RPT	Additional 3% for properties located along existing national highways and 1% in all other areas	½ of 1%
TRANSFER TAX	50% of 1%	75% of 1%	75% of 1%

Sources: Local Government Code, RA 7160; Quezon City Revenue Code as Amended 2009; Ordinance No. 8079 of the City of Manila; Malabon City Treasurer; NTRC-TRJ 2008, Vol.XX.5, “Property Tax Compliance and Distributional Impact Study on Naga City.”

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