

REPUBLIKA NG PILIPINAS  
SANGGUNIANG PANLUNGSOD  
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE ELEVENTH  
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE  
PLACIDO ENECIO HALL, SANGGUNIANG PANLUNGSOD  
BUILDING ON DECEMBER 07, 2007 IN LIEU  
OF DECEMBER 06, 2007

PRESENT:

Hon. Demosthenes F. Tugonon,

Temporary Presiding Officer  
(City Councilor)

Hon. Claudio P. Larrazabal,

City Councilor, Floor Leader

Hon. Sotero M. Pepito,

City Councilor, Assist. Floor Leader

Hon. Ruben R. Capahi,

City Councilor

Hon. Mariano Y. Corro,

City Councilor

Hon. Fe S. Lladoc,

City Councilor

Hon. Filomeno P. Maglasang,

City Councilor

Hon. Rafael C. Omega, Jr.,

City Councilor



ABSENT:

Hon. Nepomuceno P. Aparis I,

(Acting City Mayor), Vice Mayor &  
Presiding Officer

Hon. Fernando P. Parrilla,

(Special Leave), City Councilor

Hon. Jose C. Alfaro, Jr.,

(O.B. - Cebu), City Councilor

Hon. Cheryl A. Arcuino, (O.B. - China), Ex-Officio City Councilor,  
SK Federation President

EXPLANATORY NOTE

This Sanggunian is in receipt of Local Finance Circular No. 2-07, dated February 26, 2007, which amends Section 2 and 5 of Local Finance Circular No. 1-93, dated June 16, 1993 prescribing the guidelines governing the power of municipalities and cities to impose a business tax on banks and other banking institutions pursuant to Section 143(f), 150 and 151 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, and its implementing rules (IRR).

The guidelines prescribed by the Department of Finance are to ensure the proper and effective exercise by cities and municipalities of their taxing powers under the LGC as implemented under Rule XXX of the IRR. The authority of the Secretary of Finance to prescribe the guidelines is anchored in Art. 287 of the IRR, which reads: "the Secretary of Finance shall, in consultation with the leagues of LGUs, formulate and prescribe, from time to time, procedures and guidelines as may be necessary for the proper, efficient, and effective implementation of this Rule (Rule XXX, Local Government Taxation).

Section 4 of the aforementioned Local Finance Circular No. 2-07, par.(a) thereof, states: "(a) The tax on banks and banking institutions as provided herein may be imposed by a city or municipality only through an appropriate ordinance enacted by the Sangguniang Panlungsod or Sangguniang Bayan, as the case may be. Such Ordinance shall be enacted and approved in accordance with Article 107, 108, 275 and 276 of the IRR";

Hence, the enactment of this Ordinance.

FOREGOING PREMISES CONSIDERED, on motion of City Councilor Mariano Y. Corro, Committee on Ways and Means, severally seconded by City Councilors Rafael C. Omega, Jr., Ruben R. Capahi and Sotero M. Pepito; be it



ORDINANCE NO. 138

AN ORDINANCE ESTABLISHING GUIDELINES ON THE IMPOSITION OF BUSINESS TAX ON BANKS AND OTHER BANKING INSTITUTIONS PURSUANT TO SECTION 143 (f), 150 AND 151 OF THE LOCAL GOVERNMENT CODE OF 1991.

BE IT ORDAINED BY THE ELEVENTH SANGGUNIANG PANLUNGSOD NG ORMOC THAT:

SECTION 1. Title - This Ordinance shall be known and cited as the "2007 ORDINANCE ESTABLISHING GUIDELINES IN IMPOSING BUSINESS TAX ON BANKS AND OTHER BANKING INSTITUTIONS OPERATING IN THE CITY OF ORMOC".

SECTION 2. Purpose - To ensure the proper and effective exercise by the City of its taxing powers on banks and other banking institutions.

SECTION 3. Definition/Description/Explanation of terms & phrases:

- a) CITY - refers to the City of Ormoc.
- b) BANKS or BANKING INSTITUTIONS - shall refer to persons or entities engaged in the lending of funds obtained from the public through the receipt of deposits or sale of bonds, securities or obligations of any kind and all entities regularly conducting such operations. The term "bank" and "banking institutions" are synonymous and interchangeable.
- c) Banking institutions include the following:
  - (1) Entities regularly engaged in the lending of fund or purchasing of receivables of other obligations with funds obtained from the public through the issuance, endorsement or acceptance of debt instruments of any kind for their own account, or through the issuances of certificates of assignments or similar instruments with recourse, trust certificates, or of reproaches agreements, whether any of these means of obtaining funds from the public is done on a regular basis or only occasionally.
  - (2) Entities regularly engaged in the lending of funds which received deposits only occasionally, and;
  - (3) Trust companies, buildings and loan associations, non-stock savings and loan association.
- d) HEAD OFFICE - shall refer to the main office of the banking institution indicated in the pertinent documents submitted to the Securities and Exchange Commission (SEC), and to other appropriate agencies; the city or municipality specifically mentioned in the Articles of Incorporation and other official registration papers as being the official address of the said "Head Office" shall be considered as the site thereof;
- e) BRANCH - a fixed place in a locality established as a branch of banking institution, as authorized by the Monetary Board of the BSP. However, a regional or extension office of banks and banking institutions shall not be considered as a branch;
- f) GROSS RECEIPTS shall only include the following:
  - (1) Interest from loans and discounts - this represents interest earned and actually collected on loans and discounts. The following is a breakdown:



- (i) Discount earned and actually collected in advance on bills discounted;
  - (ii) Interest earned and actually collected on demand loan;
  - (iii) Interest earned and actually collected on time loans, including the earned portions of interest collected in advance;
  - (iv) Interest earned and actually collected on mortgage contract receivables
- (2) Interest earned and actually collected on interbank loans;
  - (3) Rental of Property - this represents the following rental income;
    - (i) Earned portion of rental collected in advance from lessees of safe deposits boxes;
    - (ii) Rental earned and actually collected from lessees on bank premises and equipment;
  - (4) Income earned and actually collected from acquired assets.
  - (5) Income from sale or exchange of assets and property.
  - (6) Cash dividends earned and received on equity investments.
  - (7) Bank commissions from lending activities.
  - (8) Income component of rental from financial leasing.
- g) All other income and receipts of banks and banking institutions not otherwise enumerated above shall be excluded from imposition of business tax, such as:
- (1) Interest earned under the expanded foreign currency deposit system.
  - (2) Interest accumulated by lending institution on mortgages issued under Rep. Act No. 580, as amended, otherwise known as Home Financing Act.
  - (3) Receipts from filing fees, service and other administrative charges.

SECTION 4. Non-separability of Banking Business - Activities which are inherent, related, necessary or incidental to the banking business shall be treated as one business activity subject to the same tax thereon, which shall be computed on the basis of the combined gross receipts of all said banking activities as defined above.

In view thereof, the provision of Article 242 of the IRR requiring a person or entity to get a separate mayor's permit for each business activity shall not apply to the banking activities, as defined above.

SECTION 5. Tax on the Gross Receipts of Banks and other Banking Institutions - There is hereby levied a tax on banks and other banking institutions at the rate of seventy-five percent (75%) of one-percent (1%) of the gross receipts for the preceding calendar year.



the City Government of Ormoc shall be payable within the first twenty (20) days of January of each year, and if not paid on time, a surcharge of twenty five percent (25%) of the amount of the tax due, and an interest at the rate of two percent (2%) per month of the unpaid taxes including surcharges shall be imposed, until such amount is fully paid, but in no such case shall the total interest on the unpaid amount or portion thereof exceeds thirty six (36) months.

SECTION 7. Submission of Notarized Joint Statement of Annual Income - At the time of the annual payment of the tax due, the Head Office or Branch of a Bank shall submit to the Office of the City Treasurer of Ormoc, a Notarized Joint Statement of Annual Income (Schedule of Annual Income Subject to the GROSS RECEIPTS TAX as provided for in Section 5 hereof) for the preceding calendar year, which shall be signed by the designated Officer of the Head Office and by the Branch Manager, in accordance with the sample form hereto attached, and marked as "ANNEX A".

SECTION 8. Situs of the Tax - For purposes of collecting the tax on banks and banking institutions, the following rules as promulgated by the Department of Finance shall govern, to wit:

1. All transactions filed with or negotiated in the branch shall be recorded in said branch and the gross receipts derived from said transactions shall be taxable by the city or municipality where such branch is located. This rule shall be applied to:
  - (i) Transactions negotiated with and approved by the branch manager under his own authority; or
  - (ii) Transactions filed and negotiated in the branch but being beyond the approving authority of the branch manager, are forwarded to the Head Office for final approval.
  - (iii) Transactions where the stated address in the loan application of the borrower is the city or municipality where the bank has a branch, in which case the Head Office upon approval of the loan shall credit the transaction to the Bank Branch.
2. The gross receipts derived from transactions made by the Head Office except gross receipts recorded in the branches, shall be taxable by the city or municipality where said Head Office is located.
3. In case there is a transfer or relocation of the Head Office or of any branch to another city or municipality, the bank shall give notice of such transfer or relocation to the chief executive of the cities or municipalities of origin, and of relocation, within fifteen (15) days after such transfer or relocation is effected.

SECTION 9. Examination of Books of Accounts and Pertinent Records -

- (a) The City Treasurer of Ormoc or through any of his deputies duly authorized in writing may examine the books of accounts and other pertinent records of banks in order to ascertain, assess, and collect the correct amount of tax due.



prescribed form (ANNEX "A" hereof) submitted by the bank upon which the declaration of gross receipts for the preceding calendar year has been based and the tax paid thereof. Such examination shall be certified by the examining official, which certification shall be made of record in the books of accounts of the bank examined.

SECTION 10. Penalty Clause - For submitting a false statement as required in Section 7, in relation to section 5 of this Ordinance, the Officers of the Bank who signed the Notarized Joint Statement of Annual Income (ANNEX "A" hereof), shall upon conviction by competent court suffer the penalty of imprisonment of not less than one month nor more than six months, or fine of not less than One Thousand (P1,000.00) Pesos, nor more than Five Thousand (P5,000.00) Pesos, or both such imprisonment and fine at the discretion of the Court.


SECTION 11. Should any part or provision of this Ordinance be held unconstitutional and declared invalid by competent court, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 12. Repealing Clause - All rules, regulations, orders, and/or circulars which are contrary to, or inconsistent with the provisions of this Ordinance are hereby repealed or modified accordingly.

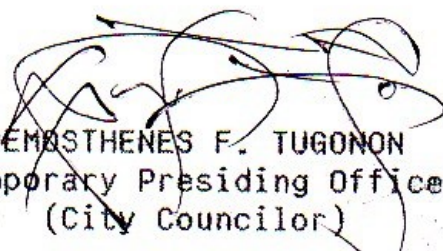
SECTION 13. This Ordinance shall take effect on January 1, 2008 after it shall have been published once in a newspaper of local circulation, and posted in two (2) conspicuous and publicly accessible places for at least three (3) consecutive weeks.

APPROVED on December 07, 2007.


I HEREBY CERTIFY to the correctness of the foregoing ordinance.

  
JOEL S. DUERO  
Secretary to the  
Sangguniang Panlungsod

ATTESTED:

  
DEMOSTHENES F. TUGONON  
Temporary Presiding Officer  
(City Councilor)

APPROVED:

  
ERIC C. CODILLA  
City Mayor

12/10/07