

Item No.: 22  
Date: 04 NOV 2022

Republic of the Philippines  
PROVINCE OF LEYTE  
Municipality of Julita  
-oOo-



**OFFICE OF THE SANGGUNIANG BAYAN**

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October 27, 2022

**MS. FLORINDA JILL S. UYVICO**  
*Sangguniang Panlalawigan Secretary*  
*Province of Leyte*  
*Tacloban City*

Dear Ms. Uyvico,

Copy furnished are copies of **Municipal Resolution No. 2022-118** passed and approved by the **Sangguniang Bayan of Julita, Leyte** in its **Regular Session held on October 10, 2022** at the Municipal Session Hall for your appropriate action.

Thank you.

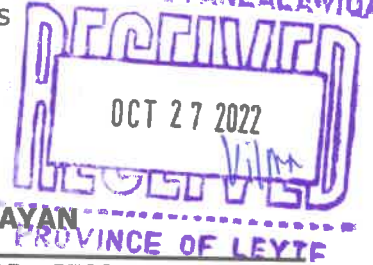
Very truly yours,

  
**FRANCIS RAAGAS-AVELINO**  
*Sangguniang Bayan Secretary*



Republic of the Philippines  
**PROVINCE OF LEYTE**  
 Municipality of Julita  
 -oOo-

SANGGUNIANG PANLALAWIGAN



**OFFICE OF THE SANGGUNIANG BAYAN**

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SANGGUNIANG BAYAN OF JULITA, LEYTE HELD AT THE **MUNICIPAL SESSION HALL OF JULITA, LEYTE ON OCTOBER 10, 2022.**

**PRESENT:**

HON. GERMAN J. MACASO	<i>Presiding Officer/Municipal Vice-Mayor</i>
HON. ALIANA MARIE R. TUBI	<i>Sangguniang Bayan Member</i>
HON. GERALDINE S. DAYA	<i>Sangguniang Bayan Member</i>
HON. IRVIN R. DY	<i>Sangguniang Bayan Member</i>
HON. ALLAN T. NOVALES	<i>Sangguniang Bayan Member</i>
HON. RIA S. DUMDUMA	<i>Sangguniang Bayan Member</i>
HON. MARK JOY E. MACASO	<i>Sangguniang Bayan Member</i>
HON. JUDE ANDREI M. ROMUALDEZ	<i>Sangguniang Bayan Member</i>
HON. ROSILA L. ADVINCULA	<i>Sangguniang Bayan Member</i>
HON. RODRIGO J. MACASO	<i>Bise-Pres. Ng Liga Ng Mga Barangay Ex-Officio Member</i>

**ABSENT:**

HON. EARL IVAN V. PELENIO	<i>Pres. Ng Pambayang Pederasyon Ng Mga Sangguniang Kabataan Ex-Officio Member (On-Leave)</i>
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**MUNICIPAL RESOLUTION NO. 2022-118**

**A RESOLUTION FURNISHING THE SANGGUNIANG PANLALAWIGAN OF LEYTE OF THE OPINION OF THE BUREAU OF LOCAL GOVERNMENT FINANCE (BLGF), REGIONAL OFFICE VIII, IN RELATION TO MUNICIPAL ORDINANCE NO. 2020-19 OF THE MUNICIPALITY OF JULITA, LEYTE AND REQUESTING FOR A RECONSIDERATION IN THE DECISION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE IN RETURNING THE SAID ORDINANCE FOR CORRECTIONS.**

**WHEREAS, *Municipal Ordinance No. 2020-19*** of the Municipality of Julita, Leyte, entitled "***The 2020 Revenue Code of the Municipality of Julita, Leyte***" was indorsed to the Sangguniang Panlalawigan of Leyte last June 10, 2022 for its appropriate review;

**WHEREAS,** on July 08, 2022 this said Ordinance was referred to the Committee on Ways and Means of the Sangguniang Panlalawigan of Leyte;

**WHEREAS,** on July 22, 2022 the Committee on Ways and Means rendered its Committee Report on the said Ordinance based on the legal opinion given by the Provincial Legal Office of the Province of Leyte dated June 28, 2022 which comments on ten (10) provisions on our ordinance which needs some clarifications and be supported with legal basis;

**WHEREAS,** the members of the Sangguniang Bayan of Julita, Leyte upon receipt of the copy of ***SP Resolution No. 2022-338***, entitled "***A resolution referring to the Sangguniang Panlalawigan Committee on Ways and Means Ordinance No. 2020-19, Series 2022 of Julita, Leyte and SP Resolution No. 2022-351***" entitled "***A resolution approving the Committee Report of the SP Committee on Ways and Means Relative to Municipal Ordinance No. 2020-19 S. 2020 of Julita, Leyte and returning the same to the Sangguniang Bayan of origin for correction,***" had decided to include it in the Calendar of Business of its August 08, 2022 Regular Session;

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*Aliana Marie R. Tubi*  
 ALIANA MARIE R. TUBI  
 SB Member

*Geraldine S. Daya*  
 GERALDINE S. DAYA  
 SB Member

*Irvin R. Dy*  
 IRVIN R. DY  
 SB Member

*Allan T. Novales*  
 ALLAN T. NOVALES  
 SB Member

*Ria S. Dumduma*  
 RIA S. DUMDUMA  
 SB Member

*Mark Joy E. Macaso*  
 MARK JOY E. MACASO  
 SB Member

*Jude Andrei M. Romualdez*  
 JUDE ANDREI M. ROMUALDEZ  
 SB Member

*Rosila L. Advincula*  
 ROSILA L. ADVINCULA  
 SB Member

*Rodrigo J. Macaso*  
 RODRIGO J. MACASO  
 Bise-Pres. Ng Liga Ng Mga Barangay/  
 Ex-Officio Member

*Earl Ivan V. Pelenio*  
 EARL IVAN V. PELENIO  
 Pres. Ng Pambayang Pederasyon Ng Mga Sangguniang Kabataan/  
 Ex-Officio Member

*Francis R. Avelino*  
 FRANCIS R. AVELINO  
 SB Secretary

*German J. Macaso*  
 GERMAN J. MACASO  
 Municipal Vice Mayor

*Anti*  
**ALIANA MARIE R. TUBI**  
 SB Member

*[Signature]*  
**GERARDINE S. DAYA**  
 SB Member

*[Signature]*  
**IRVIN R. DY**  
 SB Member

*[Signature]*  
**ALLAN T. NOVALES**  
 SB Member

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**RIA S. DUMDUMA**  
 SB Member

*[Signature]*  
**MARK JOY E. MACASO**  
 SB Member

*[Signature]*  
**JUDE ANDREI M. ROMUALDEZ**  
 SB Member

*[Signature]*  
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*[Signature]*  
**RODRIGO J. MACASO**  
 Bise-Pres. Ng Liga Ng  
 Mga Barangay/  
 Ex-Officio Member

**EARL IVAN V. PELENIO**  
 Pres. Ng Pambayang  
 Pederasyon Ng Mga  
 Sangguniang Kabataan/  
 Ex-Officio Member

*[Signature]*  
**FRANCIS R. AVELINO**  
 SB Secretary

**GERMAN J. MACASO**  
 Municipal Vice Mayor

**WHEREAS**, during its August 08, 2022 Regular Session the August Body had decided to solicit the opinion of the Bureau of the Local Government Finance (BLGF), Regional Office VIII by writing a formal communication dated August 15, 2022 for the reason that this said office provides consultative services and technical assistance to Local Government Units and the general public on local taxation, real property assessment and other related matters;

**WHEREAS**, the Office of the Bureau of the Local Government Finance (BLGF), Regional Office VIII in answer to the request of the Sangguniang Bayan of Julita, Leyte had rendered its opinion on the ten (10) provisions commented by the Provincial Legal Office through a formal communication dated September 16, 2022 addressed to the Chairperson of the Committee on Laws and Ordinances of the Sangguniang Bayan of Julita, Leyte;

**WHEREAS**, during its October 03, 2022 Regular Session the Chairperson of the Committee on Laws and Ordinances of the Sangguniang Bayan of Julita, Leyte had presented to the floor the opinion of the Bureau of the Local Government Finance (BLGF), Regional Office VIII through a Committee Report which the August Body had adopted;

**WHEREAS**, hereunder cited are the comments of the Provincial Legal Office followed by the clarifications, comments and opinion of the Bureau of the Local Government Finance (BLGF), Regional Office VIII which the August Body had adopted;

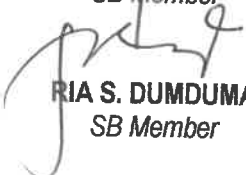
1. "That Ordinance No. 2020-19 is an exercise of the power to create sources of revenue and to levy taxes, fees, and charges, consistent with the basic policy of local autonomy (Section 129, Chapter 1, Title One, Book II, R. A. 7160);"  
*No conflict on the provision with the basic law.*
2. "That Section 7 (g), (2) of subject Ordinance intends to collect graduated business tax on Amusement Places, that are enumerated therein upon other hand, Section 140 (a), (b), (c), and (d), imposes upon the PROVINCE the authority to levy and collect Amusement Tax on subjects and/or items mentioned therein;"  
*Business Tax on Amusement Places and Amusement Tax are two (2) different revenue impositions. The former is within the jurisdiction of the municipality and its imposed based on the previous year gross sales or income from engaging in such business while the latter is with the province and is imposed on the basis of the generated Admission Fee. What is being imposed by Section 7(g)(2) is the tax on privilege of exercising a business based on the gross income of the previous year. There is no conflict on the imposing authority considering that the nature of imposition is different. The Province imposes the 10% Amusement Tax on the Admission Fee, while the Ordinance of the Municipality of Julita imposes business tax on the gross income of the establishment.*
3. That Article B (A) of the ordinance imposes TAX on Mobile Traders. Mobile trading to the opinion of the Provincial Legal Office (PLO), means engaging in business or calling or occupation not requiring Government Examination, which the Local Government Units (LGUs), are authorized to REGULATE under Section 447 (3), (ii) of the Code. To REGULATE is an exercise of POLICE POWER, NOT THE POWER TO TAX. Hence, imposition of Business Permit Fee instead of TAX is proper."

  
**ALIANA MARIE R. TUBI**  
 SB Member

  
**GERALDINE S. DAYA**  
 SB Member

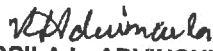
  
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 SB Member


  
**MARK JOY E. MACASO**  
 SB Member


  
**JUDE ANDREI M. ROMUALDEZ**  
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**ROSILA L. ADVINCULA**  
 SB Member

  
**RODRIGO J. MACASO**  
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 Mga Barangay/  
 Ex-Officio Member

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 Pederasyon Ng Mga  
 Sangguniang Kabataan/  
 Ex-Officio Member

  
**FRANCIS R. AVELINO**  
 SB Secretary

  
**GERMAN J. MACASO**  
 Municipal Vice Mayor

*Tax on Mobile Traders do not refer to engaging in business or calling or occupation not requiring Government Examination but rather it refers to, according to the Bureau of Local Government Finance (BLGF) interim rules on the Local Revenue Code for LGUs, "a person who either for himself or commission, travels from place to place and sells his goods or sells and offers to deliver the same, using a vehicle. Subsumed in this definition are rolling stores, portable stores and similar arrangements." (Emphasis supplied)*

*"The tax shall be paid upon the issuance of the Mayor's Permit to do business in the Municipality".*

*The notion on the matter of engaging in business or calling or occupation not requiring Government Examination is totally misplaced.*

- The Article B, Section (B), (12) of the Code, imposes "Tax on Operators of Public Utility Vehicles," for maintaining Booking Office, Terminal, or waiting station. The Provincial Legal Office, is of the opinion that, BUSINESS PERMIT FEE is proper, for engaging in the business of carrying passengers. While "Property Tax" for the Booking Office, Terminal, or waiting station".

*As a general rule, in the privilege of engaging in a business activity in every LGU, a Mayor's Permit is always required and that corresponding fees should be paid. The per unit basis of the Tax on Operators of Public Utility Vehicles is an application of Section 129 of RA 7160, power of LGUs to "create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy" that will accrue exclusively to the LGU. Also, Section 186 of the law provides, "Power To Levy Other Taxes, Fees or Charges.-Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, That the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose". The matter on Property Tax is a concern of the local assessor. This revenue measure has not been adapted by our recent Model Local Revenue Code for the reason that Public Utility Vehicles are now required to join or form a transport cooperative and to operate as a transport cooperative. Under the Cooperative Development Authority, registered cooperatives enjoy exemptions from local taxation but are subject to payment of certain regulatory fees and charges.*

- "That Article (B), (c), imposes tax on Mining Operations. The Provincial Legal Office (PLO), is of the opinion that CONSULTATIONS be made with the Department of Environment and Natural Resources (DENR), to ensure that the imposition does not run contrary to any Policy, Rules or Regulations of the Department;"

*This is an application of Sections 129 and 186 of RA 7160. Consultations with the DENR is not required for the imposition is more on the nature of a tax which is based on its previous year gross sales or income in the course of its mining operations.*

*Section 129. Power to Create Source of Revenue-Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units.*

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*Anti*  
**ALIANA MARIE R. TUBI**  
 SB Member

*[Signature]*  
**GERALDINE S. DAYA**  
 SB Member

*[Signature]*  
**IRVIN R. DY**  
 SB Member

*[Signature]*  
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 SB Member

*[Signature]*  
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 SB Member

*[Signature]*  
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 SB Member

*[Signature]*  
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 SB Member

*[Signature]*  
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 Mga Barangay/  
 Ex-Officio Member

**EARL IVAN V. PELENIO**  
 Pres. Ng Pambayang  
 Pederasyon Ng Mga  
 Sangguniang Kabataan/  
 Ex-Officio Member

*[Signature]*  
**FRANCIS R. AVELINO**  
 SB Secretary

*[Signature]*  
**GERMAN J. MACASO**  
 Municipal Vice Mayor

*Section 186. Power of Levy Other Taxes, Fees, and Charges.—Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended or other applicable laws: Provided, That the taxes, fees or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provincial, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.*

6. "That Section 75 of the ordinance imposes "FEE", on the practice of Occupation or Calling not requiring government examination. The "Fees" mentioned is imposed on the "Employees". Section 75 (a), (b), (c), and (d). That instead of imposing "Fees" on the "employees", the Provincial Legal Office (PLO), is of the opinion that such "Fees" be imposed on the "Employers".  
*The opinion to pass on the fee on the practice of Occupation or Calling not requiring government examination maybe deemed an option on the part of the proprietor of the business. We are of the general view that the respective employees should pay the fee because he/she is directly benefited in the form of the recognition of his/her field of specialization.*
7. "That Article M of the Ordinance imposes "Fees" on CART and SLEDGE. That there must be Legal Basis for such imposition".  
*This is an old revenue measure taking into account the subject of the imposition, Cart and Sledge, a form of carriage pull by a large cattle.  
 This is an application of Sections 129 and 186 of RA 7160, as above cited.*
8. "That Article O, Section 97 of the Ordinance imposes "Fee on Agricultural Machinery and other heavy Equipment that is "RENTED OUT". The Provincial Legal Office (PLO), is of the opinion that a Legal Basis therefor is necessary".  
*This is an application of Sections 129 and 186 of RA 7160, as above cited.*
9. "The Section 7 (d) on Retailers, of subject Ordinance No. 2020-19, imposes Tax of 2% on Gross Receipts of PhP400,000.00 or less and 1% on sales in excess of the first Four Hundred Thousand Pesos (PhP400,000.00). That the same provision under the local government Code however, imposes Tax of 2% on gross Receipts of PhP400,000.00 or less, and 1% on Gross receipts of more than PhP400,000.00 only. In view hereof, the Provincial Legal Office (PLO), is of the opinion that Section 7 (d) of subject ordinance No. 2020-19 might tantamount to "Double Taxation".  
*There is no double taxation. The revenue measure found in the Ordinance is an adaption of Section 143 paragraph (e) on Retailers. Provisions of the Local Government Code are not self-executory. LGUs has to adapt the particular provision of RA 7160 in a local ordinance to give effect to the intent of framers of the law subject to the limitations provided therein consistent with the policy on local autonomy.*
10. "That as pronounced by the Supreme Court in the case of Villanueva v City of Iloilo, L-26521, December 28, 1968; SCRA 594, "To constitute double taxation in the objectionable or prohibited sense, the same property must be taxed twice, by the same state, government or taxing authority, within the same jurisdiction, during the same taxing period, by the same kind or character of tax".  
*As mentioned above, there is no double taxation under the circumstances.*



**ALIANA MARIE R. TUBI**  
SB Member

**GERALDINE S. DAYA**  
SB Member

**IRVIN R. DY**  
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Pederasyon Ng Mga  
Sangguniang Kabataan/  
Ex-Officio Member

**FRANCIS R. AVELINO**  
SB Secretary

**GERMAN J. MACASO**  
Municipal Vice Mayor

**WHEREFORE** on motion of the **Honorable Mark Joy E. Macaso**, duly seconded by the **Hon. Allan T. Novales** and the **Hon. Jude Andrei M. Romualdez**, be it;

**RESOLVED AS IT IS HEREBY RESOLVED**, to **FURNISH THE SANGGUNIANG PANLALAWIGAN OF LEYTE OF THE OPINION OF THE BUREAU OF LOCAL GOVERNMENT FINANCE (BLGF), REGIONAL OFFICE VIII, IN RELATION TO MUNICIPAL ORDINANCE NO. 2020-19 OF THE MUNICIPALITY OF JULITA, LEYTE.**

**RESOLVED FURTHER**, TO **REQUEST FOR A RECONSIDERATION IN THE DECISION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE IN RETURNING THE SAID ORDINANCE FOR CORRECTIONS.**

**RESOLVED FINALLY**, that copies of this resolution be furnished the **Sangguniang Panlalawigan of Leyte and the Provincial Legal Office, Province of Leyte, Palo, Leyte** for its information, guidance and appropriate action.

**Approved: October 10, 2022.**

**I HEREBY CERTIFY** to the correctness of the foregoing resolution.

**FRANCIS RAAGAS-AVELINO**  
Sangguniang Bayan Secretary

**ATTESTED:**

**HON. GERMAN J. MACASO**  
Honorable Presiding Officer/Municipal Vice Mayor

**CONCURRED:**

**HON. ALIANA MARIE R. TUBI**  
SB Member

**HON. GERALDINE S. DAYA**  
SB Member

**HON. IRVIN R. DY**  
SB Member

**HON. ALLAN T. NOVALES**  
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**HON. RODRIGO J. MACASO**  
Bise-Pres. Ng Liga Ng Mga  
Barangay  
Ex-Officio Member

**HON. EARL IVAN V. PELENIO**  
Pres. Ng Pambayang Pederasyon Ng  
Mga Sangguniang Kabataan  
Ex-Officio Member  
**(On-Leave)**

**APPROVED:**

**ATTY. PERCIVAL S. CAÑA**  
Municipal Mayor



Republic of the Philippines  
Department of Finance  
**Bureau of Local Government Finance**  
Regional Office No. VIII  
3F Rm A-305 – A-309 F. Mendoza Commercial Complex  
141 Sto. Niño St., Tacloban City  
Telephone No. (053) 832 – 7370; (053) 300-0873  
Email: [r8@blgf.gov.ph](mailto:r8@blgf.gov.ph)

September 16, 2022

**Hon. Mark Joy E. Macaso**  
Sangguniang Bayan Member  
Chairman, Committee on Laws and Ordinances  
Julita, Leyte

Dear Hon. Macaso:

This refers to your letter dated August 15, 2022 requesting legal opinion relative to the comments rendered by the Provincial Legal Office of Leyte on some revenue measures of the Municipality of Julita, Leyte, in the course of its review of the approved Local Revenue Code of said municipality under Ordinance No. 2020-19, s. 2020.

In a 2<sup>nd</sup> Indorsement dated June 28, 2022, it is represented that the Provincial Legal Office of Leyte presented “comments and/or opinion” to some provisions of the Ordinance, which is now before us.

Hereunder cited are the comments of the Provincial Legal Office and followed immediately by our clarification on the matter.

1. “That Ordinance No. 2020-19 is an exercise of the power to create sources of revenue and to levy taxes, fees, and charges, consistent with the basic policy of local autonomy (Section 129, Chapter 1, Title One, Book II, R.A. 7160);”  
*No conflict on the provision with the basic law.*
2. “That Section 7 (g), (2) of subject Ordinance intends to collect graduated business tax on Amusement Places, that are enumerated therein upon other hand, Section 140 (a), (b), (c), and (d), imposes upon the PROVINCE the authority to levy and collect Amusement Tax on subjects and/or items mentioned therein;”  
*Business Tax on Amusement Places and Amusement Tax are two different revenue impositions. The former is within the jurisdiction of the municipality and is imposed based on the previous year gross sales or income from engaging in such business while the latter is with the province and is imposed on the basis of the generated Admission Fee. What is being imposed by Section 7(g)(2) is the tax on the privilege of exercising a business based on the gross income of the previous year. There is no conflict on the imposing authority considering that the nature of imposition is different. The Province imposes the 10% Amusement Tax on the Admission Fee, while the Ordinance of the Municipality of Julita imposes business tax on the gross income of the establishment.*
3. “That Article B (A) of the ordinance imposes TAX on Mobile Traders. Mobile trading to the opinion of the Provincial Legal Office (PLO), means engaging in business or calling or occupation not requiring Government Examination, which the Local Government Units (LGUs), are authorized to REGULATE under Section 447 (3), (ii) of the Code. To REGULATE is an

exercise of POLICE POWER, NOT THE POWER TO TAX. Hence, imposition of Business Permit Fee instead of TAX is proper.”

*Tax on Mobile Traders do not refer to engaging in business or calling or occupation not requiring Government Examination but rather it refers to, according to the Bureau of Local Government Finance (BLGF) interim rules on the Local Revenue Code for LGUs, “a person, who either for himself or commission, travels from place to place and sells his goods or sells and offers to deliver the same, using a vehicle. Subsumed in this definition are rolling stores, portable stores, and similar arrangements.” (Emphasis Supplied)*

*“The tax shall be paid upon the issuance of the Mayor’s Permit to do business in the Municipality.”*

*The notion on the matter of engaging in business or calling or occupation not requiring Government Examination is totally misplaced.*

4. “That Article B, Section (B), (12) of the Code, imposes “Tax on Operators of Public Utility Vehicles”, for maintaining Booking Office, Terminal, or waiting station. The Provincial Legal Office, is of the opinion that, BUSINESS PERMIT FEE is proper, for engaging in the business of carrying passengers. While “Property Tax” for the Booking Office, Terminal, or waiting station;”

*As a general rule, in the privilege of engaging in a business activity in every LGU, a Mayor’s Permit is always required and that corresponding fees should be paid. The per unit basis of the Tax on Operators of Public Utility Vehicles is an application of Section 129 of RA 7160, power of LGUs to “create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy” that will accrue exclusively to the LGU. Also, Section 186 of the law provides, “Power To Levy Other Taxes, Fees or Charges. - Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, That the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.” The matter on Property Tax is a concern of the local assessor. This revenue measure has not been adapted by our recent Model Local Revenue Code for the reason that Public Utility Vehicles are now required to join or form a transport cooperative and to operate as a transport cooperative. Under the Cooperative Development Authority, registered cooperatives enjoy exemptions from local taxation but are subject to payment of certain regulatory fees and charges.*

5. “That Article B, (c), imposes tax on Mining Operations. The Provincial Legal Office (PLO), is of the opinion that CONSULTATIONS be made with the Department of Environment and Natural Resources (DENR), to insure that the imposition does not run contrary to any Policy, Rules or Regulations of the Department;”

*This is an application of Sections 129 and 186 of RA 7160. Consultations with the DENR is not required for the imposition is more on the nature of a tax which is based on its previous year gross sales or income in the course of its mining operations.*



*Section 129. Power to Create Source of Revenue - Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units.*

*Section 186. Power To Levy Other Taxes, Fees or Charges. - Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, That the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.*

6. "That Section 75 of the ordinance imposes "FEE", on the practice of Occupation or Calling not requiring government examination. The "Fees" mentioned is imposed on the "Employees". Section 75 (a), (b), (c), and (d). That instead of imposing "Fees" on the "employees", the Provincial Legal Office (PLO), is of the opinion that such "Fees" be imposed on the "Employers";

*The opinion to pass on the fee on the practice of Occupation or Calling not requiring government examination maybe deemed an option on the part of the proprietor of the business. We are of the general view that the respective employees should pay the fee because he/she is directly benefited in the form of the recognition of his/her field of specialization.*

7. "That Article M of the Ordinance imposes "Fees" on CART and SLEDGE. That there must be Legal Basis for such imposition."

*This is an old revenue measure taking into account the subject of the imposition, Cart and Sledge, a form of carriage pull by a large cattle. This is an application of Sections 129 and 186 of RA 7160, as above cited.*

8. "That Article O, Section 97 of the Ordinance imposes "Fee on Agricultural Machinery and other heavy Equipment that is "RENTED OUT". The Provincial Legal Office (PLO), is of the opinion that a Legal Basis therefor is necessary."

*This is an application of Sections 129 and 186 of RA 7160, as above cited.*

9. "That Section 7 (d) on Retailers, of subject Ordinance No. 2020-19, imposes Tax of 2% on Gross Receipts of ₱400,000 or less and 1% on sales in excess of the first Four Hundred thousand Pesos (400,000.00). That the same provision under the local government Code however, imposes Tax of 2% on gross Receipts of Php400,000.00 or less, and 1% on Gross receipts of more than Php400,000.00 only. In view hereof, the Provincial Legal Office (PLO), is of the opinion that Section 7 (d) of subject ordinance No. 2020-19 might tantamount to "Double Taxation"."

*There is no double taxation. The revenue measure found in the Ordinance is an adaptation of Section 143 paragraph (e) on*

*Retailers. Provisions of the Local Government Code are not self-executory. LGUs has to adapt the particular provision of RA 7160 in a local ordinance to give effect to the intent of the framers of the law subject to the limitations provided therein consistent with the policy on local autonomy.*

10. "That as pronounced by the Supreme Court in the case of Villanueva v. City of Iloilo, L-26521, December 28, 1968; SCRA 594, "To constitute double taxation in the objectionable or prohibited sense, the same property must be taxed twice, by the same state, government or taxing authority, within the same jurisdiction, during the same taxing period, by the same kind or character of tax."

*As mentioned above, there is no double taxation under the circumstances.*

Anticipating to have provided you the necessary information on the matter.

The foregoing opinion was rendered on the basis of the documents presented. Should documents/records that may be presented hereafter prove otherwise, this opinion shall be without effect and deemed abandoned.

Very truly yours,

  
**GERARDO A. AVORQUE**  
Regional Director



Republic of the Philippines  
**PROVINCE OF LEYTE**  
Tacloban City  
-oOo-



FILED  
08-001  
DATE 8-3-2022  
V

**OFFICE OF THE SANGGUNIANG PANLALAWIGAN**

**EXCERPTS FROM THE MINUTES OF THE 4<sup>th</sup> REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE CONDUCTED AT THE SESSION HALL, LEYTE PROVINCIAL GOVERNMENT COMPLEX, PALO, LEYTE ON JULY 22, 2022**

**RESOLUTION NO. 2022-359**

**A RESOLUTION APPROVING THE COMMITTEE REPORT OF THE SP COMMITTEE ON WAYS AND MEANS RELATIVE TO MUNICIPAL ORDINANCE NO. 2020-19 S. 2020 OF JULITA, LEYTE AND RETURNING THE SAME TO THE SANGGUNIANG BAYAN OF ORIGIN FOR CORRECTION.**

**WHEREAS**, submitted to the Sangguniang Panlalawigan is Municipal Ordinance No. 2020-19, S. 2020 entitled: "The 2020 Revenue Code of the Municipality of Julita, Leyte";

**WHEREAS**, on July 8, 2022, Municipal Ordinance No. 2020-19, S. 2020 of Julita was referred to the SP Committee on Ways and Means per SP Resolution No. 2022-338;

**WHEREAS**, on July 22, 2022, the SP Committee on Ways and Means rendered its Committee Report on the subject Ordinance thusly:

**"COMMITTEE REPORT**

Referred to this committee per SP Resolution No. 2022-338 is Ordinance No. 2020-19 s. 2020 of the Sangguniang Bayan of Julita otherwise know as "The 2020 Revenue Code of the Municipality of Julita, Leyte".

The subject Ordinance was referred for Initial review by the Provincial Legal Office which rendered its comments and/or opinion in its 2<sup>nd</sup> Indorsement dated June 28, 2022 to wit:

1. That Ordinance No. 2020-19 is an exercise of the power to create sources of revenue and to levy taxes, fees, and charges, consistent with the basic policy of local autonomy (Sec. 129, Chapter 1, Title One, Book II, R.A. 7160);
2. That Section 7 (g), (2) of subject Ordinance intends to collect graduated business Tax on Amusement Places that are enumerated therein upon other hand, Section 140 (a), (b) (c) and (d) imposes upon the PROVINCE the authority to levy and collect Amusement Tax on subjects and/or items mentioned therein;

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*[Handwritten signature]*  
- 08.30.22

3. That Article B (A) of the ordinance imposes TAX on Mobile Traders. Mobile trading to the opinion of the Provincial Legal Office (PLO), means engaging in business or calling or occupation not requiring Government Examination which the Local Government Units (LGUs), are authorized to REGULATE under Section 447 (3), (ii) of the Code. To REGULATE is an exercise of POLICE POWER, NOT POWER TO TAX. Hence, imposition of Business Permit Fee instead of TAX is proper;
4. That Article B, Section B, (12) of the Code, imposes "Tax on Operators of Public Utility Vehicles", for maintaining Booking Office, Terminal, or waiting station. The Provincial Legal Office (PLO), is of the opinion that, BUSINESS PERMIT FEE is proper, for engaging in the business of carrying passengers. While "Property Tax" for the Booking Office, Terminal, and waiting station;
5. That Article B, (c) Imposes tax on Mining Operations. The Provincial Legal Office (PLO) is of the opinion that CONSULTATIONS be made with the Department of Environment and Natural Resources (DENR), to ensure that the imposition does not run contrary to any Policy, Rules or Regulations of the Department;
6. That Section 75 of the ordinance imposes "FEE", on the practice of Occupation or Calling not requiring government examination;
7. The "Fees" mentioned is imposed on the "Employees". Section 75 (a), (b), (c) and (d). That instead of imposing "Fees" on the "employees", the Provincial Legal Office (PLO) is of the opinion that such "Fees" be imposed on the "Employers";
8. That Article M of the Ordinance imposes "Fees" on Cart and Sledge. There must be Legal Basis for such imposition;
9. That Article O, Section 97 of the Ordinance imposes "Fee" on Agricultural Machinery and Other heavy Equipment that is "RENTED OUT". The Provincial Legal Office (PLO), is of the opinion that a Legal Basis therefor is necessary;
10. That Section 7 (d) on Retailers, of subject Ordinance No. 2020-19, Imposes Tax of 2% on Gross Receipts of P400,000.00 or less and 1% on sales in excess of the first Four Hundred Thousand (P400,000.00). That the same provision under the local government Code however, imposes Tax of 2% on gross Receipts of P400,000.00 or less, and 1% on Gross receipts of more than Php400,000.00 only. In view hereof, the Provincial Legal Office (PLO) is of the opinion that Section 7 (d) of subject ordinance No. 2020-19 might tantamount to "Double Taxation";

11. That as pronounced by the Supreme Court in the case of Villanueva v. City of Iloilo, L-26521, December 28, 1968; SCRA 594, "To constitute double taxation in the objectionable or prohibited sense, the same property must be taxed twice, by the same state, government or taxing authority, within the same jurisdiction, during the same taxing period, by the same kind or character of tax";

Considering that there are provisions of the Ordinance that need to be rectified and/or supplied with legal basis, the Committee therefore recommends that the same be returned to SB of Origin for appropriate action.

Submitted this 22<sup>nd</sup> day of July 2022, Palo, Leyte.

(Original Signed)  
HON. WILSON S. UY  
Chairman

HON. MARIE KATHRYN V. KABIGTING  
Vice Chairman

(Original Signed)  
HON. VINCENT L. RAMA  
Member

(Original Signed)  
HON. MA. CORAZON E. REMANDABAN  
Member

(Original Signed)  
HON. ATTY. RONNAN CHRISTIAN M. REPOSAR  
Member"

**WHEREAS**, the August Body, deemed it proper to approve the Committee Report of the SP Committee on Ways and Means;

**WHEREAS**, in connection with paragraph 5 of the Committee Report, attention is called to Section 138 of the Local Government Code, to wit:

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"Section 138. Tax on Sand, Gravel and Other Quarry Resources. The province may levy and collect not more than ten (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within the territorial jurisdiction.

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the Sangguniang Panlalawigan.

x x x"

**WHEREAS**, the imposition of taxes on Mining Operations is therefore beyond the statutory powers of the Sangguniang Bayan to legislate upon;

**NOW, THEREFORE**, on motion presented by Honorable Wilson S. Uy, duly seconded by Atty. Carlo P. Loreto, and Honorable Nolie C. Caña, be it

**RESOLVED**, as it is hereby resolved, to **APPROVE THE COMMITTEE REPORT OF THE SP COMMITTEE ON WAYS AND MEANS AS CORRECTED RELATIVE TO MUNICIPAL ORDINANCE NO. 2020-19 S. 2020 OF JULITA, LEYTE.**

**RESOLVED FURTHER TO RETURN TO THE SB OF ORIGIN ORDINANCE NO. 2020-19, S. 2020 OF JULITA, LEYTE, FOR CORRECTION.**

Approved unanimously.

I HEREBY CERTIFY to the correctness of the foregoing resolution.

*[Signature]*  
**FLORINDA JILL SUYVICO**  
Secretary to the Sanggunian

ATTESTED:

*[Signature]*  
**MICHAEL L. CARI**  
Acting Vice-Governor  
Temporary Presiding Officer

Copy furnished

- 1. Hon. Wilson S. Uy  
Chairman – SP Committee on Ways and Means  
Province of Leyte
- 2. LCE and Sangguniang Bayan  
of Julita, Leyte

*[Signature]*

SP Res. # 2022-359  
copy for Hon. Wilson S. Uy  
wid: *[Signature]* 8/24/2022  
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**FILE**  
**SP RECORDS SECTION**



Republic of the Philippines  
**PROVINCE OF LEYTE**  
Tacloban City  
-oOo-



07-027  
7.26.2022  
V

**OFFICE OF THE SANGGUNIANG PANLALAWIGAN**

**EXCERPTS FROM THE MINUTES OF THE 2<sup>nd</sup> REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE CONDUCTED AT THE SESSION HALL, LEYTE PROVINCIAL COMPLEX, PALO, LEYTE ON JULY 08, 2022**

**RESOLUTION NO. 2022-338**

**A RESOLUTION REFERRING TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON WAYS AND MEANS ORDINANCE NO. 2020-19, SERIES 2022 OF JULITA, LEYTE.**

**WHEREAS**, submitted to the Sangguniang Panlalawigan is **Ordinance No. 2020-19, s. 2020 of Julita, Leyte** entitled: **"THE 2020 REVENUE CODE OF THE MUNICIPALITY OF JULITA, LEYTE"**;


**WHEREAS**, the August Body, deemed it proper to refer said Ordinance to the SP Committee on Ways and Means for review and appropriate action;

**NOW, THEREFORE**, on motion presented by Honorable Trinidad G. Apostol, duly seconded by Atty. Carlo P. Loreto, be it


**RESOLVED**, as it is hereby resolved, to **REFER TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON WAYS AND MEANS ORDINANCE NO. 2020-19, SERIES 2020 OF JULITA, LEYTE.**

**Approved unanimously.**

**I HEREBY CERTIFY** to the correctness of the foregoing resolution.

  
**FLORINDA JIL SUYVICO**  
Secretary to the Sanggunian

**ATTESTED:**

  
**LEONARDO M. JAVIER, JR.**  
Vice-Governor  
Presiding Officer

Copy furnished:

7/27/22  
my staff  
1. Hon. Wilson S. Uy  
Chairman – Committee on Ways and Means  
Sangguniang Panlalawigan  
Province of Leyte

2. LCE and the Sangguniang Bayan  
of Julita, Leyte  
my SB sec  
sf/27/22

FJSU: ASS  
Naomi 11 July 2022

TERM 16  
DATE 08 JUL 2022

SANGGUNIANG PANLALAWIGAN  
04 JUL 2022  
PROVINCE OF LEYTE

Republic of the Philippines  
PROVINCE OF LEYTE  
Tacloban City

PROVINCIAL LEGAL OFFICE

2<sup>nd</sup> Indorsement  
June 28, 2022

Respectfully returned to the Sangguniang Panlalawigan of Leyte through the SP Secretary, the attached Ordinance No. 2020-19 S. 2020 of the SB of Julita, Leyte, with the following comments and/ or opinion:

1. That Ordinance No. 2020-19 is an exercise of the power to create sources of revenue and to levy taxes, fees, and charges, consistent with the basic policy of local autonomy (Section 129, Chapter 1, Title One, Book II, R.A. 7160);
2. That Section 7 (g), (2) of subject Ordinance intends to collect graduated business Tax on Amusement Places, that are enumerated therein upon other hand, Section 140 (a), (b), (c), and (d), imposes upon the PROVINCE the authority to levy and collect Amusement Tax on subjects and/or items mentioned therein;
3. That Article B (A) of the ordinance imposes TAX on Mobile Traders. Mobile trading to the opinion of the Provincial Legal Office (PLO), means engaging in business or calling or occupation not requiring Government Examination, which the Local Government Units (LGUs), are authorized to REGULATE under Section 447 (3), (ii) of the Code. To REGULATE is an exercise of POLICE POWER, NOT THE POWER TO TAX. Hence, imposition of Business Permit Fee instead of TAX is proper;
4. That Article B, Section (B), (12) of the Code, imposes "Tax on Operators of Public Utility Vehicles", for maintaining Booking Office, Terminal, or waiting station. The Provincial Legal Office (PLO), is of the opinion that, BUSINESS PERMIT FEE is proper, for engaging in the business of carrying passengers. While "Property Tax" for the Booking Office, Terminal, or waiting station;

5. That Article B, (c), imposes tax on Mining Operations. The Provincial Legal Office (PLO), is of the opinion that CONSULTATIONS be made with the Department of Environment and Natural Resources (DENR), to insure that the imposition does not run contrary to any Policy, Rules or Regulations of the Department;
6. That Section 75 of the ordinance imposes "FEE", on the practice of Occupation or Calling not requiring government examination. The "Fees" mentioned is imposed on the "Employees". Section 75 (a), (b), (c), and (d). That instead of imposing "Fees" on the "employees", the Provincial Legal Office (PLO), is of the opinion that such "Fees" be imposed on the "Employers";
7. That Article M of the Ordinance imposes "Fees" on CART and SLEDGE. That there must be Legal Basis for such imposition.
8. That Article O, Section 97 of the Ordinance imposes "Fee" on Agricultural Machinery and Other heavy Equipment that is "RENTED OUT". The Provincial Legal Office (PLO), is of the opinion that a Legal Basis therefor is necessary.
9. That Section 7 (d) on Retailers, of subject Ordinance No. 2020-19, imposes Tax of 2% on Gross Receipts of P400,00 or less and 1% on sales in excess of the first Four Hundred thousand Pesos (400,00.00). That the same provision under the local government Code however, imposes Tax of 2% on gross Receipts of Php400,000.00 or less, and 1% on Gross receipts of more than Php400,000.00 only. In view hereof, the Provincial Legal Office (PLO), is of the opinion that Section 7 (d) of subject ordinance No. 2020-19 might tantamount to "Double Taxation.
10. That as pronounced by the Supreme Court in the case of Villanueva v. City of Iloilo, L-26521, December 28 1968; SCRA 594, "To constitute double taxation in the objectionable or prohibited sense, the same property must be taxed twice, by the same state, government or taxing authority, within the same jurisdiction, during the same taxing period, by the same kind or character of tax."

ATTN: JOSE RAYMUND A. ACOL  
Asst. Provincial Legal Officer 