

Republic of the Philippines  
Province of Davao Oriental  
**CITY OF MATI**

**OFFICE OF THE SANGGUNIANG PANLUNGSOD**

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EXCERPT FROM THE MINUTES OF THE 12<sup>th</sup> REGULAR SESSION OF THE SANGGUNIANG PANLUNGSOD OF THE CITY OF MATI, PROVINCE OF DAVAO ORIENTAL HELD AT THE SANGGUNIANG PANLUNGSOD SESSION HALL ON MARCH 23, 2009.

**PRESENT:**

Hon. Cesar D. de Erio	City Vice Mayor/Presiding Officer
Hon. Niño Sotero L. Uy, Jr.	City Councilor
Hon. Glenda Monette R. Gayta	-do-
Hon. Elizabeth C. Peña	-do-
Hon. Rey P. Oliveros	-do-
Hon. Rosendo B. Linsag	-do-
Hon. Orlando F. Rodriguez, Jr.	-do-
Hon. Alan R. Acera, Sr.	-do-
Hon. Dennis T. Tolentino	ABC President

**ABSENT:**

Hon. Alan E. Andrada	City Councilor - Vacation Leave
Hon. Carlos D. Basas, Jr.	SKCF President - (Excused)

**CITY ORDINANCE NO. 36**  
**Series of 2008**

AN ORDINANCE AMENDING MUNICIPAL ORDINANCE NO. 3 S. 1993 "THE REVENUE CODE OF THE MUNICIPALITY OF MATI" APPROVED JUNE 8, 1993, BY INSERTION OF SOME PROVISIONS

Be it ordained by the *Sangguniang Panlungsod* of the City of Mati, that :

**CHAPTER I. GENERAL PROVISIONS**

**Article A. Short Title and Scope**

**Section 01. Short Title.** This Ordinance shall be known as the Revenue Code of the City of Mati.

**Section 02. Scope and Application.** Subject to the provisions of Republic Act 7160, its Implementing Rules and Regulations, and other applicable laws and guidelines, this Code shall govern the levy, assessment, and collection of all city taxes, fees, charges and other impositions, and shall apply to and cover persons, properties, businesses, acts and other matters herein after specified, that are located, carried out, or otherwise took place within the territorial jurisdiction of the City of Mati.

## Article B. Construction of Provisions

**Section 03. Words and Phrases Not Herein Expressly Defined.** Words and phrases embodied in this Code not herein specifically defined shall have the same definitions as found in RA 7160, otherwise known as the Local Government Code of 1991.

**Section 04. Rules of Construction.** In construing the provisions of this Code, the following rules of construction shall be observed unless inconsistent with the manifest intent of the provision;

- (a) *General Rules.* All words and phrases shall be construed and understood according to the common and approved usage of the language; but the technical words and phrases and such other words in this Code which may have acquired a peculiar or appropriate meaning, shall be construed and understood according to such technical, peculiar or appropriate meaning.
- (b) *Gender and Number.* Every word in the Code importing the masculine gender shall extend to both male and female. Every word importing the singular number shall apply several persons or things as well; and every word importing the plural number shall extend and be applied to one person or thing as well.
- (c) *Reasonable Time.* In all cases where any act is required to be done within the reasonable time, the same shall be deemed to mean such time as may be necessary for the prompt performance of the act.
- (d) *Computation of Time.* The time within which an act is to be done as provided in this Code, or in any rule or regulation issued pursuant to the provisions thereof, when expressed in days, shall be computed by excluding the first day and including the last day, except if the last day falls on a Sunday or holiday, in which case the same shall be excluded in the computation and the business day following shall be considered the last day.
- (e) *References.* All references to chapters, articles, or sections are to the Chapters, Articles or Sections in this Code unless otherwise specified.
- (f) *Conflicting Provisions of Chapters.* If the provisions of different chapters conflict with or contravene each other, the provisions of each chapter shall prevail as to all specific matters and questions involved therein.
- (g) *Conflicting Provisions of Sections.* If the provisions of the different sections in the same article conflict with each other, the provisions of the Section, which is the last in point of sequence, shall prevail.

## Article C. Definition of Terms

**Section 05. Definitions –** When used in this Code:

- (a) *Business* means trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit;
- (b) *Charges* refer to pecuniary liability, as rents or fees against persons or property;
- (c) *Cooperative* is a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful, common, social, or economic end, making equitable contributions the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

- (d) *Corporations* includes partnerships, no matter how created or organized, joint-stock companies. Joint accounts (cuentas en participación), associations or insurance companies but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal, and other energy operations or consortium agreement under a service contract with the government. General professional partnerships are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or businesses;

The term “resident foreign” when applied to a corporation means a foreign corporation not otherwise organized under the laws of the Philippines but engaged in trade or business within the Philippines.

- (e) *Fee* means a charge fixed by law or ordinance for the regulation or inspection of a business or activity. It shall also include charges fixed by law or agency for the services of a public officer in the discharge of his official duties;
- (f) *Franchise* is a right or privilege, affected with public interest that is conferred upon private persons or corporations, under such terms and conditions as the government and its political subdivisions may impose in the interest of public welfare, security and safety;
- (g) *Gross Sales or Receipts* include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and deposits or advance payments actually received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax, and value added tax (VAT);
- (h) *Levy* means an imposition or collection of an assessment, tax, fee, charge, or fine.
- (i) *License or Permit* is a right or permission granted in accordance with law or by a competent authority to engage in some business or occupation or to engage in some transactions.
- (j) *Municipal Waters* include not only streams, lakes and tidal waters within the city, not being the subject of private ownership and not comprise within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where boundary lines of the city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two (2) municipalities are also situated on the opposite shores that there is less than fifteen (15) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of the respective municipalities.
- (k) *Operator* includes the owner, manager, administrator, or any other person who operates or is responsible for the operation of a business establishment or undertaking.
- (l) *Privilege* means a right of immunity granted as a peculiar benefit, advantage or favor.
- (m) *Persons* mean every natural or juridical being, susceptible of rights and obligations or of being the subject or legal relations;
- (n) *Rental* means the value of the consideration, whether in money, or otherwise, given for the enjoyment or use of a thing.

- (o) *Residents* refer to natural persons who have their habitual residence in the province, city, or municipality where they exercise their civil rights and fulfill their civil obligations, and to juridical persons for which the law or any other provision creating or recognizing them fixes their residence in a particular province, city or municipality. In the absence of such laws, juridical persons are residents of the province, city or municipality where they have their legal residence or principal place of business or where they conduct their principal business or occupation;
- (p) *Revenue* includes taxes, fees and charges that a state or its political subdivision collects and receives into the treasury for public purposes.
- (q) *Services* means the duties, work or functions performed or discharged by a government officer, or by a private person contracted by the government, as the case may be.
- (r) *Tax* means an enforced contribution, usually monetary in form, levied by the law making body on persons and property subject to its jurisdiction for the precise purpose of supporting government needs.
- (s) *Vessels* include every type of boat, craft or other artificial contrivance, capable of being used, as a means of transportation on water.

## **CHAPTER 2. CITY TAXES**

### **Article D. Socialized Housing Tax**

#### **Section 6. Definition.** When used in this Article:

- (a) *Socialized housing* refers to housing programs and projects covering houses and lots or home lots only duly undertaken by the government and private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberalized terms on interest payments, and such other benefits in accordance with the provisions of the Urban Development and Housing Act of 1992.
- (b) *Urban areas* refer to all municipalities with a population density of at least five hundred (500) persons per square kilometer.

#### **Section 7. Exemptions.** The following are exempted from the socialized housing tax:

- (a) Those included in the coverage of RA 6657, otherwise known as the Comprehensive Agrarian Reform law;
- (b) Those actually used for national defense and security of the state;
- (c) Those used, reserved or otherwise set aside for government offices, facilities and other installations whether owned by the National Government, its agencies and instrumentalities, including government-owned or controlled corporations, or by the local government units. Provided, however, that the lands herein mentioned, or portions thereof, which have not been used for the past ten (10) years from the effectivity of RA 7279 shall be covered by this tax.
- (d) Those used or set aside for parks, reserves for flora and fauna, forests and watersheds, and other areas necessary to maintain ecological balance or environmental protection, as determined and certified by the proper government agency; and
- (e) Those actually and primarily used for religious, charitable, or educational purposes, cultural and historical sites, hospitals and health centers, and cemeteries or memorial parks.

**Section 8. Imposition of Tax.** There is hereby imposed a socialized housing tax at the rate of one-half percent (0.05%) on the assessed value of lands in urban areas in excess of Fifty Thousand Pesos (P50,000.00)

**Section 9. Collection and Accrual of Proceeds.** The fixed tax on socialized housing shall be collected at the same time and in the same manner as that of the basic real property tax. The proceeds of the additional socialized housing tax shall accrue to the Urban Development and Housing Program of the City.

**Section 10. Administrative Provisions.** The City Assessor shall keep an updated record of lands in urban areas within his jurisdiction with assessed values in excess of Fifty Thousand Pesos (P 50,000). For purposes of collection, the City Assessor shall notify, on the basis of such record, the owner of the property or person having legal interest therein of the imposition of the additional tax.

#### **Article E. Tax On Transfer Of Real Property Ownership**

**Section 11. Imposition of Tax.** There is hereby levied a tax on the sale, donation, barter, or on any other mode of transferring ownership or title of real property at the rate of fifty-five percent (55%) of one percent (1%) of the total consideration involved in the acquisition of the property or the fair market value in case the monetary consideration involved in the transfer is not substantial, whichever is higher. The fair market value as used herein shall be that reflected in the prevailing schedule of fair market values enacted by the Sangguniang Panlungsod.

**Section 12. Time of Payment.** It shall be the duty of the seller, donor, transferor, executor, or administrator to pay the City Treasurer the tax herein imposed within sixty (60) days from the date of the execution of the deed or from the date of the property owner's death.

**Section 13. Surcharge for Late Payment.** Failure to pay the levied tax on time shall be subject to a surcharge of twenty-five percent (25%) of the original amount of tax due, such surcharge to be paid at the same time and in the same manner as the tax due.

**Section 14. Exemptions.** The sale, transfer or other disposition of real property pursuant to RA 6657 shall be exempt from this tax.

**Section 15. Administrative Provisions.**

(a) The Register of Deeds of the city shall, before registering any deed, require the presentation of the evidence of payment of this tax. The City Assessor shall likewise make the same requirement before canceling an old tax declaration and issuing a new one.

(b) Notaries Public shall furnish the City Treasurer with a copy of any deed transferring ownership or title to any real property within thirty (30) days from the date of notarization.

#### **Article F. Tax on Printing and Publication**

**Section 16. Imposition of Tax.** There is hereby levied a tax at the rate of fifty-five percent (55%) of one percent (1%) of the gross annual receipts for the preceding calendar year on the business of persons engaged in the printing and/or publication of books, cards, posters, leaflets, handbills, certificates, receipts, pamphlets, and others of similar nature.

In the case of a newly started business, the tax shall be five percent (5%) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.

**Section 17. Exemptions.** The receipts from the printing and/or publishing of books or other reading materials prescribed by the Department of Education, Culture and Sports (DECS) as school texts or references shall be exempt from the tax herein imposed.

**Section 18. Time of Payment.** The tax imposed in this Article shall be due and payable in quarterly installments to the City Treasurer, within the first twenty (20) days following each quarter. In the case of a newly-started business, the tax shall be paid before the business starts to operate.

***[The sanggunian may prescribe an annual payment on or before January 20.]***

#### **Article G. Franchise Tax**

**Section 19. Definition.** When used in this Article, Franchise is a right or privilege, affected with public interest, which is conferred upon private persons or corporations, under such terms, and conditions as the government and its political subdivision may impose in the interest of public welfare, security and safety.

**Section 20. Imposition of Tax.** There is hereby levied a tax on businesses enjoying a franchise the rate of fifty-five percent (55%) of one percent (1%) of the gross annual receipts which shall include both cash sales and sales on account realized during the preceding calendar year within the territorial jurisdiction of the city.

In the case of a newly started business, the tax shall be five percent (5%) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.

The capital investment to be used as basis of the tax of a newly started business as herein provided shall be determined in the following manner.

- (a) If the principal office of the business is located within the city, the paid-up capital stated in the articles of incorporation in case of corporations, or in any similar document in case of other types of business organization, shall be considered as the capital investment.
- (b) In the case of a branch or sales office located in the city which commences business operations during the same year as the principal office but which is located in another locality, the paid-up capital referred in shall mean the amount of the capital investment made for the said branch or sales office.
- (c) Where the newly started business located in the city is a branch or sales office commencing business operations at a year later than that of the principal office, capital investment shall mean the total funds invested in the branch or sales office.

**Section 21. Exclusion.** The term *business enjoying franchise* shall not include holders of certificates of public convenience for the operation of public utility vehicles for reason that such certificates are not considered as franchise.

**Section 22. Time of Payment.** The tax imposed in this Article shall be due and payable in quarterly installments to the City Treasurer, within the first twenty (20) days following each quarter. In the case of a newly-started business, the tax shall be paid before the business starts to operate.

***[The sanggunian may prescribed an annual payment on or before January 20.]***

#### **Article H. Professional Tax**

**Section 23. Imposition of Tax.** There is hereby imposed an annual professional tax on each person engaged in the exercise or practice of his profession requiring government examination at the rate of Three Hundred Pesos (P300.00).

**Section 24. Coverage.** Professionals who passed the bar examinations, any board or other examinations conducted by the Professional Regulation Commission (PRC) and other government agencies shall be subject to the professional tax.

**Section 25. Exemption.** Professionals exclusively employed in the government shall be exempted from the payment of this tax.

**Section 26. Payment of the Tax.** The professional tax shall be paid before any profession herein specified can be lawfully pursued. A line of profession does not become exempt even if conducted with some other profession for which the tax has been paid.

**Section 27. Time of Payment.** The professional tax shall be payable annually, on or before the thirty-first (31st) day of January to the City Treasurer. Any person first beginning to practice a profession after the month of January must, however, pay the full tax before engaging therein.

**Section 28. Place of Payment.** Every person legally authorized to practice his profession, shall pay the professional tax to the City of Mati, where he practices profession or where he maintains his principal office, in case he practices his profession in several places.

**Section 29. Administrative Provisions.**

- (a) Every person who has paid the corresponding professional tax shall be entitled to practice his profession in any part of the Philippines without being subjected to any other national or local tax, license or fee for the practice of such profession.
- (b) The City Treasurer before accepting payment of the tax, shall require the presentation of the Valid Professional Licenses issued by the Professional Regulations Commission.
- (c) Any individual or corporation employing a person subject to the professional tax shall require payment by that person of the tax on his profession before employment and annually thereafter.
- (d) Any person subject to the professional tax, shall write in deeds, receipts, prescriptions, reports, books of account, plans and designs, surveys and maps, as the case may be, the number of the official receipt issued to him.
- (e) Any individual, association, organization, partnership or corporation employing a person subject to professional tax shall: (1) require payment by that person of the tax on his profession before employment and annually thereafter, and (2) submit a list of professionals under his/their employ to the City Treasurer including the following information on or before the last day of March of every year:
- (f) Any person subject to the professional tax shall write in deeds, receipts, prescriptions, reports, books of account, plans and designs, surveys and maps, as the case may be, the number of the official receipt issued to him.

**Article I. Amusement Tax on Admission**

**Section 30. Definitions.** When used in this Article

- (a) *Amusement* is a pleasurable diversion and entertainment. It is synonymous to relaxation, avocation, pastime or fun.
- (b) *Amusement Places* include theaters, cinemas, concert halls, circuses, and other places of amusement where one seeks admission to entertain oneself by viewing the show or performance.

**Section 31. Imposition of Tax.** There is hereby levied a tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadium, and other amusement places at the rate of twenty five percent (25%) of the gross receipts from admission fees.

**Section 32. Manner of Computing Tax.** In the case of theaters or cinemas, the tax shall first be deducted and withheld by their proprietors, lessees, or operators and paid to the City Treasurer before the gross receipts are divided between said proprietors, lessees, or operators and the distributors of the cinematographic films.

**Section 33. Exemption.** The holding of operas, concerts, dramas, recitals, painting and art exhibitions, flower shows, musical programs, literary and oratorical presentations, except pop, rock or similar concerts shall be exempted from the payment of the tax herein but subject to permits and regulatory fees imposed in this Code.

**Section 34. Time and Place of Payment.** The amusement tax on admission herein imposed shall be due and payable by the proprietor, lessee or operator concerned, within the first twenty (20) days of the month next following that for which they are due to the City Treasurer before the gross receipts are divided between the proprietors, lessees, or operator and the distributors of the cinematographic films.

In the case of itinerant operators of similar modes of amusement, the tax herein prescribed shall be paid immediately after the last full show or performance.

**Section 35. Time and Manner of Payment.** The tax imposed herein the gross receipts realized during the month shall be paid to the City Treasurer within fifteen (15) days of the succeeding month.

A monthly amusement tax return indicating the gross receipts for the month duly certified by the proprietor, owner, operator, or lessee under oath shall be submitted to the City Treasurer within ten (10) calendar days. Treasurer shall compare the return with the corresponding record of inspectors assigned during the month and verify the correctness of the return before acknowledging the tax payment.

**Section 36. Administrative Provisions.**

- (a) All admission tickets of amusement places subject to the tax imposed in this Article shall be registered with the City Treasurer without charge who shall mark said tickets properly by the word *REGISTERED* and keep a record thereof. The City Treasurer shall likewise issue a certification to the owner, proprietor, operator or lessee to the effect that such quantity, denomination and serial numbers of admission tickets were duly registered with his Office. A color scheme and numbering system shall be prescribed by the City Treasurer for control purposes.
- (b) The City Treasurer shall require owners, proprietors, operators or lessees of amusement places to provide their establishments two boxes, one box marked with letter "O" for operator and the other marked letter "G" for government in the place where tickets are presented by customers. Duly registered admission tickets shall be cut in halves upon presentation of the same by customers. One-half of the ticket shall be deposited in the box marked with letter "O", and the other half shall be deposited in the other box marked with letter "G".
- (c) The boxes for used admission tickets shall be provided with two lock devices. One lock device shall be provided with padlock by the management while the other lock device shall be provided by the City Government. Both boxes shall be opened daily in the presence of representatives from the management and the city government who shall certify the number of admission tickets by denomination in the daily count sheet. The daily count sheets of admission tickets shall be attached to the Monthly Amusement Tax Return to be submitted to the City Treasurer. The City Treasurer of the city where the amusement place is located shall be furnished a copy of such return.
- (d) Owners or operators of every amusement place shall post in a conspicuous place in front of the ticket booth a notice, printed in big bold letters or numbers, showing the amount of admission price. When there is a change in the admission price, the owner or operator of the said amusement place shall, within ten (10) days from the effectivity of such change, inform in writing the City Treasurer the details of the changes in admission price.

**Article J. Annual Fixed Tax for Every Delivery Truck or Van of Manufacturers or Producers, Wholesalers, Dealers or Retailers of Certain Products**



**Section 37. Imposition of Tax.** There is hereby imposed an annual fixed tax for every truck, or any motor vehicle used by manufacturers, producers, wholesalers, dealers or retailers in the delivery or distribution of distilled spirits, fermented liquors, soft drinks, cigar and cigarettes, and other essential products including but not limited to dairy products, as may hereafter be determined by the Sangguniang Panlungsod, to sales outlets, or consumers, whether directly or indirectly within the City in the following rates:

- a. One Hundred Pesos (P 100.00) for every motorcycle and motorized tricycle.
- b. Three Hundred Pesos (P 300.00) for every delivery jeepney, and similar utility vehicle.
- c. Five Hundred Pesos (P 500.00) for every truck, van, or any vehicle with six wheels and above.

**Section 38. Exemptions.** The manufacturers, producers, wholesalers, dealers, and retailer referred to in the preceding sections shall be exempt from the payment of the peddlers tax in the sale of any merchandise or article of commerce imposable by the city.

**Section 39. Time and Place of Payment.** The tax imposed in this Article shall accrue on the first day of January and shall be paid to the City Treasurer within the first twenty (20) days of January.

**Section 40. Annual Registration Sticker.** An annual registration sticker shall be issued by the Office of the City Treasurer upon payment of One Hundred Pesos (P 100.00) and the same shall be displayed at the right windshield of any delivery van, truck or vehicle.

#### **Article K. Presumptive Income Level**

**Section 41. Presumptive Income Level.** For every tax period, the Office of the City Treasurer shall prepare a stratified schedule of "presumptive income level" to validate the declarations of gross receipts of each business classification.

**Section 42. Tax on Newly-Started Business.** In the case of a newly started business under this Article, the tax shall be one-twentieth of one percent (1/20 of 1%) of the asset size. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year or any thereof, as provided in the pertinent schedules in this Article.

#### **Article L. Situs of Tax**

**Section 43. Situs of the Tax.**

(a) For purposes of collection of the business tax under the "situs" of the tax law, the following definition of terms and guidelines shall be strictly observed:

- 1) Principal Office – the head or main office of the businesses appearing in the pertinent documents submitted to the Securities and Exchange Commission, or the Department of Trade and Industry, or other appropriate agencies as the case may be.

The city or municipality specially mentioned in the articles of the incorporation or official registration papers as being the official address or said principal office shall be considered as the situs thereof.

In case there is a transfer or relocation of the principal office to another city or municipality, it shall be the duty of the owner, operator or manager of the business to give due notice of such transfer or relocation to the City Mayor within fifteen (15) days after such transfer or relocation is effected.

- 2) Branch or Sales Office – a fixed place in a locality which conducts operations of the businesses as an extension of the principal office. A warehouse which accepts orders and/or issues sales invoices independent of a branch with sales office shall be considered as a sales office.

- 3) Warehouse – a building utilized for the storage of products for sale and from which goods or merchandise are withdrawn for delivery to customers or dealers, or by persons acting on behalf of the business. A warehouse that does not accept orders and/or issue sales invoices as aforementioned shall not be considered a branch or sales office.
- 4) Plantation – a tract of agricultural land planted to trees or seedling fruit bearing or not, uniformly spaced or seeded by broadcast methods or normally arranged to allow highest production. For purpose of this Article, inland fishing ground shall be considered as plantation.
- 5) Experimental Farms – agricultural lands utilized by a business or corporation to conduct studies, researches or experiments involving agricultural, agri-business, marine or aquatic livestock, poultry, dairy and other similar products for the purpose of improving the quality and quantity of goods and products.

However, on-site sales of commercial quantity made in experimental farms shall be similarly imposed the corresponding tax under Section 69, Article Ten of this Code and allocated under paragraph (b) of this Article.

(b) Sales Allocation

- 1) All sales made in the Mati City where there is branch or sales office or warehouse shall be recorded in said branch or sales office or warehouse and the tax shall be payable to the City where the same is located.
- 2) If the business concerned has no branch office or sales outlet in the City of Mati, the sale or transaction may be recorded in the place where the principal office of the said business is located. The taxes, however, shall accrue and be paid to the City of Mati where the sale or transaction was made or consummated, associated with the delivery of the articles, commodities or things which are the subject matter of the contract of sale.
- 3) In cases where there is a factory, project office, plant or plantation in pursuit of business, thirty percent (30%) of all sales recorded in the principal office shall be taxable by the City where the principal office is located and seventy percent (70%) of all sales recorded in the principal office shall be taxable by the city where the factory, project office, plant or plantation is located.

The sales allocation in (a) and (b) above shall not apply to experimental farms.

Local Government Units (LGUs) where only experimental farms are located shall not be entitled to the sales allocation herein provided for.

- 4) In case of a plantation located in a locality other than that where the factory is located, said seventy percent (70%) sales allocation shall be divided as follows:
  - a) Sixty percent (60%) to the city where the factory is located; and
  - b) Forty percent (40%) to the city where the plantation is located.
- 5) In cases where there are two (2) or more factories, project offices, plants or plantations located in different localities, the seventy percent (70%) sales allocation shall be pro-rated among the localities where such factories, project offices, plants and plantations are located in proportion to their respective volumes of production during the period for which the tax is due.

In the case of project offices of services and other independent contractors, the term production shall refer to the costs of projects actually undertaken during the tax period.

- 6) The foregoing sales allocation under par. (3) hereof shall be applied irrespective of whether or not sales are made in the locality where the factory, project office, plant or plantation is located. In case of sales made by the factory, project office, plant or plantation, the sale shall be covered by paragraph (1) or (2) above.

- 7) In case of manufacturers or producers which engage the services of an independent contractor to produce or manufacture some of their products, the rules on situs of taxation provided in this article as clarified in the paragraphs above shall apply except that the factory or plant and warehouse of the contractor utilized for the production or storage of the manufacturer's products shall be considered as the factory or plant and warehouse of the manufacturer.
  - 8) All sales made by the factory, project office, plant or plantation located in this City shall be recorded in the branch or sales office which is similarly located herein shall be taxable by this City. In case there is no branch or sales office or warehouse in this City, but the principal office is located therein, the sales made in the factory shall be taxable by this City along with the sales made in the principal office.
- (c) Port of Loading – The City where the port of loading is located shall not levy and collect the tax imposed under Graduated Tax on Business of the Local Revenue Code unless the exporter maintain in said City its principal office, a branch, sales office, warehouse, factory, plant or plantation in which case the foregoing rule on the matter shall apply accordingly.
- (d) Route Sales – sales made by route trucks, vans or vehicles in this City where a manufacturer, producer, wholesaler, maintains a branch or sales office or warehouse shall be recorded in the branch or sales office or warehouse and shall be taxed herein

This City shall tax the sales of the products withdrawn by route trucks from the branch, sales office or warehouse located herein but sold in another locality.

## **Article M. Taxpayer's Remedies**

### **Section 44. Periods of Assessment and Collection.**

- a) Local taxes, fees, or charges shall be assessed within five (5) years from the date they became due. No action for the collection of such taxes, fees, or charges, whether administrative or judicial, shall be instituted after the expiration of such period: Provided, that taxes, fees, or charges which have accrued before the effectivity of the Local Government Code of 1991 may be assessed within a period of five (5) years from the date they became due.
- b) In case of fraud or intent to evade the payment of taxes, fees, or charges, the same may be assessed within ten (10) years from discovery of the fraud or intent to evade payment.
- c) Local taxes, fees, or charges may be collected within five (5) years from the date of assessment by administrative or judicial action. No such action shall be instituted after the expiration of said period: Provided, however, that taxes, fees and charges assessed before the effectivity of the LGC of 1991 may be assessed within a period of three (3) years from the date of assessment.
- d) The running of the periods of prescription provided in the preceding paragraphs shall be suspended for the time during which:
  - 1. The treasurer is legally prevented from making the assessment of collection;
  - 2. The taxpayer requests for a reinvestigation and executes a waiver in writing before the expiration of the period within which to assess or collect; and
  - 3. The taxpayer is out of the country or otherwise cannot be located.

**Section 45. Protest of Assessment.** When the City Treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the City Treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The City Treasurer shall decide the protest within sixty (60) days from the time of its filing. In cases where the protest is denied, the taxpayer shall have thirty (30) days from the receipt of denial or from the lapse of the sixty-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

**Section 46. Claim for Refund of Tax Credit.** No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the City Treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of payment of such tax, fee or charge, or from the date the taxpayer is entitled to a refund or credit.

**Section 47. Legality of this Code.** Any question on the constitutionality or legality of this Ordinance may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal; Provided, however, that such appeal shall not have the effect of suspending effectivity of this Ordinance and the accrual and payment of the tax, fee or charge levied herein: Provided finally, that within thirty (30) days after the receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file the appropriate proceedings with a court of competent jurisdiction.

#### **Article N. Miscellaneous Provisions**

**Section 48. Power to Levy Other Taxes, Fees or Charges.** The City 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 contradictory 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.

**Section 49. Publication of the Revenue Code.** Within ten (10) days after its approval, a certified copy of this Ordinance shall be published in a newspaper of local circulation, the same may be posted in at least two (2) conspicuous and publicly accessible places.

**Section 50. Public Dissemination of this Code.** Copies of this Revenue Code shall be furnished to the City Treasurer for public dissemination.

**Section 51. Authority to Adjust Rates.** The Sangguniang Panlungsod shall have the sole authority to adjust tax rates as prescribed herein not oftener than once every five (5) years, but in no case shall such adjustment exceed ten percent (10%) of the rates fixed under this Code.

**Section 52. Withdrawal of Tax Exemption Privileges.** Unless otherwise provided in this Revenue Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, cooperatives duly registered under RA 6938, non-stock and non-profit hospitals and educational institutions, business enterprises certified by the Board of Investment (BOI) as pioneer or non-pioneer for a period of six (6) and four (4) years, respectively, from the date of registration, business entity, association, or cooperatives registered under RA 6810, and printer and/or publisher of books or other reading materials prescribed by DECS as school texts or references, insofar as receipts from the printing and/or publishing thereof are concerned, are hereby withdrawn.

#### **CHAPTER 3. GENERAL PENAL PROVISIONS**

**Section 53. Penalties for Violation of Tax Ordinance.** Any person or persons who violates any of the provisions of this Ordinance or the rules or regulations promulgated by authority of this Ordinance shall, upon conviction, be punished by a fine of not less than One Thousand Pesos (P1,000.00) nor more than Five Thousand Pesos (P5,000.00), or imprisonment of not less than one (1) month nor more than six (6) months, or both, at the discretion of the court.

If the violation is committed by any juridical entity, the President, General Manager, or the individual entrusted with the administration thereof at the time of the commission of the violation shall be held responsible or liable therefore.

Punishment by a fine or imprisonment as herein provided for, shall not relieve the offender from the payment of the tax, fee or charge imposed under this Ordinance.

**CHAPTER 4. FINAL PROVISIONS**

**Section 54. Separability Clause.** If for any reason, any section or provision of this Ordinance shall be held to be unconstitutional or invalid by competent authority, such judgment or action shall not affect or impair the other sections or provisions thereof.

**Section 55. Applicability Clause.** All other matters relating to the impositions in this Ordinance shall be governed by pertinent provisions of existing laws and other ordinances.

**Section 56. Repealing Clause.** All ordinances, rules and regulations, or part thereof, in conflict with, or inconsistent with any provisions of this Ordinance are hereby repealed or modified accordingly.

**Section 57. Special Transitory Provisions.**

The tax on special levy and socialized housing shall be collected upon enactment by Sangguniang Panlungsod of an enabling ordinance.

**Section 58. Effectivity.**

**WHEREFORE**, jointly sponsored by Hon. Glenda Monette R. Gayta, Hon. Niño Sotero L. Uy, Jr., Hon. Orlando F. Rodriguez, Jr., Hon. Alan E. Andrada, Hon. Rosendo B. Linsag and Hon. Carlos D. Basas, on motion of Hon. Glenda Monette R. Gayta, duly seconded by Hon. Dennis T. Tolentino, Hon. Elizabeth C. Peña and Hon. Alan R. Acera, Sr., foregoing Ordinance is hereby approved.

ENACTED: MARCH 23, 2009.

\* \* \* \* \*

**I HEREBY CERTIFY** to the correctness of the foregoing ordinance which was duly adopted by the Sangguniang Panlungsod during its 12<sup>th</sup> Regular Session on March 23, 2009.

CERTIFIED CORRECT:

(SGD.) **REY P. OLIVEROS**  
City Councilor  
Acting Secretary to the Sangguniang Panlungsod

ATTESTED BY:

(SGD.) **CESAR D. DE ERIO**  
City Vice Mayor  
Presiding Officer

APPROVED:

(SGD.) **MICHELLE MARIE DENISE N. RABAT**  
City Mayor