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## Real-property tax on trees

With the accrual of annual real-property tax drawing near, I take this opportunity to tackle the question on the imposition of RPT on trees. Is this sanctioned under our laws?

As it stands now, some local government units (LGUs) have adopted their own schedules on how to tax trees in their respective jurisdictions. In one City Tax Ordinance, it contains a provision on the imposition of RPT on land, building, machinery, including plants and trees. In another local tax ordinance, fruit-bearing trees numbering over 10 are being made subject to the imposition of RPT. The same ordinance exempts trees from the imposition of RPT, only if there are no more than 10 trees planted within the premises of a residential house which does not exceed half a hectare.

In 1974, Presidential Decree 464 was issued expressly exempting perennial trees and plants of economic value from real-property tax. However, in 1991, PD 464 was expressly repealed by the Local Government Code. Nevertheless, the provisions of the LGC on real-property taxation, under Title II, are silent as to the taxability of trees.

Under Section 218 of the LGC, among the real properties mentioned as subject to real-property tax are lands, buildings and other structures, and machineries and other improvements. Trees are not specifically mentioned under that provision.

Taking into consideration the definition of “improvement” under Section 199 of the LGC, we can say that trees are not covered. As defined therein, improvement is a valuable addition made to a property or an amelioration in its condition, amounting to more than a mere repair or replacement of parts involving capital expenditures and labor, which is intended to enhance its value, beauty or utility, or to adapt it for new or further purposes. Certainly, trees could not have been covered in that definition.

Section 415 of the Civil Code classifies trees as real properties or immovable properties, among others. However, for the purpose of imposition of real-property tax, the Supreme Court, in one case, has ruled that this provision shall not apply since the LGC of 1991 expressly defined what shall be considered as subject to real-property tax. The Court said that as between the Civil Code, a general law governing property and property relations, and the Local Government Code, a special law granting LGUs the power to impose real-property tax, the latter shall prevail.

In another case (CTA EB 377), the Court of Tax Appeals has ruled that for RPT purposes, there is no need to resort to Section 415 of the Civil Code, since Section 199 of the Local Government Code already defined what are subject to the imposition of real-property tax. In these cases, however, the issue is on the taxability of machineries, not trees.

Following the above considerations, the imposition of real-property tax should not be made in reference to the definition of real property, under Section 415 of the Civil Code. The LGC does not expressly enumerate trees as among the properties subject to the imposition of real-property tax. As what the latin maxim provides, what the law expressly excluded should not be included (Expressio Unius Est Exclusio Alterius). Since trees are not one of those expressly mentioned under the provisions of the LGC, the same shall not be subject to RPT.

If we subject trees to RPT, I fear that one day, we will no longer see trees in this country.

### Finance department welcomes House approval of real- property valuation bill

THE Department of Finance (DOF) on Tuesday welcomed the approval by the House of Representatives of the real-property valuation reform (RPVR) bill, which seeks to generate additional revenues for local government units (LGUs).

According to the DOF, House Bill 4664 may stimulate the real- estate market, and haul in more investments from the private sector.

Lawmakers pointed out this measure will also help speed up the implementation of President Duterte's centerpiece initiative "Build, Build, Build" as the use of a new and uniform "schedule of market values," or SMVs, on real property will address right-of-way (ROW) issues that at times delay the government's acquisition of private lands intended for public infrastructure projects.

HB 4664, also known as Package 3 of the Comprehensive Tax Reform Program (CTRP) of the Duterte administration, proposes the following: the adoption of internationally accepted real-property valuation standards; the use of single valuation for land transactions taxation; the use of SMVs for ROW acquisition; and the strengthening of the valuation arm of the DOF-attached Bureau of Local Government Finance (BLGF).

Last week, the Lower Chamber approved HB 4664 on third and final reading by a 224-vote and one abstention.

The DOF thanked particularly Rep. Mario Vittorio A. Mariño, chairman of the House Committee on Government Reorganization, and the other members of the House for the swift approval of this CTRP package.

The DOF expressed gratitude to lawmakers for seeing "the urgency of passing the CTRP's Package 3, which will generate additional revenues for LGUs, stimulate the real-estate market and haul in more investments."

The DOF asserted that Package 3 will broaden the base used for property-related taxes of national and local governments, thereby increasing revenues without necessarily imposing new taxes or increasing existing rates.

The DOF expressed hopes the Senate will act on its version of the RPVR bill in the first half of 2020.
In his State of the Nation Address last July, Duterte emphasized the need to improve the current valuation system as he called on Congress to immediately pass the proposed RPVR bill.

Currently, LGUs are tasked with preparing an SMV, which is just one of many conflicting values currently used for various government purposes and private transactions. The SMVs are also often outdated and set without standard technical procedures, leading to an eroded real-property tax base for LGUs, the DOF explained.