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REAL ESTATE TAX VALUATION REFORM

As the clock winds down on the Duterte administration, the chances of the real property tax valuation reform measure proposed by the Department of Finance being enacted into law are looking dim.

The bill aims to broaden the tax base used in ascertaining the property-related taxes of the national and local governments through a just, equitable and efficient valuation system.

The expansion of the tax base would enable the government to increase its revenues without imposing new or additional taxes which ordinary taxpayers would eventually shoulder.

The bill was approved on third and final reading by the House of Representatives in 2019 and is pending at the Senate.

It provides, among others, for the establishment of "a single valuation base for taxation, through the adoption of the SMVs (schedule of market values) of LGUs (local government units), and use the updated values as benchmarks for other purposes, such as right-of-way acquisition, lease, rental, etc."

With the valuation base already fixed by law, the valuation of real properties in LGUs would be insulated from political considerations or influence. But the responsibility of setting, adjusting and regulating the tax rates and assessment levels of those properties shall remain with them.

The proposed obligatory updating of tax valuation by LGUs assumes significance in light of the devolution to them by the national government of certain public services as a result of the Mandanas ruling.

Under that Supreme Court decision, the national government is obliged to remit to LGUs 40 percent of all collections by the Bureau of Internal Revenue and the Bureau of Customs.

Based on the P5-trillion 2022 national budget, that share is equivalent to P959.04 billion, which will be shared by 81 provinces, 146 cities, 1,488 municipalities and 42,046 barangays.

Unless the LGUs have coffers that are as rich as, for example, those of the cities of Makati and Quezon or the provinces of Cebu and Davao, that revenue allocation would be insufficient to adequately fund, among others, health and social welfare services, infrastructure facilities for residents and mass housing programs.

The periodic updating of the tax valuation and assessment of real properties, whose values are expected to rise through the years and as the LGUs develop, would provide them with additional sources of revenue other than those allowed by the Local Government Code to meet the funding requirements of devolved public services.

That extra income would also help minimize the LGUs running to the national government for assistance (and being subject to political pressure in the process) in case they suffer shortfalls in their revenue collections.

Aside from the funding aspect, the bill gives the LGU executives political cover in the review and adjustment of the tax values of real properties within their territories.

It is common knowledge that raising real property taxes is a politically sensitive issue.

Past experiences have shown that any action to increase those taxes, no matter how urgent or justified it may be or despite the fact that the existing rates have been in place for decades, often draws strong opposition from the LGU's constituency.

And if that resistance comes from the executives' family, close associates or supporters whose business or personal interests would be affected by the upward adjustment in taxes, the valuation would hardly get a chance to be included in the agenda of the LGU's legislative body.

It would take a lot of political will on the part of LGU executives to buck that opposition and undertake a review of real property tax valuation to augment the LGUs' financial resources.

If that bill is enacted into law, the LGUs can simply say—if their action meets stiff resistance—that their hands are tied because the law requires them to do a periodic updating of that tax.

Whether or not the Senate would make an effort to enact that bill into law after May 9 remains to be seen.

REVALUATION OF PROPERTY TAX PUSHED

The government is losing "tens of billions of pesos" as real estate properties are not taxed correctly amid the outdated valuation system.

Carlos Dominguez, Department of Finance (DOF) secretary, said reforms in the property valuation system that would let local government units (LGUs) collect the right amount of taxes by regularly updating the schedule of market values (SMV) in assessing real estate assets is the correct way to impose a so-called "wealth tax" on the rich.

Dominguez said unlike the wealth tax on movable assets that could only lead to capital flight and tax avoidance, properly taxing land ensures that the government gets to collect taxes on the rich because land cannot be hidden nor spirited away.

"The current valuation for real property tax purposes of land is outdated and very low as compared to real market value. The market value of prime commercial areas in Ayala Avenue within the vicinity of San Lorenzo in Makati City is only about P40,000 per square meter (sqm), based on the city's SMV, when in fact, the real market value ranges from P400,000 to P900,000 per sqm. So we are losing tens of billions of pesos because that kind of wealth is not being taxed correctly," Dominguez said.

The DOF checked on land values located in Barangays San Lorenzo and Bel-Air in Makati City, and it was discovered that the current SMV for real property tax (RPT) imposed by LGUs in these areas is only P40,000 per sqm, as opposed to the high-end zonal value of P940,000 per sqm used by the Bureau of Internal Revenue (BIR) to compute estate, donor's and capital gains taxes, which are national taxes.

Estimating the total taxable commercial land area of Ayala Avenue in Barangay San Lorenzo, covering the vicinity from Salcedo Street to Makati Avenue, at 52,640 sqm, yields an assessed total value of P842.24 million based on the current SMV, which means that the collectible total RPT, including the additional levy for special education fund, at a maximum combined tax rate of 3 percent will amount to only P25.27 million, the DOF said.

"For both commercial areas, the total RPT would only amount to a relatively paltry P50.27 million based on the current SMV set by the Makati local government. Using similar computations for Barangay Bel-Air with an estimated land area of 52,080 sqm translates into an assessed value of P833.28 million, with a total RPT of only P25 million," the DOF said.

"But if the more current zonal values were used to compute the RPT – as what the BIR has set – the assessed value for the sample commercial land area in Ayala Avenue within the vicinity of Barangay San Lorenzo would be P19.79 billion, while it would be P19.58 billion for Barangay Bel-Air," it added.

Thus, the DOF said the total RPT that could be collected yearly would be higher at P593.78 million for Barangay San Lorenzo and P587.46 million for Barangay Bel-Air, or a total of P1.18 billion for these sampled commercial areas in Ayala Avenue.

The collectibles using the zonal value is higher by P1.13 billion or 2,250 percent as compared to the tax due using the SMV of LGUs, Dominguez said.

"That kind of wealth cannot escape to offshore accounts or anywhere. That is wealth here.

The other kind of wealth they want to tax can disappear," Dominguez said, referring to the proposals of some individuals and legislators to impose a "wealth" tax on the country's richest Filipinos.

Dominguez said because RPTs are local taxes, the LGUs are in the best position to implement this effective form of wealth tax by using updated SMVs and a property valuation system aligned with international standards.

The DOF said LGU officials, however, are hesitant to impose the RPT based on updated SMVs mainly because of political considerations, although the Local Government Code states that these should be updated every three years.

Property values inevitably appreciate over time and faster in metropolitan areas, but the tax that is rightfully due to government is not appropriately collected, thereby violating the principle of equity in real property taxation, the DOF said.

Dominguez said this is why the DOF has long been pushing the passage of the Real Property Valuation and Assessment Reform Act, which is the third package of the Duterte administration's comprehensive tax reform program.

This proposed tax reform aims to promote the development of a just, equitable and efficient real property valuation system and broaden the tax base used for property-related taxes imposed by the national and local governments.

The goal is to increase government revenues without increasing the existing tax rates or devising new tax impositions.