

January 18, 2011

HON. MANUEL G. GAUNZON  
Punong Barangay  
Barangay Hall  
Capitol Site  
Cebu City

Dear Punong Barangay Guanzon:

This has reference to your letter dated January 10, 2011, requesting legal opinion on the collection of community tax by the barangay. As you reported, Ms. Ofelia Oliva, the City Trasurer of Cebu, is of the view that the deputization of the barangay treasurer to collect community tax is her discretionary right.

Section 164(a) of the Local Government Code of 1991 provides that the proceeds of the (community) tax shall accrue to the general funds of the cities, municipalities and barangays . .x x x. Corollary thereto, Section 164(b) of the Code further provides that the city or municipal treasurer shall deputize the barangay treasurer to collect the community tax in their respective jurisdiction; provided that said barangay treasurer shall be bonded in accordance with pertinent laws. Basic is the rule in statutory construction that when the word used in a provision of law is shall, it connotes a mandatory nature of the provision. The word used in Section 164(b) is shall, hence it is mandatory. Had the law makers intended otherwise, the word used would have been may, giving the city or municipal treasurer the discretion to deputize the barangay treasurer to collect community tax. And the only condition imposed by the law in the deputization of the barangay treasurer is that he/she is bonded. The requirement of Ms. Ofelia Oliva for the execution and submission of an Affidavit of Undertaking has no legal basis.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

