

January 20, 2011

HON. JORGE B. ELMIDO  
Punong Barangay of Maluay, Zamboanguita

HON. GREGORIO E. BACCAY  
Sangguniang Barangay Member,  
Maluay, Zamboanguita  
Negros Oriental

Sirs:

This has reference to your letter dated December 09, 2010, addressed to Sec. Jesse M. Robredo on the taxes and fees imposed and collected by both the Municipality of Zamboanguita and Barangay Maluay at the Malatapay Flea Market. Your said letter was referred to this level for reply.

Upon receipt of the indorsement from our Central Office of your letter, we requested our DILG Negro Provincial Office to conduct an inquiry on the situation and attending circumstances at the Malatapay Flea Market. As reported, the entire Malatapay Flea Market is situated in Maluay, Zamboanguita and is composed of two (2) component areas. The main and central component is the livestock auction market owned and operated by the municipality, while the second component area is the peripheral market stalls, booths and tiendas, either temporary or permanent in nature. The two areas are maintained by the municipal government of Zamboanguita, such as but not limited to the maintenance of peace and order, health and sanitation, garbage collection and the access road toward the market from the national highway. It was further confirmed that the Municipality of Zamboanguita has its own Revised Revenue Code under Ordinance No. 04 Series of 1999. Based thereon, the municipality is collecting taxes and fees in the flea market, specifically the market entrance fee imposed and collected from transient/ambulant vendors whose commodity or merchandise and livestock are brought into the market for sale. Then in July 2008, Barangay Maluay passed and approved its "Revenue Tax Code", which was reviewed and declared as valid by the Sangguniang Bayan of Zamboanguita under its Resolution No. 129 Series of 2008. On the basis of said ordinance, Maluay is imposing and collecting a "commodity display fee" from transient and ambulant

vendors for the display of their commodities/merchandise for sale within the premises of the flea market.

Both the Municipality of Zamboanguita and Barangay Maluay have their respective tax ordinances. The tax ordinance of Maluay enacted in July 2008 was reviewed and declared as valid by the sangguniang bayan of Zamboanguita, presumably it did not find any objectionable provisions therein. Both ordinances are valid unless declared otherwise by the court. Our Department does not have the authority to make such declaration. If an aggrieved party believes there is double taxation, he can bring the matter to court. Both ordinances are the bases of the two local government units in the imposition and collection of taxes, fees and charges at the Malatapay Flea Market, and the taxes, fees and charges so collected accrue to the local government unit which collected them. However, unlike in the case of real property taxes, Barangay Maluay cannot demand for its share in the taxes, fees and charges collected by the Municipality of Zamboanguita in Malatapay Flea Market in accordance with its Revised Revenue Code (Municipal Ordinance No. 47 Series of 1999) for lack of legal basis.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director