



SC DECISION ON IRA

GOVERNOR DODO MANDANAS
PROVINCE OF BATANGAS

LEGAL BASIS OF IRA UNDER THE 1987 CONSTITUTION

Article X

Section 6

"Local government units shall have a **JUST SHARE**, as **DETERMINED BY LAW**, in the **NATIONAL TAXES** which shall be **AUTOMATICALLY RELEASED** to them."

The background of the slide is a faded, light blue-tinted image of the United States Supreme Court building. The building's neoclassical architecture, featuring a prominent portico with columns and a pediment, is visible. The sky above the building is a pale blue with soft, white clouds.

SC Decision July 3, 2018

Mandanas et al. v. Ochoa
And
Garcia v. Ochoa

THE CASE

“Determination of the manner in which the **JUST SHARE** in the **NATIONAL TAXES** of the **LOCAL GOVERNMENT UNITS (LGUs)** has been computed.”

The Decision

- ALL COLLECTIONS OF **NATIONAL TAXES** in the computation of the BASE of the **JUST SHARE** of the **LGUs** xxx in the now modified Sec. 284 the **LOCAL GOVERNMENT CODE** except those accruing to special purpose funds and special allotments ...

The Decision

- **SECTION 284. Allotment of Internal Revenue Taxes.** — Local government units shall have a share in the national ~~internal revenue~~ taxes based on the collection of the third fiscal year preceding the current fiscal year as follows:
 - (a) On the first year of the effectivity of this Code, thirty percent (30%);
 - (b) On the second year, thirty-five percent (35%); and
 - (c) On the third year and thereafter, **forty percent (40%)**.

X X X

NATIONAL TAXES includes...

...**NATIONAL INTERNAL REVENUE TAXES** enumerated in **Sec. 21** NIRC – Income Tax, VAT, DST, other percentage taxes) **COLLECTED** by the **BIR** and the **BOC**

...**TARIFF AND CUSTOMS DUTIES** collected by the **Bureau of Customs**

NATIONAL TAXES includes...

- ...50% of the VAT collected in the ARMM, and 30% of all other NATIONAL TAX collected in the ARMM.
- ... 60% of the NATIONAL TAXES collected from the exploitation and development of the NATIONAL WEALTH
- ... 85% of the EXCISE TAXES collected from locally manufactured Virginia and other tobacco products.

NATIONAL TAXES includes...

- ... The entire 50% of the NATIONAL TAXES collected under Sections 106, 108 and 116 of the NIRC as provided under Section 283 of the NIRC;

(xxx National Internal revenue collected and not applied as herein above provided or otherwise specially disposed of by law shall accrue to the National Treasury and shall be available for the general purposes of the Government xxx)

NATIONAL TAXES includes...

- 5% of the 25% franchise taxes given to the National Government under Sec. 6 of R.A. 6631 (Manila Jockey Club Act) and Sec. 8 of R.A. 6632. (Philippine Racing Club Act)

The Decision

"COMMANDS the **AUTOMATIC RELEASE WITHOUT NEED OF FURTHER ACTION** of the just shares of the Local Government Units in the national taxes, through their respective provincial, city, municipal, or barangay treasurers, as the case may be, on a quarterly basis but not beyond five (5) days from the end of each quarter..."

SC Resolution

"The **ADJUSTED AMOUNTS** can be deemed effective only after this ruling has lapsed into finality, which is procedurally to be reckoned only from the denial of the OSG's motion for reconsideration through this resolution. From then onwards, and as ruled herein, the just share should be based on all national taxes collected on "the third fiscal year preceding." In the absence of any amendment by Congress, the rates fixed in Section 284 of the LGC as herein modified, shall control...."



Republic of the Philippines
Province of Batangas
OFFICE OF THE GOVERNOR
Capitol Building, Batangas City, 4200

17 August 2020

The Honorable
GOVERNOR DAKILA CARLO 'DAX' E. CUA
President
Union of Local Authorities of the Philippines (ULAP)

Dear *Governor Cua*:

As Governor of the Province of Batangas and as a Petitioner in the Supreme Court (SC) case regarding the just share of the Local Government Units (LGUs) in the annual collection of National Taxes (NT), may I humbly present my position that the favorable final and executory SC decision has significantly increased the Internal Revenue Allotments (IRA) of the LGUs in two (2) ways:

1. Increase in the base for IRA computation due to the correction of what should be included as annual collection of National Internal Revenue Taxes (NIRT) from fiscal year 1992 up to 2018; and,
2. Increase in the base for computation of IRA due to the correction of what should be included as annual collection of all National Taxes (NT), not only NIRT, from fiscal year 2019 onwards.

Extensive attention has been given in the past year to the second source of the increase in the just share of the LGUs, and I believe that we can now take cognizance of another source of the substantial increase in the revenues of the LGUs. The favorable SC decision increased the base of the mandated 40% share of the LGUs not only by ruling on the correct definition of NT, but also by correcting what should be included in the total annual collection of NIRT as the base in the computation of IRA for the LGUs.

The Department of Budget and Management (DBM), tasked by the NG in computing the IRA for the LGUs, has been consistently excluding since fiscal year 1992 up to the present the annual collection of NIRT by the legal agents of the BIR, like the Bureau of Customs (BOC), Autonomous Region of Muslim Mindanao (ARMM), LGUs, and others, in determining the base for the computation of IRA. Only the direct collections of the BIR offices of NIRT are certified as realized annual collections. Consequently, the LGUs have

been plainly shortchanged by the NG since 1992. However, the SC in this decision has now mandated that all NIRT, as defined in the National Internal Revenue Code, as amended, collected by the BIR and all its agents should be included in the base to determine the just share of the LGUs. The accumulated withheld IRA has already reached over ONE TRILLION PESOS (P1,000,000,000,000.00) as of fiscal year 2019. The announced IRA for release to LGUs for the fiscal years 2020 and 2021 are also understated due to the consistent exclusion of the annual collection of NIRT by the legal agents of the BIR.

It should be noted that the use of NIRT as base to compute IRA ended when the decision of the SC court to use instead the NT as base became final and executory in 2019. Enclosed is the Notice of Judgement of the SC decision dated May 20, 2019. However, while the use of NT as base is specifically ruled by the SC as prospective in effectivity, the SC did not deny our petition for the release of the shortfall in IRA based on entire annual collections of NIRT from 1992. The legal obligation to release the entire amount of IRA is clear and indisputable. The release of the shortfall is a simple collection case of amounts unjustly and illegal withheld by the NG from the LGUs.

And to remedy this unfortunate situation, I have respectfully presented my proposal to the NG, as contained in my letter to the Honorable Executive Secretary Salvador C. Medialdea, a copy is attached herewith. This proposal is of course subject to the approval of every LGU. May I now request for your endorsement of the following:

1. That LGUs should now demand from the NG the automatic release of the correct amount of IRA for fiscal years 2020 and 2021;
2. That the correct IRA Backpay - withheld portion of the IRA since 1992 - be recognized by the NG and negotiate for terms of payment over a period of ten (10) years;
3. That LGUs accept the NG interpretation of the SC decision that the first release of IRA based on NT be made in fiscal year 2022;
4. That the immediate implementation of the SC decision regarding automatic release of IRA will expedite the efficient, effective, and economical delivery of services necessary to fight the COVID-19 pandemic, as envisioned in the 'Bayanihan' Grant Program of the NG.

Let us continue to protect, promote, and strengthen Local Autonomy.

Sincerely,

HERMILANDO I. MANDANAS
GOVERNOR
PROVINCE OF BATANGAS



Republic of the Philippines
Province of Batangas
OFFICE OF THE GOVERNOR
Capitol Building, Batangas City, 4200

17 August 2020

The Honorable
SALVADOR C. MEDIALDEA
Executive Secretary
Office of the President
Malacañan, Philippines

Dear **ES Medialdea**:

Dear Executive Secretary,

As Governor of the Province of Batangas, and as Chairman of Regional Development Council (RDC) CALABARZON, this is to respectfully recommend that the vision of the Bayanihan Grant Program (BGP) be operationalized through the implementation of the Supreme Court decision on the giving the Local Government Units (LGUs) their just share in the national taxes, and at the same time devolve the responsibilities of local governance to LGUs. In my humble opinion, this will expedite the efficient, effective, and economical delivery of food, medical assistance, shelter, livelihood, education, peace and order, and other basic services to our needy constituency.

The sharing of responsibilities that necessarily goes with the release of the corrected Internal Revenue Allotment (IRA) to the LGUs will definitely redound to the common good of our people, attaining our aspirations and promoting the ideals enshrined in our Constitution. Duties in Good Governance can be shared and decentralized. The weight of responsibilities of Governance can be shouldered not only by the National Government (NG), but can be shared with the LGUs. NG can focus on the general supervision of the delivery of delegated basic services, for efficiency and expediency, in accordance with law. Enclosed is the Notice of Judgement of the Supreme Court case on the Internal Revenue Allotment (IRA) mandate, and my earlier letter to the Honorable Executive Secretary, copy furnished the Honorable Secretaries of the Department of Finance (DOF), Department of Budget and Management (DBM), Department of Interiors and Local Government (DILG), and the Commissioners of Bureau of Internal Revenue, Bureau of Customs, Director General of the National Economic and Development Authority (NEDA) and the National Treasurer.

The Regional Development Council (RDC) can coordinate the implementation of the use of the IRA Mandate to operationalize the vision of the BGP. The RDC is the entity mandated by the Constitution and pertinent laws to undertake this function to preserve and promote Local Autonomy. The different sectors of society in every Region are represented in the RDC: Governors, Mayors, Regional Directors of NG, Civil societies, Private sector, Educators, and others. RDCs report to the National Economic Development Authority (NEDA), whose Chairman is the President of the Philippines.

In this regard, may I respectfully request that the Director General of NEDA be reminded to convene the NEDA-RDC Committee, and to discuss the implementation of this IRA Mandate as you may deem necessary. With the NEDA Director General as Chairman, the other members of the Committee include the Secretaries of DBM and DILG, RDC Area Chairmen for Luzon, Visayas and Mindanao, and four (4) regional development experts from the private sector and the academe.

Sincerely,

HERMILANDO I. MANDANAS
GOVERNOR
PROVINCE OF BATANGAS

cc: Honorable Secretary, Department of Finance
Honorable Secretary, Department of Interiors and Local Government
Honorable Secretary, Department of Budget and Management
Honorable Director General, National Economic and Development Authority
Honorable National Treasurer
Honorable Commissioner, Bureau of Internal Revenue
Honorable Commissioner, Bureau of Customs



... therefore, first
release of IRA based
on **all national taxes**
will start only in **2022**



The **PROSPECTIVE**
application of the SC
Decision pertains to the
use of NATIONAL TAXES
as basis for the
computation of IRA.

National Internal Revenue Taxes (NIRT)

SEC. 21. *Sources of Revenue.* - The following taxes, fees and charges are deemed to be **national internal revenue taxes**:

- (a) Income tax;
- (b) Estate and donor's taxes;
- (c) Value-added tax;
- (d) Other percentage taxes;
- (e) Excise taxes;
- (f) Documentary stamp taxes; and
- (g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.

National Internal Revenue Taxes (NIRT)

Based on the Supreme Court Decision, NIRT also includes all collections by the deputized agents of the BIR:

“National Internal Revenue Taxes under Section 21 of the National Internal Revenue Code, as amended, collected by the Bureau of Internal Revenue and **its deputized agents**, including Value-Added Taxes, Excise Taxes, and Documentary Stamp Taxes **collected by the Bureau of Customs**”



The
IRA based on NIRT
should be automatically
released from 1992.



... therefore,

**IRA mandate based on
entire NIRT**

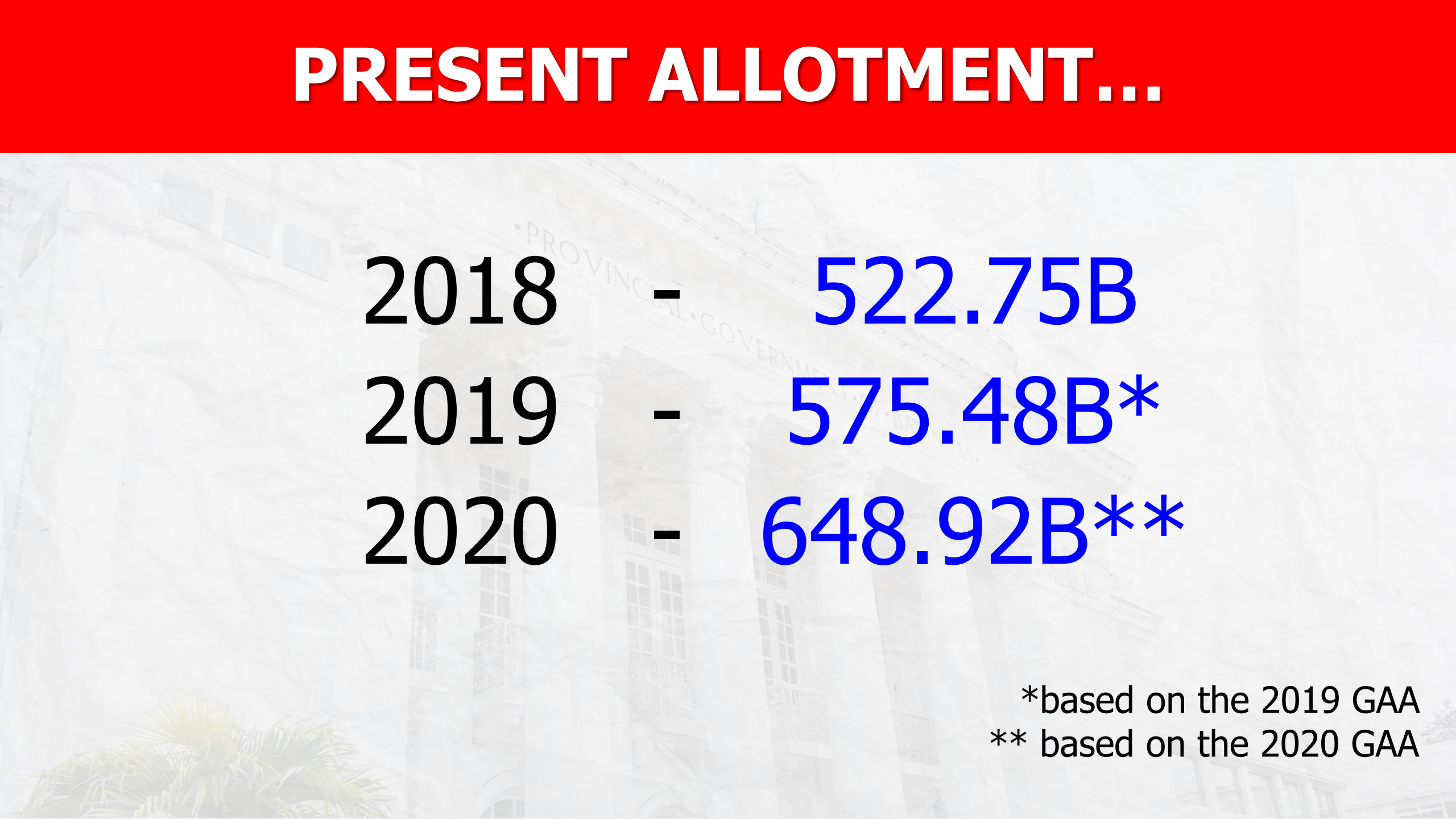
should be retroactive from
1992.

Who are mandated to compute the right amounts of IRA?

The Supreme Court ordered the:

- **SECRETARY OF THE DEPARTMENT OF FINANCE;**
- **SECRETARY OF THE DBM;**
- **COMMISSIONER OF INTERNAL REVENUE;**
- **COMMISSIONER OF CUSTOMS;** and the
- **NATIONAL TREASURER** to include **ALL COLLECTIONS OF NATIONAL TAXES** in the computation of the **BASE** of the **JUST SHARE** of the **LGUs** xxx in the now modified **Sec. 284** the **LOCAL GOVERNMENT CODE** except those accruing to special purpose funds and special allotments ...

PRESENT ALLOTMENT...



2018	-	522.75B
2019	-	575.48B*
2020	-	648.92B**

*based on the 2019 GAA

** based on the 2020 GAA

MANDATED IRA DIFFERENTIAL FOR 2020...

- a) Automatic Release of 50% in the 3rd Quarter and 50% in the 4th Quarter;
- b) Withhold the releases of the equivalent amounts in the GAA for devolved services, so that there will no increase in the annual NG expenditure program;
- c) Require the LGUs to use the IRA differential received to fight COVID-19 related expenditures;

MANDATED IRA DIFFERENTIAL FOR 2021...

- a) Automatic Release of the mandated IRA, based on the entire collection of NIRT in fiscal year 2018;
- b) Exclude the IRA for fiscal year 2021 in the 2021 General Appropriation Bill;
- c) Devolve the basic services, especially the emergency needs for health and social welfare, to the LGUs as provided for in the LGC, so that there will be no increase in the NG total planned expenditures for fiscal year 2021;

RETROACTIVE MANDATED IRA DIFFERENTIAL...

- a) As was done by the NG in 2005, issue a document favor LGUs promising to pay the accumulated IRA Differential amount, quarterly over the next 10 years;
- b) Allow the LGUs to borrow locally against the document;
- c) Require that the proceeds of the loans be used to fight COVID-19 and for their respective Recovery Program to augment the NG “Build! Build! Build!” Program.

With this...

... LGUs can now FUND and DELIVER the DEVOLVED BASIC SERVICES mandated by the Local Government Code as provided in Section 17.



... there will be
NO INCREASE
in the national
expenditure



**... the budget for
devolved services
will simply be
downloaded to the
LGUs**



**THANK
YOU!**