



Republic of the Philippines
National Electrification Administration

"The 1st Performance Governance System-Institutionalized National Government Agency"

16 February 2011

MEMORANDUM No. 2011-008

TO : ALL ELECTRIC COOPERATIVES

SUBJECT : Taxability of Electric Poles

Attached is a copy of the Memorandum from Secretary Jose Rene D. Almendras, Department of Energy (DOE) regarding the taxability of electric poles.

The Memorandum cited the case entitled "Board of Assessment Appeals, City Assessor and City Treasurer of Quezon City vs. Manila Electric Company" (G.R. No. L-15334).

On 31 January 1964, the Supreme Court in said case ruled that electric poles or towers are classified as personal properties not subject to real property tax.

This memorandum is issued for your information and guidance.



EDITA S. BUENO
Administrator

NATIONAL ELECTRIFICATION
ADMINISTRATION

IN REPLYING, PLS. CITE: #OR018002



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Republic of the Philippines
DEPARTMENT OF ENERGY

MEMORANDUM

TO : ADMIN. EDITHA S. BUENO, NEA
 FROM : SEC. JOSE RENE D. ALMENDRAS *[Signature]*
 SUBJECT : REQUEST OF HONORABLE LUIS R. VILLAFUERTE FOR A PRONOUNCEMENT ON THE TAXABILITY OF ELECTRIC POLES
 DATE : 29 September 2010



This is in connection with the request of Honorable Luis R. Villafuerte, Representative, 3rd District, Camarines Sur, during the House Committee on Energy Hearing on 14 September 2010 for the Secretary of the Department of Energy ("DOE") to issue an official pronouncement regarding the taxability of electric poles. Such pronouncement was requested because there are Local Government Units (LGUs) allegedly imposing Real Property Tax ("RPT") on electric poles of Electric Cooperatives (ECs).

Please find attached a copy of the Supreme Court decision dated 31 January 1964 in the case entitled "Board of Assessment Appeals, City Assessor and City Treasurer of Quezon City vs. Manila Electric Company" (G.R. No. L-15334). In the said decision, the High Court in effect ruled that electric poles or towers are classified as personal properties which are not subject to RPT, to wit:

"Granting for the purpose of argument that the steel supports or towers in question are not embraced within the term *poles*, the logical question posited is whether they constitute real properties, so that they can be subject to a real property tax. The tax law does not provide for a definition of real property; but Article 415 of the Civil Code does, by stating the following are immovable property:

(1) Land, buildings, roads, and constructions of all kinds *adhered* to the soil;

(3) Everything attached to an immovable in a *fixed manner*, in such a way that it cannot be separated therefrom without breaking the material or deterioration of the object;

RECEIVED BY:
[Signature]

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 DATE/TIME

CONSUMER DEVT & PROTECTION DIVISION
 ADDITIONAL DEVELOPMENT PROGRAMS

OFFICE OF THE ADMINISTRATOR
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- (5) Machinery, receptacles, instruments or implements intended by the owner of the tenement for an industry or works which may be carried in a building or on a piece of land, and which tends directly to meet the needs of the said industry or works;

xxx xxx xxx

The steel towers or supports in question, do not come within the objects mentioned in paragraph 1, because they do not constitute buildings or constructions adhered to the soil. They are not construction analogous to buildings nor adhering to the soil. As per description, given by the lower court, they are removable and merely attached to a square metal frame by means of bolts, which when unscrewed could easily be dismantled and moved from place to place. They can not be included under paragraph 3, as they are not attached to an immovable in a fixed manner, and they can be separated without breaking the material or causing deterioration upon the object to which they are attached. Each of these steel towers or supports consists of steel bars or metal strips, joined together by means of bolts, which can be disassembled by unscrewing the bolts and reassembled by screwing the same. These steel towers or supports do not also fall under paragraph 5, for they are not machineries, receptacles, instruments or implements, and even if they were, they are not intended for industry or works on the land. Petitioner is not engaged in an industry or works in the land in which the steel supports or towers are constructed.” (Underscoring supplied).

In deference to the above decision of the Supreme Court, the DOE hereby takes the position that electric poles are not subject to RPT. Kindly disseminate this position to all ECs for their guidance.

Thank you and best regards.