

RULINGS OF THE GENERAL AUDITING OFFICE

MUNICIPAL COUNCILS NOT EMPOWERED TO MODIFY TRAVEL EXPENSE LAW.—Respectfully referred to the Honorable, the Secretary of the Interior, Manila, recommending disapproval of Ordinance No. 41 dated July 10, 1946, of the Municipal Council of Moncada, Tarlac, governing disbursement of traveling expenses as this Office believes that municipal councils have no power to alter or modify the provisions of the Travel Expense Law embodied in the Administrative Code.—*3rd Ind., Feb. 17, 1949, of Aud. Gen.*

OVERTIME SERVICE OR MEAL ALLOWANCE, PAYMENT OF FOR LOCAL OFFICIALS NOT AUTHORIZED.—In the absence of any specific provision of law authorizing the payment of overtime service or the giving of meal allowance in lieu of overtime pay to provincial, city and municipal officials and employees, similar to those granted to national officials and employees, under the provisions of Section 7-I(32) of Commonwealth Act No. 246, known as the Budget Act, this Office cannot recommend approval of the within Resolution No. 350, current series, of the Municipal Board of Rizal City, notwithstanding the favorable recommendation made in the preceding 3rd and 4th indorsements hereon.—*5th Ind., Nov. 24, 1948, of Dep. Aud. Gen. to Sec. of the Int.*

PER DIEMS MAY BE GRANTED TO MUNICIPAL OFFICERS AND EMPLOYEES.—Respectfully returned to the Honorable, the Secretary of Finance, Manila, with the information that the provisions of Section 708 of our Revised Manual of Instructions to Treasurers (1939, not 1938, edition) had subsequently been modified by the promulgation of Executive Order No. 369, dated September 15, 1941, the opening sentence of which reads as follows:

“In order that the per diems for provincial, city, and municipal offi-

cers and employees traveling on official business, when allowed, may conform with the rates of per diems for officers and employees of the National Government, it is hereby ordered that the per diems of said provincial, city and *municipal* officers and employees be fixed with the approval of the corresponding Head of Department at rates not to exceed the following:”

In view hereof, this Office will interpose no objection to the request made in the attached basic communication if the Municipal Council of Lianga, Surigao, grants, with the approval of the Secretary of the Interior, per diems to its officers and employees while traveling on official business at rates not exceeding those authorized under Executive Order No. 369, *supra.*—*5th Ind., Sept. 20, 1948, of Dep. Aud. Gen.*

SESSIONS HELD IN SUCCESSIVE DAYS CONSIDERED CONTINUATION OF REGULAR SESSION.—Respectfully referred, thru the Honorable, the Secretary of the Interior, Manila, to the Provincial Auditor, Masbate, Masbate.

It appears from the attached copy of Resolution No. 114, current series, of the municipal council of Milagros, Masbate, that on August 31, 1946, the said council held its regular meeting which was continued on September 1 and 2, 1946, in order to finish its business, that of passing upon “the municipal annual budget, some important pending matters and amending municipal ordinances re-municipal revenue taxes and fees.” Four of the members of the municipal council collected per diems for their attendance at the meetings of the council held on the aforementioned dates in the total amount of P24.00, or P6.00 each. The Provincial Auditor of Masbate, however, allowed in audit only their per diems for August 31, 1946, and disallowed their per diems corresponding to Sep-

Power Of . . .

From a comparison of the pertinent provisions of the Revised Administrative Code (Section 2307 and 2308) and Commonwealth Act No. 472, it is apparent that while the former enumerates the taxes that may be imposed and what may be taxed, the latter contains a general power to tax and an enumeration of specific limitations or exceptions thereto (Secs. 1 and 3). The enactment of Commonwealth Act No. 472 shows an intent to enlarge the taxing power of municipalities, and if it has no provisions regarding the manner of collection as the one contained in Section 2310 of the Revised Administrative Code, which was enacted when municipalities were empowered to exact license taxes only, this alone would not affect the general power given by Commonwealth Act No. 472. The procedure and manner for the collection of the tax herein contemplated may be provided for in the ordinance levying the tax. The authority to levy a tax necessarily carries with it the power to enforce collection of the same (51 Am. Jur. pp. 73-74).

In view of all the foregoing, I believe that the query should be answered in the affirmative.—*Letter dated May 31, 1946 of Sec. of Justice (Roman Ozaeta) to the Undersecretary of Finance.*

Rulings Of . . .

tember 1 and 2, 1946, on the ground that the meetings held on the latter dates were not regular but special sessions.

Section 2220 of the Administrative Code, prescribing the manner of holding regular and special meetings of the municipal council, provides as follows:

"The municipal council shall prescribe the time and place of holding its meetings. Regular meeting shall be held once in every two weeks and special meetings, not to exceed twenty-four annually, may be held whenever there is a real necessity for them. Any meeting, regular or special, may, in case the amount of business shall require, be adjourned from day to day until the business is completed."

The above-quoted provisions of law expressly authorize the municipal council to adjourn its meetings, whether regular or special, from day to day, if the amount of business to be disposed by it requires such adjournment.

In view of the aforequoted law, and as it appears herein that the meetings on September 1 and 2, 1946, were in continuation of the regular session held by the said council on August 31, 1946, payment of the per diems to the councilors concerned for their attendance at the meetings held on said dates may be allowed in audit.—*3rd Ind., Oct. 2, 1946, of Aud. Gen. M. Agregado.*

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