

Administrative and Enforcement Issues in Collecting Assessment Rate Arrears in Local Authorities in Malaysia

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The assessment rate is the main revenue for local authorities. It finances the services and maintenance of the local authority areas. The revenue is mainly from the assessment rate, but collection keeps on decreasing, causing difficulties to local authorities to provide good services. This study aims to examine factors causing assessment rate arrears. The scope of the study is on the local authorities in the northern region of Malaysia. The study employs socio-legal research where data is collected through interviews with respondents like the Mayor or Council's President and respondents from the relevant local councils. Data is analysed using descriptive analysis. It is found that there are weaknesses in administrative and enforcement in claiming assessment rates arrears. This study proposes ways to overcome assessment rates arrears, among others, through the amendment of the Local Government Act 1976, improving local authorities' services, cooperation by the Land Office and enhancing public perception and awareness towards assessment rates.

Key words: *Local Authorities, Assessment Rates, Arrears, Malaysia.*

Introduction

An assessment rate is the tax levied on any property located within local authorities in Malaysia. The assessment rate is the main revenue of local authorities, which contributes more than half of the total local revenue. In Malaysia, local authorities are authorised to impose an assessment rate under Section 127 of the Local Government Act 1976 (Abdul Razak et al., 2017). This is coherent with the power of the local authority under Section 127 and Section

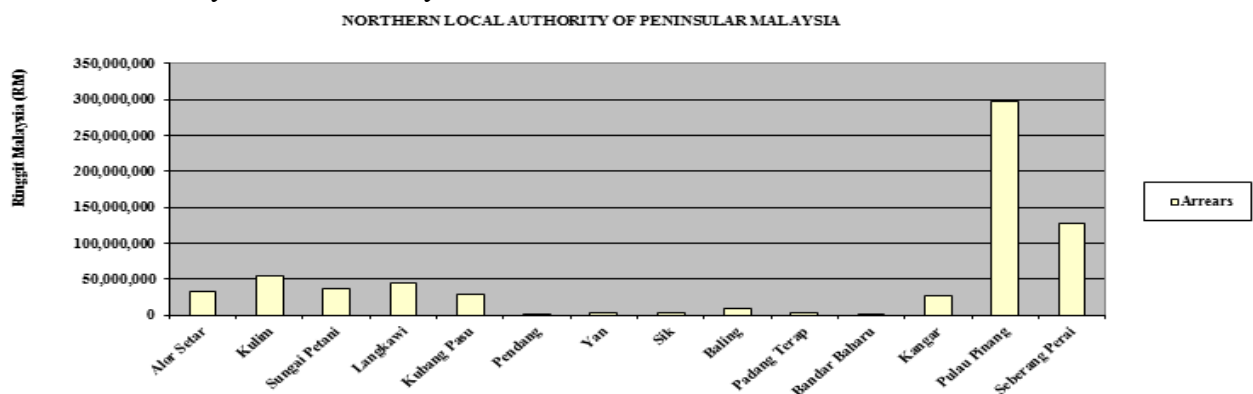
163 (1) of the Act, which empowered the local authority to impose rates on all buildings constructed under its jurisdiction, as spelt out by the court in the case.

The revenues are used to cover local authorities' spending such as performing tasks, functions and services to local residents, as well as pay staff emoluments. Therefore, effective assessment rates management is important to ensure that local authorities have sufficient funds to meet their annual budget (Md Khalid et al., 2017). Section 133 of the Act provides that the taxpayer must pay the assessment rate by the last day of February and August of each year, and failure to do so will result in assessment rate arrears. When this happens, local authorities are authorised to take enforcement action under the Act.

Problem Statement

Almost all local authorities in Malaysia are facing assessment rate arrears problems. The differences are only the amount of arrears in the respective local authorities. The impact of assessment rate arrears problems to the local authorities include hindering the development plan, public facilities are not well maintained, services do not meet expectations and so on. This issue has been recurring over years but has yet to find a solution (Umar et al., 2012). The National Audit Department of Malaysia reports that the assessment rate arrears in Malaysia are perennially at an alarming level. For instance, in 2017 the state of Perak recorded assessment rate arrears of RM98 million, and Selangor amounted to RM577.65 million. While in the northern region of Malaysia, the assessment rates arrears issue can be seen as shown in the table below.

Table 1: The Outstanding Assessment Rates Arrears at the Northern Local Authority of Peninsular Malaysia from January 2011 to December 2015



Based on Table 1, we can see that the amount of outstanding assessment rates arrears at the local authority of northern region of Malaysia from 2011 to 2015 was RM332,041,766.00. The highest assessment rates arrears were by Pulau Pinang City Council, which recorded RM66,759,885.73 while the lowest rate was Pendang District Council at RM105,609.56. The

amount of accumulated assessment rate arrears indicates that assessment rate arrears among local authorities in the north are a significant issue and problem that need to be tackled immediately. Thus, it is the objective of this study to examine the problems of assessment rates arrears and to recommend initiatives and solutions to local authorities.

Literature Review

Compared to income tax, research on assessment rate arrears in Malaysia is limited. In a study conducted by (Hasim (1998), he discusses and explains in detail the assessment rates system as implemented in the United Kingdom. The United Kingdom allows exemptions of assessment rates to the particular group of people and enforcement action which had been taken by local authorities. Meanwhile, a study conducted by Ismail (2013) highlighted three key factors that caused ratepayers to refuse to pay assessment rates, which are: the bills were not received by ratepayers, ratepayers were facing financial problems, and lack of awareness on the responsibility to pay assessment rates. Referring to research from (Mahamad Tayib (1998), he has studied the efficiency and productivity of local authorities in collecting assessment rates and ratepayer compliance. In his study, he compared the assessment rates in Malaysia and the United Kingdom. He concludes that the factors contributing to the failure of local authorities in Malaysia in collecting assessment rate arrears are that staff of local authorities do not give full commitment to their work, and ratepayers demand good quality services from the local authority. However, in his study, he did not touch on legal and enforcement issues in claiming assessment rate arrears.

In contrast is a study conducted by (Wei (2009), focussing on factors contributing to assessment rate arrears. The scope of his study was limited only to the Manjung District Council, Perak. His research identified five ways that can help local authorities to overcome the problem of assessment rate arrears, such as improving rates collection methods, enforcing laws, verifying ratepayers addresses, improving services provided to the public and improving ways to send bills and notices.

Methodology

This study is a socio-legal research study which involves primary and secondary data. Primary data is gathered by way of interviews and reference to statutes as well as cases, while secondary data is mainly collected from journals, newspapers and online resources. In regards to the interview, it is one of the techniques that are widely used in law research, whether the study is of a general theory or that it involves social problems, issues or questions. Using the interview method, the researchers gather the information from the respondents about their ideas, opinions, beliefs, feelings, perceptions or knowledge of something (Yaqin, 2007). In this research, the data collection involves interviews with a number of respondents. The first group

of respondents are the Mayor, Council's President or Council's Secretary of the northern region local authorities, i.e. Penang, Kedah and Perlis. They are required to answer the semi-structured questions which were asked of them on the facts, collective views, current action plans, observations of management strengths and weaknesses, recognition of threads and other critical factors that influence organisational success. Also, they are asked to identify issues on current and future strategies and challenges of their respective local authorities. The study also interviewed another group of respondents consisting of senior officers of the local authorities. The same approach is used as in the interview with the Mayor, Council's President or Council's Secretary of the northern region local authorities. The data is analysed by way of a descriptive analysis approach. Descriptive analysis is an analysis that describes the state of the data in general. As such, the explanation of the situation or the problem is simple and easier to understand. This method also clarifies, summarises and provides data in an organised manner so that it is easy to read, understand and to reach conclusions. It can determine the cause or problems faced by local authorities in collecting arrears of assessment rates.

The respondents of this research who were interviewed by the researchers are as in Table 2 below.

Table 2: Respondents from Various Positions and Local Authorities in Northern Region of Malaysia

RESPONDENT	POSITION	LENGTH OF SERVICE
A1.	Mayor	2 years
A2.	President	9 months
A3.	President	1 year 6 months
A4.	Secretary	7 months
A5.	President	8 months
A6.	President	2 years
B1.	Accountant	16 years
B2.	Valuation Officer	27 years
B3.	Legal Officer	5 years
B4.	Accountant	23 years
B5.	Valuation Officer	30 years
B6.	Legal Officer	19 years
B7.	Accountant	1 year 6 months
B8.	Valuation Officer	16 years
B9.	Legal Officer	16 years

Based on Table 2, we can see that respondents directly involved in the management and administration of local authorities and experienced in the procedure of collecting assessment rate arrears.

Findings

This study highlights two factors faced by local authority in Malaysia in regards to assessment rates arrears collection. The highlighted factors are administrative and enforcement. Below are the subheadings on the findings from this study.

Administrative

According to (Zulkarnain Daud et al., 2013), the weaknesses of local authorities in claiming assessment rate arrears was due to administration. Inadequate administration will result in injustice. Local authorities should emphasise and focus more on record keeping, rate assessments, bill issuance, rate collection, enforcement, workforce and technical expertise. Studies also found that factors such as performance levels of public servants are weak and unsatisfactory due to lack of cooperation and team spirit, limited human resources and political intervention; failure to establish a special unit for collection of assessment rate arrears also contributes to the increasing assessment rate arrears. According to (Singaravelloo, 2018), local authorities should instruct the staff to be more active and need to transition from reactive to proactive.

According to respondent A1, A3 and A4, non-efficiency of staff in managing assessment rate had cause difficulty to local authorities in claiming assessment rate arrears. In the United Kingdom there is a program called the "New Labour's Program" which aims at helping local authorities in increasing the level of services and efficiency to the public (Rogers, 2015). According to (Masahiro Horie, 2017), his paper entitled "National Tax Agency of the Ministry of Finance" states that in Japan, assessment officers who are working at the National Tax Agency are required to sit for national and special tax examinations. They are directed to attend courses that are designed to enhance understanding in their field. The purpose of the National Tax Agency in Japan in imposing these matters is to ensure that their employees are more diligent and committed. This is because the tax principle implemented by the National Tax Agency is that the tax must be legal and transparent.

According to respondent A7 and B7, lack of staff also had caused local authorities difficulty in claiming assessment rate arrears. Human resources within the organisation need to be managed and given the best possible attention. In order for an organisation to function efficiently and effectively, an organisation must have sufficient human resources, skills and commitment. In a research conducted by (Abdul Razak et al., 2017), they found that local authorities do not have enough human resources and there is a need to increase the number of human resources. This statement was supported by (Umar et al., 2012), who also believed that the assessment rate arrears were due to lack of staff in managing assessment rates. The number of staff in the Treasury Department is insufficient in comparison to the entire local administration area.

The ratio of the proportion or number of staff managing assessment rate in the northern region of Malaysia can be seen in Table 3 below.

Table 3: The Ratio of Staff in Comparison to the Holding at the Northern Local Authority of Peninsular Malaysia

NUM	Nothern Local Authority	Holding	Staff	Ratio Staff: Holding
1.	Pulau Pinang City Council	304,099	15	1:20,273
2.	Kangar Municipal Council	31,345	3	1:10,448
3.	Seberang Perai City Council	323,614	40	1:8,090
4.	Kubang Pasu Municipal Council	30,950	4	1:7,737
5.	Kulim Municipal Council	80,391	13	1:6,183
6.	Sungai Petani Municipal Council	173,255	30	1:5,775
7.	Baling District Council	11,125	4	1:2,781
8.	Padang Terap District Council	2,680	1	1:2,680
9.	Alor Setar City Council	83,895	36	1:2,330
10.	Yan District Council	4,570	2	1:2,285
11.	Bandar Baharu District Council	4,466	2	1:2,233
12.	Langkawi Municipal Council	10,963	5	1:2,192
13.	Sik District Council	3,942	2	1:1,971
14.	Pendang District Council	6,683	4	1:1,670

Based on Table 3 we can see that the number of staff managing assessment rates is not equal to the total of holdings. For example, in Pulau Pinang City Council we can see that one staff is required to manage 20,273 units of total holdings, which is in total 304,099 units with a strength of fifteen staff. In Kangar Municipal Council one staff is required to manage 10,448 holding units; in total they only have three staff to manage 31,345 holding units.

Apart from the shortage of human resources, respondents A1, B2 and B7 state that political interference also causes local authorities difficulty to claim assessment rate arrears. According to (Ladd.,1999), the level of services provided by the local authorities may be different from what the people want and demand due to excessive political power, over budget expenditures and bureaucratic red tape by local authority officers. Overall, in order to build and create a good service to the people, public servants should not be burdened with pressure or political interference to ensure the best services are provided (Quah., 2018).

Enforcement

Local authorities are empowered to prescribe fees in accordance with Section 147 of the Act. This fee will be imposed on the owners if they are late to pay the assessment rates. Section 147 (1) of the Act provides that:

“If any sum payable in respect of any rate remains unpaid at the end of February or August, as the case may be, the owner or owners shall be liable to pay the same together with such fee as the local authority may fix from time to time.”

Local authorities are often confused and misunderstood in interpreting the fee. Local authorities must properly understand the terms of "any payment" as set out in Section 147 of the Act because if local authorities impose late fines or penalties for such arrears, it is illegal. In fact, local authorities are not allowed to charge fees repeatedly and accrued on assessment rate arrears. Referring to the case of the *Majlis Perbandaran Pulau Pinang v. Datuk Krishna Kumar Tn Sharma* [1999], the court ruled that the Appellant had not been granted a court order to reimburse for the issuance of notice and warrant of detention on an empty holding. The Plaintiff may only charge for the issuance of the notice and warrant only once, provided that Form H has been pasted onto the holding.

According to respondent A2, failure by sellers and buyers to comply with Section 160 of the Act had caused data to not be updated. Section 160 of the Act provides that the seller, buyer or beneficiary of the deceased shall be responsible for every transaction involving the sale or transfer of the property. When this action had not been taken by the seller, buyer or beneficiary of the deceased, it has affected local authorities in identifying previous owners and current owners of the holding. According to (Shah, 1992), this is the factor that contributes to the delinquency of rates in local authorities.

Under Section 148 of the Act, if the ratepayer is still unable to pay the assessment rate within fifteen days after the notice of Form E is given, the local authority is authorised to issue a warrant of arrest (Form F) to seize the movable property. This action directs and empowers the local authorities to hold (seize) the movable property by issuing inventory (Form G) and then auction the property to settle the arrears. If no movable property is seized due to insufficient value to settle the assessment rate arrears, or if the local authority cannot enter to the property, local authority may paste a notice (Form H) and proceed with civil action under Section 151 of the Act. According to (Abdul Razak et al., 2017), in their study they said inconsistency of enforcement actions had made it difficult for local authorities to reclaim delinquent rates. Local authorities did not pay attention to the enforcement action by issuing detention and seizure warrants and subsequently continue with civil action. They conclude that these two actions had contributed to the increasing of assessment rate arrears.

Recommendation

Based on the findings above, this study highlights certain recommendations to overcome the problems.

First, local authorities need to take some steps or improvements to address the issues that may arise and in turn resolve the issue of assessment rate arrears. The basis for a source of power is the law that allows an action to be taken. Accordingly, amendments of the Act should be made as soon as possible to reconcile local authorities with more powers by allowing local authorities to take action on non-compliant ratepayers. For this purpose, the Ministry of Housing and Local Government could review and benchmark to the other developed countries such as Japan, Singapore, Australia and the United Kingdom on how these countries are taking initiatives and actions to address the issue of assessment rate arrears.

Second, staff should be given advanced courses and training because based on the findings, staff are not well versed in the procedure of assessment rate arrears. In addition, the attitude of the staff needs to change. It is found that local authorities prefer not taking precautionary steps to recover the assessment rate arrears. This is because of lack of supervision from the superior.

Third, public perception of assessment rates in Malaysia should change with the development of the country. It shows that Malaysians still consider assessment rates as a burden on them rather than a responsibility. Ratepayers in Malaysia assume that if they pay the rate they should be given as much return as they pay. This level of thinking of Malaysians still does not match those of other developed countries such as Japan, Australia and Singapore.

Fourth, local authorities should also consider the welfare and demands of the community. Local authorities should provide a convenient and conducive infrastructure. Although the duty and responsibility to pay assessment rates is mandatory, even if the services are not provided by the local authority, for humanitarian and justice reasons, local authorities must comply with the demands of the public.

Fifth, the Land Office which is responsible for the transfer of title is expected to cooperate with the local authorities to check whether the assessment rates have been cleared or otherwise before any transfer of the grant can be effected. What happens is that the assessment rate is due because the transfer was not disclosed to local authorities through Form I or Form J. It is difficult for local authorities to track the ownership of the holder who failed to make the transfer as the data was not updated in the system.

Finally, the Ministry of Housing and Local Government should play a role and accept responsibility of the issue of assessment rate arrears, which has become a national issue and a

dilemma in every local authority in Malaysia. Ministry of Housing and Local Government should be more focussed on delinquent assessment rate arrears and finding appropriate ways to resolve this. For example, the Ministry of Housing and Local Government can help local authorities to publish in local mainstream newspapers the duty of clarifying rates and promoting them in electronic media, such as promoting other taxes like individual and corporate income tax.

Conclusion

Based on the discussion at the above, the study highlights the challenges encountered by local authorities in collecting assessment rates arrears. In supporting the principle of the “Look East Policy” by Tun Dr. Mahathir Mohamad, Hussain and Brahim, (2016) stated that the policy was introduced to reform and improve the level of public services in the country, including administration at the local government level. The main focus is to bring changes to the public service by changing the attitudes and roles of public service personnel to be more efficient and to demonstrate high moral values. Therefore, local authorities must be responsible, accountable and efficient in providing public facilities and services to local communities. Local authorities should ensure that the sources of income, especially the revenue generated from the assessment rates, are properly and effectively collected.

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