

THE CHALLENGES OF LOCAL AUTHORITY IN MALAYSIA IN ASSESSMENT RATES ARREARS COLLECTION

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Abstract: *Assessment rates are one of the major revenues for the local authority in Malaysia. Assessment rates are collected by local authorities for the provision of services to the residents. However, low assessment rates collection but high assessment rates arrears become an issue among local authorities in Malaysia. This issue of rates arrears is a major issue that is getting serious every year and hard to solve. It stems from a variety of factors including legislation on local authorities), management and the administration of local authorities. This study aims to examine the factors of assessment rate arrears and to suggest and recommend how to overcome those obstacles. The scope of the study, however, is limited to the local authorities in the northern region of Malaysia only. The study employs socio-legal research where apart from library-based research, data is collected through interviews with Mayor or Council's President, and senior officers from local councils in Penang, Kedah, and Perlis. The analysis of the data is conducted by using descriptive analysis. This study finds that there are four aspects that contribute to the high assessment rates arrears which are enforcement, legal, administration and management and economic. Thus, a few recommendations were proposed to local authorities in designing better approach in servicing the public as well as overcoming the highlighted issues.*

Keywords: *Local Authorities; Assessment Rates, Arrears, Malaysia.*

Introduction

The general provision for the revenue of a local authority is clearly stated under Part 5, Section 39 of the Local Government Act 1976 for local authorities in Peninsular Malaysia. As for the States of Sabah and Sarawak, they are governed by their respective Ordinances, whereby in Sabah, it is the Local Government Ordinance 1961 and for Sarawak, it is the

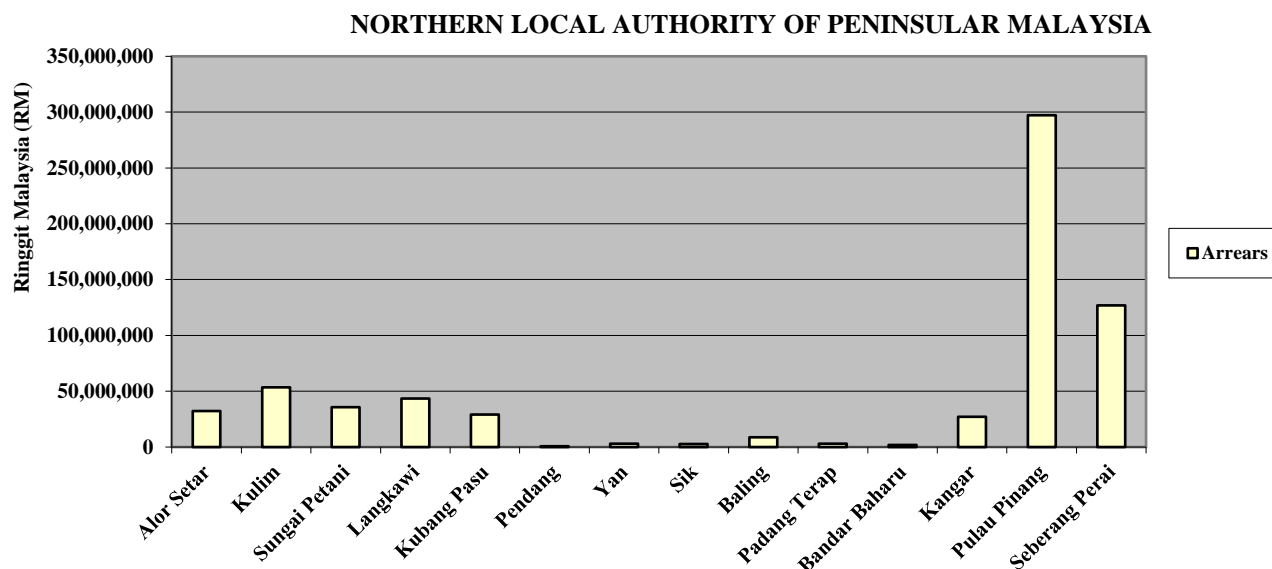
Local Authority Ordinance 1948. In brief, local government revenue can be collected from within local sources and may consists of taxes, rates, rents, fees, fines, user-charges, dividends from investments and income arising from any of its properties (Phang Siew Nooi, 1997). The assessment rates are a compulsory contribution to be paid by the taxpayer, where in return, the taxpayer will receive benefits/services from local governments in the form of tangible and intangible services, community facilities, infrastructures and development projects for their enjoyment.

Section 127 to section 163 of the Local Government Act 1976 empowered local authority to impose assessment rates on property which is within the jurisdiction and the area prescribed by law to be under the respective local authority. 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 of *Tetuan Takoyaki Property Sdn Bhd v Sam Kok Sang @ Tham Sow Seng & 2 ors.* (AMR, 2001). According to Pawi, Wan Yusoff, Arif, Shafie, Hasbullah & Md Salleh (2012), local governments have important responsibilities in carrying out their functions and roles especially in assessment rates management to ensure the welfare and amenity of residents are well taken care of. If the local government is weak and incompetent in handling the management of the assessment rates, it would certainly affect the amount of rates collection which is consequently affect the fund for financing development projects and services provided in the respected areas. In addition, there will be a problem of rate assessment arrears if there is poor management and this will also burden the local government to function well. Again, this will affect the quality of work and services provided by the local governments.

Problem Statement

The prevalent issue of lower tax revenue of local authority throughout the country continues to pose a very serious predicament. A study shows that the local authorities score poorly in collection of tax and tax arrears (Atan et.al, 2010). Local authority is faced with various issues and problems in action to collect assessment rates arrears. This issue has been recurring over years (Umar, Kasim, & Martin, 2012, p.593). It is important to know the extent to which the assessment rates arrears become national issues and should be viewed seriously by all walks of life, especially leaders and should be addressed urgently to avoid further disputes and problems arising in the future. For example, local governments in the state of Johor and Kuala Lumpur City Hall showed that the recorded amount of assessment rates arrears amounted to about RM168 million and RM 435 million in 2009 and this is certainly an issue of concern. (Pawi et al., 2012). 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 RM666,485,446.18. The highest assessment rates arrears were Pulau Pinang City Council which recorded RM297,214,219.49 while the lowest rate was Pendang District Council at RM589,188.46. The amount of accumulated assessment rate arrears indicates that assessment rate arrears among local authorities in the north are 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 initiative and solution to local authorities.

Literature Review

Any local government in the world plays an important role in creating wealth and revenues for the nation. It is argued that a lower tier of government or the local governments, can reach wealth-based taxes in ways that central government cannot (Daud, Kamarudin, Franzsen, & McCluskey, 2013). According to Umar, Kasim & Martin (2012) assessment rates are generally practiced by countries around the world to create revenues. Almost all local governments around the world are dependent on assessment rates as their revenue, for example, in Canada, United States and Australia. The importance of assessment rates also highlighted by Robbins, Turley and McNena (2016), that it is used as one of the aspects to benchmark the performance of local governments. Local governments are expected to harness resources towards rapid development to supplement government statutory allocation. In this context this statement is too wide because local governments have various sources of generating revenue. However, a different view which is more precise stated that, there is a need for alternative sources of revenue to complement grant from the Federal and State Governments. In addition, it is posited that, assessment rates is one of the main resource for

Malaysian government as well. Therefore its financial accounts are always of interest to the public. It is very important for the local governments to justify the revenues generated.

According to Ismail (2013), the causes of assessment rates arrears are due to deliberate pay-off rates by tax payer, cases of transfer of ownership but is not reported therefore local authority is not aware of such transaction, tax payer financial problems, tax payer dissatisfied with the services rendered by local authority and vacant land which had no complete address and it is difficult to local authority to send bill to property's owner. While according to Abdul Ghani (2014), assessment rates arrears in local authority is caused by internal problems such as the methods applied during the assessment is cumbersome and slow which needs modifications or reform, lack of staff to handle rates collection system and tenants do not care about assessment rates when they receive the bills and it cause the owner of the property bear the late payment impose by local authority.

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, newspaper 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 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 asked them on the facts, collective views, current action plans, observe management strengths and weaknesses, recognize threads, and other critical factors that influence organization 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 consists 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 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 clarify, summarize and provide data in an organized manner so that it is easy to read, understand and to conclude. It can determine the cause or problems facing by local authority 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 Position and Local Authority in Northern Region of Malaysia

RES.	POSITION	LENGTH OF SERVICE	LOCAL AUTHORITY
A1.	Mayor	2 years	Alor Setar City Council
A2.	President	9 months	Sungai Petani Municipal Council
A3.	President	1 year 6 months	Kulim Municipal Council
A4.	Secretary	7 months	Langkawi Municipal Council
A5.	President	8 months	Seberang Perai Municipal Council
A6.	President	2 years	Kangar Municipal Council
B1.	Accountant	16 years	Alor Setar City Council
B2.	Valuation Officer	27 years	Alor Setar City Council
B3.	Legal Officer	5 years	Sungai Petani Municipal Council
B4.	Accountant	23 years	Pulau Pinang City Council
B5.	Valuation Officer	30 years	Pulau Pinang City Council
B6.	Legal Officer	19 years	Pulau Pinang City Council
B7.	Accountant	1 year 6 months	Kangar Municipal Council
B8.	Valuation Officer	16 years	Kangar Municipal Council
B9.	Legal Officer	16 years	Kangar Municipal Council

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 has found the issues and challenges faced by local authority in Malaysia, in regards to assessment rates arrears collection. The issues and challenges can be divided into four areas –

- i) enforcement,
- ii) legal,
- iii) administration and management, and
- iv) attitude and economic issues.

Below are the subheadings on the findings from this study.

Enforcement Aspect

According to A3, A4, B1 and B3 stipulate that constraints of local authorities to demand assessment rate arrears are due to weakness and inconsistency of enforcement actions. Enforcement action upon claiming assessment rate arrears rates should be conducted on a continuous and consistent basis. Periodic monitoring should be made on holdings that are held to arbitrate. Local authorities should not be delayed its enforcement action. Form E should be issued to defaulted owner after the first term expire on 28th February and second term on 31st August. The owner of the holdings has to settle the assessment rate arrears within fifteen days from the date of the notice. If there is still no payment received from the owners

of the holding, local authorities will have to execute the confiscated movable property on the holding.

Apart from that, local authorities allowing owners of the holdings to settle their assessment rate arrears by installments. This can help alleviate the burden of the owners of the holdings. However, local authorities need to be firm about owners of the holding who is found defaulted and not compliant to the installment payment schedule. Local authorities should enforce Section 148 of the Act to reclaim the assessment rate arrears because if it is left without taking any action on the defaulted owners, it is difficult for local authorities to recover the assessment rate arrears.

According to B3, enforcement actions are not exhaustive in which enforcement action is only taken to the extent of withdrawal of Form E only while subsequent actions such as executing detention warrants via Form F and also implementing movable property confiscation via Form G are not carried out. This is because their policies do not want to take enforcement action because they are more prone to the approaches that are through negotiations and so on.

According to A2, B2, B4 and B5 argue that one of the factors that contribute to local authorities challenges to demand the assessment rate arrears is the transfer was not executed and caused the data not updated. According to Section 160 of the Act, it is the responsibility of the owners of the holdings and the purchasers to perform the transfer by notifying local authorities. Owners and purchasers of the holdings claim that they do not have the knowledge in which they have to inform local authorities. This has caused data on the detailed information of the current owners of the holding not updated. The owner of the previous holdings refuses to settle the assessment rate arrears while current owner assumes that such assessment rate arrears have to be borne by previous owner.

Legal Aspect

According to A2, B2 and B4 one of the factors facing by local authorities to demand the assessment rate arrears is due to no severe penalties imposed on rigid rates payers. Rate payers know that the actions or penalties that can be taken by local authorities are merely to civil claims in court. Due to the fact that there is no severe punishment, they assume that these assessment rates are not so important and only care about other utilities bill such as land tax, water bills, electricity and as well as broadband services such as Unifi, Webe, U-Mobile and so on.

According to A6 one of the factors causing assessment rate arrears was due to the presence or absence of empty buildings and unattended idle holdings. The empty and idle buildings contribute about 20 million assessment rate arrears. It is quite difficult to demand the assessment rate arrears on these buildings because the owner of the buildings is difficult to identify. This is because some of them have been declared bankrupt and company has been wound up.

Administration and Management Aspects

According to A7 and B7 lack of staff also contribute to the challenges facing by local authorities to demand assessment rate arrears. The total number of employees in local authorities is inadequate and proportionate to the size of the administrative area and the total number of holdings. Lack of staff has led local authorities unable to claiming assessment rate arrears and monitoring payment performance.

This issue also raised by B7 in which she himself faced these constraints. She states that the staff placed under her surveillance was only two. This small number of employees is undoubtedly unable to cope with revenue monitoring work and detailed arrears on 31,000 holdings within their administrative area. This scenario has caused other problems such as staff have to bear the burden of plenty works.

According to A1, B2 and B7 one of the reasons or factors causing assessment rate arrears is due to the interference of politicians in collecting assessment rate arrears. According to the respondents, this happens because politicians will direct them not to proceed with planned operations. Their argument is it will have an impact and effect on the names of their political parties.

Politicians do not want enforcement actions to be continued and implemented just to keep the people's minds for the sake of their political party. This intervention not only interferes with the duties and responsibilities of local authorities but also affects the income of local authorities and it also gives negative perceptions towards local authorities. Rate payers will say that local authorities does not have any power to take action on them because of the power of politicians overcome everything.

Attitude and Economic Aspects

According to A1, A2, A4, A6, A7, B1, and B2 another factor facing by local authorities to demand assessment rates arrears is the attitude of the rate payers itself. Rate payers did not have sense of responsibility upon assessment rates despite clearly stated in Section 146 of the Act that assessment rate shall be paid by the owner of the holding at that time.

Apart from implementing enforcement actions through Section 148 of the Act, local authorities is also seen to have used all available mechanisms to demand such exemptions as such as giving reminder notes to rigid rates payers, facilitating rate payers by providing facilities to pay assessment rate arrears in installments, extending and adding counterparts such as setting up counters at the Urban Transformation Center, providing counters, vans and mobile buses to facilitate rate payers to clarify rates so they do not have to come to office, collaborate and make integrated networks with agencies such as POS Malaysia and banks in Malaysia such as Maybank, Bank Islam Malaysia Berhad, CIMB Bank, RHB Bank and Bank Kerjasama Rakyat Malaysia by allowing rate payers to pay assessment rates from these agencies and banks.

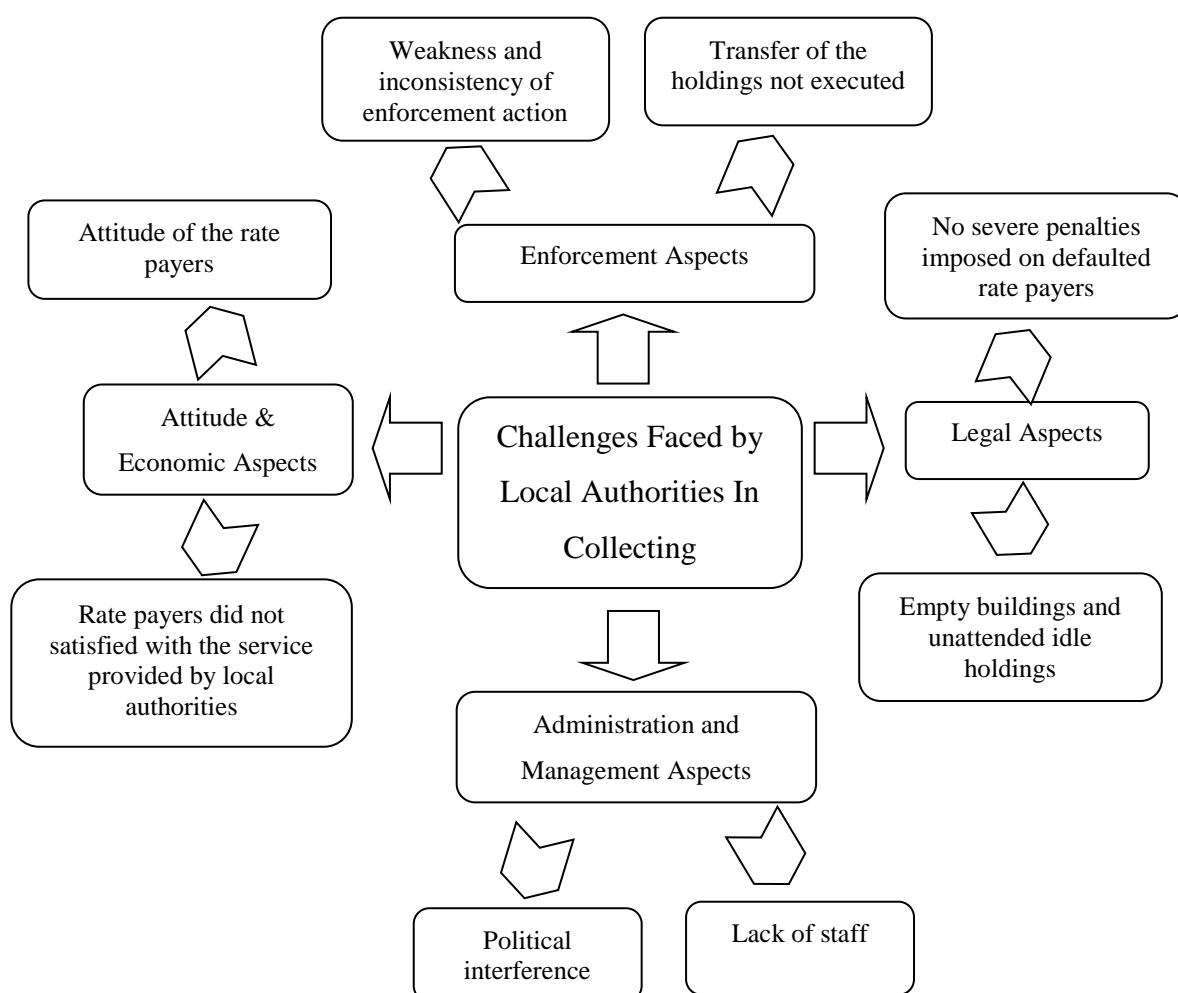
However, although local authorities has provide all the payment facilities for the rate payers, the total of assessment rates arrears has not showing the percentage of decrease but some of which are static and there are also increasing.

According to A2 and A4, among other factors that caused local authorities to demand assessment rate arrears is due to rate payers did not satisfied with the service provided by local authorities. Rate payers dissatisfied with maintenance of drains and roads, improvements street lights in residential parks and others. Rate payers also arguing that it is unfair for them to pay assessment rates if the money used by local authorities to provide and improve the service to residents also enjoy by defaulted rate payers.

According to A6, certain groups of rate payers is facing financial difficulties which causes them not to pay assessment rates. According to him because of high cost of living rate payers are difficult to pay assessment rates. Residents in Malaysia are charged with various types of taxes such as individual income tax/company tax, land tax, assessment rates and even utility bills that are inevitably unavoidable by every resident.

Figure 1 shows that the challenges faced by local authorities in collecting assessment rates arrears which had divided into four aspects which are enforcement aspects, legal aspect, administration and management aspects and economy aspects.

Figure 1: Challenges Faced by Local Authorities in Collecting Assessment Rates Based on Respondents View



Recommendations

Based on the findings above, this study highlights certain recommendations to overcome the problems. Firstly, the local authorities need to take drastic action in order to overcome the challenges in assessment rates arrears collection. State government should play a role in order for local authorities to collect assessment rates arrears. State government also should support

what local authorities does. Councilors and politicians should jointly play their part to encourage rate payers to pay assessment rate without having to be directed to do so. Secondly, at the same time, local authorities need to increase the level of services to the people to gain their trust. By doing so, then the people realized that it is “worth” for them to pay the assessment rates, and to fulfill their duty to pay assessment rates within stipulated time. Thirdly, the Land Office also has to play their role in this issue. The Land Office, in case of an individual applying for change of the title of the land, they should check whether there is an assessment rates arrears due from any party, be it the applicant, seller or buyer. If the assessment rates have been paid, then the application to change the title of the land may be processed accordingly.

Furthermore, it is recommended that the local authorities improvise various ways and incentives to attract people to pay assessment rates. For instance, local authorities may offer souvenirs to those who pay the assessment rates within stipulated time. Also, the use of Computer Assisted Mass Appraisal Application For Property Tax Administration may improve the tax arrears problem (Kamarudin & Daud, 2014). Besides, in regards to the legal regime governing the local authorities, the Local Government Act 1976 is suggested to be revised as soon as possible as there are too many loopholes relates to assessment rates which are becoming outdated. Last but not least, the awareness should be instilled amongst the rate payers. The Ministry of Urban, Wellbeing, Housing and Local Government should play a role in promoting awareness to the rate payers to carry out their responsibilities in paying assessment rates. Programmes such as talk, seminars, and advertisements in electronic and social media should be carried out.

Conclusion

Based on discussion at the above, the study highlights the challenges encountered by local authorities in collecting assessment rates arrears. In supporting the principle of “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 it must be responsible, accountable and efficient in providing public facilities and services to local communities. Local authorities should ensure that the source of income source, especially the revenue generated from the assessment rate, are properly and effectively collected.

It is hoped that in the near future, every residents and citizen treat assessment rates as ‘a contribution rather than a burden’.

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