

Municipal autonomy and the sales tax

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The law that was finally approved by the Legislature to provide for the sales tax empowered central government to establish a 5.5% tax and capped at 1.5% existing powers of the municipalities to tax sales. An issue has arisen as to the administration of the municipal tax. The law as approved provides that it should be administered—that is collected—by the municipalities. Some mayors and the retailers lobby that the law should be amended so the central government will administer the municipal tax. Although at first blush this seems like a simple controversy over uniformity in administration, the matter runs deeper and has a lot to do with the issue of governability in Puerto Rico.

As I have written many times in this column in CARIBBEAN BUSINESS, at the end of my third term as governor I felt our government no longer worked effectively. My standard of comparison to reach this conclusion was the Sánchez Vilella administration. I was part of that administration as secretary of Justice. In that capacity I was constantly consulted by the governor and the different departments and agencies so I had a very broad look at the workings of our government. Things got done. Decisions were made and executed. There were efficient public servants highly motivated that carried out the tasks required for the public good.

The quality of public administration began to deteriorate with the Ferré administration, but not significantly. This was the first time in 28 years the statehooders had an opportunity to bring their people into government. The standards of our merit system were relaxed. This was compounded by the Romero and Rosselló administrations later on. As a result, we now have a highly politicized public administration. Our government employees are divided in two factions: the PDPs and the NPPs, with vested interests in maintaining or regaining power. Getting decisions executed within the political labyrinth that constitutes Puerto Rican bureaucracy is indeed a daunting task.

The other factor that has complicated the task of governing in Puerto Rico is the growth of the central government, both in the number of public employees and the number of departments and agencies. All the administrations since Sánchez Vilella, including mine, have contributed to this. This growth in the size of government is further complicated by the expansion of legislation and regulations intruding upon all aspects of our lives in Puerto Rico.

The fact we have a bloated, all-pervasive and inefficient central government does not escape anyone in Puerto Rico. Yet, there is an inarticulate premise when we think about governmental tasks, which leads us to believe they should be assigned to the central government. Perhaps this is the legacy of the days of glory of our public administration under Tugwell, Muñoz or Sánchez. Perhaps this is a legacy of four-and-a-half centuries of colonial centralism. Or perhaps all of the above have embedded in that center of power, which

is the [San Juan] metropolitan area, the notion that all matters should be centrally controlled and administered. Whatever the origins of this manner of thinking, the fact is that when we think of government we think of the central government and we tend to be oblivious to the possibilities of our municipalities.

This outmoded thinking must be overcome so we can go forward in the globalized competitive world of the 21st century. Since the early '90s, it became evident to the corporate world that centralized administration was not competitive. The administrative pyramid tended to flatten out. Power was delegated in significant amounts to the lower levels of the pyramid. This was made possible through the management of information, which the computer and the Internet permitted.

Keenly aware of our difficulties with governability and of one of the deficiencies of our Constitution, I proposed to the Legislature a Law for Municipal Autonomy, which was approved Aug. 30, 1991. The objectives behind this law were to provide for a more efficient government by granting or delegating broader powers to the municipalities and to provide for a better working democracy in Puerto Rico by citizen participation at the municipal level.

The 15 years that have passed since that law was approved have yielded positive results such as the Rivera, Aponte, O'Neill, Miranda and Cordero administrations of Bayamón, Carolina, Guaynabo, Caguas and Ponce but they have also revealed how deeply engrained the centralist mentality is in the bureaucracy of central government, in the Legislature, in the Supreme Court, in the media and in public opinion. They simply do not want to let go.

But, lo and behold, many of the municipalities themselves—particularly the smaller ones—have remained entrenched in the centralist type of thinking. Let central government do it for us, they say. This unwillingness to assume responsibilities is behind the amendment that some municipalities now seek with the Sales Tax Law.

Autonomy whether at the Commonwealth level, at the municipal level or at the personal level implies freedom and responsibility. Ever since God gave free will to humankind, freedom has entailed responsibility as to the decisions one is free to make. Assuming responsibility is a part of growing up. When municipal governments assume the responsibility to make the tough decisions necessary to make government work, such as the Willie Tax, the balance of power in our pyramid of government shifts from the top—central government toward the base—the municipalities—and, as a result, we have better and more efficient government in that particular area of Puerto Rico. When all the municipalities begin taking the initiatives such as the Willie Tax, which the Law for Municipal Autonomy permits, then we will have a much better government in all of Puerto Rico.

Unfortunately, all our mayors have not awakened to this fact. Many still prefer the central government to handle their affairs. They are willing to suffer inefficiencies such as the central government's procrastination in making the assessments for imposing the property tax on new construction all over the

island. This costs millions in revenue to the municipalities. Yet most of them are unwilling to take on this politically unpleasant task and choose to let the central government do it, at considerable cost in potential municipal revenue.

To improve or even maintain our competitiveness in the 21st century, we must not only make changes in our laws and in our institutions, we must also make them in our way of thinking. Political maturation so as to assume new responsibilities at all levels of government is of the essence so that we can meet the challenges ahead.

