

## 2011 BAR COVERAGE FOR TAXATION

- I. General Principles of Taxation
  - A. Definition and Concept of Taxation
  - B. Nature of Taxation
  - C. Characteristics of Taxation
  - D. Power of Taxation Compared With Other Powers
    1. Police Power
    2. Power of Eminent Domain
  - E. Purpose of Taxation
    1. Revenue-raising
    2. Non-revenue/special or regulatory
  - F. Principles of Sound Tax System
    1. Fiscal Adequacy
    2. Administrative Feasibility
    3. Theoretical Justice
  - G. Theory and Basis of Taxation
    1. Lifeblood Theory
    2. Necessity Theory
    3. Benefits-Protection Theory (Symbiotic Relationship)
    4. Jurisdiction over subject and objects
  - H. Doctrines in Taxation
    1. Prospectivity of tax laws
    2. Imprescriptibility
    3. Double taxation
      - a. Strict sense
      - b. Broad sense
      - c. Constitutionality of double taxation
      - d. Modes of eliminating double taxation
    4. Escape from taxation
      - a. Shifting of tax burden
        - 1) Ways of shifting the tax burden
        - 2) Taxes that can be shifted
        - 3) Meaning of impact and incidence of taxation
      - b. Tax avoidance
      - c. Tax evasion
    5. Exemption from taxation

- a. Meaning of exemption from taxation
- b. Nature of tax exemption
- c. Kinds of tax exemption
  - 1) Express
  - 2) Implied
  - 3) Contractual
- d. Rationale/grounds for exemption
- e. Revocation of tax exemption
- 6. Compensation and Set-off
- 7. Compromise
- 8. Tax amnesty
  - a. Definition
  - b. Distinguished from tax exemption
- 9. Construction and Interpretation of:
  - a. Tax laws
    - 1) General Rule
    - 2) Exception
  - b. Tax exemption and exclusion
    - 1) General Rule
    - 2) Exception
  - c. Tax rules and regulations
    - 1) General rule only
  - d. Penal provisions of tax laws
  - e. Non-retroactive application to taxpayers
    - 1) Exceptions

## I. Scope and Limitation of Taxation

- 1. Inherent Limitations
  - a. Public Purpose
  - b. Inherently Legislative
    - 1) General Rule
    - 2) Exceptions
      - a) Delegation to local governments
      - b) Delegation to the President
      - c) Delegation to administrative agencies
  - c. Territorial
    - 1) Situs of Taxation
      - a) Meaning
      - b) Situs of Income Tax
        - 1) From sources within the Philippines
        - 2) From sources without the Philippines
        - 3) Income partly within and partly without the Philippines
      - c) Situs of Property Taxes
        - (1) Taxes on Real Property

- (2) Taxes on Personal Property
  - d) Situs of Excise Tax
    - (1) Estate Tax
    - (2) Donor's Tax
  - e) Situs of Business Tax
    - (1) Sale of Real Property
    - (2) Sale of Personal Property
    - (3) VAT
- d. International Comity
- e. Exemption of Government Entities, Agencies, and Instrumentalities
- 2. Constitutional Limitations
  - a. Provisions Directly Affecting Taxation
    - 1) Prohibition against imprisonment for non-payment of poll tax
    - 2) Uniformity and equality of taxation
    - 3) Grant by Congress of authority to the President to impose tariff rates
    - 4) Prohibition against taxation of religious, charitable entities, and educational entities
    - 5) Prohibition against taxation of non-stock, non-profit institutions
    - 6) Majority vote of Congress for grant of tax exemption
    - 7) Prohibition on use of tax levied for special purpose
    - 8) President's veto power on appropriation, revenue, tariff bills
    - 9) Non-impairment of jurisdiction of the Supreme Court
    - 10) Grant of power to the local government units to create its own sources of revenue
    - 11) Flexible tariff clause
    - 12) Exemption from real property taxes
    - 13) No appropriation or use of public money for religious purposes
  - b. Provisions Indirectly Affecting Taxation
    - 1) Due process
    - 2) Equal protection
    - 3) Religious freedom
    - 4) Non-impairment of obligations of contracts
- J. Stages of Taxation
  - 1. Levy
  - 2. Assessment and Collection
  - 3. Payment
  - 4. Refund

K. Definition, Nature, and Characteristics of Taxes

L. Requisites of a valid tax

M. Tax as distinguished from other forms of exactions

1. Tariff
2. Toll
3. License fee
4. Special assessment
5. Debt

N. Kinds of Taxes

1. As to object
  - a. Personal, capitation, or poll tax
  - b. Property tax
  - c. Privilege tax
2. As to burden or incidence
  - a. Direct
  - b. Indirect
3. As to tax rates
  - a. Specific
  - b. Ad valorem
  - c. Mixed
4. As to purposes
  - a. General or fiscal
  - b. Special, regulatory, or sumptuary
5. As to scope or authority to impose
  - a. National – internal revenue taxes
  - b. Local – real property tax, municipal tax
6. As to graduation
  - a. Progressive
  - b. Regressive
  - c. Proportionate

II. National Internal Revenue Code of 1997 as amended (NIRC)

A. Income Taxation

1. Income Tax Systems
  - a. Global Tax System
  - b. Schedular Tax System
  - c. Semi-schedular or semi-global tax system
  
2. Features of the Philippine Income Tax Law
  - a. Direct tax
  - b. Progressive

- c. Comprehensive
  - d. Semi-schedular or semi-global tax system
3. Criteria in Imposing Philippine Income Tax
    - a. Citizenship Principle
    - b. Residence Principle
    - c. Source Principle
  4. Types of Philippine Income Tax
  5. Taxable Period
    - a. Calendar Period
    - b. Fiscal Period
    - c. Short Period
  6. Kinds of Taxpayers
    - a. Individual Taxpayers
      - 1) Citizens
        - a) Resident citizens
        - b) Non-resident citizens
      - 2) Aliens
        - a) Resident aliens
        - b) Non-resident aliens
          - (1) Engaged in trade or business
          - (2) Not engaged in trade or business
      - 3) Special Class of Individual Employees
        - a) Minimum wage earner
    - b. Corporations
      - 1) Domestic corporations
      - 2) Foreign corporations
        - (1) Resident foreign corporations
        - (2) Non-resident foreign corporations
    - c. Partnerships
    - d. General Professional Partnerships
    - e. Estates and Trusts
    - f. Co-ownerships
  7. Income Taxation
    - a. Definition
    - b. Nature
    - c. General principles
  8. Income
    - a. Definition
    - b. Nature

- c. When income is taxable
    - 1) Existence of income
    - 2) Realization of income
      - a) Tests of Realization
      - b) Actual vis-à-vis Constructive receipt
    - 3) Recognition of income
    - 4) Methods of accounting
      - a) Cash method vis-à-vis Accrual method
      - b) Installment payment vis-à-vis Deferred payment vis-à-vis Percentage completion (in long term contracts)
  - d. Tests in determining whether income is earned for tax purposes
    - 1) Realization test
    - 2) Claim of right doctrine or Doctrine of ownership, command, or control
    - 3) Economic benefit test, Doctrine of proprietary interest
    - 4) Severance test
9. Gross Income
- a. Definition
  - b. Concept of income from whatever source derived
  - c. Gross Income vis-à-vis Net Income vis-à-vis Taxable Income
  - d. Classification of Income as to Source
    - 1) Gross income and taxable income from sources within the Philippines
    - 2) Gross income and taxable income from sources without the Philippines
    - 3) Income partly within or partly without the Philippines
  - d. Sources of income subject to tax
    - 1) Compensation Income
    - 2) Fringe Benefits
      - a) Special treatment of fringe benefits
      - b) Definition
      - c) Taxable and non-taxable fringe benefits
    - 3) Professional Income
    - 4) Income from Business
    - 5) Income from Dealings in Property
      - a) Types of Properties
        - (1) Ordinary assets
        - (2) Capital assets
      - b) Types of Gains from dealings in property
        - (1) Ordinary income vis-à-vis Capital gain
        - (2) Actual gain vis-à-vis Presumed gain
        - (3) Long term capital gain vis-à-vis Short term capital gain

- (4) Net capital gain, Net capital loss
- (5) Computation of the amount of gain or loss
  - (a) Cost or basis of the property sold
  - (b) Cost or basis of the property exchanged in corporate readjustment
    - [1] Merger
    - [2] Consolidation
    - [3] Transfer to a controlled corporation (tax-free exchanges)
  - (c) Recognition of gain or loss in exchange of property
    - [1] General rule
      - [a] Where no gain or loss shall be recognized
    - [2] Exceptions
      - [a] Meaning of merger, consolidation, control securities
      - [b] Transfer of a controlled corporation
- (6) Income tax treatment of capital loss
  - (a) Capital loss limitation rule (applicable to both corporations and individuals)
  - (b) Net loss carry-over rule (applicable only to individuals)
- (7) Dealings in real property situated in the Philippines
- (8) Dealings in shares of stock of Philippine corporations
  - (a) Shares listed and traded in the stock exchange
  - (b) Shares not listed and traded in the stock exchange
- (9) Sale of principal residence
- 6) Passive Investment Income
  - a) Interest Income
  - b) Dividend Income
    - (1) Cash dividend
    - (2) Stock dividend
    - (3) Property dividend
    - (4) Liquidating dividend
  - c) Royalty Income
  - d) Rental Income
    - (1) Lease of personal property
    - (2) Lease of real property
    - (3) Tax treatment of
      - (a) Leasehold improvements by lessee
      - (b) VAT added to rental/paid by the lessee
      - (c) Advance rental/long term lease
- 7) Annuities, Proceeds from life insurance or other types of insurance

- 8) Prizes and awards
- 9) Pensions, retirement benefit, or separation pay
- 10) Income from any source whatever
  - a) Forgiveness of indebtedness
  - b) Recovery of accounts previously written off
  - c) Receipt of tax refunds or credit
  - d) Income from any source whatever
- e. Source rules in determining income from within and without
  - 1) Interests
  - 2) Dividends
  - 3) Services
  - 4) Rentals
  - 5) Royalties
  - 6) Sale of real property
  - 7) Sale of personal property
  - 8) Shares of stock of domestic corporation
- f. Situs of Income Taxation (See page 2 under Inherent Limitations, Territorial)
- g. Exclusions from Gross Income
  - 1) Rationale for the exclusions
  - 2) Taxpayers who may avail of the exclusions
  - 3) Exclusions distinguished from deductions and tax credit
  - 4) Under the Constitution
    - a) Income derived by the government or its political subdivisions from the exercise of any essential governmental function
  - 5) Under the Tax Code
    - a) Proceeds of life insurance policies
    - b) Return of premium paid
    - c) Amounts received under life insurance, endowment or annuity contracts
    - d) Value of property acquired by gift, bequest, devise or descent
    - e) Amount received through accident or health insurance
    - f) Income exempt under tax treaty
    - g) Retirement benefits, pensions, gratuities, etc.
    - h) Winnings, prizes, and awards, including those in sports competition
  - 6) Under a Tax Treaty
  - 7) Under Special Laws
- h. Deductions from Gross Income
  - 1) General rules
    - a) Deductions must be paid or incurred in connection with the taxpayer's trade, business or profession



- b) Deductions must be supported by adequate receipts or invoices (except standard deduction)
- 2) Return of capital (cost of sales or services)
  - a) Sale of inventory of goods by manufacturers and dealers of properties
  - b) Sale of stock in trade by a real estate dealer and dealer in securities
  - c) Sale of services
- 3) Itemized deductions
  - a) Expenses
    - (1) Requisites for deductibility
      - (a) Nature: Ordinary and necessary
      - (b) Paid and incurred during taxable year
    - (2) Salaries, wages and other forms of compensation for personal services actually rendered, including the grossed-up monetary value of the fringe benefit subjected to fringe benefit tax which tax should have been paid
    - (3) Traveling/Transportation expenses
    - (4) Cost of materials
    - (5) Rentals and/or other payments for use or possession of property
    - (6) Repairs and maintenance
    - (7) Expenses under lease agreements
    - (8) Expenses for professionals
    - (9) Entertainment expenses
    - (10) Political campaign expenses
    - (11) Training expenses
  - b) Interest
    - (1) Requisites for deductibility
    - (2) Non-deductible interest expense
    - (3) Interest subject to special rules
      - (a) Interest paid in advance
      - (b) Interest periodically amortized
      - (c) Interest expense incurred to acquire property for use in trade/business/profession
  - c) Taxes
    - (1) Requisites for deductibility
    - (2) Non-deductible taxes
    - (3) Treatments of surcharges/interests/fines for delinquency
    - (4) Treatment of special assessment
    - (5) Tax credit vis-à-vis deduction
  - d) Losses
    - (1) Requisites for deductibility

- (2) Other types of losses
  - (a) Capital losses
  - (b) Securities becoming worthless
  - (c) Losses on wash sales of stocks or securities
  - (d) Wagering losses
  - (e) NOLCO
- e) Bad debts
  - (1) Requisites for deductibility
- f) Depreciation
  - (1) Requisites for deductibility
  - (2) Methods of computing depreciation allowance
    - (a) Straight-line method
    - (b) Declining-balance method
    - (c) Sum-of-the-years-digit method
- g) Charitable and other contributions
  - (1) Requisites for deductibility
  - (2) Amount that may be deducted
- h) Contributions to pension trusts
  - (1) Requisites for deductibility
- 4) Optional standard deduction
  - a) Individuals, except non-resident aliens
  - b) Corporations, except non-resident foreign corporations
- 5) Personal and additional exemption (Republic Act 9504 Minimum Wage Earner Law)
  - a) Basic personal exemptions
  - b) Additional exemptions for taxpayer with dependents
  - c) Status-at-the-end-of-the-year rule
- 6) Items not deductible
  - a) General rules
  - b) Personal, living or family expenses
  - c) Amount paid for new buildings or for permanent improvements (capital expenditures)
  - d) Amount expended in restoring property (major repairs)
  - e) Premiums paid on life insurance policy covering life or any other officer or employee financially interested
  - f) Interest expense, bad debts, and losses from sales of property between related parties
  - g) Losses from sales or exchange of property
  - h) Non-deductible interest
  - i) Non-deductible taxes
  - j) Non-deductible losses
  - k) Losses from wash sales of stock or securities
- i. Exempt Corporations

10. Taxation of Resident Citizens, Non-resident Citizens, and Resident Aliens
  - a. General rule: Resident citizens – Taxable on income from all sources within and without the Philippines
  - b. Taxation on Compensation Income
    - 1) Inclusions
      - a) Monetary compensation
        - (1) Regular salary/wage
        - (2) Separation pay/retirement benefit not otherwise exempt
        - (3) Bonuses, 13<sup>th</sup> month pay, and other benefits not exempt
        - (4) Director's fees
      - b) Non-monetary compensation
        - (1) Fringe benefit not subject tax
    - 2) Exclusions
      - a) Fringe benefit subject to tax
      - b) De minimis benefits
      - c) 13<sup>th</sup> month pay and other benefits and payments specifically excluded from taxable compensation income
    - 3) Deductions
      - a) Personal exemptions and additional exemptions
      - b) Health and hospitalization insurance
      - c) Taxation of compensation income of a minimum wage earner
        - (1) Definition of Statutory Minimum Wage
        - (2) Definition of Minimum Wage Earner
        - (3) Income also subject to tax exemption: holiday pay, overtime pay, night shift differential, and hazard pay
  - c. Taxation of Business Income/Income from Practice of Profession
  - d. Taxation of Passive Income
    - 1) Passive income subject to final tax
      - a) Interest income
      - b) Royalties
      - c) Dividends from domestic corporation
      - d) Prizes and other winnings
    - 2) Passive income not subject to final tax
  - e. Taxation of capital gains
    - 1) Income from sale of shares of stock of a Philippine corporation
      - a) Shares traded and listed in the stock exchange
      - b) Shares not listed and traded in the stock exchange
    - 2) Income from the sale of real property situated in the Philippines

- 3) Income from the sale, exchange, or other disposition of other capital assets

11. Taxation of Non-resident Aliens Engaged in Trade or Business

- a. General rules
- b. Cash and/or property dividends
- c. Capital gains

12. Exclude Non-resident Aliens Not Engaged in Trade or Business

13. Individual Taxpayers Exempt from Income Tax

- a. Senior citizens
- b. Exemptions granted under international agreements

14. Taxation of Domestic Corporations

- a. Tax payable
  - 1) Regular tax
  - 2) Minimum corporate income tax (MCIT)
    - a) Imposition of MCIT
    - b) Carry forward of excess minimum tax
    - c) Relief from the MCIT under certain conditions
    - d) Corporations exempt from the MCIT
    - e) Applicability of the MCIT where a corporation is governed both under the regular tax system and a special income tax system
- b. Allowable deductions
  - 1) Itemized deductions
  - 2) Optional standard deduction
- c. Taxation of Passive Income
  - 1) Passive income subject to tax
    - a) Interest from deposits and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements and royalties
    - b) Capital gains from the sale of shares of stock not traded in the stock exchange
    - c) Income derived under the expanded foreign currency deposit system
    - d) Intercorporate dividends
    - e) Capital gains realized from the sale, exchange, or disposition of lands and/or buildings
  - 2) Passive income not subject to tax
- d. Taxation of Capital Gains
  - 1) Income from sale of shares of stock
  - 2) Income from the sale of real property situated in the Philippine

- 3) Income from the sale, exchange, or other disposition of other capital assets
- e. Tax on proprietary educational institutions and hospitals
- f. Tax on government-owned or controlled corporations, agencies or instrumentalities

15. Taxation of Resident Foreign Corporations

- a. General rule
- b. With respect to their income from sources within the Philippines
- c. Minimum corporate income tax
- d. Tax on certain income
  - (1) Interest from deposits and yield or any other monetary benefit from deposit substitutes, trust funds and similar arrangements and royalties
  - (2) Income derived under the expanded foreign currency deposit system
  - (3) Capital gain from sale of shares of stock not traded in the stock exchange
  - (4) Intercorporate dividends
- e. Exclude:
  - (1) International carrier
  - (2) Offshore banking units
  - (3) Branch profits remittances
  - (4) Regional or area headquarters and Regional operating headquarters of multinational companies

16. Taxation of Non-resident Foreign Corporations

- a. General rule
- b. Tax on certain income
  - (1) Interest on foreign loans
  - (2) Intercorporate dividends
  - (3) Capital gains from sale of shares of stock not traded in the stock exchange
- c. Exclude:
  - (1) Non-resident cinematographic film owner, lessor or distributor
  - (2) Non-resident owner or lessor of vessels chartered by Philippine nationals
  - (3) Non-resident owner or lessor of aircraft machineries and other equipment

17. Improperly Accumulated Earnings of Corporations

18. Exemption from tax on corporations

19. Taxation of Partnerships

20. Taxation of General Professional Partnerships

21. Taxation on Estates and Trusts

- a) Application
- b) Exception
- c) Determination of tax
  - 1) Consolidation of income of two or more trusts
  - 2) Taxable income
  - 3) Revocable trusts
  - 4) Income for benefit of grantor
  - 5) Meaning of “in the discretion of the grantor”

22. Withholding tax

- a. Concept
- b. Kinds
  - 1) Withholding of final tax o certain incomes
  - 2) Withholding of creditable tax at source
- c. Withholding on wages
  - 1) Requirement for withholding
  - 2) Tax paid by recipient
  - 3) Refunds or credits
  - 4) Year-end adjustment
  - 5) Liability for tax
- d. Withholding of VAT
- e. Filing of return and payment of taxes withheld
  - 1) Return and payment in case of government employees
  - 2) Statements and returns
- f. Final withholding tax at source
- g. Creditable withholding tax
  - 1) Expanded withholding tax
  - 2) Withholding tax on compensation
- h. Fringe benefit tax

B. Estate Tax

- 1. Basic principles
- 2. Definition
- 3. Nature
- 4. Purpose or object
- 5. Time and transfer of properties
- 6. Classification of decedent
- 7. Gross estate vis-à-vis Net estate
- 8. Determination of gross estate and net estate
- 9. Composition of gross estate
- 10. Items to be included in gross estate
- 11. Deductions from estate
- 12. Exclusions from estate

13. Tax credit for estate taxes paid in a foreign country
14. Exemption of certain acquisitions and transmissions
15. Filing of notice of death
16. Estate tax return

#### C. Donor's Tax

1. Basic principles
2. Definition
3. Nature
4. Purpose or object
5. Requisites of valid donation
6. Transfers which may be constituted as donation
  - a. Sale/exchange/transfer of property for insufficient consideration
  - b. Condonation/remission of debt
7. Transfer for less than adequate and full consideration
8. Classification of donor
9. Determination of gross gift
10. Composition of gross gift
11. Valuation of gifts made in property
12. Tax credit for donor's taxes paid in a foreign country
13. Exemptions of gifts from donor's tax
14. Person liable
15. Tax basis

#### D. Value-Added Tax (VAT)

1. Concept
2. Characteristics
3. Impact of tax
4. Incidence of tax
5. Tax credit method
6. Destination principle
7. Persons liable
8. VAT on sale of goods or properties
  - a. Requisites of taxability of sale of goods or properties
9. Zero-rated sales of goods or properties, and effectively zero-rated sales of goods or properties
10. Transactions deemed sale
  - a. Transfer, use or consumption not in the course of business of goods/properties originally intended for sale or use in the course of business
  - b. Distribution or transfer to shareholders, investors or creditors
  - c. Consignment of goods if actual sale not made within 60 days from date of consignment

- d. Retirement from or cessation of business with respect to inventories on hand
- 11. Change or cessation of status as VAT-registered person
  - a. Subject to VAT
    - 1) Change of business activity from VAT taxable status to VAT-exempt status
    - 2) Approval of request for cancellation of a registration due to reversion to exempt status
    - 3) Approval of request for cancellation of registration due to desire to revert to exempt status after lapse of 3 consecutive years
  - b. Not subject to VAT
    - 1) Change of control of a corporation
    - 2) Change in the trade or corporate name
    - 3) Merger or consolidation of corporations
- 12. VAT on importation of goods
  - a. Transfer of goods by tax exempt persons
- 13. VAT on sale of service and use or lease of properties
  - a. Requisites for taxability
- 14. Zero-rated sale of services
- 15. VAT exempt transactions
  - a. VAT exempt transactions, in general
  - b. Exempt transaction, enumerated
- 16. Input tax and output tax, defined
- 17. Sources of input tax
  - a. Purchase or importation of goods
  - b. Purchase of real properties for which a VAT has actually been paid
  - c. Purchase of services in which VAT has actually been paid
  - d. Transactions deemed sale
  - e. Transitional input tax
  - f. Presumptive input tax
  - g. Transitional input tax credits allowed under the transitory and other provisions of the regulations
- 18. Persons who can avail of input tax credit
- 19. Determination of output/input tax; VAT payable; Excess input tax credits
  - a. Determination of output tax
  - b. Determination of input tax creditable
  - c. Allocation of input tax on mixed transactions
  - d. Determination of the output tax and VAT payable and computation of VAT payable or excess tax credits
- 20. Substantiation of input tax credits
- 21. Refund or tax credit of excess input tax



- a. Who may claim for refund/apply for issuance of tax credit certificate (TCC)
- b. Period to file claim/apply for issuance of TCC
- c. Manner of giving refund
- d. Destination principle or Cross-border doctrine
- 22. Invoicing requirements
  - a. Invoicing requirements in general
  - b. Invoicing and recording deemed sale transactions
  - c. Consequences of issuing erroneous VAT invoice or VAT official receipt
- 23. Filing of return and payment
- 24. Withholding of final VAT on sales to government
- E. Compliance Requirements (Internal Revenue Taxes)
  - 1. Administrative requirements
    - a. Registration requirements
      - 1) Annual registration fee
      - 2) Registration of each type of internal revenue tax
      - 3) Transfer of registration
      - 4) Other updates
      - 5) Cancellation of registration
      - 6) Power of the Commissioner to suspend the business operations of any person who fails to register
    - b. Persons required to register for VAT
      - 1) Optional registration for VAT of exempt person
      - 2) Cancellation of VAT registration
      - 3) Changes in or cessation of status of a VAT-registered person
    - c. Supplying taxpayer identification number (TIN)
    - d. Issuance of receipts or sales or commercial invoices
      - 1) Printing of receipts or sales or commercial invoices
      - 2) Invoicing requirements for VAT
        - a) Information contained in the VAT invoice or VAT official receipt
        - b) Consequences of issuing erroneous VAT invoice or official receipts
    - e. Exhibition of certificate of payment at place of business
    - f. Continuation of business of deceased person
    - g. Removal of business to other location
  - 2. Tax returns
    - a. Income Tax Returns
      - 1) Individual Tax Returns
        - a) Filing of individual tax returns
          - (1) Who are required to file
            - (a) Return of husband and wife

- (b) Return of parent to include income of children
      - (c) Return of persons under disability
    - (2) Who are not required to file
      - b) Where to file
      - c) When to file
  - 2) Corporate Returns
    - a) Requirement for filing returns
      - (1) Declaration of quarterly corporate income tax
        - (a) Place of filing
        - (b) Time of filing
      - (2) Final adjustment return
        - (a) Place of filing
        - (b) Time of filing
      - (3) Taxable year of corporations
      - (4) Extension of time to file return
    - b) Return of corporation contemplating dissolution or reorganization
    - c) Return on capital gains realized from sale of shares of stock not traded in the local stock exchange
  - 3) Returns of receivers, trustees in bankruptcy or assignees
  - 4) Returns of general partnerships
  - 5) Fiduciary returns
- b. Estate Tax Returns
  - 1) Notice of death to be filed
  - 2) Estate tax returns
    - a) Requirements
    - b) Time of filing and extension of time
    - c) Place of filing
  - 3) Discharge of executor or administrator from personal liability
    - a) Definition of deficiency
- c. Donor's Tax Returns
  - 1) Requirements
  - 2) Time and place of filing
- d. VAT Returns
  - 1) In general
  - 2) Where to file the return
- e. Withholding Tax Returns
  - 1) Quarterly returns and payments of taxes withheld
  - 2) Annual information return
3. Tax payments
  - a. Income Taxes
    - 1) Payment, in general; time of payment
    - 2) Installment payment
    - 3) Payment of capital gains tax

- b. Estate Taxes
  - 1) Time of payment
    - a) Extension of time
  - 2) Liability for payment
    - a) Discharge of executor or administrator from personal liability
    - b) Definition of deficiency
  - 3) Payment before delivery by executor or administrator
    - a) Payment of tax antecedent to the transfer of shares, bonds or rights
  - 4) Duties of certain officers and debtors
  - 5) Restitution of tax upon satisfaction of outstanding obligations
- c. Donor's Taxes
  - 1) Time and place of payment
- d. VAT
  - 1) Payment of VAT
  - 2) Where to pay the VAT

## F. Tax Remedies under the NIRC

- 1. Taxpayer's Remedies
  - a. Assessment
    - 1) Concept of assessment
      - a) Requisites for valid assessment
      - b) Constructive methods of income determination
      - c) Inventory method for income determination
      - d) Jeopardy assessment
      - e) Tax delinquency and tax deficiency
    - 2) Power of the Commissioner to make assessments and prescribe additional requirements for tax administration and enforcement
      - a) Power of the Commissioner to obtain information, and to summon/examine, and take testimony of persons
    - 3) When assessment is made
      - a) Prescriptive period for assessment
        - (1) False, fraudulent, and non-filing of returns
      - b) Suspension of running of statute of limitations
    - 4) General provisions on additions to the tax
      - a) Civil penalties
      - b) Interest
    - 5) Assessment process
      - a) Tax audit
      - b) Notice of informal conference
      - c) Issuance of preliminary assessment notice (PAN)
      - d) Notice of informal conference

- e) Issuance of preliminary assessment notice (PAN)
- f) Exceptions to Issuance of PAN
- g) Reply to PAN
- h) Issuance of formal letter of demand and assessment notice/final assessment notice
- i) Disputed assessment
- j) Administrative decision on a disputed assessment
- 6) Protesting assessment
  - a) Protest of assessment by taxpayer
    - (1) Protested assessment
    - (2) When to file a protest
    - (3) Forms of protest
  - b) Submission of documents within 60 days from filing of protest
  - c) Effect of failure to protest
- 7) Rendition of decision by Commissioner
  - a) Denial of protest
    - (1) CIR's actions equivalent to denial of protest
      - (a) Filing of criminal action against taxpayer
      - (b) Issuing a warrant of distraint and levy
    - (2) Inaction by Commissioner
- 8) Remedies of taxpayer to action by Commissioner
  - a) In case of denial of protest
  - b) In case of inaction by Commissioner within 180 days from submission of documents
  - c) Effect of failure to appeal
- b. Collection
  - 1) Requisites
  - 2) Prescriptive periods
  - 3) Distraint of personal property including garnishment
    - a) Summary remedy of distraint of personal property
      - (1) Procedure for distraint and garnishment
      - (2) Sale of property distrained and disposition of proceeds
        - (a) Release of distrained property upon payment prior to sale
      - (3) Purchase by the government at sale upon distraint
      - (4) Report of sale to BIR
      - (5) Constructive distraint to protect the interest of the government
  - 4) Summary remedy of levy on real property
    - a) Advertisement and sale
    - b) Redemption of property sold
    - c) Final deed of purchaser
  - 5) Forfeiture to government for want of bidder

- a) Remedy of enforcement of forfeitures
  - (1) Action to contest forfeiture of chattel
- b) Resale of real estate taken for taxes
- c) When property to be sold or destroyed
- d) Disposition of funds recovered in legal proceedings or obtained from forfeiture
- 6) Further distraint or levy
- 7) Tax lien
- 8) Compromise
  - a) Authority of the Commissioner to compromise and abate taxes
- 9) Civil and criminal actions
  - a) Suit to recover tax based on false or fraudulent returns
- c. Refund
  - 1) Grounds and requisites for refund
  - 2) Requirements for refund as laid down by cases
    - a) Necessity of written claim for refund
    - b) Claim containing a categorical demand for reimbursement
    - c) Filing of administrative claim for refund and the suit/proceeding before the CTA within 2 years from date of payment regardless of any supervening cause
  - 3) Legal basis of tax refunds
  - 4) Statutory basis for tax refund under the Tax Code
    - a) Scope of claims for refund
    - b) Necessity of proof for claim or refund
    - c) Burden of proof for claim of refund
    - d) Nature of erroneously paid tax/illegally assessed collected
    - e) Tax refund vis-à-vis tax credit
    - f) Essential requisites for claim of refund
  - 5) Who may claim/apply for tax refund/tax credit
    - a) Taxpayer/withholding agents of non-resident foreign corporation
  - 6) Prescriptive period for recovery of tax erroneously or illegally collected
  - 7) Other consideration affecting tax refunds
- 2. Government Remedies
  - a. Administrative remedies
    - 1) Tax lien
    - 2) Levy and sale of real property
    - 3) Forfeiture of real property to the government for want of bidder
    - 4) Further distraint and levy

- 5) Suspension of business operation
- 6) Non-availability of injunction to restrain collection of tax
- b. Judicial remedies
- 3. Statutory Offenses and Penalties
  - a. Civil penalties
    - 1) Surcharge
    - 2) Interest
      - a) In General
      - b) Deficiency interest
      - c) Delinquency interest
      - d) Interest on extended payment
- 4. Compromise and Abatement of taxes
  - a. Compromise
  - b. Abatement

#### G. Organization and Function of the Bureau of Internal Revenue

- 1. Rule-making authority of the Secretary of Finance
  - a. Authority of secretary of finance to promulgate rules and regulations
  - b. Specific provisions to be contained in rules and regulations
  - c. Non-retroactivity of rulings
- 2. Power of the Commissioner to suspend the business operation of a taxpayer

### III. Local Government Code of 1991, as amended

#### A. Local Government Taxation

- 1. Fundamental principles
- 2. Nature and source of taxing power
  - a. Grant of local taxing power under the Local Government Code
  - b. Authority to prescribe penalties for tax violations
  - c. Authority to grant local tax exemptions
  - d. Withdrawal of exemptions
  - e. Authority to adjust local tax rates
  - f. Residual taxing power of local governments
  - g. Authority to issue local tax ordinances
- 3. Local taxing authority
  - a. Power to create revenues exercised thru LGUs
  - b. Procedure for approval and effectivity of tax ordinances
- 4. Scope of taxing power
- 5. Specific taxing power of local government unit (LGUs)
  - a. Taxing powers of provinces
    - 1) Tax on transfer of real property ownership
    - 2) Tax on business of printing and publication

- 3) Franchise tax
- 4) Tax on sand, gravel and other quarry services
- 5) Professional tax
- 6) Amusement tax
- 7) Tax on delivery truck/van
- b. Taxing powers of cities
- c. Taxing powers of municipalities
  - 1) Tax on various types of businesses
  - 2) Ceiling on business tax impossible on municipalities within Metro Manila
  - 3) Tax on retirement on business
  - 4) Rules on payment of business tax
  - 5) Fees and charges for regulation & licensing
  - 6) Situs of tax collected
- d. Taxing powers of barangays
- e. Common revenue raising powers
  - 1) Service fees and charges
  - 2) Public utility charges
  - 3) Toll fess or charges
- f. Community tax
6. Common limitations on the taxing powers of LGUs
7. Collection of business tax
  - a. Tax period and manner of payment
  - b. Accrual of tax
  - c. Time of payment
  - d. Penalties on unpaid taxes, fees or charges
  - e. Authority of treasurer in collection and inspection of books
8. Taxpayer's remedies
  - a. Periods of assessment and collection of local taxes, fees or charges
  - b. Protest of assessment
  - c. Claim for refund of tax credit for erroneously or illegally collected tax, fee or charge
9. Civil remedies by the LGU for collection of revenues
  - a. Local government's lien for delinquent taxes, fees or charges
  - b. Civil remedies, in general
    - 1) Administrative action
    - 2) Judicial action
  - c. Procedure for administrative action
    - 1) Distraint of personal property
    - 2) Levy of real property, procedure
    - 3) Further distraint or levy
    - 4) Exemption of personal property from distraint or levy
    - 5) Penalty on local treasurer for failure to issue and execute warrant of distraint or levy

d. Procedure for judicial action

B. Real Property Taxation

1. Fundamental principles
2. Nature of real property tax
3. Imposition of real property tax
  - a. Power to levy real property tax
  - b. Exemption from real property tax
4. Appraisal and assessment of real property tax
  - a. Rule on appraisal of real property at fair market value
  - b. Declaration of real property
  - c. Listing of real property in assessment rolls
  - d. Preparation of schedules of fair market value
    - 1) Authority of assessor to take evidence
    - 2) Amendment of schedule of fair market value
  - e. Classes of real property
  - f. Actual use of property as basis of assessment
  - g. Assessment of real property
    - 1) Assessment levels
    - 2) General revisions of assessments and property classification
    - 3) Date of effectivity of assessment or reassessment
    - 4) Assessment of property subject to back taxes
    - 5) Notification of new or revised assessment
  - h. Appraisal and assessment of machinery
5. Collection of real property tax
  - a. Date of accrual of real property tax
  - b. Collection of tax
    - 1) Collecting authority
    - 2) Duty of assessor to furnish local treasurer with assessment rolls
    - 3) Notice of time for collection of tax
  - c. Periods within which to collect real property tax
  - d. Special rules on payment
    - 1) Payment of real property tax in installments
    - 2) Interests on unpaid real property tax
    - 3) Condonation of real property tax
  - e. Remedies of LGUs for collection of real property tax
    - 1) Issuance of notice of delinquency for real property tax payment
    - 2) Local government's lien
    - 3) Remedies in general
    - 4) Resale of real estate taken for taxes, fees or charges
    - 5) Further levy until full payment of amount due
6. Refund or credit of real property tax



- a. Payment under protest
- b. Repayment of excessive collections
- 7. Taxpayer's remedies
  - a. Contesting an assessment of value of real property
    - 1) Appeal to the Local Board of Assessment Appeals (LBAA)
    - 2) Appeal to the Central Board of Assessment Appeals (CBAA)
    - 3) Effect of payment of tax
  - b. Payment of real property under protest
    - 1) File protest with local treasurer
    - 2) Appeal to the LBSS
    - 3) Appeal to the CBAA
    - 4) Appeal to the CTA
    - 5) Appeal to the SC
- IV. Tariff and Customs Code of 1978, as amended (TCC)
  - A. Tariff and duties, defined
  - B. General rule: All imported articles are subject to duty. Importation by the government taxable.
  - C. Purpose for imposition
  - D. Flexible tariff clause
  - E. Requirements of importation
    - 1. Beginning and ending of importation
    - 2. Obligations of importer
      - a. Cargo manifest
      - b. Import entry
      - c. Declaration of correct weight or value
      - d. Liability for payment of duties
      - e. Liquidation of duties
      - f. Keeping of records
  - F. Importation in violation of TCC
    - 1. Smuggling
    - 2. Other fraudulent practices
  - G. Classification of goods
    - 1. Taxable importation
    - 2. Prohibited importation
    - 3. Conditionally-free importation
  - H. Classification of duties
    - 1. Ordinary/Regular duties
      - a. Ad valorem; Methods of valuation
        - 1) Transaction value
        - 2) Transaction value of identical goods
        - 3) Transaction value of similar goods
        - 4) Deductive value
        - 5) Computed value

- 6) Fallback value
      - b. Specific
    - 2. Special duties
      - a. Dumping duties
      - b. Countervailing duties
      - c. Marking duties
      - d. Retaliatory/Discriminatory duties
      - e. Safeguard
  - I. Drawbacks
  - J. Remedies
    - 1. Government
      - a. Administrative/Extrajudicial
        - 1) Search, seizure, forfeiture, arrest
      - b. Judicial
        - 1) Rules on appeal including jurisdiction
    - 2. Taxpayer
      - a. Protest
      - b. Abandonment
      - c. Abatement and refund
- V. Judicial Remedies; Republic Act 1125 The Act that Created the Court of Tax Appeals (CTA), as amended, and the Revised Rules of the Court of Tax Appeals
- A. Jurisdiction of the Court of Tax Appeals
    - 1. Exclusive appellate jurisdiction over civil tax cases
      - a. Cases within the jurisdiction of the Court en banc
      - b. Cases within the jurisdiction of the Court in divisions
    - 2. Criminal cases
      - a. Exclusive original jurisdiction
      - b. Exclusive appellate jurisdiction in criminal cases
  - B. Judicial Procedures
    - 1. Judicial action for collection of taxes
      - a. Internal revenue taxes
      - b. Local taxes
        - 1) Prescriptive period
    - 2. Civil cases
      - a. Who may appeal, mode of appeal, effect of appeal
        - 1) Suspension of collection of tax
          - a) Injunction not available to restrain collection
        - 2) Taking of evidence
        - 3) Motion for reconsideration or New trial
      - b. Appeal to the CTA, en banc,
        - a. Petition for review on certiorari to the Supreme Court
    - 3. Criminal cases
      - a. Institution and prosecution of criminal actions

- 1) Institution on civil action in criminal action
  - b. Appeal and period to appeal
    - 1) Solicitor General as counsel for the People and government officials sued in their official capacity
  - c. Petition for review on certiorari to the Supreme Court
- C. Taxpayer's suit impugning the validity of tax measures or acts of taxing authorities
- a. Taxpayer's suit, defined
  - b. Distinguished from citizen's suit
  - c. Requisites for challenging the constitutionality of a tax measure or act of taxing authority
    - 1) Concept of locus standi as applied in taxation
    - 2) Doctrine of transcendental importance
    - 3) Ripeness for judicial determination