



Republic of the Philippines
Supreme Court
Manila

OFFICE OF THE 2020 BAR CHAIR

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SYLLABUS FOR THE BAR EXAMINATION

TAXATION LAW

Attached is the coverage for the Taxation Law examination, which will be held on November 15, 2020.

For your information and guidance.

February 24, 2020.

A handwritten signature in black ink, appearing to read "Marvic M.V.F. Leonen".

MARVIC M.V.F. LEONEN
*Associate Justice and
2020 Bar Examinations Chair*

SYLLABUS FOR THE 2020 BAR EXAMINATIONS

TAXATION LAW

Notes: All Bar candidates should be guided that only laws with their respective amendments and canonical doctrines pertinent to these topics as of June 30, 2019 will be covered in the 2020 Bar Examinations, except when provided in this syllabus. Principles of law are not covered by the cut-off period.

This syllabus is only a guide for the bar examinations. It should not be mistaken for a course syllabus.

I. GENERAL PRINCIPLES

- A. **CONCEPT AND PURPOSE OF TAXATION**
 - 1. Definition
 - 2. Purpose
 - 3. Distinguish: tax and other forms of exactions
- B. **DISTINGUISH: POWER OF TAXATION, POLICE POWER, AND EMINENT DOMAIN**
- C. **THEORY AND BASIS OF TAXATION**
 - 1. Lifeblood theory
 - 2. Necessity theory
 - 3. Benefits-received theory
- D. **JURISDICTION OVER SUBJECT AND OBJECTS**
- E. **PRINCIPLES OF A SOUND TAX SYSTEM**
 - 1. Fiscal adequacy
 - 2. Theoretical justice
 - 3. Administrative feasibility
- F. **INHERENT AND CONSTITUTIONAL LIMITATIONS ON TAXATION**
- G. **STAGES OR ASPECTS OF TAXATION**
- H. **REQUISITES OF A VALID TAX**
- I. **KINDS OF TAXES**

J. GENERAL CONCEPTS IN TAXATION

1. Prospectivity of tax laws
2. Imprescriptibility
3. Situs of taxation
4. Double taxation
 - a. Strict sense
 - b. Broad sense
 - c. Tax treaties as relief from double taxation
5. Escape from taxation
 - a. Shifting of tax burden
 - b. Distinguish: tax avoidance and tax evasion
6. Exemption from taxation
7. Equitable recoupment
8. Prohibition on compensation and set-off
9. Compromise
10. Tax amnesty

K. CONSTRUCTION AND INTERPRETATION OF TAX LAWS, RULES AND REGULATIONS

II. NATIONAL TAXATION

A. TAXING AUTHORITY

1. Jurisdiction, power, and functions of the Commissioner of Internal Revenue
2. Rule-making authority of the Secretary of Finance

B. INCOME TAX

1. Definition, nature, and general principles
 - a. Income tax systems
 - i. Global
 - ii. Schedular
 - iii. Others
 - b. Features of the Philippine income tax law
 - c. Criteria in imposing Philippine income tax
 - i. Citizenship
 - ii. Residence
 - iii. Source
 - d. General principles of income taxation
 - e. Types of Philippine income taxes
 - f. Kinds of taxpayers
 - g. Taxable period
2. Concept of income
 - a. Definition
 - b. When income is taxable
 - i. Existence of income
 - ii. Realization of income
 - iii. Recognition of income

- c. Tests in determining whether income is earned for tax purposes
 - i. Realization test
 - ii. Claim of right doctrine or doctrine of ownership, command or control
 - iii. Economic benefit test or doctrine of proprietary interest
 - iv. Severance test
 - d. Methods of accounting
 - i. Distinguish: cash and accrual method
 - ii. Special method: installment, deferred payment, percentage of completion (in long-term contracts)
 - e. Situs of Income
3. Gross income
- a. Definition
 - b. Distinguish: gross income, net income, and taxable income
 - c. Sources of income subject to tax
 - i. Compensation income
 - ii. Fringe benefits
 - iii. Professional income
 - iv. Income from business
 - v. Income from dealings in property
 - (a) Distinguish ordinary asset and capital asset
 - (b) Types of gains
 - (c) Special rules pertaining to income or loss from dealings in property classified as capital asset (loss limitation rule, loss carry-over rule, holding period rule)
 - (d) Tax-free exchanges
 - vi. Passive investment income
 - (a) Interest
 - (b) Dividend
 - (c) Royalty income
 - (d) Rental income
 - vii. Annuities and proceeds from life insurance or other types of insurance
 - viii. Prizes and awards
 - ix. Pension, retirement benefit, or separation pay
 - x. Income from any source
 - (a) Condonation of indebtedness
 - (b) Recovery of accounts previously written off
 - (c) Receipt of tax refunds or credit
 - d. Exclusions
 - i. Rationale
 - ii. Taxpayers who may avail
 - iii. Distinguish: exclusions, deductions, and tax credits
 - iv. Exclusions under the Constitution
4. Deductions
- a. General rule
 - b. Concept of return of capital

- c. Distinguish: itemized deductions and optional standard deduction
- d. Requirements for deductible items
- e. Items not deductible
- 5. Income tax on individuals
 - a. Resident citizens, non-resident citizens, and resident aliens
 - i. Coverage
 - ii. Taxation on compensation income
 - (a) Inclusions
 - (b) Exclusions
 - iii. Taxation of business income/income from practice of profession
 - (a) Schedular
 - (b) 8% option
 - iv. Taxation of partners in a general professional partnership
 - v. Taxation of passive income
 - vi. Taxation of capital gains
 - (a) Income from sale of shares of stock of a Philippine corporation
 - (b) Income from sale of real property situated in the Philippines
 - (c) Income from sale, exchange, and other disposition of other capital assets
 - b. Non-resident aliens engaged in trade or business
 - c. Non-resident aliens not engaged in trade or business
 - d. Aliens employed by regional headquarters, regional operating headquarters, offshore banking units, and petroleum service contractors
 - e. Individual taxpayers exempt from income tax
 - i. Minimum wage earner
 - ii. Exemptions granted under international agreements
- 6. Income tax on corporations
 - a. Domestic corporations
 - i. Taxation - in general
 - (a) Regular Corporate Income Tax (RCIT)
 - (b) Minimum Corporate Income Tax (MCIT)
 - (c) Taxation of passive income
 - (d) Taxation of capital gains
 - (e) Improperly accumulated earnings tax
 - ii. Proprietary educational institutions and non-profit hospitals
 - iii. Government-owned or controlled corporations, agencies, instrumentalities
 - iv. Foreign currency deposit units
 - b. Resident foreign corporations
 - i. Taxation - in general
 - (a) Regular Corporate Income Tax (RCIT)
 - (b) Minimum Corporate Income Tax (MCIT)
 - (c) Branch Profits Remittance Tax (BPRT)

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- (d) Taxation of passive income
 - (e) Taxation of capital gains
 - ii. Resident foreign corporations subject to preferential tax rates
 - (a) International carriers
 - (b) Foreign currency deposit units and offshore banking units
 - (c) Regional or area headquarters and regional operating headquarters
 - c. Non-resident foreign corporations (NRFC)
 - i. Taxation of NRFC in general
 - ii. NRFCs subject to preferential tax rates
 - d. Corporations exempt from income tax
 - e. Tax on other business entities: general partnerships, general professional partnerships, co-ownerships, joint ventures, and consortia
- 7. Filing of returns and payment
 - a. Individual return
 - i. Who are required to file; exceptions
 - ii. Substituted filing
 - iii. When and where to file
 - b. Corporate returns
 - i. Quarterly income tax
 - ii. Final adjustment return
 - iii. When and where to file
 - iv. Return of corporations contemplating dissolution or reorganization
 - c. Return on capital gains realized from sale of shares of stock and real estate
- 8. Withholding tax
 - a. Concept
 - b. Final withholding tax
 - c. Creditable withholding tax
 - i. Expanded withholding tax
 - ii. Withholding tax on compensation
 - d. Fringe benefits tax
 - e. Duties of a withholding agent

C. ESTATE TAX

- 1. Basic principles, concept, and definition
- 2. Classification of decedent
- 3. Composition of gross estate
 - a. Items to be included in determining gross estate
 - i. Decedent's interest
 - ii. Transfers in contemplation of death
 - iii. Revocable transfers
 - iv. Property passing under a general power of appointment
 - v. Proceeds of life insurance

- vi. Prior interests
- vii. Transfers for insufficient consideration
- b. Allowable deductions from gross estate
- c. Exclusions from gross estate and exemptions of certain acquisitions and transmissions
- d. Tax credit for estate taxes paid to a foreign country
- e. Filing of estate tax returns and payment of estate tax

D. DONOR'S TAX

1. Basic principles, concept, and definition
2. Requisites of a valid donation
3. Transfers which may be considered as donation
 - a. Sale, exchange, or transfer of property for less than adequate and full consideration; exception
 - b. Condonation or remission of debt
 - c. Renunciation of inheritance; exception
4. Classification of donor
5. Determination of gross gift
 - a. Composition of gross gift
 - b. Valuation of gifts made in property
 - c. Exemption of certain gifts
6. Tax credit for donor's taxes paid to a foreign country
7. Filing of return and payment

E. VALUE-ADDED TAX

1. Nature and characteristics of value-added tax
 - a. Tax on value added
 - b. Sales tax
 - c. Tax on consumption
 - d. Indirect tax: impact and incidence of tax
 - e. Tax credit method
 - f. Destination principle and cross-border doctrine
2. Persons liable to value-added tax
3. Imposition of value-added tax
 - a. On sale of goods or properties
 - i. Tax base: gross selling price
 - ii. Transactions deemed sale
 - iii. Change or cessation of status as value-added tax-registered person
 - b. On importation of goods
 - c. On sale of services and use or lease of properties
4. Zero-rated and effectively zero-rated sales of goods or properties, and services
5. Value-added tax-exempt transactions
6. Input and output tax
7. Refund or tax credit of excess input tax; procedure
8. Compliance requirements
 - a. Registration
 - b. Invoicing requirements



- c. Filing of returns and payment
- d. Withholding of final value-added tax on sales to government
- e. Administrative and penal sanctions

F. PERCENTAGE TAXES: CONCEPT AND NATURE

G. EXCISE TAX: CONCEPT AND NATURE

H. DOCUMENTARY STAMP TAX: CONCEPT AND NATURE

I. TAX REMEDIES UNDER THE NATIONAL INTERNAL REVENUE CODE

1. Assessment of internal revenue taxes
 - a. Procedural due process in tax assessments
 - i. Letter of authority and tax audit
 - ii. Informal conference
 - iii. Preliminary assessment notice
 - iv. Formal letter of demand and final assessment notice
 - v. Disputed assessment
 - vi. Administrative decision on a disputed assessment
 - vii. Appeal from an administrative decision on disputed assessment
 - b. Requisites of a valid assessment
 - c. Tax delinquency and tax deficiency
 - d. Prescriptive period for assessment
 - i. General rule
 - ii. Distinguish: false returns, fraudulent returns, and non-filing of returns
 - iii. Suspension of statute of limitations
2. Taxpayer's remedies
 - a. Protesting an assessment
 - i. Period to file protest
 - ii. Kinds of protest – request for reconsideration or reinvestigation
 - iii. Submission of supporting documents
 - iv. Effect of failure to file protest
 - v. Action of the Commissioner on the protest filed
 - (a) Period to act upon or decide on protest filed
 - (b) Remedies of the taxpayer in case of denial or inaction of the Commissioner
 - (c) Effect of failure to appeal
 - b. Recovery of tax erroneously or illegally collected
 - i. Grounds, requisites, and periods for filing a claim for refund or issuance of a tax credit certificate
 - ii. Proper party to file claim for refund or tax credit
 - iii. Distinguish from input value-added tax refund
 - c. Power of Commissioner of Internal Revenue to compromise
 - d. Non-retroactivity of rulings



3. Government remedies for collection of delinquent taxes
 - a. Requisites
 - b. Prescriptive periods; suspension of running of statute of limitations
 - c. Administrative remedies
 - i. Tax lien
 - ii. Distraint and levy
 - iii. Forfeiture of real property
 - iv. Suspension of business operation
 - v. Judicial remedies
 - d. No injunction rule; exceptions
4. Civil penalties
 - a. Delinquency interest and deficiency interest
 - b. Surcharge
 - c. Compromise penalty
 - d. Fraud penalty

III. LOCAL TAXATION

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
3. Scope of taxing power
4. Specific taxing power of local government units
5. Common revenue raising powers
6. Community tax
7. Common limitations on the taxing powers of local government units
8. Requirements for a valid tax ordinance
9. Taxpayer's remedies
 - a. Protest
 - b. Refund
 - c. Action before the Secretary of Justice
10. Assessment and collection of local taxes
 - a. Remedies of local government units
 - b. Prescriptive period

B. REAL PROPERTY TAXATION

1. Fundamental principles
2. Nature

3. Imposition
 - a. Power to levy
 - b. Exemption from real property tax
4. Appraisal and assessment
 - a. Classes of real property
 - b. Assessment based on actual use
5. Collection
 - a. Date of accrual
 - b. Periods to collect
 - c. Remedies of local government units
6. Taxpayer's remedies
 - a. Contesting an assessment
 - i. Payment under protest; exceptions
 - ii. File protest with Treasurer
 - iii. Refunds or credits of real property taxes
 - b. Contesting a valuation of real property
 - i. Appeal to the Local Board of Assessment Appeals (LBAA)
 - ii. Appeal to the Central Board of Assessment Appeals (CBAA)
 - iii. Effect of payment of taxes
 - c. Compromising real property tax assessment

IV. JUDICIAL REMEDIES

- A. JURISDICTION OF THE COURT OF TAX APPEALS**
 1. Exclusive original and appellate jurisdiction over civil cases
 2. Exclusive original and appellate jurisdiction over criminal cases
- B. PROCEDURE**
 1. Filing of an action for collection of taxes
 - a. Internal revenue taxes
 - b. Local taxes
 2. Civil cases
 - a. Who may appeal, mode of appeal, and effect of appeal
 - b. Suspension of collection of taxes
 - c. Injunction not available to restrain collection
 3. Criminal cases
 - a. Institution and prosecution of criminal action
 - b. Institution of civil action in criminal action
 - c. Period to appeal
 4. Appeal to the Court of Tax Appeals *en banc*
 5. Petition for review on *certiorari* to the Supreme Court



LIST OF RELEVANT MATERIALS

I. 1987 CONSTITUTION

II. LAWS

Rep. Act No. 8424 as amended by Rep. Act No. 10963	The National Internal Revenue Code of the Philippines
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including:

- a. Revenue Regulations No. 6-2008, as amended
- b. Revenue Regulations No. 12-99, as amended

Rep. Act No. 7160	Local Government Code
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Rep. Act No. 1125 as amended by Rep. Act No. 9282	An Act Expanding the Jurisdiction of the Court of Tax Appeals, Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership
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Rep. Act No. 7916 as amended by Rep. Act No. 8748	An Act Amending Rep. Act No. 7916, Otherwise Known as the Special Economic Zone Act of 1995
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Rep. Act No. 9505	Personal Equity and Retirement Account Act of 2008
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Executive Order No. 226 as amended by Rep. Act No. 7918	Omnibus Investments Code of 1987, as Amended, and For Other Purposes
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Rep. Act No. 7227 as amended by Rep. Act No. 9400	Bases Conversion and Development Act of 1992
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– NOTHING FOLLOWS –