**TAXATION I**

**Quick Quick Reviewers (QQRs)**

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| **I. BASIC PRINCIPLES** | | |
| **Q: What is Taxation?**    **A:** Taxation is the mode through which the government raises revenue in order to support its existence.  The term may refer to either or both the power to tax and the act or process by which the taxing power is exercised. | |  |
| **Q: What is a Tax?**    **A:** It is a mandatory financial charge or levy imposed on an individual or [legal entity](https://en.wikipedia.org/wiki/Legal_person) by a governmental organization to support government spending and public expenditures collectively or to regulate and reduce negative externalities *(Encyclopedia Britannica)*. | |  |
| **Q: What is the underlying principle and theory of the power to tax?**  **A:** The principle behind the power to tax is that "taxes are the lifeblood of the government." Their prompt and reliable availability is an essential need. The theory is one of necessity, as the government cannot perform its duty to promote the general welfare and well-being of its citizens without taxes *(Bases Conversion and Development Authority v. City Government of Baguio, G.R. No. 192694, February 22, 2023).* | |  |
| **Q: What are the attributes or essential characteristics of taxes?**    **A:** The attributes or essential characteristics of taxes are:   1. It is imposed by the State which has jurisdiction over the person property, or services; 2. It is levied by the law-making body of the State; 3. It is an enforced contribution, as it is not dependent on the will of the person taxes, not a contract but a positive act of the government; 4. It is generally payable in money   **Note:** Backpay certificates may be used as payment of tax *(De Borja v. Gella, G.R. No. L-18330, July 31, 1963).*   1. It is proportionate in character as taxes must be based on the ability to pay in accordance with the constitutional mandate to Congress to evolve a progressive system of taxation 2. It is levied on persons, property, and excise; 3. It is levied for public purpose *(Dimaampao, Tax Principles and Remedies, p. 1-2)*; 4. It is paid at regular periods or intervals; and 5. It is personal to the taxpayer *(Aban, Law of Basic Taxation, p. 2-3)*. | |  |
| **Q: What are the three elements of taxation?**  **A:** The elements of taxation are:   1. It is an enforced proportional contribution from persons and properties; 2. It is imposed by the State by virtue of its sovereignty; and 3. It is levied for the support of the government and for all public needs *(Republic v. Cojuangco, G.R. Nos. 147062-64, December 14, 2001).* | |  |
| **Q: What are the characteristics of the power to tax?**    **A:** The characteristics are the following:   1. **Comprehensive** - It covers persons, businesses, activities, professions, rights, and privileges *(Tax Principles, Dimaampao, p. 31);* 2. **Unlimited** - The power to tax is one so unlimited in force and so searching in extent, that the courts scarcely venture to declare that it is subject to any restriction whatever, except such as resting in the discretion of the authority which exercises it *(Tio v. Videogram Regulatory Board, G.R. No. L-75697, June 18, 1987);* 3. **Plenary** – It is complete. Under the National Internal Revenue Code (NIRC), the Bureau of Internal Revenue (BIR) may avail of certain remedies to ensure the collection of taxes *(Tax Principles, Dimaampao, p. 31); and* 4. **Supreme** – It is supreme insofar as the selection of the subject of taxation is concerned since it has been repeatedly held that inequities which result from a singling out of one particular class for taxation or exemption infringe no constitutional limitation *(Tio v. Videogram Regulatory Board, G.R. No. L-75697, June 18, 1987).* | |  |
| **Q: May a person refuse to pay taxes solely because no personal benefit accrues to him?**  **A:** No. A person cannot object to or resist the payment of taxes solely because no personal benefit to him can be pointed out arising from the tax *(Lorenzo v. Posadas, G.R. No. L-43082, June 18, 1937).* | |  |
| **Q: What are the requisites of a valid tax?**    **A:** The following are the requisites of a valid tax:   * + - 1. That either the person or property taxed be within the jurisdiction of the taxing authority *(Reagan vs CIR, G.R. No. L-26379, December 27, 1969);*       2. That the assessment and collection of certain kinds of taxes guarantee against injustice to individuals, especially by providing notice and opportunity for hearing       3. Should be for a public purpose *(Pascual vs Secretary of Public Works and Communications, G.R. No. L-10405, December 29, 1960);*       4. The rule of taxation shall be uniform *(Article VI, Sec. 28, Par. (1), 1987 Philippine Constitution);*       5. The tax must not impinge on the inherent and constitutional limitations on the *power* of taxation *(Basco v. Philippine Amusements and Gaming Corp., G.R. No. 91649, May 14, 1991).* | |  |
| **Q: How does the Supreme Court view the balance between the government's need to collect taxes and the rights of taxpayers?**  **A:** The Supreme Court recognizes that "taxes are the lifeblood of the government and so should be collected without unnecessary hindrance." However, it also emphasizes that this collection must be done "in accordance with law," because any arbitrariness would undermine the purpose of government. Therefore, a balance must be struck to reconcile the interests of tax authorities and taxpayers to ensure that the ultimate goal of taxation—the promotion of the common good—is achieved *(CIR v. Algue, G.R. No. L-28896, February 17, 1988).* | |  |
| **CIR vs. Algue, Inc.**  **G.R. No. L-28896 | February 17, 1988**  *Whether or not Algue, Inc.'s deduction of P75,000.00 in promotional fees from its gross income was a valid business expense, given the Commissioner of Internal Revenue's contention that the payment was not an ordinary, necessary, or reasonable business expense.*  Yes. The court affirmed that the P75,000.00 was a legitimate payment for actual, necessary, and reasonable services. The payees were instrumental in forming the Vegetable Oil Investment Corporation, which was the ultimate buyer of the properties, a complex task requiring significant promotional efforts. The court concluded that Algue, Inc. successfully discharged the burden of proving the validity and legitimacy of the claimed deduction, satisfying the requirements of the National Internal Revenue Code and the relevant regulations. | |  |
| **Kinds of Taxes** | | |
| **Q: What are the kinds of taxes as to object?**    **A:** The following are the kinds of taxes as to object:   1. **Personal/Poll or Capital tax** - A fixed amount imposed upon all persons, or upon all persons of a certain class, residents within a specified territory, without regard to their property or occupation. *(Ex. community tax)* 2. **Property tax -** imposed on real property, either in proportion to its value, or in accordance with some other reasonable method of apportionment. *(Ex. Real Property tax)* 3. **Privilege/Excise tax** – a charge upon the performance of an act, enjoyment of a privilege, or engaging in an occupation not otherwise falling within the classification of poll or property tax.  * **Note:** Sec. 129, National Internal Revenue Code (NIRC) provides that Excise taxes apply to goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition and to things imported.   The TRAIN law added “services” in its coverage. It provides that Excise taxes also apply to services performed in the Philippines. | |  |
| **Q: What are the kinds of taxes as to burden or incidence?**    **A:** The different kinds of taxes as to the burden or incidence are:   * 1. **Direct** – one that is demanded from the person who also shoulders the burden of tax. (*Ex. income tax and estate tax)*   2. **Indirect** - tax which can be shifted to someone else. (*Ex.* *Value Added Tax (VAT))* | |  |
| **Q: What are the kinds of taxes as to tax rates?**  **A:** The different kinds of taxes as to tax rates are:   1. **Specific** – tax of a fixed amount imposed by the head or number, or by some standard of weight or measurement. (*Ex. excise tax on cigarettes and liquors.)*      1. **Ad valorem** – tax based on the value of the property with respect to which the tax is assessed. It requires the intervention of assessors or appraisers to estimate the value of such property before the amount due can be determined. *(Ex. Real Estate and Tariff.)* 2. **Mixed** - A choice between ad valorem and/or specific depending on the condition attached. | |  |
| **Q: What are the kinds of taxes as to** **purpose?**    **A:** The different kinds of taxes according to purpose are:   1. **Fiscal or revenue** - tax imposed solely for the general purpose of the government. (*Ex. Internal Revenue Tax)* 2. **Special** - tax levied for specific purpose, i.e., to achieve social or economic ends. *(Ex. Tariff)*    * If the purpose of special tax is completed, it now has to revert to the general fund and not be kept as a special tax. | |  |
| **Q: What are the kinds of taxes as to authority to impose?**    **A:** The different kinds of taxes according to the authority to impose are:   1. **National** - tax levied by the National Government. (*Ex. Income tax, Estate tax and VAT)* 2. **Local/Municipal** - tax levied by a local government. (*Ex. Business Taxes)* | |  |
| **Q: What are the kinds of taxes as to graduation?**  **A:** The different kinds of taxes as to graduation are:   1. **Progressive** - tax rate which increases as the tax base or bracket increases. (*Ex. Income Tax)* 2. **Regressive** - tax rate decreases or remains fixed as the tax base or bracket increases. 3. **Mixed –** thetax rates are partly progressive and partly regressive. 4. **Proportionate –** the tax rates are fixed (in amounts or in percentage) on a flat tax base. (*Ex. VAT))* | |  |
| **Taxation as an inherent power of the state** | | |
| **Q: What is the nature and scope of the power to tax?**  **A:** The power to tax is an inherent part of a country's sovereignty. It has an unlimited range, and the primary check on its potential for abuse is the legislature's responsibility to the people who elect them and pay the taxes *(Bases Conversion and Development Authority v. City Government of Baguio, G.R. No. 192694, February 22, 2023).* | |  |
| **Q: Distinguish the power of taxation, police power, and power eminent domain as to purpose.**  **A:** As to purpose:   * **Taxation:** To raise revenue to support the government. * **Police power:** To promote public welfare through the enforcement of regulations. * **Eminent domain:** To acquire private property for public use and upon payment of just compensation. | |  |
| **Q: Distinguish the power of taxation, police power, and power eminent domain as to amount of imposition.**  **A:** As to the amount of imposition:   * **Taxation:** No limit as to the amount of tax that may be imposed by the government. * **Police power:** Limited only to the cost of regulation * **Eminent domain:** No exaction or imposition in the exercise of the power of eminent domain. | |  |
| **Q: Distinguish the power of taxation, police power, and power eminent domain as to the benefits received by the State’s citizens.**  **A:** As to the benefits received:   * **Taxation:** No direct benefit is received by the taxpayer, but he is indirectly benefited by the privilege of living in a civilized society. * **Police power:** No direct benefit. The citizen merely receives the privilege of living in a civilized society. * **Eminent domain:** The owner of the property expropriated receives just compensation. | |  |
| **Q: Distinguish the power of taxation, police power, and power eminent domain as to non-impairment of contracts.**  **A:** As to non-impairment of contracts:   * **Taxation:** The rule on the non-impairment of contracts applies. * **Police power:** Prevails over the rule on non-impairment of contracts. * **Eminent domain:** The rule on the non-impairment of contracts does not apply. | |  |
| **Q: Distinguish the power of taxation, police power, and power eminent domain as to transfer of property rights.**  **A:** As to transfer of property rights:   * **Taxation:** Taxes collected become part of public funds. * **Police power:** There is no transfer of property rights, only restraint in its exercise. * **Eminent Domain:** Property rights over the expropriated property are acquired by the State.   A person with his finger in his mouth  Description automatically generated | |  |
| **Q: Distinguish the power of taxation, police power, and power eminent domain as to who may exercise the power.**  **A:** As to who may exercise the power:   * **Taxation:** Exercised only by the government. * **Police Power:** Exercised only by the government and its political subdivisions. * **Eminent Domain:** Exercised by the government, and its political subdivisions. May also be exercised by private entities. | |  |
| **Executive Secretary vs. Southwing Heavy Industries**  **G.R. No. 164171 | February 20, 2006**  *Whether or not Executive Order No. 156 (EO 156), which bans the importation of all types of used motor vehicles, is a valid exercise of police power and is applicable to the Subic Bay Freeport Zone, given that the Freeport is a separate customs territory intended for the free flow of goods.*  The court determined that while the President has the authority to issue such a ban to protect the domestic industry, the application of this ban to the Freeport Zone is void. The court reasoned that the prohibition's purpose is to protect the "customs territory" (the area outside the Freeport), and applying it to the Freeport would be *ultra vires* (beyond the scope of authority) and unreasonable. The court concluded that the ban's application should be limited to the secured, fenced-in area of the former Subic Naval Base, consistent with prior rulings that interpret RA 7227's free port privileges as being confined to that specific zone. | |  |
| **John Hay People's Alternative Coalition vs. Lim**  **G.R. No. 119775 | October 24, 2003**  *Whether or not Presidential Proclamation No. 420, which created the John Hay Special Economic Zone and granted it tax exemptions and other economic incentives, is constitutional and valid, given that the law it was based on, Republic Act No. 7227, explicitly granted these incentives only to the Subic Special Economic Zone and required the concurrence of the affected local government unit (Baguio City).*  No. The court found that Presidential Proclamation No. 420, insofar as it grants tax exemptions and economic incentives to the John Hay Special Economic Zone, is unconstitutional. The President, through an executive proclamation, cannot exercise a power that is exclusively vested in the legislature. The court emphasized that a law granting any tax exemption must be passed with the concurrence of a majority of all members of Congress, as stipulated in the Constitution.  The court's analysis of Republic Act No. 7227 (R.A. No. 7227) revealed that it specifically and exclusively granted tax and investment incentives to the Subic Special Economic Zone. The legislative history and deliberations of the law clearly indicated that these privileges were not intended to be automatically extended to other economic zones that might be created later. While the law authorized the President to create other zones, it did not delegate the legislative power to grant tax exemptions to them. Therefore, the President's attempt to extend these same privileges to the John Hay SEZ through Proclamation No. 420 was an invalid modification or expansion of the existing law, making the proclamation *ultra vires* or beyond the scope of the President's authority. | |  |
| **Fundamental Doctrines in Taxation** | | |
| **Q: What is the Lifeblood Doctrine?**  **A:** The Lifeblood Doctrine refers to:   * Taxes are the lifeblood of the government and their prompt and certain availability is an imperious need *(Bull v. United States, 295 U.S. 247, 15 APTR 1069, 1073)*. * Without the power of taxation, the government can neither exist nor endure without taxation *(Dimaampao, Tax Principles and Remedies, p. 2).* * Taxes are the nation’s blood through which government agencies continue to operate and which the State discharges its functions for the welfare of its constituents *(CIR v. Next Mobile, Inc. G.R. No. 212825, December 7, 2015).* | |  |
| **Q: What is the Necessity Theory?**  **A:** The Necessity Theory, as defined in the case of *CIR v. BPI (G.R. No. 134062, April 17, 2007)* is that: “The theory behind the exercise of power to tax emanates from necessity; without taxes, government cannot fulfill its mandate of promoting the general welfare and well-being of the people. | |  |
| **Q: What is the reciprocity principle?**  **A:**This is a doctrine wherein a country grants tax privileges or exemptions to non-residents or foreign entities based on the condition that the non-resident’s or foreign entity’s home country will reciprocate the same treatment to the citizens or entities of the host country. | |  |
| **Purpose of Taxation** | | |
| **Q: What is the primary purpose of taxation?**  **A:** Its primary purpose is for the revenue-raising of the government in order to finance its activities.  These are enforced proportional contributions from persons and property, levied by the state by virtue of its sovereignty for the support of the government and for all its public needs *(“Cooley’s Definition,” 1 Cooley 62).* | |  |
| **Q: What are the other purposes of taxation?**    **A:** The other purposes of taxation are:   1. **Promotion of general welfare**   It may be used as an implement of police power in order to promote the general welfare of the people *(Aban, Law of Basic Taxation in the Philippines, p. 5).*   1. **As a regulatory measure**   It may be used as an implement of police power of the State with the end view of regulating a particular activity *(Dimaampao, Tax Principles and Remedies, p. 26).*   1. **To reduce social inequality/compensatory purpose**   The tax system of the Philippines adopted the progressive system of taxation in order to reduce the inequality in the distribution of wealth by preventing its undue concentration in the hands of a few individuals *(Dimaampao, Tax Principles and Remedies, p. 25).*   1. **To encourage economic growth**   In order to encourage investments to promote economic growth, the government may give tax exemptions or tax reliefs as incentives *(Ibid.)*.   1. **To protect local industries**   Taxes are given to foreign importations in order to provide protection to local industries (e.g. protective tariffs and customs duties) *(Aban, Law of Basic Taxation in the Philippines, p. 6-7)*. | |  |
| **Aspects/Stages of Taxation** | | |
| **Q: What are the stages of taxation?**  **A:** The stages of taxation are:   1. Levy 2. Assessment 3. Payment 4. Refund | |  |
| **Q: What is “Levy”?**  **A:** It is the imposition of taxes which involves the passage of tax laws or ordinances through the legislature.  The tax laws to be passed shall determine the nature of taxes, those to be taxes, how much is to be collected, and how taxes are to be implemented *(Domondon, Bar Q&A Taxation, p. 189).* | |  |
| **Q: What is an “assessment”?**  **A:** This is the process of determining the correct amount of tax due in accordance with the prevailing tax laws *(Domondon, Bar Q&A Taxation, p. 190).* | |  |
| **Q: Define “payment”.**  **A:** This is the act of compliance by the taxpayer in contributing his share to defray the expenses of the government *(Domondon, Bar Q&A Taxation, p. 190).* | |  |
| **Q: What is “refund”?**  **A:** This is the recovery of any tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively, or in any manner wrongfully collected *(Domondon, Bar Q&A Taxation, p. 190).* | |  |
| **Characteristics/Principles of a Sound Tax System** | | |
| **Q: What are the characteristics/principles of a sound tax system?**  **A:** The characteristics/principles of a sound tax system are:   1. **Fiscal Adequacy** – The sources of government revenues must be sufficient to meet government expenditures and other public needs *(Chavez v. Ongpin, G.R. No. 76778, June 6, 1990).* 2. **Administrative Feasibility** – Tax laws must be capable of being effectively enforced with the least inconvenience to the taxpayer *(Aban, Law of Basic Taxation, p. 12)*. 3. **Theoretical Justice** – Our laws mandate that taxes must be reasonable, just, fair, and conscionable. Taxation must be uniform and equitable *(Sec. 28(1), Art. VI, 1987 Constitution).* | |  |
| **Q: What is the effect if these principles are violated?**  **A:** A tax law will retain its validity even if it is not in consonance with the principles of fiscal adequacy and administrative feasibility because the Constitution does not expressly require so. These principles are only designed to make our tax system sound. However, if a tax law runs contrary to the principle of theoretical justice, such violation will render the law unconstitutional considering that under the Constitution, the rule of taxation should be uniform and equitable *(Sec. 28 (1), Article VI, 1987 Constitution).* | |  |
| **Taxes as distinguished from other impositions/exactions/levies** | | |
| **Q: What is the difference between tax and the other form of exactions?**    **A:** The difference of tax from other form of exactions are as follows:   1. **License Fee:** Exacted primarily to regulate certain businesses or occupations. 2. **Toll:** Paid for the use of another’s property. 3. **Tariff:** A kind of tax imposed on articles which are traded internationally. 4. **Special Assessment:** A charge imposed on lands especially benefited by public works or improvements enhanced by the government. 5. **Penalty:** Any sanction imposed as a punishment for violation of law or acts deemed injurious. | |  |
| **Set-Off/Legal Compensation** | | |
| **Q: Can a claim for taxes be set off against a debt or other claim owed by the government?**  **A:** No, a claim for taxes is not considered a debt, demand, contract, or judgment that can be set off. This is a well-settled rule rooted in public policy. The reasoning is that taxes are not a contractual obligation between two parties; rather, they arise from a citizen's duty to the government. Allowing set-offs against tax demands would disrupt the government's financial affairs and ability to fund necessary expenditures, as the collection of taxes would be delayed by potential disputes and lawsuits over the taxpayer's claims *(Republic v. Mambulao Lumber Co., G.R. No. L-17725, February 28, 1962)*. | |  |
| **Republic vs. Mambulao Lumber**  **G.R. No. L-17725 |February 28, 1962**  *Whether or not the sum of P9,127.50 paid by the defendant-appellant as reforestation charges can be set off against the P4,802.37 owed by them as forest charges.*  No. The reforestation charges are considered a tax that forms part of a public fund (the Reforestation Fund). This fund is to be used by the Director of Forestry for reforestation efforts across the country, not specifically for the area of the company that paid the charges. Since taxes are not considered a mutual debt between a private entity and the government, the principle of compensation under the Civil Code does not apply. Therefore, the company's claim is without merit. | |  |
| **Engracio Francia VS. IAC**  **G.R. No. L-67649 | June 28, 1988**  *Whether or not a taxpayer's tax delinquency can be extinguished by legal compensation with a debt the government owes the taxpayer.*  No. The court reiterated the established rule that taxes cannot be the subject of set-off or compensation against a debt the government owes a taxpayer. This is because the government and the taxpayer are not "mutually creditors and debtors of each other" in the context of taxes. Taxes are not a contract but a duty to the government, and allowing set-offs would cause chaos in government finances. In this specific case, the court also noted that the tax was due to the city government, while the expropriation payment was from the national government, further complicating the claim for compensation. | |  |
| **Melecio R. Domingo v. Hon. Lorenzo C. Garlitos**  **G.R. No. L-18994 | June 29, 1963**  *Whether or not the government's claim for internal revenue taxes against the estate of Walter Scott Price can be offset by the debt the government owes the estate.*  Yes. The court found that the government's tax claim against the estate and the estate's claim against the government for services rendered can be extinguished through legal compensation. This is because both debts were found to be overdue, demandable, and fully liquidated. Therefore, the debts were extinguished to the concurrent amount by operation of law. The court also ruled that the proper procedure for the government to collect its tax claim from the estate is not through a writ of execution, as this is an improper remedy for claims against a deceased person's estate. Instead, the government should have asked the court to order the administratrix to pay the amount due. | |  |
| **Equitable Recoupment** | | |
| **Q: What is the Doctrine of Equitable Recoupment?**  **A:** The doctrine of equitable recoupment states that the recovery or refund of a tax erroneously paid may be allowed to be used as payment for unsettled tax liabilities even if already barred by prescription if both taxes arise from the same transaction in which the overpayment and underpayment is due (*US v. Dalm, 491 US 596).*  **Note:**The doctrine of equitable recoupment is *not applicable in the Philippines* following the rejection by the Supreme Court of the doctrine of equitable recoupment in the case of *Collector v. UST (10 Phil 1062)*, saying that it was not convinced of the wisdom and propriety thereof, and that it may work to tempt both the collecting agency and the taxpayer to delay and neglect their respective pursuits of legal action within the period set by law. This case is followed by *Republic v. Mambulao Lumber Co. (6 SCRA 622)* where the Supreme Court enunciated the rule that taxes are not subject to set-off or legal compensation *(Citytrust Banking Corp. v. CIR, CTA Case No. 4099, October 16, 1997, Investors Finance Corp. v. CIR, CTA Case No. 3717, May 10, 1993).* | |  |
| **Power to tax involves the power to destroy** | | |
| **Q: Is the power to tax absolute and unlimited?**  **A:** No, the power to tax is not absolute. While it is a broad power stemming from sovereignty, it is limited by the principle that "the power to tax is not the power to destroy" *(Tridharma Marketing Corporation v. Court of Tax Appeals, G.R. No. 215950, June 20, 2016)*. | |  |
| **Q: What is the implication of the principle that the power to tax is not the power to destroy?**  **A:** This principle means that the power to tax must be exercised with caution to avoid undue injury to a taxpayer's proprietary rights. It should be applied fairly, equally, and uniformly so as not to be oppressive or to stifle legitimate private enterprise. As the text states, the government should not "kill the hen that lays the golden egg" by imposing a tax burden that is impossible for a business to pay, such as an assessment that is far greater than its net worth *(Tridharma Marketing Corporation v. Court of Tax Appeals, G.R. No. 215950, June 20, 2016)*. | |  |
| **Prescriptibility/Imprescriptibility of Taxes** | | |
| **Q: Are taxes imprescriptible?**  **A:**  **General Rule:** Yes, the right to assess and to collect are imprescriptible *(Commissioner of Internal Revenue v. Ayala Securities Corp., G.R. No. L-29485, November 21, 1980).*  **Exception:** When the laws provide for statute of limitations *(Commissioner of Internal Revenue v. Standard Chartered Bank, G.R. No. 192173, July 29, 2015).* | |  |
| **Taxpayer’s Suit** | | |
| **Q: What is a taxpayer’s suit?**  **A:** A taxpayer is allowed to sue where there is a claim that public funds are illegally disbursed, or that the public money is being deflected to any improper purpose, or that there is wastage of public funds through the enforcement of an invalid or unconstitutional law.  A person suing as a taxpayer, however, must show that the act complained of directly involves the illegal disbursement of public funds derived from taxation. He must also prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation and that he will sustain a direct injury because of the enforcement of the questioned statute or contract. | |  |
| **Q: What are the requisites of a taxpayer’s suit?**  **A:**  For a taxpayer's suit to prosper, two requisites must be met:   1. Public funds derived from taxation are disbursed by a political subdivision or instrumentality and in doing so, a law is violated or some irregularity is committed; and 2. The petitioner is directly affected by the alleged act *(Rapid City Realty and Development Corporation v. Paez-Villa, G.R. No. 217148, December 7, 2021)*. | |  |
| **Delpher Trades Corp and Pacheco vs. IAC**  **G.R. No. L-69259 | January 26, 1988**    *Whether or not the "deed of exchange" where Delfin and Pelagia Pacheco conveyed a parcel of land to their family corporation in exchange for 2,500 shares of stock was a legitimate "estate planning" scheme to avoid inheritance taxes.*  Yes. The court recognized the Pachecos' legal right to decrease their taxes through means the law permits. It found that the "Deed of Exchange" was not a contract of sale because there was no transfer of "actual ownership interests" to a third party. The Pachecos' ownership merely shifted from an individual form to an incorporated one, and they maintained control. Therefore, the court validated the transaction as a legitimate tax avoidance strategy and ruled that the right of first refusal was not violated. | |  |
| **CIR vs. Lincoln Philippine Life Insurance**  **G.R. No. 119176 | March 19, 2002**    *Whether or not the "automatic increase clause" in a life insurance policy, which increased the amount of coverage in 1984, should be included in the basis for computing the documentary stamp tax at the time the policy was issued in 1978.*  Yes. The Supreme Court reversed the appellate court's decision, siding with the Commissioner. It ruled that the "automatic increase clause" was an integral and determinable part of the original policy at the time of its issuance. The court reasoned that since the future increase was already definite and embedded in the original contract, the "amount insured by the policy" for tax computation purposes should logically include this future increase. To exclude it would be a form of tax avoidance that circumvents the law. Therefore, the deficiency assessment was valid. | |  |
| **CIR vs. Estate of Benigno Toda**  **G.R. No. 147188 | September 14, 2004**  *Whether or not the series of transactions involving the sale of the Cibeles property constituted a fraudulent tax evasion scheme designed to pay a lower tax rate.*  The Supreme Court ruled in favor of the CIR. It determined that the transaction was not legitimate "tax planning" but rather a fraudulent tax evasion scheme. The court found that the intermediary sale to Altonaga was a sham, lacking economic substance and serving no purpose other than to create a tax shelter. The court disregarded the intermediary sale and treated the transaction as a single direct sale from CIC to RMI, thus making it subject to the 35% corporate income tax. The court further held that the 10-year prescriptive period for assessing tax in cases of fraud or false returns applied, meaning the assessment was not time-barred. Lastly, the court held Toda's estate liable for the deficiency tax based on a specific provision in the sale of shares contract where Toda held himself personally liable for CIC's tax obligations for the year in question. | |  |
| **City of Iloilo vs. Smart Communications**  **G.R. No. 167260 | February 27, 2009**  *Whether or not SMART Communications, Inc. is entitled to tax exemptions from local franchise and business taxes based on Section 9 of its franchise and Section 23 of the Public Telecoms Act.*  No. The court found that the "in lieu of all taxes" clause in SMART's franchise was not a categorical grant of exemption from both national and local taxes. This clause was also rendered inoperative when the franchise tax on telecommunication companies was abolished and replaced with a Value-Added Tax (VAT) by the Expanded Value-Added Tax Law (E-VAT Law) in 1996. Moreover, the court held that the term "exemption" in the Public Telecoms Act does not refer to tax exemptions but rather to exemptions from regulatory or reporting requirements. The law's purpose was to deregulate the industry, not to grant tax relief. | |  |
| **National Power Corporation vs. CBAA**  **G.R. No. 171470 | January 30, 2009**  *Whether or not the National Power Corporation (NAPOCOR) is entitled to a real property tax exemption on machineries and equipment owned and used by its contract partner, Bataan Private Power Corporation (BPPC), under a Build-Operate-Transfer (BOT) agreement.*  No. The Court referenced the case of *FELS Energy, Inc. v. The Province of Batangas*, which established that the tax exemption privilege of NAPOCOR cannot be extended to its contract partners. A tax exemption is an exception to the rule and must be granted through clear and unequivocal language. The nature of the BOT agreement dictates that BPPC is the **actual, direct, and immediate owner and user** of the machineries and equipment. NAPOCOR's use is considered contingent and insufficient to meet the "actual, direct, and exclusive" use requirement of the LGC. Since BPPC is the owner-operator and user of the properties, the exemption under Section 234(c) of the LGC does not apply. The privilege granted to NAPOCOR is personal and cannot be extended to a third party like BPPC. | |  |
| **Winebrenner & Inigo Insurance Brokers, Inc. vs. CIR**  **G.R. No. 206526 | January 28, 2015**  *Whether or not the presentation of quarterly income tax returns (ITRs) for the succeeding taxable year is an indispensable requirement to prove that excess creditable withholding tax (CWT) was not carried over, and therefore, to substantiate a claim for a tax refund.*  No. The presentation of quarterly ITRs for the succeeding taxable year is **not indispensable** to prove that excess CWT was not carried over. Section 76 of the NIRC and the implementing rules (Section 2.58.3 of Revenue Regulation No. 2-98) do not explicitly require the presentation of succeeding quarterly ITRs. The annual ITR for the succeeding year can sufficiently prove that prior year's excess credits were not utilized. The court notes that an annual ITR contains the total taxable income, deductions, and tax credits (including "Prior Year's Excess Credits") for all four quarters. If no carry-over was made, this section would be blank. In this specific case, the petitioner's 2004 annual ITR showed no amount in the "Prior Year's Excess Credits" section, which the court found to be sufficient proof. | |  |
| **Fluor Daniel Phil. Inc. vs. CIR**  **G.R. No. 159648 | July 27, 2007**  *Whether or not petitioner Fluor Daniel Phil, Inc. was deprived of due process when the FDDA changed the assessment from deficiency Expanded Withholding Tax to deficiency Final Withholding Tax.*  Yes. The change of the assessment in the FDDA itself constituted a new assessment. As such, the taxpayer should have given the chance to dispute the same via the process laid down in the Tax Code which is by way of filing a protest. Given that this is was not complied with and what was issued was already an FDDA, the circumstances certainly deprived the petitioner of a reasonable opportunity to be heard and submit evidence in support of its defense which is a clear violation of due process requirements.  The concept of "license generating royalty income" in RMC 44-05 is nowhere to be found in RMC 77-03, hence, the retroactive application by the CIR of RMC 44-05 has no leg to stand on. | |  |
| **China Banking Corp. vs. CIR**  **G.R. No. 172509 | February 4, 2015**    *Whether or not the Bureau of Internal Revenue's (BIR) right to collect a deficiency Documentary Stamp Tax (DST) assessment is barred by the statute of limitations given that the BIR did not initiate a collection case in the proper court or serve a warrant of distraint or levy within the three-year prescriptive period.*  Yes. The court determined that the three-year prescriptive period for collection began on April 19, 1989 (the latest possible date the assessment notice could have been sent). This period ended on April 19, 1992. Since the BIR did not serve a warrant of distraint or levy or file a collection case in the proper court within this time frame, its right to collect the tax had already prescribed. The attempt to collect via an answer in the CTA in 2002 was well beyond the three-year limit. | |  |
| **CBK Power Co. Ltd. Vs. CIR**  **G.R. No. 193383-84 | January 14, 2015**  *Whether or not a taxpayer's claim for a refund of excess final withholding taxes, based on a tax treaty, can be denied for failure to strictly comply with the administrative requirement of applying for a tax treaty relief within a specific period and for filing a judicial claim before the Commissioner of Internal Revenue (CIR) has had a reasonable time to act on the administrative claim.*  No. The court, citing its previous decision in *Deutsche Bank*, emphasized that the obligation to comply with a tax treaty, which has the force of law, must take precedence over an administrative issuance like RMO No. 1-2000. The court stated that the requirement of a prior application for tax treaty relief becomes "moot" and "illogical" in refund cases where the very basis of the claim is the erroneous or excessive payment that resulted from not availing of the treaty relief in the first place. The court held that the application for tax treaty relief should merely serve to "confirm the entitlement" of the taxpayer to the benefit, not to create that entitlement. In this case, CBK Power's requests for confirmation and subsequent filing of an administrative claim were deemed substantial compliance. | |  |
| **Philippine National Bank vs. CIR**  **G.R. No. 206019 | March 18, 2015**    *Whether or not a withholding agent, such as PNB, is entitled to a refund of excess creditable withholding taxes that it erroneously withheld and paid to the BIR on behalf of a payee (Gotesco), when the withholding agent has sufficiently proven that the payee did not utilize the withheld taxes to pay for its own tax liabilities, even without presenting the specific BIR Form No. 2307.*  Yes. The court rejects the lower court's assertion that the taxpayer must present Gotesco's BIR Form No. 2307 to prove non-utilization of the tax credit. It states that the information required by this form can be established through other evidence. The court clarifies that the primary purpose of BIR Form No. 2307 is to prove that the tax was withheld, not to prove that it was not utilized. Since PNB had already proven the withholding and remittance through BIR Form No. 1606 and other documents, the presentation of Form No. 2307 would have been "a superfluity." The court finds no basis in law or jurisprudence to require that BIR Form No. 2307 is the only admissible evidence to prove non-utilization. It states that as long as the evidence on record sufficiently proves the non-use, the claim for refund should be granted. | |  |
| **CIR vs. Covanta Energy Philippine Holdings Inc**  **G.R. No. 203160 | January 24, 2018**    *Whether or not a taxpayer who has complied with the procedural requirements of the tax amnesty program under Republic Act No. 9480, including the submission of a Statement of Assets, Liabilities, and Net Worth (SALN), is entitled to the immunities and privileges of the program even if certain columns in the SALN form were left blank, provided that the required information was supplied in attached schedules and the Bureau of Internal Revenue (BIR) failed to prove a 30% or more understatement of the taxpayer's net worth.*  Yes. The court found that CEPHI had fully complied with the requirements of the tax amnesty program under R.A. No. 9480. The court emphasized that a taxpayer's SALN is "presumed true and correct" under the law. The burden of overturning this presumption falls on those who claim there was an underdeclaration of net worth. The court noted that the CIR provided no evidence to prove that CEPHI's net worth was understated by the 30% threshold required by the law to negate the tax amnesty. Without this proof, the presumption stands.  While acknowledging that tax exemptions (like amnesty) are strictly construed against the taxpayer, the court stated that it "cannot disregard the plain text of R.A. No. 9480." The law clearly outlines the conditions for both availing and losing the amnesty, and those conditions were not met by the CIR's challenge. | |  |
| **Philippine Airlines vs. CIR**  **G.R. 206079-80 | January 17, 2018**    *Whether or not an entity, such as Philippine Airlines (PAL), that is exempt from withholding tax, is entitled to a tax refund for amounts that were withheld from its accounts, even if it cannot present proof that the withheld amounts were actually remitted to the Bureau of Internal Revenue (BIR).*  Yes. The court prioritizes substantial justice, equity, and fair play over technicalities. It states that the government should not misuse legal technicalities to keep money it is not entitled to. The court invokes the principle of *solutio indebiti*, stating that the BIR has an obligation to return money it received "when there [was] no right to demand it."  The court deemed it an "unreasonable difficulty" to require the taxpayer (PAL) to prove the actual remittance of the withheld taxes to the government. It argues that this requirement effectively shifts the burden of proof to the payee to demonstrate that both the payor (the bank) and the government complied with their legal obligations. Such an administrative and judicial interpretation would unreasonably reverse the legislative policy of unburdening the taxpayer through exemptions. | |  |
| **University Physicians Services Inc. vs. CIR**  **G.R. No. 205955 | March 7, 2018**  *Whether or not the "irrevocability rule" under Section 76 of the National Internal Revenue Code (NIRC) applies to both the "refund/tax credit certificate" option and the "carry-over" option.*  The Court held that it applies only to the carry-over option, not to the refund or tax credit certificate option. The court points to Section 228, paragraph (c) of the NIRC, which allows the government to assess a taxpayer who *"opted to claim a refund or tax credit... but was determined to have carried over and automatically applied the same amount claimed..."* This provision, according to the court, supports the idea that a taxpayer can change their option from refund to carry-over. If the refund option were irrevocable, this provision would be illogical. | |  |
| **Bank of the Philippine Islands vs. CIR**  **G.R. No. 224327 | June 11, 2018**    *Whether or not a tax assessment and the subsequent collection efforts are valid, given that the Commissioner of Internal Revenue (CIR) failed to prove that the notice of assessment was properly sent to and received by the taxpayer.*  No. The court found that the Commissioner of Internal Revenue (CIR) failed to present substantial evidence that the notice of assessment was either mailed or received by the taxpayer. The CIR's representative even admitted under questioning that they had no proof of mailing or receipt. As a result, the court concluded that no valid assessment was issued. The court further noted that even if a valid assessment had been made, the period for collection had also already prescribed. The warrant of distraint and/or levy was issued beyond the three-year prescriptive period for collection. | |  |
| **Asian Transmission Corp. vs. CIR**  **G.R. No. 230861 | Sept. 19, 2018**  *Whether or not a series of defective waivers of the Statute of Limitations for tax assessment are rendered effective by the taxpayer's acquiescence and subsequent failure to challenge their validity at the earliest opportunity, thereby estopping the taxpayer from later questioning the assessments.*  Yes. The court acknowledges that both the taxpayer (ATC) and the tax authorities (BIR/CIR) contributed to the defects in the waivers. However, it emphasizes that the number of defects is not the determining factor. The crucial element is the taxpayer's "contributory fault or negligence coupled with estoppel." The taxpayer, ATC, issued eight successive waivers over four years. During this period, ATC corresponded with the tax authorities and allowed the investigation to proceed, leading the BIR to believe that the assessment period had been extended. The taxpayer did not question the validity of the waivers when the Final Letter of Demand (FLD) was issued. Instead, it raised this argument for the first time on appeal to the Court of Tax Appeals (CTA), after an unfavorable decision on its administrative protest. | |  |
| **Land Bank of the Phil. vs. Cacayuran**  **G.R. No. 191667 | April 17, 2013**    *Whether or not a resident-taxpayer has standing to sue and challenge the validity of a municipal loan agreement, which is secured by a portion of the municipality's Internal Revenue Allotment (IRA) derived from national taxes, even if the loan proceeds themselves are not considered public funds from taxation.*  Yes. The court found that even though the loan proceeds themselves were not from public funds, the municipality’s Internal Revenue Allotment (IRA) was used as security for the loans. The IRA, which is the local government's share of national taxes, is considered "public funds derived from taxation." This satisfies the first requisite for a taxpayer's suit. The court also stated that once the municipality received the loan proceeds, they were converted into public funds because they came under official custody.  As a resident-taxpayer of the municipality, the petitioner, Cacayuran, was deemed to be "directly affected" by the project. The project involved converting a public plaza into a commercial center, which the court identified as a property for public use belonging to the public dominion. As a member of the public, Cacayuran had a direct interest in ensuring the plaza was not used for commercial purposes. | |  |
| **II. LIMITATIONS OF TAXATION** | | |
| **Constitutional Limitations** | | |
| **Q: What is the extent of the power of taxation by a State?**  **A:** It is a settled principle that the power of taxation by a State is plenary, comprehensive, and supreme and the principal check upon its abuse rests in the responsibility of the members of the legislature to their constituents *(Planters Products, Inc. v. Fertiphil Corp., G.R. No. 166006, March 14, 2008).* | |  |
| **Q: What are the two limitations on the power of taxation?**  **A:** The two kinds of limitations on the power of taxation are:   1. Inherent limitations 2. Constitutional Limitations | |  |
| **Q: What is the difference between an inherent limitation and a constitutional limitation?**  **A:** Inherent limitations proceed from the very nature of the taxing power itself. The power to tax has very distinct and positive limitations, some of which inhere in its very nature whether declared or not declared in the Constitution.  On the other hand, constitutional limitations re limitations prescribed in the Constitution *(TABAG, Reviewer, supra at 6).* | |  |
| **Q: What are the constitutional limitations on the power of taxation based on Article III, Section 1 of the 1987 Constitution?**  **A:** The power of taxation is limited by the **Due Process Clause** and the **Equal Protection Clause**. The Due Process Clause prohibits the government from depriving a person of life, liberty, or property without due process of law. The Equal Protection Clause ensures that all persons subject to legislation are treated alike under similar circumstances and conditions. These clauses ensure that a taxing power, while essential, is not exercised in an arbitrary, oppressive, or discriminatory manner. | |  |
| **Q: What are the two kinds of due process?**    **A:** The two kinds of due process:   1. **Substantive Due Process -** An act is done under the authority of a valid law or Constitution itself 2. **Procedural Due Process** - An act is done after compliance with fair and reasonable methods or procedures prescribed by law. | |  |
| **Five Inherent Limitations** | | |
| **Q: What are the five inherent limitations of taxation?**  **A:** The five inherent limitations of taxation are:   1. Public purpose 2. International comity 3. Non-delegability of the taxing power 4. Exemption of the Government 5. Situs or territoriality | |  |
| **Q: What is the effect of a violation of the inherent limitations of taxation?**  **A:** A violation of these inherent limitations can amount to the taking of property without due process of law *(Pepsi-Cola v. Municipality of Tanauan, Leyte, G.R. No. L-31156, February 27, 1976).* Hence, in this sense, it can be said that any tax law contravening any limitation of taxation, in effect, will likewise be unconstitutional. | |  |
| **Q:** **When is a tax considered for “public purpose’?**  **A:** Money raised by taxation can be spent only for public purposes and not for the advantage of private individuals *(Pascual v. Secretary of Public Works, G.R. No. L-10405, December 29, 1960).* However, “Public purpose’ should be given a broad interpretation. It does not only pertain to those purposes which are traditionally viewed as essentially government functions, such as building roads and delivery of basic services, but also includes those purposes designed to promote social justice. Public purpose is the heart of a tax law. When a tax law is only a mask to exact funds from the public when its true intention is to give undue benefit and advantage to a public enterprise, the law will not satisfy the requirement of “public purpose” *(Planters Products, Inc. . Fertiphil Corp., G. R. No. 166006, March 14, 2008).* | |  |
| **Q: What is the rule on non-delegability of the power to tax?**  **A:** Taxation is a power that is purely legislative *(Chamber of Real Estate and Builders' Association, Inc. v. Romulo, G.R. No. 160756, March 9, 2010)*. One of the settled maxims in constitutional law is that the power conferred upon the legislature to make laws cannot be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain; and by the constitutional agency alone, the laws must be made until the Constitution itself is changed *(Abakada Guro Party List v. Ermita, G.R. No. 168056, September 1, 2005).* | |  |
| **Q: What are the exceptions to the rule on the non-delegability of the power to tax?**  **A:** The power to tax may be delegated in the following instances:   1. Delegation to Local goverments (CONST Art. X. Sec. 5); 2. Delegation to the President of tariff powers by Congress under the Flexible Tariff Clause (CONST, Art. Vi, Sec. 28, Par. 2) and Emergency Powers (CONST. Art. VI, Sec. 23, Par 2); and 3. Delegation to Administrative agencies of the power to promulgate administrative rules and regulations (*he., to the CIR and Secretary of Finance under Sec. 244 of the NIRC).* | |  |
| **Q:** **What is the rationale of the exemption of government entities from taxation?**    **A**: It is a matter of public policy. The State cannot be taxed without its consent and such consent, being in derogation of its sovereignty, is to be strictly construed *(Gomez v. Palomar GR. Na. -23645, October 29, 1968).* Further, properties of the National Government as well as those of the local government units (LGUs) are not subject to tax as it will result in the absurd situation of the government taking money from one pocket and putting it in another *(Board of Assessment Appeals of Laguna v. CTA, G.R. No. L-18125, May 31, 1963).* | |  |
| **Bagatsing vs. Ramirez****G.R. No. L-41631 | December 17, 1976**   *Whether or not the publication requirements of the Revised City Charter of Manila or the Local Tax Code govern the validity of Tax Ordinance No. 7522, which regulated public markets and prescribed fees for stall rentals, enacted by the Municipal Board of Manila.*  Yes. The Local Tax Code (P.D. No. 231) governs the publication of tax ordinances, and the City of Manila's compliance with its provisions was sufficient to validate Ordinance No. 7522.  The Supreme Court ruled that a special law (the Revised City Charter) is not automatically repealed by a subsequent general law (the Local Tax Code). However, this rule does not apply when the special law addresses a subject in general terms, and the general law addresses that same subject in particular. In this case, the Revised City Charter covers "ordinances" in general, while the Local Tax Code specifically addresses "ordinances levying or imposing taxes, fees or other charges." Therefore, because the Local Tax Code is the more particular law on the specific subject of tax ordinances, and it was enacted later than the City Charter, its provisions prevail. | |  |
| **Abakada Guro Party List vs. Executive Secretary****G.R. No. 168056 | September 1, 2005** *Whether or not Republic Act No. 9337 violates which imposes burden on consumers, limitations on creditable input VAT, and other provisions violated the constitutional principles of uniformity and equitability in taxation.*  No. **Uniformity** in taxation requires that all persons or property belonging to the same class be taxed at the same rate. The Court found that the VAT Reform Act applied the tax uniformly to all members of a specific class, such as VAT-registered persons and consumers of VAT-subject goods and services. It did not create arbitrary distinctions within a class. | |  |
| Regarding **equitability**, the Court stated that this principle does not mean a tax must be perfectly equal or proportional. It simply requires that the tax burden be distributed fairly according to the taxpayer's ability to pay. While the Court acknowledged the burden the law placed on consumers, it emphasized that the **wisdom and policy of a tax measure are legislative matters**, not judicial. The legislature has the discretion to choose the means to raise revenue for a public purpose, and the Court will not interfere as long as the law does not violate any constitutional mandates. The purpose of the VAT law was to raise government revenue, which is a legitimate public purpose. Therefore, the Court concluded that the law was valid and did not violate the constitutional principles of uniformity and equitability. | |  |
| **Eastern Theatrical vs. Alfonso****G.R. No. L-1104 | May 31, 1949** *Whether or not Manila Ordinance No. 2958, which imposes a graduated fee on the price of every admission ticket sold by cinematographs, theaters, vaudeville companies, theatrical shows, and boxing exhibitions, violates the principle of uniformity and equitability of taxation.*  No. The Supreme Court affirmed the decision of the lower court, upholding the validity of Ordinance No. 2958.  The Court clarified that **uniformity in taxation** requires that all subjects or objects of a tax that belong to the same class be taxed at the same rate. The taxing power has the authority to make reasonable and natural classifications for taxation purposes. In this case, the ordinance specifically taxed cinematographs, theaters, vaudeville companies, theatrical shows, and boxing exhibitions as a distinct class of amusement places. The fact that other places of amusement, like racetracks or cockpits, were not taxed by the ordinance did not violate the principle, as these could be considered a different class for tax purposes. The ordinance applied the same tax schedule to all members within the class it defined. The Court also held that the City of Manila's power to tax these businesses was explicitly granted by its charter (Section 2444[m] of the Revised Administrative Code), which authorized the city to tax and regulate "theaters, cinematographs... and other performances and places of amusements." The Court found no conflict between the ordinance and the National Internal Revenue Code, as a city's power to tax for its own purposes can coexist with the national government's power to tax for its own purposes. | |  |
| **British American Tobacco vs. Camacho****G.R. No. 163583 | August 20, 2008 and April 15, 2009** *Whether or not the tax classification scheme under Section 145 of the NIRC, which differentiates the tax base for "old" cigarette brands and "new" cigarette brands, violates the constitutional principles of uniformity and equal protection of the laws.*  No. The legislative classification between old and new cigarette brands was based on a **reasonable and substantial distinction** and was therefore valid. The Court explained that for a classification to be valid and not violate the equal protection clause, it must meet four conditions:   1. It must rest on substantial distinctions. 2. It must be germane to the purpose of the law. 3. It must not be limited to existing conditions only. 4. It must apply equally to all members of the same class.   The Court found that the classification in question satisfied these conditions. The distinction between brands already in the market on a specific date (October 1, 1996) and those introduced afterward was a valid historical benchmark. The purpose of the law was to simplify the tax system and generate revenue, and the legislative freeze on the tax base for old brands was a mechanism to manage this transition while ensuring a stable revenue stream. The Court held that all brands that existed on the cutoff date were treated equally, and all new brands were also treated equally among themselves, thus satisfying the requirement of uniformity within each class. The Court concluded that the legislature has the power to classify the subjects of taxation, and as long as the classification is based on a reasonable and not arbitrary basis, it is constitutional. | |  |
| **La Sallian Educational Innovators Foundation vs. CIR****G.R. No. 202792 | February 27, 2019**   *Whether or not the foundation, due to its alleged "profit-oriented" activities, which argued that its income was used "actually, directly, and exclusively for educational purposes," as required by the 1987 Constitution, as evidenced by its gross receipts and cash in bank, is entitled to tax exemption.*  Yes. The Supreme Court held that the foundation is a tax-exempt entity and that a strict adherence to procedural rules should be relaxed in the interest of substantial justice.  The Court held that the foundation did not lose its tax-exempt status. Article XIV, Section 4, Paragraph 3 of the 1987 Constitution expressly exempts "all revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes." The Court found that the BIR's claim of "enormous profits" was a misinterpretation of the foundation's gross receipts and cash flow. The evidence showed that after deducting expenses, the foundation's net income was a modest 9.38% of its receipts, and all of its income was used to support its educational mission, with nothing inuring to the benefit of any private individual. The Court reiterated that an institution does not become profit-oriented simply by generating a surplus, as this is necessary for its sustainability. | |  |
| **NPC v. Province of Albay** **G.R. No. 87479 | June 4, 1990**  *Whether or not the resolutions issued by the Fiscal Incentives Review Board (FIRB) "restoring" NAPOCOR's tax exemption privileges constituted a valid exercise of a delegated power to tax, thereby exempting NAPOCOR from real property taxes for the period from June 11, 1984, to March 10, 1987.*  No. The Supreme Court denied the petition and declared the auction sale of NAPOCOR's properties to be valid.  The FIRB lacked the authority to grant or restore tax exemptions during the period in question. Under Presidential Decree No. 776, the FIRB's power was limited to merely **recommending** the withdrawal, modification, or suspension of tax exemptions to the President. It did not have the power to actually grant or restore exemptions on its own. Consequently, the FIRB resolutions purporting to restore NAPOCOR's tax privileges for the period from June 11, 1984, to March 10, 1987, were without legal force and effect. The Court affirmed the general principle that the **power to tax and to grant tax exemptions is an inherent legislative power**, which cannot be delegated to an administrative body unless expressly authorized by the legislature. Since there was no valid exemption in place during the specified period, the law withdrawing the exemption (P.D. No. 1931) remained in effect. The Court also reiterated the principle that tax exemptions are construed strictly against the taxpayer and in favor of the taxing authority. | |  |
| **Quezon City, et al. v. Bayan Telecommunications, Inc.** **G.R. No. 162015 | March 6, 2006**  Whether or not Bayantel's real properties, which are used directly and exclusively for its telecommunications business, are exempt from real property tax despite the withdrawal of tax exemptions under the Local Government Code.  Yes. The power of Congress to grant tax exemptions is superior to the delegated taxing power of local government units. While the LGC effectively withdrew Bayantel's original tax exemption, Congress, being the primary source of the power to tax, has the authority to restore it. The Court found that the subsequent enactment of Republic Act No. 7633, which amended Bayantel's franchise and used the exact same language "exclusive of this franchise," was a clear and express intention by Congress to restore the exemption for properties directly used in its telecommunications business.  The Court further explained that the constitutional grant of taxing power to local governments is not absolute. It is subject to limitations provided by Congress. By passing R.A. No. 7633 after the LGC, Congress was exercising its plenary power to exempt, thereby carving out an exception to the general rule established by the LGC. Therefore, Bayantel's properties directly used for its franchise were not subject to the real property tax levied by Quezon City. | |  |
| **Pepsi-Cola Bottling Co. v. Mun. Of Tanuan, Leyte** **G.R. No. L-31156 | February 27, 1976**  *Whether or not the municipal ordinances enacted by the Municipality of Tanauan, Leyte, which levy a production tax on soft drinks, are a valid exercise of the delegated taxing power, or if they constitute double taxation and an undue delegation of legislative power.*  No. The Supreme Court upheld the constitutionality of the Local Autonomy Act and the validity of Municipal Ordinance No. 27.  The Court ruled that the power of taxation is an inherent attribute of sovereignty, but it can be delegated to local governments as a necessary implication of the legislative power to create them. The Local Autonomy Act was a valid delegation of this power, subject to specified limitations. The Court noted that the 1973 Constitution (and the later 1987 Constitution) further affirmed this by granting local government units the autonomous authority to create their own sources of revenue.  The Court clarified that **double taxation is not prohibited** by the Constitution. It only becomes "obnoxious" when the same tax is levied by the same taxing authority on the same subject for the same purpose. In this case, the two ordinances did not amount to double taxation because the later Ordinance No. 27, which levied a tax per gallon of volume capacity, was intended to and did repeal the earlier Ordinance No. 23, which levied a tax per bottle. Thus, only one ordinance was being enforced at a time. | |  |
| **Planters Products, Inc. v. Fertiphil Corp.** **G.R. No. 166006 | March 14, 2008**  *Whether or not the levy imposed by Letter of Instruction No. 1465 by then President Ferdinand Marcos, exercising his legislative powers, which was intended to benefit a private corporation for the imposition of a capital recovery component (CRC) on the domestic sale of all grades of fertilizers in the Philippines, is a valid exercise of the State's power of taxation.*  No. The Supreme Court denied the petition and affirmed the lower courts' ruling that the levy was unconstitutional.  The levy, being a tax, must be for a **public purpose**, which is one of the inherent limitations of the power of taxation. While the State may exercise its taxing power to promote public welfare, the proceeds must not be used for the exclusive benefit of a private individual or corporation. The Court determined that the levy was clearly an exercise of the taxing power, as its primary purpose was revenue generation and the amount collected was substantial. | |  |
| **ACMDC v. CIR** **G.R. Nos. 141104 & 148763 | June 8, 2007**  *Whether or not the government can impose additional requirements, such as the 70% export threshold found in Revenue Regulations No. 2-88, for zero-rating of sales to BOI- and EPZA-registered enterprises, which are not explicitly provided in the law.*  No. The Supreme Court ruled that the government cannot impose additional conditions for zero-rated sales that are not found in the governing law. | |  |
| The zero-rating of sales to enterprises within export processing zones is **mandated by law** itself, specifically the Omnibus Investments Code of 1987. The law considers such sales as "constructively exported," regardless of the percentage of exports by the recipient enterprise. Revenue Regulations No. 2-88, which added the requirement that the buyer must export at least 70% of its total annual production, was therefore an invalid imposition. The power to interpret and implement tax laws through regulations does not give the Commissioner the authority to add a condition that is not supported by the statute. | |  |
| **Tax Treaty** | | |
| **Q: What is the principle of international comity?**    **A:** A state must recognize the generally accepted tenets of international law, among which are the principles of sovereign equality among states and of their freedom from suit without their consent that limit the authority of a government to effectively impose taxes on a sovereign state and its instrumentalities, as well as on its property held and activities undertaken in that capacity. | |  |
| **Q: What are the bases of the rule of international comity?**  **A:** The bases of the rule of International Comity are as follows:   1. The Philippines adopts the generally accepted principles of international law as part of the laws of the land *(CONST. Art. II, Sec. 2);* 2. Doctrine of Sovereign Equality among the states *(par in parem non habet imperium);* and 3. Doctrine of Sovereign Immunity, which states that a foreign government may not be sued without its consent *(Air Transportation Office v. Spouses David, G.R. No. 159402, February 23, 2011)* | |  |
| **Q: What is the core principle regarding a state's treaty obligations as articulated in *Deutsche Bank AG vs. CIR*?**    **A**: The core principle is that **treaty obligations must be performed in good faith**, which is known as *pacta sunt servanda*. This means that the Philippines, as a signatory to a treaty, must honor its commitments under that agreement. Local laws, including administrative issuances like those from the Bureau of Internal Revenue (BIR), must align with and not undermine these treaty benefits. | |  |
| **Q: How does the Philippines-US tax treaty provide relief from double taxation for US residents?**    **A:** The Philippines-US treaty allows a US resident to claim a credit for Philippine taxes paid against their US tax on the same income. However, this is "subject to US law limitations." This means the amount of the credit cannot exceed the limitations set by US tax laws, which generally prevent the credit from offsetting more than the amount of US tax that would have been due on that foreign income. | |  |
| **Q: How does the Philippines-China tax treaty provide relief from double taxation for Chinese residents?**  **A:** The Philippines-China treaty allows a Chinese resident to claim a credit against their Chinese tax for the Philippine taxes paid. The amount of this credit, however, is limited to the amount of Chinese tax on that specific income. This is a common method for avoiding double taxation, ensuring the credit does not exceed the tax that would have been payable to China on that income. | |  |
| **CBK Power Co., Ltd. v. CIR****G.R. No. 192283 | January 14, 2015** *Whether or not a prior application for a tax treaty relief with the BIR is a mandatory requirement before a taxpayer can avail of a preferential tax rate under an international tax treaty.*  No. A prior application with the BIR for a tax treaty relief is not a condition *sine qua non* for claiming the benefits of a tax treaty, especially in cases of a refund.  Tax treaties, having the force and effect of law, must take precedence over an administrative issuance like RMO No. 1-2000. Denying a tax treaty benefit for failure to comply with an administrative procedure would be a violation of the Philippines' international obligations and would impair the value of the treaty. | |  |
| **Southern Cross Cement Corp. v. Cement Manufacturers Asso. Of the Phils.****G.R. No. 158540, August 3, 2005** *Whether or not the Court of Appeals has jurisdiction over a petition seeking to annul a DTI Secretary's ruling that refuses to impose a safeguard measure, or if the sole jurisdiction for such a review lies with the Court of Tax Appeals.*  No. The Court of Appeals did not have jurisdiction; the proper and exclusive venue for such a review is the Court of Tax Appeals.  Section 29 of the SMA, which states that any interested party "adversely affected by the ruling of the Secretary in connection with the imposition of a safeguard measure may file with the CTA, a petition for review of such ruling." The Court rejected the argument that this provision only applies when a safeguard measure is actually imposed. It emphasized that the phrase "**in connection with**" is broad and encompasses any ruling arising from the process of determining whether to impose a safeguard measure. | |  |
| **Q: What is a government instrumentality?**  **A:** A government instrumentality refers to any agency of the National Government, which is:   1. Not integrated within the department framework; 2. Endowed with some, if not all, corporate powers; 3. Vested with special functions or jurisdiction by law; 4. Administering special funds; and 5. Enjoyingoperational autonomy, usually through a charter.   **Note:** This term includes regulatory agencies, chartered institutions and government-owned or -controlled corporations *(E.O. No. 292, otherwise known as the "Administrative Code of 1987", Sec. 2 (10)).* | |  |
| **Q: When a government instrumentality is vested with corporate powers, is it ipso facto considered a GOCC?**  **A**: No. When the law vests in government instrumentality corporate powers, the instrumentality does not become a corporation. Unless the government instrumentality is organized as a stock or non-stock corporation, it remains a government instrumentality. | |  |
| **Camarines North Elec. Cooperative v. Torres****G.R. No. 127249 | February 27, 1998** *Whether or not the President, through an executive order, can validly create an ad hoc committee to take over the management of an electric cooperative that is governed by the Cooperative Code of the Philippines.*  No. The President's issuance of Memorandum Order No. 409 was invalid. While the state can exercise police power, the power to regulate does not include the power to take over, manage, or control a business. The creation of the *Ad Hoc* Committee amounted to an unlawful exercise of control that went beyond mere regulation. | |  |
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| **Phil. Fisheries Dev't. Authority v. The Municipality of Navotas** **G.R. No. 150301 | October 2, 2007**  *Whether or not the Philippine Fisheries Development Authority is liable to pay real property taxes on the entire Navotas Fishing Port Complex, including its port and reclaimed land, and if the entire complex can be sold at a public auction for tax delinquency.*  Yes and No. The PFDA is liable to pay real property tax on portions of the NFPC, but not on the entire complex. The entire complex cannot be sold at public auction to satisfy the tax delinquency.  As an instrumentality of the national government, the PFDA is generally exempt from paying real property taxes under Section 133(o) of the Local Government Code of 1991. The limitation on this exemption is found in Section 234(a) of the same Code, which states that properties of the Republic of the Philippines are exempt "except when the **beneficial use**thereof has been granted...to a **taxable person.**  Properties of public dominion, such as ports, cannot be subject to execution or foreclosure sale. The municipality may collect the taxes due on the leased portions of the NFPC, but it cannot sell the entire complex at a public auction to satisfy the tax delinquency, as this would violate the fundamental principle that properties of the state, intended for public use, are outside the commerce of man. | |  |
| **City of Lapu Lapu v. PEZA** **G.R. No. 184203 | November 26, 2014** *Whether or not the Philippine Economic Zone Authority (PEZA),a government agency created by Republic Act No. 7916 to operate and manage economic zones. It inherited the functions and assets of its predecessor, the Export Processing Zone Authority (****EPZA****), is exempt from the payment of real property taxes to local government units.* | |  |
| Yes. The Philippine Economic Zone Authority is exempt from the payment of real property taxes.  The Court found that PEZA is an **instrumentality of the national government**, not a government-owned and controlled corporation (**GOCC**). It performs governmental functions, is not organized for profit, and its assets are properties of the state. As an instrumentality of the national government, PEZA is expressly exempt from local taxation under Section 133(o) of the LGC, which prohibits local governments from levying "taxes, fees, and charges of any kind on the national government, its agencies, and instrumentalities." | |  |
| **MIAA v. Parañaque City** **G.R. No. 155650 | July 20, 2006**  *Whether or not the lands and buildings of the Manila International Airport Authority (MIAA),an agency created by Executive Order No. 903, operates the Ninoy Aquino International Airport (****NAIA****), are exempt from real property tax imposed by the City of Parañaque.*  Yes. The lands and buildings of the MIAA are exempt from real property taxes.  The Court clarified that MIAA is not a government-owned or controlled corporation (GOCC). It does not have capital stock divided into shares, nor does it have members, meaning it is not a stock or non-stock corporation as defined by the law. Instead, MIAA is a government instrumentality vested with corporate powers to perform governmental functions. The fact that MIAA collects fees for the use of the airport does not change its character as a property for public use. MIAA merely holds the title to these properties in trust for the Republic of the Philippines. Taxing these properties would amount to the government taxing itself, which serves no public advantage. | |  |
| **Mactan-Cebu International Airport Authority (MCIAA) v. City of Lapu-Lapu** **G.R. No. 181756 | June 15, 2015**  *Whether or not the Mactan-Cebu International Airport Authority (MCIAA) is a government instrumentality, and therefore exempt from real property taxes under the Local Government Code of 1991.*  Yes. The Mactan-Cebu International Airport Authority is an instrumentality of the national government and is therefore exempt from real property taxes.  The Court explicitly overturned its previous 1996 ruling, adopting the more recent precedent set in the 2006 *MIAA* case. It clarified that MCIAA is not a GOCC, as it is not a stock or non-stock corporation. Its capital is not divided into shares, nor does it have members. Instead, MCIAA is a **government instrumentality** vested with corporate powers, a distinction that is crucial for taxation purposes. Under Section 133(o) of the LGC, local government units cannot levy taxes on the national government, its agencies, and instrumentalities. | |  |
| **III. DOUBLE TAXATION AND ESCAPES FROM TAXATION** | | |
| **Kinds of Double Taxation** | | |
| **Q: What is double taxation?**  **A:** It is an act of the sovereign by taxing twice for the same purpose in the same year upon the same property or activity of the same person, when it should be taxed once, for the same purpose and with the same kind of character of tax *(Income Taxation, Valencia and Roxas, p. 31).* | |  |
| **Q: What is double taxation in its strict sense?**      **A:** It is referred to as obnoxious or direct duplicate taxation which is a double taxation with the following elements:   1. taxing twice; 2. by the same taxing authority; 3. within the same jurisdiction or taxing district; 4. for the same purpose; 5. in the same year or taxing period; 6. taxes are the same kind or character. 7. Double taxation is obnoxious*. (Nursery Care Corporation v. Anthony Acevedo, G.R. No. 180651, July 30, 2014)* 8. There are two situses of taxation. This is also called International Double Taxation. | |  |
| **Q: What is double taxation in its broad sense?**    **A:** Double taxation in its broad sense is referred to as indirect duplicate taxation, a double taxation other than direct duplicate taxation. It extends to all cases in which there is a burden of two or more impositions.  A child looking at two glasses of liquid  Description automatically generated | |  |
| **Manufacturers Life v. Meer**  **G.R. No. L-2910 | June 29, 1951**  *Whether or not a tax imposed by the City of Manila on retailers for the renewal of their business licenses, in addition to other business taxes already being paid, constitutes a form of illegal or "obnoxious" double taxation.*  No. The Supreme Court has ruled that this does not constitute "obnoxious" or direct double taxation. The taxes were levied on different tax objects or subject matters. The tax under one section of the ordinance was a business tax on wholesalers and retailers, while the tax under another section was a tax on consumers or end-users of the articles sold. Because the taxes were imposed on different subjects, there was no double taxation in the strict sense. The Court clarified that while double taxation is generally frowned upon, it is not entirely illegal unless it violates a constitutional provision. In this case, the impositions did not violate the principle against direct, or "obnoxious," double taxation. | |  |
| **CIR v. SC Johnson & Son, Inc.**  **G.R. No. 127105 | June 25, 1999**  *Whether or not a non-resident foreign corporation, a resident of the United States, can invoke the "most favored nation" clause in the RP-US Tax Treaty to claim the concessional tax rate of 10% on royalties, which is granted to German residents under the RP-Germany Tax Treaty, when the RP-US Tax Treaty does not provide for a matching tax credit of 20% as the RP-Germany Tax Treaty does.*  No. The Supreme Court ruled that the non-resident foreign corporation cannot claim the 10% tax rate. The Court held that the phrase "paid under similar circumstances" in the RP-US Tax Treaty refers to the tax-related circumstances, not the payment of the royalty itself. The RP-US Tax Treaty and the RP-Germany Tax Treaty do not provide for similar tax reliefs. Specifically, the RP-Germany Tax Treaty includes a provision for a 20% matching tax credit against German income and corporation tax for the taxes paid to the Philippines on royalties, a provision that is absent from the RP-US Tax Treaty. Because the circumstances of the tax payments are not similar, the "most favored nation" clause cannot be invoked to justify the lower tax rate. The purpose of tax treaties is to prevent double taxation and encourage foreign investment by providing tax incentives, and this goal would be defeated if the tax credit were not also considered. Therefore, the claim for a tax refund was denied. | |  |
| **Ericsson Telecommunications, Inc. v. City of Pasig**  **G.R. No. 176667 | November 22, 2007**  *Whether or not a local government unit, specifically the City of Pasig, can impose business tax on a contractor based on its gross revenue as reported in its financial statements, rather than on its gross receipts as defined by the Local Government Code.*  No. The Supreme Court ruled that the local business tax on contractors must be based on gross receipts, not gross revenue. The Court clarified that the Local Government Code explicitly defines "gross receipts" as money or its equivalent that has been actually or constructively received. This is distinct from "gross revenue," which, under the accrual method of accounting, includes income that has been earned and is billable, but not yet actually or constructively received. The Court held that basing the tax on gross revenue would lead to illegal double taxation, as a business's revenue in a given year would include receipts from a previous year for which tax has already been paid. Therefore, the assessment notices issued by the City of Pasig, which were based on gross revenue, were found to be erroneous and were ordered to be canceled. | |  |
| **Nursery Care Corp. v. Acevedo**  **G.R. No. 180651 | July 30, 2014**  *Whether or not the collection of taxes under both Section 21 and other sections (like Sections 15 and 17) of the Revenue Code of Manila constitutes illegal double taxation.*  Yes. The Supreme Court held that the simultaneous imposition of taxes under Section 21 and other business tax sections (like Sections 14, 15, and 17) of the Revenue Code of Manila does indeed constitute illegal double taxation. The Court reaffirmed its previous rulings, stating that for double taxation to exist, the following conditions must be met: (1) the tax is imposed on the same subject matter (the privilege of doing business in Manila), (2) for the same purpose (to raise city revenues), (3) by the same taxing authority (the City of Manila), (4) within the same jurisdiction and for the same taxing period, and (5) the taxes are of the same kind or character (a local business tax on gross sales or receipts). Since all these elements were present, taxing businesses under both Section 21 and other sections of the same ordinance was found to be a form of direct, "obnoxious" double taxation. Therefore, the taxes collected under Section 21 were ruled to be illegal and must be refunded. | |  |
| **La Suerte Cigar & Cig. Factory v. CA**  **G.R. No. 125346 | November 11, 2014**  *Whether or not the imposition of a specific tax on both the raw material (stemmed leaf tobacco) and the finished product (cigarettes) constitutes illegal or "obnoxious" double taxation.*  No. The Supreme Court found the contention of double taxation to be without merit. It clarified that for double taxation to be prohibited, the taxes must be imposed on the same property or subject matter, for the same purpose, by the same taxing authority, within the same jurisdiction, during the same taxing period, and be of the same kind or character. In this case, the Court found there was no double taxation in the prohibited sense because the specific tax was imposed on two different articles or products: the stemmed leaf tobacco (raw material) and the cigar or cigarette (finished product). Furthermore, the Court reiterated that double taxation is not constitutionally prohibited in the Philippines, and it is only considered "obnoxious" when a taxpayer is taxed twice by the same jurisdiction for the same purpose, which was not the case here. | |  |
| **Villanueva v. City of Iloilo**  **G.R. No. L-26521 | December 28, 1968**  *Whether or not an ordinance imposing a tenement tax, in addition to existing real estate taxes and fixed taxes on business and occupation, constitutes illegal double taxation.*  No. The Supreme Court found no illegal double taxation. The Court explained that double taxation in the prohibited sense requires the taxes to be of the same kind or character, imposed on the same property or subject matter, for the same purpose, by the same taxing authority, within the same jurisdiction, and during the same taxing period. The Court held that the taxes in question were distinct from each other:   1. **National vs. Local Taxes:** The fixed taxes on business and occupation (as "real estate dealers") are imposed by the national government, while the tenement tax is imposed by a local government unit. The Court reiterated that there is nothing inherently objectionable about both the national government and a local government imposing a tax on the same occupation or activity. 2. **Property Tax vs. License Tax:** The real estate tax is a tax on property, while the tenement tax is a license tax on the business or occupation of renting out property. The Court stated that a license tax on a business can be levied even if the property used for that business is already subject to a property tax.   In conclusion, because the taxes were not of the same kind or character, and in one instance were levied by different taxing authorities, the Court found no prohibited double taxation. | |  |
| **Compania General de Tabacos de Filipinos v. City of Manila**  **G.R. No. L-16619 | June 29 1963**  *Whether or not a business is subjected to illegal double taxation when it pays both a license fee for the privilege of selling liquor under one city ordinance and a tax on the sales of that liquor as general merchandise under other city ordinances.*  No. The Supreme Court ruled that this scenario does not constitute illegal double taxation. The Court distinguished between the two types of impositions:   * + - 1. Ordinance No. 3358 imposes a license fee for the privilege of selling liquor. This is a regulatory measure enacted under the city's police power to control a business that could be harmful to public health and morals.       2. Ordinances Nos. 3634, 3301, and 3816 impose a tax on the sales of general merchandise (which includes liquor). This is a revenue-raising measure enacted under the city's taxing power.   The Court clarified that since the two impositions serve different purposes—one for regulation and one for revenue—and are levied under different governmental powers, they are not considered the "same kind or character of tax." Therefore, imposing both a license fee and a tax on the same business or article does not violate the rule against double taxation. The Court also noted that the government is not bound by a previous, incorrect opinion of its officers regarding the law. | |  |
| **CIR v. Solidbank Corp.**  **G.R. No. 148191 | November 25, 2003**  *Whether or not the imposition of a 20% Final Withholding Tax (FWT) on interest income and the inclusion of that same income in the computation of the 5% Gross Receipts Tax (GRT) on banks constitutes illegal double taxation.*  No. The Supreme Court found that there was no double taxation. The Court provided a three-point explanation:  **Different Subject Matters:** The FWT is a tax on passive income (the interest itself), while the GRT is a tax on the privilege of engaging in the business of banking. The Court noted that a business can be taxed for operating and also taxed separately on the income it derives from that business.  **Different Taxing Periods:** Although both taxes are national in scope, the FWT is deducted and paid quarterly as income is earned, whereas the GRT is not withheld and is paid after the taxable quarter has ended.  **Different Kinds of Taxes:** The FWT is an income tax subject to withholding, while the GRT is a percentage tax not subject to withholding.  Because the taxes were imposed on different subject matters, and were of a different kind and character, the Court concluded that they did not meet the criteria for "direct duplicate taxation," and therefore, no illegal double taxation occurred. | |  |
| **Kinds of Tax Exemptions** | | |
| **Q: What is a tax exemption?**  **A:** Tax exemption is the grant of immunity, express or implied (or contractual) to particular persons or corporations or to persons or corporations of a particular class from a tax which persons or corporations generally within the same State or taxing district are obliged to pay *(Philippine Long Distance Co. v. City of Bacolod, G.R. No. 149179, July 15, 2005).* | |  |
| **Q: What are the principles governing tax exemptions?**  **A:** Tax exemptions, including its equivalent provisions such as deductions, tax amnesty, and tax condonations, shall be governed by the following principles:   1. The power of taxation is a high prerogative of sovereignty so the relinquishment is never presumed *(Floro Cement Corporation v. Gorospe, G.R. No. L-46787, August 12, 1991);* 2. Any claim for exemption from the tax statute should be strictly construed against the taxpayer *(Luzon Stevedoring Corporation v. CTA, G.R. No. L-30232, July 29, 1988);* 3. They are highly disfavored and may almost be said to be directly contrary to the intention of the tax laws *(Manila Electric Company v. Vera, G.R. No. L-29987, October 22, 1975);* and 4. He who claims tax exemptions must be able to justify his claim or right *(CIR v. P.J. Kiener Co., LTD., G.R. No. L-24754, July 17, 1975)* | |  |
| **Q: Distinguish Exempt Person from Exempt Transactions.**  **A:**   |  |  | | --- | --- | | **Exempt Person** | **Exempt Transactions** | | **As to Definition** | | | Exempt persons are those individuals or entities exempt from tax liability due to specific qualifications or status. | Exempt transaction refers to a specific activity or type of transaction that is exempt from taxation, regardless of the status of the taxpayer. | | **Example** | | | Exemption granted under Sec. 28, Art. VI of the 1987 Constitution for charitable institutions, churches and personages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes. | VAT Exempt Transactions under Section 109 of the National Internal Revenue Code as amended by the TRAIN Law. | | |  |
| **Q: What are express tax exemptions?**  **A:** These are exemptions expressly granted by the constitution, statutes, treaties, ordinances, franchises, or contracts. | |  |
| **Q: What are implied tax exemptions?**  **A:** These are exemptions where particular persons, properties, or excises are deemed exempt as they fall outside the scope of the taxing provision itself *(Fundamentals of Taxation, De Leon, p. 62).* | |  |
| **Q: What are considered contractual tax exemptions?**  **A:** These are exemptions in consideration of a contractual agreement.  These are agreed to by the taxing authority in contracts, such as those contained in government bonds or debentures, lawfully entered into by them under enabling laws in which the government, acting in its private capacity, sheds its cloak of authority and waives its governmental immunity *(PAGCOR v. BIR, G.R. No. 172087, March 15, 2011)*. | |  |
| **Q: What the requisites for a contractual tax exemption to be valid?**  **A:** The requisites are:   1. The taxing authority must agree to the exemption in a contract 2. The contract must be lawfully entered into under enabling laws 3. The government must waive its governmental immunity and act in its private capacity; and 4. The exemption cannot be revoked without impairing the obligations of the contract *(PAGCOR v. BIR, G.R. No. 172087, March 15, 2011)*. | |  |
| **Q: What are considered contractual tax exemptions?**  **A:** These are exemptions in consideration of a contractual agreement. | |  |
| **Q: What is the general rule on the construction and interpretation of tax exemptions?**    **A:** The general rule is that tax exemptions are strictly construed against the taxpayers.   * Exemption, being obnoxious to taxation, is not favored and never presumed; * If at all, it must be categorically and unmistakably expressed in terms that admit of no doubt, yet such exempting provision must be interpreted in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. * The silence on tax exemption in the ordinance being patently evident, without any franchise to supply that omission, affords no warrant for the claim here made. *(Commissioner of Internal Revenue v. Guerrero, G.R. No. L-20942, [September 22, 1967])* * Exemptions must be strictly stated and the burden of proof is placed on the one claiming the benefit of the exemption *(Quezon City v. ABS-CBN Broadcasting Corp., G.R. No. 166408, [October 6, 2008], 588 PHIL 785-809).* | |  |
| **John Hay Special Economic Zone v. Lim**  **G.R. No. 119775 | October 24, 2003**  *Whether or not a presidential proclamation, Proclamation No. 420, can validly extend the tax exemptions and other economic incentives originally granted by law (R.A. No. 7227) exclusively to the Subic Special Economic Zone (SEZ) to the John Hay Special Economic Zone.*  No. The Supreme Court ruled that the grant of tax exemptions and other privileges to the John Hay SEZ by presidential proclamation was void for being unconstitutional. The power to grant tax exemptions is a legislative function that belongs to Congress, and any such law must have the concurrence of a majority of all its members. Tax exemptions are to be strictly construed against the taxpayer and cannot be granted by mere implication. They must be expressly and unequivocally provided for in a statute. R.A. No. 7227, the law that created the Subic SEZ, specifically limited its incentives to that zone. Lastly, a presidential proclamation cannot amend or expand the provisions of a statute. The incentives under R.A. No. 7227 were exclusive to the Subic SEZ, and the President could not, through a proclamation, extend them to the John Hay SEZ without a new law from Congress. | |  |
| **CIR v. Phil. Associated Smelting & Refining Corp.**  **G.R. No. 186223 | October 1, 2014**  *Whether or not an enterprise registered with the Export Processing Zone Authority (EPZA) is the proper party to claim a tax refund or credit for excise taxes on petroleum products that were purchased from a supplier who, as the statutory taxpayer, passed on the tax burden to the EPZA-registered enterprise.*  Yes. The Supreme Court ruled that the EPZA-registered enterprise (PASAR) is the proper party to claim the tax refund or credit. The Court distinguished between exemptions from direct and indirect taxes. If a law grants an exemption from both, the entity that bears the economic burden of the tax can claim the refund, even if it is not the statutory taxpayer. Section 17 of P.D. No. 66, the EPZA law, expressly states that supplies, whether used directly or indirectly, are not subject to internal revenue laws and regulations. The Court had previously interpreted this provision to cover both customs duties and internal revenue taxes, including excise taxes. Because the law grants an exemption from both direct and indirect taxes, and the excise taxes were passed on to PASAR, the latter, as the entity that bore the economic burden, has the legal personality to file the claim for a tax refund. The Court referenced prior cases, such as **Commissioner of Customs v. Philippine Phosphate Fertilizer Corp.** and **Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue**, which established that EPZA-registered enterprises are exempt from such taxes and have the right to seek a refund for them. | |  |
| **Batangas Power Corp. v. Batangas City & NPC**  **G.R. No. 152675 | April 28, 2004**  *Whether or not the tax exemption privileges of the National Power Corporation (NPC) under its charter were withdrawn by the Local Government Code (LGC) of 1991, making it liable for local business taxes.*  Yes. The Supreme Court ruled that the tax exemption privileges of the NPC under its charter were indeed withdrawn by the LGC. The Court referenced its prior ruling in **National Power Corporation v. City of Cabanatuan**, which established that Section 193 of the LGC is an express and general repeal of all statutes granting exemptions from local taxes. This provision effectively withdrew the blanket tax privileges previously enjoyed by government instrumentalities, including the NPC. The Court explained that a primary goal of the LGC is to strengthen local autonomy by giving local government units (LGUs) greater power to generate their own sources of revenue. This paradigm shift requires that even government instrumentalities contribute to local taxes. | |  |
| **Tolentino v. Sec. of Finance**  **G.R. No. 115455 | August 25 1994**  *Whether or not Republic Act No. 7716, which restructured the Value-Added Tax (VAT) system, validly withdrew the tax exemption of Philippine Airlines, Inc. (PAL) without specifically mentioning its franchise (P.D. No. 1590) in the title of the law.*  Yes. The Supreme Court ruled that Republic Act No. 7716 validly withdrew PAL's tax exemption. The title of R.A. No. 7716, "AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM, WIDENING ITS TAX BASE AND ENHANCING ITS ADMINISTRATION, AND FOR THESE PURPOSES AMENDING AND REPEALING THE RELEVANT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE," was deemed sufficient. The Court held that the constitutional requirement for a bill's title is satisfied if it expresses the general subject of the statute, and widening the VAT base by withdrawing exemptions is germane to that subject. A title is not required to be a complete index of the law's contents.  The Court clarified that while PAL's franchise required a special law to expressly modify or repeal it, R.A. No. 7716 met this requirement. The new law did not amend the franchise by mere implication; it specifically amended Section 103 of the National Internal Revenue Code to explicitly list P.D. No. 1590 as one of the special laws whose tax exemptions were no longer applicable to the VAT. | |  |
| **MCIAA v. Marcos**  **G.R. No. 120082 | September 11, 1996**  *Whether or not a government-owned corporation, like the Mactan-Cebu International Airport Authority (MCIAA), lost its exemption from real property taxes with the passage of the Local Government Code (LGC) of 1991.*  Yes. While Section 133(o) of the LGC generally exempts the National Government and its instrumentalities from local taxes, this provision is qualified by more specific sections concerning real property tax. Sections 232 and 234 of the LGC specifically authorize local governments to levy real property taxes and withdraw all previous exemptions from such taxes, including those granted to government-owned corporations. The Court pointed to the last paragraph of Section 234 and Section 193 of the LGC, which explicitly withdraw tax exemptions previously granted to natural and juridical persons, including government-owned or controlled corporations. | |  |
| **Wonder Mechanical Engineering Corp. v. CA**  **G.R. Nos. L-22805 & L-27858 | June 30, 1975**  *Whether or not a company granted a tax exemption for manufacturing "new and necessary" machines is also exempt from taxes on the products manufactured by those machines.*  No.The Supreme Court ruled that the tax exemption only applied to the manufacturing and sale of the machines themselves, not to the products they produce. The Court reiterated the cardinal rule that tax exemptions are highly disfavored and must be based on a clear and explicit grant in the law. Any claim to an exemption must be justified by language that is "too plain to be mistaken." The tax exemption certificate clearly stated that it was granted for the "manufacture of machines for making cigarette paper, pails, lead washers, nails, rivets, candies, etc." The Court found no ambiguity in this language, which explicitly limited the exemption to the machines. | |  |
| **FELS Energy, Inc. v. Province of Batangas**  **G.R. No. 168557 | February 16, 2007**  *Whether or not a privately owned corporation, which operates power barges and leases them to a government-owned and controlled corporation (NPC), can be exempt from real property tax by invoking the tax exemption granted to the NPC.*  No. The Supreme Court ruled that the private corporation (FELS) is not exempt from real property tax. Tax exemptions are strictly construed against the taxpayer. The law's language must be "too plain to be mistaken" to justify an exemption. The Court affirmed the factual finding that the power barges were owned by FELS, not the NPC. While Section 234(c) of the Local Government Code exempts machinery and equipment "actually, directly and exclusively used by" a government-owned corporation like the NPC, the Court found that FELS, a private entity, was the one operating and managing the barges. Therefore, the exemption for the NPC cannot be extended to FELS, the owner and operator. | |  |
| **Provincial Treasurer of Province of Misamis Oriental v. Cagayan Electric Power & Light Co., Inc.**  **G.R. No. L-45355 | January 12, 1990**  *Whether or not a general tax law (P.D. No. 231, the Local Tax Code) implicitly repealed a special law (R.A. No. 6020) that granted a tax exemption to a specific corporation, CEPALCO, through the "in lieu of all taxes" clause in its franchise.*  No. The Supreme Court ruled that the general tax law did not repeal the special law, and therefore, CEPALCO's tax exemption remained valid. The Court applied the well-established rule that a special or local statute is not repealed by a later general law unless there is a clear and manifest intent to do so. In this case, P.D. No. 231 contained no express provision repealing CEPALCO's franchise. The Court relied on a long line of jurisprudence affirming that the phrase "in lieu of all taxes" in a corporate franchise acts as a complete exemption from all other taxes, whether national or local, except for the specific tax mentioned in the franchise itself. The Court found that CEPALCO's franchise, which imposed a 3% tax on gross earnings "in lieu of all taxes of whatever authority," was a clear and unequivocal grant of exemption. The Court cited a Local Tax Regulation issued by the Secretary of Finance, which explicitly stated that the franchise tax under the Local Tax Code should not be collected from businesses whose franchises contain the "in-lieu-of-all-taxes" provision. This regulation confirmed the proper interpretation of the law. | |  |
| **Batangas Power Corp. v. Batangas City & NPCX**  **G.R. No. 152675 | April 28, 2004**  *Whether or not the tax exemption privileges of the National Power Corporation (NPC) under its charter were withdrawn by the Local Government Code (LGC) of 1991.*  Yes. The Court ruled that the LGC, specifically Section 193, is an express and general repeal of all statutes granting exemptions from local taxes, and this provision withdrew the sweeping tax privileges previously enjoyed by the NPC under its charter. The Court explained that this was a deliberate "paradigm shift" intended to strengthen local autonomy by allowing local government units to have a wider tax base and more sources of revenue, consistent with the 1987 Constitution. The Court also clarified that the case of Basco v. PAGCOR was decided before the LGC took effect and is therefore not applicable. | |  |
| **Forms of Escape from Taxation** | | |
| **Q: What are the different forms of escape from taxation?**  **A:** The different forms of escape from taxation are as follows:   1. Shifting of the Tax Burden 2. Tax Avoidance 3. Tax Evasion | |  |
| **Q: What is the concept of shifting the tax burden?**    **A:** Shifting the tax burden refers to the transfer of tax burden to another; the imposition of tax is transferred from the statutory taxpayer to another without violating the law.  For instance, taxes paid by the manufacturer may be shifted to the consumer by adding the amount of the tax paid to the price of the product sold.  Text, whiteboard  Description automatically generated | |  |
| **Q: What are the ways of shifting the tax burden?**  **A:** The burden of incidence of taxation may be shifted through:   * Forward Shifting – when the burden of tax is transferred from the manufacturer, then to the distributor and finally to the ultimate consumer of the product; best example is VAT * Backward Shifting – when the burden is transferred from the ultimate consumer through the factors of distribution to the factors of production; or * Onward Shifting – when tax burden is shifted two or more times either forward or backward. | |  |
| **Q: To what kind of taxes does shifting apply?**  **A:** As a rule, only indirect taxes may be shifted; direct taxes cannot be shifted. | |  |
| **Q: What is Tax Avoidance?**  **A:** Tax avoidance is the tax saving device within the means sanctioned by law. This method should be used by the taxpayer in A person holding a crown  Description automatically generatedgood faith and at arm’s length *(CIR v. Estate of Benigno Toda, G.R. No. 147188, September 14, 2004).*  It is the legitimate right of a taxpayer to avoid tax as long as he adopts legal means *(Delpher Trade Industries v. IAC, GR No. L-69259, January, 26, 1988).* | |  |
| **Q: What is Tax Evasion?**    **A:** Tax evasion is a scheme used outside of lawful means and which, when availed of, usually subjects the taxpayer to further or additional civil or criminal liabilities Tax evasion connotes the integration of three factors:   * The end to be achieved; i.e., the payment of less than that known by the taxpayer to be legally due, or the non-payment of tax when it is shown that a tax is due; * An accompanying state of mind which is described as being “evil,” in “bad faith” “willful,” or “deliberate and not accidental”; and * A course of action or failure of action which is unlawful. | |  |
| **Tax Evasion vs. Tax Avoidance** | | |
| **Q: Differentiate Tax Avoidance from Tax Evasion.**  **A:**   |  |  | | --- | --- | | **Tax Evasion** | **Tax Avoidance** | | **As to Legality** | | | Illegal and subject to criminal or civil penalty. | Legal and not subject to criminal penalty. | | **As to the Manner of Commission** | | | Accomplished by breaking the letter of the law. | Accomplished by legal procedures or means which may be contrary to the intent of the law yet do not violate the letter of the law. | | **As to Effects** | | | Almost always results in the absence of tax payments. | Minimizes taxes |   *(Commissioner of Internal Revenue v. Estate of Benigno Toda, Jr., G.R. No. 147188, September 14, 2004).* | |  |
| **Tax Refund** | | |
| **Q: What is a Tax Refund?**  **A:** Tax refunds are in the nature of tax exemptions. They are regarded as a derogation of sovereign authority and to be construed strictissimi juris against the person or entity claiming the exemption *(Davao Gulf Lumber Corp. v. Commissioner of Internal Revenue, G.R. No. 117359, July 23, 1998).* | |  |
| **Q: On whom does the burden of proof for tax exemptions rest?**  **A:** The burden of proof is upon him who claims the exemption in his favor and he must be able to justify his claim by the clearest grant of organic or statute law *(Davao Gulf Lumber Corp. v. Commissioner of Internal Revenue, G.R. No. 117359, July 23, 1998).* | |  |
| **CIR v. MERALCO**  **G.R. No. 181459 | June 9, 2014**  *Whether or not a claim for a tax refund, even if the tax was erroneously collected from a tax-exempt entity, is barred by prescription if the claim is not filed within the two-year period mandated by the Tax Code.*  Yes. The Supreme Court ruled that the claim for a tax refund was barred by prescription. The Court emphasized that Section 229 of the Tax Code provides a mandatory two-year prescriptive period for filing a suit or proceeding for the recovery of erroneously or illegally collected national internal revenue taxes. This period runs from the date of tax payment, regardless of any supervening cause, such as the taxpayer's discovery of the error or the issuance of a confirmatory ruling from the Bureau of Internal Revenue (BIR).  The Court rejected the argument that the six-year prescriptive period for quasi-contracts under the Civil Code (specifically, *solutio indebiti*) should apply. The Court explained that the elements of *solutio indebiti* were not present, as there was a binding legal relationship between the taxpayer (MERALCO as a withholding agent) and the government. Furthermore, the Tax Code, as a special law, explicitly provides the specific prescriptive period for tax refunds, which takes precedence over the general provisions of the Civil Code. | |  |
| **Tax Credit** | | |
| **Q: What is a Tax Credit?**  **A:** It happens when an amount is subtracted from an individual or entity’s tax liability to arrive at the total tax liability *(CIR v. Central Luzon Drug Corp., G.R. No. 159647, April 15, 2005).* | |  |
| **Q: How is tax credit used to mitigate double taxation?**  **A:** An amount subtracted from an individual’s or entity’s tax liability to arrive at the total tax liability; a tax credit reduces the tax due, including whenever applicable, the income taxthat is determined afterapplying the corresponding tax rates to taxable income *(CIR v. Central Luzon Drug Corp., G.R. No. 159647, April 15, 2005).* | |  |
| **Tax Amnesty** | | |
| **Q: What is tax amnesty?**  A collage of a cartoon character  Description automatically generated  **A:** A tax amnesty is a general pardon or the intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of violation of a tax law.   * It partakes of an absolute waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate. * A tax amnesty, much like a tax exemption, is never favored nor presumed in law. * The grant of a tax amnesty, similar to a tax exemption, must be construed strictly against the taxpayer and liberally in favor of the taxing authority. *(Philippine Banking Corporation v. CIR, G.R. NO. 170574, January 30, 2009)* * Tax amnesty refers to the articulation of the absolute waiver by a sovereign of its right to collect taxes and power to impose penalties on persons or entities guilty of violating a tax law. Tax amnesty aims to grant a general reprieve to tax evaders who wish to come clean by giving them an opportunity to straighten out their records. *(CS Garment, Inc. v. CIR, G.R. No. 182399, March 12, 2014)* | |  |
| **People v. Castañeda**  **G.R. No. L-46881 | September 15, 1988**  *Whether or not an individual who has already been subjected to a tax investigation and has pending criminal charges related to tax violations is entitled to the benefits of a tax amnesty under Presidential Decree (P.D.) No. 370.*  No. .D. No. 370 expressly excludes "tax cases which are the subject of a valid information under Republic Act No. 2338 as of December 31, 1973." The Court clarified that this refers to sworn complaints filed by informers with the Bureau of Internal Revenue (BIR). In this case, such complaints had been filed and had led to criminal informations by the specified date. The tax violations had already been discovered and were no longer a matter of "voluntary disclosure," a key requirement of the amnesty. The Court reiterated that tax amnesty laws, like tax exemptions, are not favored and must be construed strictly against the taxpayer and liberally in favor of the taxing authority. | |  |
| **Asia International Auctioneers, Inc. v. CIR**  **G.R. No. 179115 | September 26, 2012**  Whether or not a taxpayer with a deficiency in indirect taxes (VAT and excise tax) is disqualified from availing of a tax amnesty under Republic Act No. 9480 on the grounds that it is a "withholding agent with respect to their withholding tax liabilities."  No. The Supreme Court ruled that the taxpayer (AIA) was not disqualified from availing of the tax amnesty. The Court clarified the fundamental difference between indirect taxes (like VAT and excise tax) and withholding taxes. With indirect taxes, the legal incidence of the tax is on one person (the seller or manufacturer) but the economic burden is shifted to another (the buyer or consumer). With withholding taxes, the incidence and burden of the tax are on the same entity (the taxpayer), and the withholding agent merely acts as a collector for the government. Since AIA was assessed for a deficiency in indirect taxes, it could not be "deemed" a withholding agent, as argued by the Commissioner of Internal Revenue (CIR). The Court emphasized that RA 9480, like all tax amnesty laws, is subject to strict construction. Its exceptions must be clearly and unequivocally stated. The law does not include a specific exception for taxpayers with deficiencies in indirect taxes. | |  |
| **Compromise vs. Abatement** | | |
| **Q: What is a Compromise?**  **A:** A Compromise:   * Is an agreement between two or more persons who, amicably settle their differences on such terms and conditions as they may agree on to avoid any lawsuit between them. * Implies the mutual agreement by the parties in regard to the thing or subject matter which is to be compromised. | |  |
| **Q: When can the CIR compromise the payment of any internal revenue tax?**    **A:** The CIR may compromise the payment of any internal revenue tax when:   * A reasonable doubt as to the validity of the claim against the taxpayer exists; or * The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.   A person in a brown vest  Description automatically generated | |  |
| **Q: What is the minimum percentage of compromise settlement?**    **A:** The compromise settlement of the any tax liability shall be subject to the following minimum amounts:   * In case of financial incapacity, a minimum compromise rate equivalent to 10% of the basic assessed tax; and * For other cases, a minimum compromise rate equivalent to 40% of the basic assessed tax. | |  |
| **IV. SOURCES OF TAX LAWS AND CONSTRUCTION** | | |
| **Sources** | | |
| **Q: What are the different sources of tax laws?**  **A:**  A principal attribute of sovereignty, the exercise of taxing power derives its source from the very existence of the state whose social contract with its citizens obliges it to promote public interest. The theory behind the exercise of the power to tax emanates from necessity; without taxes, government cannot fulfill its mandate of promoting the general welfare and well-being of the people. (*CIR v. BPI 521 SCRA 373*)  Additionally, the sources of tax laws are the following:   * The Constitution * The Tax Code/ National Internal Revenue Code (NIRC), as amended * Tariff and Customs Code * Tax treaties and international agreements * The Local Government Code under Book II on Local Taxation and Fiscal Matters * Decisions of the Supreme Court * Administrative rules and regulations, rulings, and opinions of tax officials particularly the CIR, including opinions of the Secretary of Justice. * Contemporaneous construction by executive or administrative officers, including Revenue Regulations by the Department of Finance and administrative issuances by the BIR or the Bureau of Customs (BOC).   **A screenshot of a video game  AI-generated content may be incorrect.** | |  |
| **Kinds of Tax Laws** | | |
| **Q: What are the different kinds of taxes?**  **A:** Taxes may be classified according to the following:   1. **As to Subject Matter or Object** 2. **Personal, Capitation, or Poll Tax** – Poll taxes are taxes of a fixed amount imposed upon all persons of a certain class within the jurisdiction of the taxing power, without regard to the amount of their property, or the occupations or businesses in which they may be engaged.   Examples include community tax (also referred to as cedula), residence tax.   1. **Property Tax** – Property taxes are taxes imposed on all properties or all properties of a certain class within the jurisdiction of the taxing power.   *Examples include: Real Property Tax and Capital Gains Tax.*     1. **Excise or Privilege Tax** – A charge imposed upon the performance of an act, the enjoyment of a privilege, or engaging in an occupation, profession, or business.   A Donor’s Tax is one example of a privilege tax. It is an excise tax imposed on the privilege to transfer property by way of gift *inter vivos* based on a pure act of liberality, without any or less than adequate consideration and without any legal compulsion to give*.*  Excise taxes can also mean taxes that are levied on a specific article, rather than one "upon the performance, carrying on, or the exercise of an activity. (*Avon Products Manufacturing Inc., v. CIR, G.R. No. 222480, November 07, 2018*). They are paid on goods manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition and to things imported (*Sec. 126, NIRC*).  Goods and services that have to pay excise tax can be divided into 6 groups: Liquor, Tobacco, Oil, Automobile, Luxury, Goods, and Minerals.  Producers and industrial operators, service operators, importers and concessionaires and operators of mining businesses are liable to pay excise tax in the Philippines.  A collage of two people  AI-generated content may be incorrect.   1. **As to who bears the Burden or Incidence** 2. **Direct Tax** – Direct taxes are those demanded from the same person actually liable to pay it.   *Examples include: Individual Income Tax, Corporate Income Tax, Estate Tax.*   1. **Indirect Tax** – Indirect taxes are those in which the incidence of taxation falls on one person but the burden thereof can be shifted or passed on to another person.   *Examples include: Value-Added Tax, Percentage Tax.*     1. **As to Determination of Amount or Tax Rates** 2. **Specific Tax** – An excise tax based on weight or volume capacity or any other physical unit of measurement.   *Examples include: Taxes on distilled spirits, wines, and fermented liquors.*   1. **Ad Valorem Tax** – A levy on real property determined on the basis of a fixed proportion of the value of the property.   *Examples include: Real Property Tax, Customs Duties.*   1. **Mixed Tax** – Taxes having both the characteristics of specific tax and ad valorem tax. 2. **As to Purpose** 3. **General or Fiscal** – A tax imposed for general or ordinary purposes of the government, or to raise revenue for governmental needs. 4. **Special or Regulatory** – Special taxes are those taxes that are imposed for a special purpose to achieve some social or economic ends irrespective of whether revenue is actually raised or not. 5. **As to Scope or Authority to Impose Tax** 6. **National Tax** – Taxes that are levied by the national government through Congress and administered by the BIR or Bureau of Customs. 7. **Local/Municipal** **Tax** – Taxes that are levied by the local government through their respective *Sanggunians* and administered by the local executive government through the local treasurer. 8. **As to Rate** 9. **Progressive Tax** – Taxes that are based on the taxable amount of an individual’s income. Hence, the tax rate increases as the tax base increases.   *Examples include: Individual Income Tax, Local Government Taxes on Professions or Businesses*   1. **Regressive Tax** – The opposite of progressive tax where the tax rate decreases as the tax base increases.   *Examples include:* *Sales taxes on goods and excise taxes on consumables such as gasoline or airfare*.  A cartoon of a person and person  AI-generated content may be incorrect.  ***A cartoon of a couple of people talking  AI-generated content may be incorrect.*** | |  |
| **Principles/Interpretations/Construction Rules on Tax Laws and Tax Exemptions** | | |
| **Q: What is the rule on construction of tax laws?**  **A:** Revenue laws are not intended to be liberally construed. Taxes are the lifeblood of the government and in Holmes’ memorable metaphor, the price we pay for civilization; hence, laws relative thereto must be faithfully and strictly implemented. (*Pilmico-Mauri Foods Corp. v. CIR, 802 SCRA 618*)  However, where the language is plain, the rule of strict construction against the government does not apply where the language of the tax law is plain and there is no doubt as to the legislative intent. The words employed are to be given their ordinary meaning. (*PLDT v. City of Davao, G.R. No. 143867, March 25, 2003*) | |  |
| **Q: What is the rule on construction regarding tax exemptions?**  **A:** Since taxes are the lifeblood of the nation, a claim of statutory exemption from taxation should be manifest and unmistakable from the language of the law on which it is based. The claimed exemption must be expressly granted in a statute stated in a language too clear to be mistaken. (*YMCA v. CIR, 298 SCRA 38*)  Because taxes are the lifeblood of the nation, statutes that allow exemptions are construed strictly against the grantee and liberally in favor of the government. Otherwise stated, any exemption from the payment of tax must be clearly stated in the language of the law; it cannot be merely implied therefrom. (*Davao Gulf Lumber Corp. v. CIR, 293 SCRA 77*) | |  |
| **Q: When are statutory exemptions valid?**  **A:** Statutory exemptions are valid only if they do not exceed constitutionally-prescribed limits. Otherwise, such statutory exemptions are VOID. | |  |
| **Q: What is the Strict Construction Rule?**  A: When it is said that exemptions must be strictly construed in favor of the taxing power, this does not mean that if there is a possibility of a doubt it is to be at once resolved against the exemption.  It simply means that if, after the application of all rules of interpretation for the purpose of ascertaining the intention of the legislature, a well-founded doubt exists, then the ambiguity occurs which may be settled by the rule of strict construction. (*Justice Dimaampao, Tax Principles and Remedies, pg. 138, citing 2 Cooley, 1415-1418*) | |  |
| **Q: Are tax exemptions revocable?**  **A:** Yes. An exemption from taxation does not confer a vested right, and hence, it may be modified or repealed by the legislature unless such modification or repeal would impair the obligation of a contract.  Similarly, if the basis of the tax exemption is by virtue of a franchise granted by Congress, the exemption may be revoked, in accordance with Article XII, Section 11 of the Constitution. | |  |
| **Q: In case of conflict, should tax laws prevail over general laws?**  **A:** Yes. Tax laws are special laws and prevail over general laws. (*Republic v. Gancayco, G.R. No. L-18307, June 30, 1964*). Hence, the NIRC being a special law, prevails over a general law like the Civil Code in case of conflict in their provisions. | |  |
| **Q: Distinguish Tax Exemption from Tax Amnesty.**  **A:** *Tax Amnesty* is an immunity from all criminal and civil obligations arising from non-payment of taxes. It is a general pardon given to all taxpayers. It partakes of an absolute waiver by the government of its right to collect what is due and to give tax evaders who wish to relent a chance to start with a clean slate. It applies only to past tax periods, hence of retroactive application.  While *Tax Exemption* is an immunity from civil liability only. It is an immunity of privilege, a freedom from a charge or burden of which others are subjected. It is generally prospective in application. (*Justice Dimaampao, Tax Principles and Remedies, pg. 140, citing People v. Castañeda, Jr., 165 SCRA 327 and Florer v. Sheridan, 137 Ind. 28, 36 NE 365*)  **Cartoon characters in a dark room  AI-generated content may be incorrect.** | |  |
| **Prospectivity of Tax Laws** | | |
| **Q: How are tax laws construed?**  **A:** Tax Laws are prospective in operation, unless the language of the statute clearly provides otherwise. (Article 4, New Civil Code; *CIR v. Acosta, G.R. No. 154068, August 3, 2007*)  Article VI, Section 28(1) of the Constitution also provides that Congress shall evolve a progressive system of taxation. | |  |
| **Q: Are administrative rules included in the rule of prospective application?**  **A:** The principle is well entrenched that statutes, including administrative rules and regulations, operate prospectively only, unless the legislative intent to the contrary is manifest by express terms or by necessary implication. (*BPI Leasing Corporation v. Court of Appeals, G.R. No. 127624, November 18, 2003*) | |  |
| **Q: What is the rule when there is doubt as to the construction of a tax law?**    **A:** When there is doubt, tax laws must be construed strictly against the government and in favor of the taxpayer. This is because taxes are burdens on the taxpayer, and should not be unduly imposed or presumed beyond what the statutes expressly and clearly import. (*CIR v. Philippine American Accident Insurance Co., Inc., G.R. No. 141658, March 18, 2005*) | |  |
| **Doctrine of Operative Fact** | | |
| **Q: What is the doctrine of operative fact under Section 246 of the NIRC ?**  **A:** The doctrine of operative fact is incorporated in Section 246 of the Tax Code, which provides that “any revocation, modification, or reversal of any of the rules and regulations promulgated in accordance with the preceding Sections or any of the rulings or circulars promulgated by the Commissioner shall not be given retroactive application if the revocation, modification, or reversal will be prejudicial to the taxpayers.  However, the rule also has exceptions, to wit:   1. Where the taxpayer deliberately misstates or omits material facts from his return or any document required of him by the Bureau of Internal Revenue; 2. Where the facts subsequently gathered by the Bureau of Internal Revenue are materially different from the facts on which the ruling is based; or 3. Where the taxpayer acted in bad faith.” (Sec. 246, NIRC)   Hence, under Section 246, taxpayers may rely upon a rule or ruling issued by the Commissioner from the time the rule or ruling is issued up to its reversal by the Commissioner or this Court. The reversal is not given retroactive effect. This, in essence, is the doctrine of operative fact.  There must, however, be a rule or ruling issued by the Commissioner that is relied upon by the taxpayer in good faith. A mere administrative practice, not formalized into a rule or ruling, will not suffice because such a mere administrative practice may not be uniformly and consistently applied. An administrative practice, if not formalized as a rule or ruling, will not be known to the general public and can be availed of only by those with informal contacts with the government agency. (*CIR v. San Roque Power Corporation, G.R. No. 187485, October 8, 2013*) | |  |
| **Administrative Issues: Circulars / Memoranda / Orders** | | |
| **Q: What is the character of assessment and collection of taxes?**  **A:** The act of assessing and collecting taxes is administrative in character, and therefore can be delegated. Nonetheless, the legislative body has laid down certain rules governing the assessment and collection of taxes in order to prevent its abuse.  *First,* the tax law must designate which agency will collect the taxes. Usually, the BIR and/or the Secretary of Finance wield this power.  *Second,* the circulars or regulations issued by the Secretary of Finance or the Commissioner of the Internal Revenue must be in accordance with the tax measures imposed by Congress. | |  |
| **Q: What are Revenue Regulations (RRs)?**  **A:** These are issuances signed by the Secretary of Finance, upon recommendation of the Commissioner of Internal Revenue, that specify, prescribe or define rules and regulations for the effective enforcement of the provisions of the National Internal Revenue Code (NIRC) and related statutes. (*BIR Official Website*) | |  |
| **Q: What are Revenue Memorandum Orders (RMOs)?**  **A:** These are issuances that provide directives or instructions, prescribe guidelines, and outline processes, operations, activities, workflows, methods and procedures that are necessary in the implementation of stated policies, goals, objectives, plans and programs of the Bureau in all areas of operations, except auditing. (*BIR Official Website*) | |  |
| **Q: What are Revenue Memorandum Circulars (RMCs)?**  **A:** These are issuances that publish pertinent and applicable portions, as well as amplifications, of laws, rules, regulations and precedents issued by the BIR and other agencies/offices. (*BIR Official Website*) | |  |
| **Q: What are Revenue Administration Orders (RAOs)?**  **A:** These are issuances that cover subject matters dealing strictly with the permanent administrative set-up of the Bureau, more specifically, the organizational structure, statements of functions and/or responsibilities of BIR offices, definitions and delegations of authority, staffing and personnel requirements and standards of performance. (*BIR Official Website*) | |  |
| **Q: What are Revenue Delegation of Authority Orders (RDAOs)?**  **A:** These refer to functions delegated by the Commissioner to revenue officials in accordance with law. (*BIR Official Website*) | |  |
| **BIR Rulings / Tariff Rulings / BLGF Opinions** | | |
| **Q: What are BIR Rulings?**    **A:** BIR Rulings are the official position of the BIR to queries that are raised by taxpayers and other stakeholders relative to clarification and interpretation of tax laws. Due to their expertise in the realm of taxation, BIR rulings hold considerable weight in the interpretations of tax laws. However, such is not absolute as judicial courts can overturn them if they are in conflict with the law.  A ruling by the BIR Commissioner shall be presumed valid unless modified, reversed, or superseded by the Secretary of Finance (*Sec. 1, R.M.C. No. 44-01*). | |  |
| **Q: If a BIR ruling is reversed or modified, when is it deemed terminated?**  **A:** A reversal or modification of the BIR ruling shall terminate its effectivity upon the receipt by the taxpayer or the BIR of the written notice of reversal or modification, whichever came earlier. (*Sec. 4, par. 3, R.M.C. No. 44-01*)  **A collage of a cartoon of a person  AI-generated content may be incorrect.** | |  |
| **Q: What is the Commissioner of Internal Revenue’s power to interpret tax laws?**  **A:** The power to interpret the provisions of the Tax Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance (*Sec. 4, par. 1, NIRC*)  The CIR's exercise of its power to interpret tax laws comes in the form of revenue issuances, which include Revenue Memorandum Circulars defined as "issuances that publish pertinent and applicable portions, as well as amplifications, of laws, rules, regulations and precedents issued by the BIR and other agencies/offices.”  These revenue issuances are subject to the review of the Secretary of Finance. In relation thereto, Department of Finance Department Order No. 007-02 issued by the Secretary of Finance lays down the procedure and requirements for filing an appeal from the adverse ruling of the CIR to the said office. A taxpayer is granted 30 days from receipt of the adverse ruling of the CIR to file with the Office of the Secretary of Finance a request for review in writing and under oath. (*Manila Peninsula Hotel Inc., v. CIR, G.R. No. 229338, April 17, 2024*)  However, BIR rulings must conform to the legislative intent and should not enlarge or diminish the law’s provisions (*CIR v. Court of Appeals and Court of Tax Appeals, G.R. No. 107135, February 23, 1999*). | |  |
| **Q: What is the Commissioner of Internal Revenue’s power to decide tax cases?**  **A:** The CIR has the power to decide:   1. Disputed assessments; 2. Refunds of internal revenue taxes, fees, or other charges; 3. Penalties imposed in relation thereto; or 4. Other matters arising under the NIRC or other laws administered by the BIR.   **Note:** These are subject to the exclusive appellate jurisdiction of the Court of Tax Appeals (*Sec. 4, par. 2, NIRC*) | |  |
| **Q: What is the Tariff Commission?**  **A:** The Tariff Commission is a key adviser to the executive and legislative branches of government on tariff and related matters, an independent adjudicatory body on trade remedy cases, and an advocate of a culture of fair competition.  Tariff Troubleshooting 101 : r/WallStreetbetsELITE | |  |
| **Q: What is a Tariff Ruling?**  **A:** Under R.A. No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), specifically Title XI on Administrative and Judicial Procedures, the Tariff Commission is given the power to make advance rulings and dispute settlement regarding tariff classifications and customs valuations. | |  |
| **Q: Where and when is a Tariff Ruling appealable?**  **A:** An aggrieved party may, within thirty (30) days from receipt of an adverse ruling or decision, appeal the same to the CTA without prejudice to the authority of the Secretary of Finance to review decisions adverse to the government in accordance with Sections 1127 and 1128 of this Act, as the case may be. (*Sec. 1104, R.A. No. 10863*) | |  |
| **Q: What is the Bureau of Local Government Finance (BLGF)?**  **A:** The Bureau of Local Government Finance (BLGF) of the Department of Finance (DOF) is mandated to assist in the formulation and implementation of policies on local government revenue administration and treasury and assessment operations.  In support to LGU Finance Operations, the Bureau of Local Government Finance thru the Local Treasury Operations Division (LTOD) issues opinions/rulings on queries relative to local treasury operations and other local finance related queries/communication. (*Bureau of Local Government Official Website*) | |  |
| **Q: Can findings of fact of the BLGF be given weight and deference the same way as findings of fact of judicial courts?**  **A:** The BLGF was created to provide consultative services and technical assistance to LGUs and the general public on local taxation, real property assessment, and other related matters, among others. To be sure, the BLGF is not an administrative agency whose findings on questions of fact are given weight and deference in the court, in contrast with the Court of Tax Appeals, a highly specialized court which performs judicial functions as it was created for the review of tax cases. (*City of Makati v. Municipality of Bakun and Luzon Hydro Corporation, CTA EB Case No. 1179, January 14, 2016*) | |  |
| **National Tax Research Center and Philippine Tax Academy** | | |
| **Q: What is the National Tax Research Center and its purpose?**  A: Formally organized in 1960, The National Tax Research Center (NTRC) is an attached agency of the Department of Finance that is mandated to conduct continuing research in taxation to improve the tax system and raise the level of tax consciousness among the people to achieve a faster rate of economic growth and to bring about a more equitable distribution of wealth and income.  To further promote tax awareness and education, the NTRC consistently produces and disseminates accessible tax information through its Tax Research Journal, FIRB Imprint publications, and monthly e-newsletters—all regularly uploaded to the NTRC and Fiscal Incentives Review Board (FIRB) websites. | |  |
| **Q: What is the Philippine Tax Academy and its purpose?**  **A:** The Philippine Tax Academy (PTA) was established and created under R.A. No. 10143, otherwise known as the Philippine Tax Academy Act, mandated to train, mold, enhance, and to develop capabilities of tax and customs collectors and administrators of the government to help improve their tax collection efficiency to become competent and effective public servants. (*Sec. 2, R.A. No. 10143*)  **A person shaking hands with another person  AI-generated content may be incorrect.** | |  |
| **CIR v. Acosta**  **G.R. No. 154068 | August 03, 2007**    *The issue presented before the Supreme Court in this case is whether the liberal application of technicalities in tax refund cases is applicable regarding the amended return filed by Acosta.*  NO. The Supreme Court was unable to agree on respondent’s submission invoking the liberal application of technicalities in tax refund cases.  Entrenched in our jurisprudence is the principle that tax refunds are in the nature of tax exemptions which are construed *strictissimi juris* against the taxpayer and liberally in favor of the government. As tax refunds involve a return of revenue from the government, the claimant must show indubitably the specific provision of law from which her right arises; it cannot be allowed to exist upon a mere vague implication or inference nor can it be extended beyond the ordinary and reasonable intendment of the language *actually used* by the legislature in granting the refund. To repeat, strict compliance with the conditions imposed for the return of revenue collected is a doctrine consistently applied in this jurisdiction.  Under the circumstances of this case, we cannot agree that the amended return filed by respondent constitutes the written claim for refund required by the old Tax Code, the law prevailing at that time. Neither can we apply the liberal interpretation of the law based on our pronouncement in the case of *BPI-Family Savings Bank, Inc. v. Court of Appeals,* as the taxpayer therein filed a written claim for refund aside from presenting other evidence to prove its claim, unlike this case before us. | |  |
| **CIR v. CA and Alhambra Industries, Inc.**  **G.R. No. 117982 | February 06, 1997**    *Whether private respondent's reliance on a void BIR ruling conferred upon the latter a vested right to apply the same in the computation of its ad valorem tax and claim for tax refund.*  The Supreme Court ruled in the negative. Private respondent did not question the correctness of the above BIR ruling. In fact, upon knowledge of the effectivity of BIR Ruling No. 017-91, private respondent immediately implemented the method of computation mandated therein by restoring the VAT in computing the tax base for purposes of the 15% ad valorem tax.  However, well-entrenched is the rule that rulings and circulars, rules and regulations promulgated by the Commissioner of Internal Revenue would have no retroactive application if to so apply them would be prejudicial to the taxpayers. (*Sec. 246, NIRC*) Without doubt, private respondent would be prejudiced by the retroactive application of the revocation as it would be assessed deficiency excise tax.  Thus, the deficiency tax assessment issued by petitioner CIR against private respondent is without legal basis because of the prohibition against the retroactive application of the revocation of BIR rulings in the absence of bad faith on the part of private respondent. | |  |
| **CIR v. Filinvest Development Corporation**  **G.R. No. 163653 | July 19, 2011**  *The issue presented before the Supreme Court in this case is whether the CIR may legally assess income tax on the increase in the value of respondent FDC's shareholdings in FAC until the same is actually sold at a profit*.  NO. Even if the Court were to agree, therefore, to accord precipitate credulity to the CIR's bare assertion that FDC had deducted substantial interest expense from its gross income, there would still be no factual basis for the imputation of theoretical interests on the subject advances and assess deficiency income taxes thereon. More so, when it is borne in mind that, pursuant to Article 1956 of the *Civil Code of the Philippines*, no interest shall be due unless it has been expressly stipulated in writing. Considering that taxes, being burdens, are not to be presumed beyond what the applicable statute expressly and clearly declares, the rule is likewise settled that tax statutes must be construed strictly against the government and liberally in favor of the taxpayer.  Accordingly, the general rule of requiring adherence to the letter in construing statutes applies with peculiar strictness to tax laws and the provisions of a taxing act are not to be extended by implication. While it is true that taxes are the lifeblood of the government, it has been held that their assessment and collection should be in accordance with law as any arbitrariness will negate the very reason for government itself. | |  |
| **San Miguel Corp. vs. CIR**  **G.R. Nos. 257697 & 259446 | April 12, 2023.**  *The issue presented in this case is whether the ruling of the Supreme Court in CIR v. Filinvest Development Corporation, G.R. No. 163653, July 19, 2011****,*** *may be applied retroactively.*  YES. In *Filinvest*, the Court held that the instructional letters, as well as the journal and cash vouchers evidencing the advances FDC extended to its affiliates, qualified as loan agreements upon which Documentary Stamp Tax (DST) may be imposed. This interpretation is sanctioned by Section 179 of the NIRC, as amended, as the same clearly requires a DST on debt instruments. The Court's interpretation of "loan agreements" referred to in Section 179 of the NIRC, as pronounced in *Filinvest*, should be deemed a part of the NIRC as of the date it was passed.  Applying the foregoing to the present case, the Court finds that the application of *Filinvest* to SMC's case is not violative of the principle of non-retroactivity of laws and rulings. It is consequently clear that a judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith. To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication. | |  |
| **Supreme Transliner, Inc. v. BPI Family Savings Bank, Inc.**  **G.R. Nos. 165617 & 165837 | February 23, 2011**  *The issue presented before the Supreme Court in this case is, should the capital gains tax be included in the redemption price when the mortgagor exercises the right of redemption within the statutory period?*  NO, the capital gains tax should not be included. Although the subject foreclosure sale and redemption took place before the effectivity of RR No. 4-99, its provisions may be given retroactive effect in this case, under Section 246 of the NIRC of 1997. In this case, the retroactive application of RR No. 4-99 is more consistent with the policy of aiding the exercise of the right of redemption. As the Court of Tax Appeals concluded in one case, RR No. 4-99 "has curbed the inequity of imposing a capital gains tax even before the expiration of the redemption period [since] there is yet no transfer of title and no profit or gain is realized by the mortgagor at the time of foreclosure sale but only upon expiration of the redemption period." In his commentaries, De Leon expressed the view that while revenue regulations as a general rule have no retroactive effect, if the revocation is due to the fact that the regulation is erroneous or contrary to law, such revocation shall have retroactive operation as to affect past transactions, because a wrong construction of the law cannot give rise to a vested right that can be invoked by a taxpayer.  Considering that herein petitioners-mortgagors exercised their right of redemption before the expiration of the statutory one-year period, petitioner bank is not liable to pay the capital gains tax due on the extrajudicial foreclosure sale. There was no actual transfer of title from the owners-mortgagors to the foreclosing bank. Hence, the inclusion of the said charge in the total redemption price was unwarranted and the corresponding amount paid by the petitioners-mortgagors should be returned to them. | |  |
| **CIR v. Court of Appeals and Alhambra Industries, Inc.**  **G.R. No. 117982 | February 06, 1997**  *The Supreme Court in this case passed upon the issue of whether deficiency taxes can be assessed on the basis of the retroactive application of a BIR ruling.*  The Supreme Court held that well-entrenched is the rule that rulings and circulars, rules and regulations promulgated by the Commissioner of Internal Revenue would have no retroactive application if to so apply them would be prejudicial to the taxpayers. The deficiency tax assessment issued by petitioner against private respondent is without legal basis because of the prohibition against the retroactive application of the revocation of BIR rulings in the absence of bad faith on the part of private respondent. Thus, petitioner CIR was ordered to refund private respondent Alhambra Industries, Inc., the amount of P520,835.29 upon finality of this Decision. | |  |
| **CIR v. Burroughs Limited and the CTA**  **G.R. No. L-66653 | June 19, 1986**  *The issue presented in this case was whether private respondent Burroughs Limited is legally entitled to a refund of the amount of P172,058.90*.  The Supreme Court ruled in the affirmative. Petitioner CIR contends that respondent is no longer entitled to a refund because Memorandum Circular No. 8-82 dated March 17, 1982 had revoked and/or repealed the BIR ruling of January 21, 1980. Petitioner’s contention is without merit as what is applicable in the case at bar is still the Revenue Ruling of January 21, 1980 because private respondent Burroughs Limited paid the branch profit remittance tax in question on *March 14, 1979.* Memorandum Circular No. 8-82 dated March 17, 1982 cannot be given retroactive effect in the light of Section 327 (Now Section 246) of the NIRC.  The prejudice that would result to private respondent Burroughs Limited by a retroactive application of Memorandum Circular No. 8-82 is beyond question for it would be deprived of the substantial amount of P172,058.90. And, insofar as the enumerated exceptions are concerned, admittedly, Burroughs Limited does not fall under any of them. | |  |
| **British American Tobacco, Inc. v. Camacho**  **G.R. No. 163583 | August 20, 2008**  *The issue presented before the Supreme Court in this case was whether the disputed classification freeze provision is violative of the equal protection and uniformity of taxation clauses because older tobacco brands are taxed based on their 1996 net retail prices while new brands are taxed based on their present-day net retail prices*.  No, the classification is not violative of the equal protection and uniformity of taxation clauses.  The classification is considered valid and reasonable provided that: (1) it rests on substantial distinctions; (2) it is germane to the purpose of the law; (3) it applies, all things being equal, to both present and future conditions; and (4) it applies equally to all those belonging to the same class.  In this case, the first, third and fourth requisites are satisfied. The classification freeze provision was inserted in the law for reasons of practicality and expediency and could hardly be considered arbitrary, or motivated by a hostile or oppressive attitude to unduly favor older brands over newer brands.  All in all, the classification freeze provision addressed Congress’s administrative concerns in the simplification of tax administration of sin products, elimination of potential areas for abuse and corruption in tax collection, buoyant and stable revenue generation, and ease of projection of revenues. Consequently, there can be no denial of the equal protection of the laws since the rational-basis test is amply satisfied. | |  |
| **Mactan Cebu International Airport Authority v. Hon. Marcos**  **G.R. No. 120082 | September 11, 1996**  *In this case, the Supreme Court was tasked to resolve whether petitioner Mactan Cebu International Airport Authority (MCIAA), created by virtue of* *R.A. No. 6958, is entitled to a tax exemption.*  The Supreme Court ruled in the negative. There can be no question that under Section 14 of R.A. No. 6958 the petitioner is exempt from the payment of realty taxes imposed by the National Government or any of its political subdivisions, agencies, and instrumentalities. Nevertheless, since taxation is the rule and exemption therefrom the exception, the exemption may thus be withdrawn at the pleasure of the taxing authority. The only exception to this rule is where the exemption was granted to private parties based on material consideration of a mutual nature, which then becomes contractual and is thus covered by the non-impairment claim of the Constitution.  Since the last paragraph of Section 234 unequivocally withdrew, upon the effectivity of the LGC, exemptions from payment of real property taxes granted to natural or juridical persons, including government-owned or controlled corporations, except as provided in the said section, and the petitioner is, undoubtedly, a government-owned corporation, it necessarily follows that its exemption from such tax granted it in Section 14 of its Charter, R.A. No. 6958, has been withdrawn. Any claim to the contrary can only be justified if the petitioner can seek refuge under any of the exceptions provided in Section 234, but not under Section 133, as it now asserts, since, as shown above, the said section is qualified by Sections 232 and 234.  In short, the petitioner can no longer invoke the general rule in Section 133 that the taxing powers of the local government units cannot extend to the levy of: “(o) taxes, fees or charges of any kind on the National Government, its agencies or instrumentalities, and local government units.” | |  |
| **CIR v. Philippine American Accident Insurance Co., Inc.**  **G.R. No. 141658 | March 18, 2005**  *The issue to be resolved in this case is: Are the respondent domestic insurance companies that incidentally lend money as part of their regulated insurance operations classified as “lending investors” subject to the 3% percentage tax under the NIRC?*  NO, insurance companies cannot be classified as lending investors subject to the 3% percentage tax.  Petitioner alleges that the definition of lending investors under CA 466 is broad enough to encompass insurance companies. Petitioner insists that because of Section 194(u), the two principal activities of the insurance business, namely, underwriting and investment, are separately taxable. Petitioner also contends that the refund granted to respondents is in the nature of a tax exemption, and cannot be allowed unless granted explicitly and categorically.  The rule that tax exemptions should be construed strictly against the taxpayer presupposes that the taxpayer is clearly subject to the tax being levied against him. Unless a statute imposes a tax clearly, expressly and unambiguously, what applies is the equally well-settled rule that the imposition of a tax cannot be presumed. Where there is doubt, tax laws must be construed strictly against the government and in favor of the taxpayer. This is because taxes are burdens on the taxpayer, and should not be unduly imposed or presumed beyond what the statutes expressly and clearly import.  In this case, the definition in Section 194(u) of CA 466 is not broad enough to include the business of insurance companies. The Insurance Code of 1978 is very clear on what constitutes an insurance company.  … More specifically, respondents fall under the category of insurance corporations as defined in Section 185 of the Insurance Code. | |  |
| **National Power Corporation v. City of Cabanatuan**  **G.R. No. 149110 | April 9, 2003**  *One of the issues that was brought in this case was whether petitioner NPC’s tax-exemption under R.A. No. 6395 is repealed or withdrawn by the general provisions of the Local Government Code, specifically Section 193 thereof*.  As a rule, tax exemptions are construed strongly against the claimant. Exemptions must be shown to exist clearly and categorically, and supported by clear legal provisions. In the case at bar, the petitioner's sole refuge is section 13 of Rep. Act No. 6395 exempting from, among others, "all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities." However, section 193 of the LGC withdrew, subject to limited exceptions, the sweeping tax privileges previously enjoyed by private and public corporations. Contrary to the contention of petitioner, section 193 of the LGC is an express, albeit general, repeal of all statutes granting tax exemptions from local taxes.  Not being a local water district, a cooperative registered under R.A. No. 6938, or a non-stock and non-profit hospital or educational institution, petitioner clearly does not belong to the exception. It is therefore incumbent upon the petitioner to point to some provisions of the LGC that expressly grant it exemption from local taxes. But this would be an exercise in futility. Section 137 of the LGC clearly states that the LGUs can impose franchise tax "*notwithstanding any exemption granted by any law or other special law*." This particular provision of the LGC does not admit any exception. | |  |
| **V. LOCAL TAXATION** | | |
| **Section 128, RA No. 7160 (LGC)**  *Scope.* - The provisions herein shall govern the exercise by provinces, cities, municipalities, and barangays of their taxing and other revenue-raising powers. | **Q: What does Section 128, RA No. 7160 (LGC) govern?**  **A:** It shall govern the exercise by provinces, cities, municipalities, and barangays of their taxing and other revenue-raising powers. |  |
| **Q: What are the local taxing powers and authorities?**  **A:**   1. Cities (Sangguniang Panlungsod) 2. Provinces (sangguniang panlalawigan) 3. Municipalities (sangguniang pambayan) 4. Barangay (barangay council) | |  |
| **Section 129, RA No. 7160 (LGC)**  *Power to Create Sources of Revenue.* - Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units. | |  |
| **Section 130, RA No. 7160 (LGC)**  *Fundamental Principles.* - The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:  (a) Taxation shall be uniform in each local government unit;  (b) Taxes, fees, charges and other impositions shall:  (1) be equitable and based as far as practicable on the taxpayer's ability to pay;  (2) be levied and collected only for public purposes;  (3) not be unjust, excessive, oppressive, or confiscatory;  (4) not be contrary to law, public policy, national economic policy, or in the restraint of trade;  (c) The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;  (d) The revenue collected pursuant to the provisions of this Code shall inure solely to the benefit of, and be subject to the disposition by, the local government unit levying the tax, fee, charge or other imposition unless otherwise specifically provided herein; and,  (e) Each local government unit shall, as far as practicable, evolve a progressive system of taxation. | **Q: What are the fundamental principles for the taxing and other revenue-raising powers of LGUs?**  **A:** According to Sec. 130 of RA No. 7160:   * + 1. Taxation shall be uniform in each local government unit;     2. Taxes, fees, charges and other impositions shall:  1. be equitable and based as far as practicable on the taxpayer's ability to pay; 2. be levied and collected only for public purposes; 3. not be unjust, excessive, oppressive, or confiscatory; 4. not be contrary to law, public policy, national economic policy, or in the restraint of trade;    * 1. The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;      2. The revenue collected pursuant to the provisions of this Code shall inure solely to the benefit of, and be subject to the disposition by, the local government unit levying the tax, fee, charge or other imposition unless otherwise specifically provided herein; and,      3. Each local government unit shall, as far as practicable, evolve a progressive system of taxation. |  |
| **Section 131, R.A. No. 7160 (LGC)**  *Definition of Terms.* - When used in this Title, the term:   1. **"Agricultural Product"** includes the yield of the soil, such as corn, rice, wheat, rye, hay. coconuts, sugarcane, tobacco, root crops, vegetables, fruits, flowers, and their by-products; ordinary salt; all kinds of fish; poultry; and livestock and animal products, whether in their original form or not.   The phrase "whether in their original form or not" refers to the transformation of said products by the farmer, fisherman, producer or owner through the application of processes to preserve or otherwise to prepare said products for market such as freezing, drying, salting, smoking, or stripping for purposes of preserving or otherwise preparing said products for market;   1. **"Amusement"** is a pleasurable diversion and entertainment. It is synonymous to relaxation, avocation, pastime, or fun; 2. **"Amusement Places"** include theaters, cinemas, concert halls, circuses and other places of amusement where one seeks admission to entertain oneself by seeing or viewing the show or performances; 3. **"Business"** means trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit; 4. **"Banks and other financial institutions"** include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder; 5. **"Capital Investment"** is the capital which a person employs in any undertaking, or which he contributes to the capital of a partnership, corporation, or any other juridical entity or association in a particular taxing jurisdiction; 6. **"Charges"** refers to pecuniary liability, as rents or fees against persons or property; 7. **"Contractor"** includes persons, natural or juridical, not subject to professional tax under Section 139 of this Code, whose activity consists essentially of the sale of all kinds of services for a fee, regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees.   As used in this Section, the term "contractor" shall include general engineering, general building and specialty contractors as defined under applicable laws; filling, demolition and salvage works contractors; proprietors or operators of mine drilling apparatus; proprietors or operators of dockyards; persons engaged in the installation of water system, and gas or electric light, heat, or power; proprietors or operators of smelting plants, engraving, plating, and plastic lamination establishments; proprietors or operators of establishments for repairing, repainting, upholstering, washing or greasing of vehicles, heavy equipment, vulcanizing, recapping and battery charging; proprietors or operators of furniture shops and establishments for planing or surfacing and recutting of lumber, and sawmills under contract to saw or cut logs belonging to others; proprietors or operators of dry cleaning or dyeing establishments, steam laundries, and laundries using washing machines; proprietors or owners of shops for the repair of any kind of mechanical and electrical devices, instruments, apparatus, or furniture and shoe repairing by machine or any mechanical contrivance; proprietors or operators of establishments or lots for parking purposes; proprietors or operators of tailor shops, dress shops, milliners and hatters, beauty parlors, barbershops, massage clinics, sauna, Turkish and Swedish baths, slenderizing and building salons and similar establishments; photographic studios; funeral parlors; proprietors or operators of hotels, motels, and lodging houses; proprietors or operators of arrastre and stevedoring, warehousing, or forwarding establishments; master plumbers, smiths, and house or sign painters; printers, bookbinders, lithographers; publishers except those engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication and advertisements; business agents, private detective or watchman agencies, commercial and immigration brokers, and cinematographic film owners, lessors and distributors.   1. **"Corporation"** includes partnerships, no matter how created or organized, joint-stock companies, joint accounts *(cuentas en participacion)*, associations or insurance companies but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal, and other energy operations pursuant to an operating or consortium agreement under a service contract with the government. General professional partnership are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.   The term "resident foreign" when applied to a corporation means a foreign corporation not otherwise organized under the laws of the Philippines but engaged in trade or business within the Philippines;   1. **"Countryside and Barangay Business Enterprise"** refers to any business entity, association, or cooperative registered under the provisions of Republic Act Numbered Sixty-eight hundred ten (R.A. No. 6810), otherwise known as "Magna Carta For Countryside And Barangay Business Enterprises (Kalakalan 20)"; 2. **"Dealer"** means one whose business is to buy and sell merchandise, goods, and chattels as a merchant. He stands immediately between the producer or manufacturer and the consumer and depends for his profit not upon the labor he bestows upon his commodities but upon the skill and foresight with which he watches the market; 3. **"Fee"** means a charge fixed by law or ordinance for the regulation or inspection of a business or activity; 4. **"Franchise"** is a right or privilege, affected with public interest which is conferred upon private persons or corporations, under such terms and conditions as the government and its political subdivisions may impose in the interest of public welfare, security, and safety; 5. **"Gross Sales or Receipts"** include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax, and value-added tax (VAT); 6. **"Manufacturer"** includes every person who, by physical or chemical process, alters the exterior texture or form or inner substance of any raw material or manufactured or partially manufactured product in such manner as to have been put in its original condition, or who by any such process alters the quality of any such raw material or manufactured or partially manufactured products so as to reduce it to marketable shape or prepare it for any of the use of industry, or who by any such process combines any such raw material or manufactured or partially manufactured products with other materials or products of the same or of different kinds and in such manner that the finished products of such process or manufacture can be put to a special use or uses to which such raw material or manufactured or partially manufactured products in their original condition could not have been put, and who in addition alters such raw material or manufactured or partially manufactured products, or combines the same to produce such finished products for the purpose of their sale or distribution to others and not for his own use or consumption; 7. **"Marginal Farmer or Fisherman"** refers to an individual engaged in subsistence farming or fishing which shall be limited to the sale, barter or exchange of agricultural or marine products produced by himself and his immediate family; 8. **"Motor Vehicle"** means any vehicle propelled by any power other than muscular power using the public roads, but excluding road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public roads, vehicles which run only on rails or tracks, and tractors, trailers, and traction engines of all kinds used exclusively for agricultural purposes; 9. **"Municipal Waters"** includes not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two (2) municipalities are so situated on the opposite shores that there is less than fifteen (15) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of their respective municipalities; 10. **"Operator"** includes the owner, manager, administrator, or any other person who operates or is responsible for the operation of a business establishment or undertaking; 11. **"Peddler"** means any person who, either for himself or on commission, travels from place to place and sells his goods or offers to sell and deliver the same. Whether a peddler is a wholesale peddler or a retail peddler of a particular commodity shall be determined from the definition of wholesale dealer or retail dealer as provided in this Title; 12. **"Persons"** means every natural or juridical being, susceptible of rights and obligations or of being the subject of legal relations; 13. **"Residents"** refer to natural persons who have their habitual residence in the province, city, or municipality where they exercise their civil rights and fulfill their civil obligations, and to juridical persons for which the law or any other provisions creating or recognizing them fixes their residence in a particular province, city, or municipality. In the absence of such law, juridical persons are residents of the province, city, or municipality where they have their legal residence or principal place of business or where they conduct their principal business or occupation; 14. **"Retail"** means a sale where the purchaser buys the commodity for his own consumption, irrespective of the quantity of the commodity sold; 15. **"Vessel"** includes every type of boat, craft, or other artificial contrivance used, or capable of being used, as a means of transportation on water; 16. **"Wharfage"** means a fee assessed against the cargo of a vessel engaged in foreign or domestic trade based on quantity, weight, or measure received and/or discharged by vessel; and 17. **"Wholesale"** means a sale where the purchaser buys or imports the commodities for resale to persons other than the end user regardless of the quantity of the transaction. | |  |
| **Section 132, R.A. No. 7160 (LGC)**  *Local Taxing Authority.* - The power to impose a tax, fee, or charge or to generate revenue under this Code shall be exercised by the sanggunian of the local government unit concerned through an appropriate ordinance. | **Q: Are the provisions of the LGC self-operating?**  **A:** NO, the provisions of the LGC are NOT self-operating because the local taxing authority is limited by the provisions of the LGC, such as:   * *Sec. 142, RA No. 7160: Local Taxing Authority.* - The power to impose a tax, fee, or charge or to generate revenue under this Code shall be exercised by the sanggunian of the local government unit concerned through an appropriate ordinance. * *Sec. 54-59* which provides for the approval, review and effectivity of ordinances * *Sec. 189* which directs that a public hearing must be conducted prior to the enactment of any local tax ordinance or revenue measure   Moreover, the power of the LGU to impose tax must be supported by an ordinance and must be in accordance with the LGC. |  |
| **Section 133, RA No.7160 (LGC)**  *Common Limitations on the Taxing Powers of Local Government Units.* - Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:  (a) Income tax, except when levied on banks and other financial institutions;  (b) Documentary stamp tax;  (c) Taxes on estates, inheritance, gifts, legacies and other acquisitions mortis causa, except as otherwise provided herein;  (d) Customs duties, registration fees of vessel and wharfage on wharves, tonnage dues, and all other kinds of customs fees, charges and dues except wharfage on wharves constructed and maintained by the local government unit concerned;  (e) Taxes, fees, and charges and other impositions upon goods carried into or out of, or passing through, the territorial jurisdictions of local government units in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees, or charges in any form whatsoever upon such goods or merchandise;  (f) Taxes, fees or charges on agricultural and aquatic products when sold by marginal farmers or fishermen;  (g) Taxes on business enterprises certified to by the Board of Investments as pioneer or non-pioneer for a period of six (6) and four (4) years, respectively from the date of registration;  (h) Excise taxes on articles enumerated under the national Internal Revenue Code, as amended, and taxes, fees or charges on petroleum products;  (i) Percentage or value-added tax (VAT) on sales, barters or exchanges or similar transactions on goods or services except as otherwise provided herein;  (j) Taxes on the gross receipts of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carriers by air, land or water, except as provided in this Code;  (k) Taxes on premiums paid by way or reinsurance or retrocession;  (l) Taxes, fees or charges for the registration of motor vehicles and for the issuance of all kinds of licenses or permits for the driving thereof, except tricycles;  (m) Taxes, fees, or other charges on Philippine products actually exported, except as otherwise provided herein;  (n) Taxes, fees, or charges, on Countryside and Barangay Business Enterprises and cooperatives duly registered under R.A. No. 6810 and Republic Act Numbered Sixty-nine hundred thirty-eight (R.A. No. 6938) otherwise known as the "Cooperative Code of the Philippines" respectively; and  (o) Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units. | **Q: What are the common limitations on the taxing powers of the LGU?**  **A: Based on Section 133, RA No.7160 (LGC),** unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:   1. INCOME TAX (except when levied on banks and other FIs) 2. DST 3. TAX ON ESTATE, INHERITANCE, GIFT, LEGACY AND OTHER ACQUISITIONS MORTIS CAUSA 4. CUSTOMS DUTIES, REGISTRATION FEES OF VESSEL, WHARFAGE ON WHARVES, TONNAGE DUES, CUSTOMS FEES 5. TAXES, FEES AND CHARGES UPONS GOODS CARRIED INTO OR OUT OF THE TERRITORIAL JURISDICTIONS OF LGUS 6. TAXES, FEES OR CAHRGES ON AGRICULTURAL OR AQUATIC PRODUCTS WHEN SOLD BY MARGINAL FARMERS OR FISHERMEN 7. TAXES ON BUSINESS ENTERPRISES CERTFIIED BY BOI AS PIONEER OR NON-PIONEER FOR A PERIOD OF 6 AND 4 YEARS, RESPECTIVELY, FROM THE DATE OF REGISTRATION 8. EXCISE TAXES ON ARTICLES ENUMERATED UNDER NIRC AND TAXES, FEES, OR CHARGES ON PETROLEUM PRODCUTS 9. PERCENTAGE OR VAT ON SALES, BARTERS, OR EXCHANGE OF SIMILAR TRANSACTIONS ON GOODS OR SERVICES 10. TAXES ON GROSS RECEIPTS OF TRANSPORTATION OF PASSENGERS, FREIGHT BY HIRE AND COMMON CARRIERS BY AIR, LAND, OR WATER, EXCEPT AS PROVIDED IN THIS CODE   **Note:** the term “except as provided in this Code” refers to the authority of LGUs to levy annual fixed dates on delivery vans of manufacturers, producers or dealers, and the franchising of tricycles (IRR of LGC, Art. 221 [i])  The same provision can be found under the Expanded VAT Law.   1. TAXES ON PREMIUMS PAID BY WAY OF REINSURANCE OR RETROCESSION 2. TAXES, FEES, OR CHANGES FOR THE REGISTRATION OF MOTOR VEHICLES AND FOR ISSUANCE OF ALL KINDS OF LICENSES/PERMITS FOR DRIVING EXCEPT TRICYCLES 3. TAXES, FEES, OR CHARGES ON PHILIPPINE PRODUCTS ACTUALLY EXPORTED (except as otherwise provided therein) 4. TAXES, FEES, OR CHARGES ON COUNTRYSIDE AND BARNAGAY BUSINESS ENTERPRISES (CBBEs) AND COOPERATIVES REGISTERED UNDER RA NO. 6810 AND 6398   **Note:** CBBEs have been replaced by the Barangay Micro Business Enterprises (BMBes) under RA No. 9178   1. TAXES, FEES, OR CHARGES OF ANY KIND ON THE NATIONAL GOVERNMENT, ITS AGENCIES AND INSTRUMENTALITIES AND LGUS |  |
| **Q: What is retrocession?**  **A:** A transaction where one insurance entity (retrocessionaire agrees to indemnify another insurance entity (reinsurer) against all or part of the loss that the latter may sustain under a policy of reinsurance that it has issued. | |  |
| **Q: Can a LGU impose taxes, fees or charges on all agricultural and aquatic products?**  **A:** No. If the agricultural or aquatic products are sold by marginal farmers or fishermen, then the LGU cannot impose taxes on them. | |  |
| **Q: On Sec. 133(e) of the LGC, it is understood that the municipalities cannot tax the goods that are being transported by the vehicles. What can they tax instead in relation to this?**  **A:** The LGU can tax or impose fees on the vehicles using its roads, using toll fees. | |  |
| **Q: What is the exclusionary doctrine or the principle of pre-emption?**  **A:** The doctrine of preemption is when, once the national government elects to tax a particular area, the effect is that it withholds the local government from delegating the power to tax on the same field. The intention of Congress must be considered for this. | |  |
| **General Principles and Fundamental Principles** | | |
| **Section 134, RA No.7160 (LGC)**  *Scope of Taxing Powers.* - Except as otherwise provided in this Code, the province may levy only the taxes, fees, and charges as provided in this Article. | **Q: Can a province levy any type of taxes it may wish?**  **A:** No. Section 134 is specific in stating that **“**the province may levy only the taxes, fees, and charges as provided in this Article” |  |
| **Q: Can a municipality levy taxes, fees, and charges?**  **A:** Yes, as long as it is not taxed by the province. | |  |
| **Section 135, RA No. 7160 (LGC)**  *Tax on Transfer of Real Property Ownership.*  (a) The province may impose a tax on the sale, donation, barter, or on any other mode of transferring ownership or title of real property at the rate of not more than fifty percent (50%) of the one percent (1%) of the total consideration involved in the acquisition of the property or of the fair market value in case the monetary consideration involved in the transfer is not substantial, whichever is higher. The sale, transfer or other disposition of real property pursuant to R.A. No. 6657 shall be exempt from this tax.  (b) For this purpose, the Register of Deeds of the province concerned shall, before registering any deed, require the presentation of the evidence of payment of this tax. The provincial assessor shall likewise make the same requirement before cancelling an old tax declaration and issuing a new one in place thereof, Notaries public shall furnish the provincial treasurer with a copy of any deed transferring ownership or title to any real property within thirty (30) days from the date of notarization.  It shall be the duty of the seller, donor, transferor, executor or administrator to pay the tax herein imposed within sixty (60) days from the date of the execution of the deed or from the date of the decedent's death. | **Q: What are the taxing powers of LGUs?**  **A:**   1. Common revenue-raising powers *(Sec. 153-155)* 2. Specific powers *(Sec. 135-143, 147-149, 151-152)* 3. Community tax *(Sec. 156)* 4. Residual Taxing Powers *(Sec. 186)* |  |
| **Province** | | |
| **Q: What are the specific powers of provinces to impose taxes?**  **A:**   1. *Tax on the transfer of real property ownership* 2. *Tax on Business of Printing and Publication* 3. *Franchise tax* 4. *Tax on sand, gravel, and other quarry resources* 5. *Professional tax* 6. *Amusement tax* 7. *Annual fixed tax for delivery truck, van, manufacturer/producer/wholesaler/dealer/retailer in certain products* | |  |
| **Section 136, R.A. No. 7160 (LGC)**  *Tax on Business of Printing and Publication.* - The province may impose a tax on the business of persons engaged in the printing and/or publication of books, cards, posters, leaflets, handbills, certificates, receipts, pamphlets, and others of similar nature, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year.  In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.  The receipts from the printing and/or publishing of books or other reading materials prescribed by the Department of Education, Culture and Sports as school texts or references shall be exempt from the tax herein imposed. | |  |
| **Section 137, R.A. No. 7160 (LGC)**  *Franchise Tax.* - Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at the rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.  In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereon, as provided herein. | |  |
| **Section 138, RA No.7160 (LGC)**  *Tax on Sand, Gravel and Other Quarry Resources.* - The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.  The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sangguniang panlalawigan.  The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:   * 1. **Province -** Thirty percent (30%);   2. **Component City or Municipality where the sand, gravel, and other quarry resources are extracted** - Thirty percent (30%); and   3. **Barangay where the sand, gravel, and other quarry resources are extracted** - Forty percent (40%). | |  |
| **Municipalities** | | |
| **Section 139, RA No. 7160 (LGC)**  *Professional Tax.* -  (a) The province may levy an annual professional tax on each person engaged in the exercise or practice of his profession requiring government examination at such amount and reasonable classification as the sangguniang panlalawigan may determine but shall in no case exceed Three hundred pesos (P300.00).  (b) Every person legally authorized to practice his profession shall pay the professional tax to the province where he practices his profession or where he maintains his principal office in case he practices his profession in several places: Provided, however, That such person who has paid the corresponding professional tax shall be entitled to practice his profession in any part of the Philippines without being subjected to any other national or local tax, license, or fee for the practice of such profession.  (c) Any individual or corporation employing a person subject to professional tax shall require payment by that person of the tax on his profession before employment and annually thereafter.  (d) The professional tax shall be payable annually, on or before the thirty-first (31st) day of January. Any person first beginning to practice a profession after the month of January must, however, pay the full tax before engaging therein. A line of profession does not become exempt even if conducted with some other profession for which the tax has been paid. Professionals exclusively employed in the government shall be exempt from the payment of this tax.  (e) Any person subject to the professional tax shall write in deeds, receipts, prescriptions, reports, books of account, plans and designs, surveys and maps, as the case may be, the number of the official receipt issued to him. | **Q: Can a municipality impose and collect reasonable charges on business and occupation?**  **A:** YES, BUT those reserved to the province under Sec. 139 on the practice of any profession cannot be taxed by the municipality. |  |
| **Section 140, RA No. 7160 (LGC)**  *Amusement Tax.* -   * 1. The province may levy an amusement tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia, and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees.   2. In the case of theaters or cinemas, the tax shall first be deducted and withheld by their proprietors, lessees, or operators and paid to the provincial treasurer before the gross receipts are divided between said proprietors, lessees, or operators and the distributors of the cinematographic films.   3. The holding of operas, concerts, dramas, recitals, painting and art exhibitions, flower shows, musical programs, literary and oratorical presentations, except pop, rock, or similar concerts shall be exempt from the payment of the tax hereon imposed.   4. The sangguniang panlalawigan may prescribe the time, manner, terms and conditions for the payment of tax. In case of fraud or failure to pay the tax, the sangguniang panlalawigan may impose such surcharges, interest and penalties as it may deem appropriate.   5. The proceeds from the amusement tax shall be shared equally by the province and the municipality where such amusement places are located. | |  |
| **Section 141, RA No. 7160 (LGC)**  *Annual Fixed Tax For Every Delivery Truck or Van of Manufacturers or Producers, Wholesalers of, Dealers, or Retailers in, Certain Products.* -   1. The province may levy an annual fixed tax for every truck, van or any vehicle used by manufacturers, producers, wholesalers, dealers or retailers in the delivery or distribution of distilled spirits, fermented liquors, soft drinks, cigars and cigarettes, and other products as may be determined by the sangguniang panlalawigan, to sales outlets, or consumers, whether directly or indirectly, within the province in an amount not exceeding Five hundred pesos (P500.00). 2. The manufacturers, producers, wholesalers, dealers and retailers referred to in the immediately foregoing paragraph shall be exempt from the tax on peddlers prescribed elsewhere in this Code. | |  |
| **Section 142, RA No.7160 (LGC)**  *Scope of Taxing Powers.* - Except as otherwise provided in this Code, municipalities may levy taxes, fees, and charges not otherwise levied by provinces. | |  |
| **Section 143, RA No.7160 (LGC)**  *Tax on Business.* - The municipality may impose taxes on the following businesses:  (a) On manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers, and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with the following schedule:   |  |  | | --- | --- | | **With gross sales or receipts for the preceding calendar year in the amount of:** | **Amount of Tax Per Annum** | | Less than 10,000.00 | 165.00 | | P 10,000.00 or more but less than 15,000.00 | 220.00 | | 15,000.00 or more but less than 20,000.00 | 202.00 | | 20,000.00 or more but less than 30,000.00 | 440.00 | | 30,000.00 or more but less than 40,000.00 | 660.00 | | 40,000.00 or more but less than 50,000.00 | 825.00 | | 50,000.00 or more but less than 75,000.00 | 1,320.00 | | 75,000.00 or more but less than 100,000.00 | 1,650.00 | | 100,000.00 or more but less than 150,000.00 | 2,200.00 | | 150,000.00 or more but less than 200,000.00 | 2,750.00 | | 200,000.00 or more but less than 300,000.00 | 3,850.00 | | 300,000.00 or more but less than 500,000.00 | 5,500.00 | | 500,000.00 or more but less than 750,000.00 | 8,000.00 | | 750,000.00 or more but less than 1,000,000.00 | 10,000.00 | | 1,000,000.00 or more but less than 2,000,000.00 | 13,750.00 | | 2,000,000.00 or more but less than 3,000,000.00 | 16,500.00 | | 3,000,000.00 or more but less than 4,000,000.00 | 19,000.00 | | 4,000,000.00 or more but less than 5,000,000.00 | 23,100.00 | | 5,000,000.00 or more but less than 6,500,000.00 | 24,375.00 | | 6,000,000.00 or more at a rate not exceeding thirty-seven and a half percent (37½%) of one percent (1%) | |   (b) On wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature in accordance with the following schedule:   |  |  | | --- | --- | | **With gross sales or receipts for the preceding calendar year in the amount of:** | **Amount of Tax Per Annum** | | Less than 1,000.00 | 18.00 | | P 1,000.00 or more but less than 2,000.00 | 33.00 | | 2,000.00 or more but less than 3,000.00 | 50.00 | | 3,000.00 or more but less than 4,000.00 | 72.00 | | 4,000.00 or more but less than 5,000.00 | 100.00 | | 5,000.00 or more but less than 6,000.00 | 121.00 | | 6,000.00 or more but less than 7,000.00 | 143.00 | | 7,000.00 or more but less than 8,000.00 | 165.00 | | 8,000.00 or more but less than 10,000.00 | 187.00 | | 10,000.00 or more but less than 15,000.00 | 220.00 | | 15,000.00 or more but less than 20,000.00 | 275.00 | | 20,000.00 or more but less than 30,000.00 | 330.00 | | 30,000.00 or more but less than 40,000.00 | 440.00 | | 40,000.00 or more but less than 50,000.00 | 660.00 | | 50,000.00 or more but less than 75,000.00 | 990.00 | | 75,000.00 or more but less than 100,000.00 | 1,320.00 | | 100,000.00 or more but less than 150,000.00 | 1,870.00 | | 150,000.00 or more but less than 200,000.00 | 2,420.00 | | 200,000.00 or more but less than 300,000.00 | 3,300.00 | | 300,000.00 or more but less than 500,000.00 | 4,400.00 | | 500,000.00 or more but less than 750,000.00 | 6,600.00 | | 750,000.00 or more but less than 1,000,000.00 | 8,800.00 | | 1,000,000.00 or more but less than 2,000,000.00 | 10,000.00 | | 2,000,000.00 or more at a rate not exceeding fifty percent (50%) of one percent (1%). | |   (c) On exporters, and on manufacturers , millers, producers, wholesalers, distributors, dealers or retailers of essential commodities enumerated hereunder at a rate not exceeding one-half (½) of the rates prescribed under subsection (a), (b) and (d) of this Section:  (1) Rice and corn;  (2) Wheat or cassava flour, meat, dairy products, locally manufactured, processed or preserved food, sugar, salt and other agricultural, marine, and fresh water products, whether in their original state or not;  (3) Cooking oil and cooking gas;  (4) Laundry soap, detergents, and medicine;  (5) Agricultural implements. equipment and post-harvest facilities, fertilizers, pesticides, insecticides, herbicides and other farm inputs;  (6) Poultry feeds and other animal feeds;  (7) School supplies; and  (8) Cement.  (d) On retailers.   |  |  | | --- | --- | | **With gross sales or receipts for the preceding calendar year in the amount of:** | **Rate of Tax Per Annum** | | P400,000.00 or less | 2% | | more than P400,000.00 | 1% |   Provided, however, That barangays shall have the exclusive power to levy taxes, as provided under Section 152 hereof, on gross sales or receipts of the preceding calendar year of Fifty thousand pesos (P50,000.00) or less, in the case of cities, and Thirty thousand pesos (P30,000.00) or less, in the case of municipalities.  (e) On contractors and other independent contractors, in accordance with the following schedule:   |  |  | | --- | --- | | **With gross sales or receipts for the preceding calendar year in the amount of:** | **Amount of Tax Per Annum** | | Less than 5,000.00 | 27.50 | | P 5,000.00 or more but less than P 10,000.00 | 61.60 | | 10,000.00 or more but less than 15,000.00 | 104.50 | | 15,000.00 or more but less than 20,000.00 | 165.00 | | 20,000.00 or more but less than 30,000.00 | 275.00 | | 30,000.00 or more but less than 40,000.00 | 385.00 | | 40,000.00 or more but less than 50,000.00 | 550.00 | | 50,000.00 or more but less than 75,000.00 | 880.00 | | 75,000.00 or more but less than 100,000.00 | 1,320.00 | | 100,000.00 or more but less than 150,000.00 | 1,980.00 | | 150,000.00 or more but less than 200,000.00 | 2,640.00 | | 200,000.00 or more but less than 250,000.00 | 3,630.00 | | 250,000.00 or more but less than 300,000.00 | 4,620.00 | | 300,000.00 or more but less than 400,000.00 | 6,160.00 | | 400,000.00 or more but less than 500,000.00 | 8,250.00 | | 500,000.00 or more but less than 750,000.00 | 9,250.00 | | 750,000.00 or more but less than 1,000,000.00 | 10,250.00 | | 1,000,000.00 or more but less than 2,000,000.00 | 11,500.00 | | 2,000,000.00 or more at a rate not exceeding fifty percent (50%) of one percent (1%) | |   (f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.  (g) On peddlers engaged in the sale of any merchandise or article of commerce, at a rate not exceeding Fifty pesos (P50.00) per peddler annually.  (h) On any business, not otherwise specified in the preceding paragraphs, which the sanggunian concerned may deem proper to tax: Provided, That on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.  The sanggunian concerned may prescribe a schedule of graduated tax rates but in no case to exceed the rates prescribed herein. | |  |
| **Q: Sec. 143(f) of the LGC expressly allows local taxation on banks and other financial institutions, does this include holding companies?**  **A:** NO. In *Michigan Holdings, Inc. v. City Treasurer of Makati*, it was ruled that a holding company is exempted from Local Business Tax on dividend income. | |  |
| **Section 144, RA No. 7160 (LGC)**  *Rates of Tax within the Metropolitan Manila Area.* - The municipalities within the Metropolitan Manila Area may levy taxes at rates which shall not exceed by fifty percent (50%) the maximum rates prescribed in the preceding Section. | |  |
| **Section 145, RA No.7160 (LGC)**  *Retirement of Business.* - A business subject to tax pursuant to the preceding sections shall, upon termination thereof, submit a sworn statement of its gross sales or receipts for the current year. If the tax paid during the year is less than the tax due on said gross sales or receipts of the current year, the difference shall be paid before the business is considered officially retired. | |  |
| **Section 146, RA No. 7160 (LGC)**  *Payment of Business Taxes.* -  (a) The taxes imposed under Section 143 shall be payable for every separate or distinct establishment or place where business subject to the tax is conducted and one line of business does not become exempt by being conducted with some other business for which such tax has been paid. The tax on a business must be paid by the person conducting the same.  (b) In cases where a person conducts or operates two (2) or more of the businesses mentioned in Section 143 of this Code which are subject to the same rate of tax, the tax shall be computed on the combined total gross sales or receipts of the said two (2) or more related businesses.  (c) In cases where a person conducts or operates two (2) or more businesses mentioned in Section 143 of this Code which are subject to different rates of tax, the gross sales or receipts of each business shall be separately reported for the purpose of computing the tax due from each business. | **Q: Does the LGU have power to impose and collect fees?**  **A:** Yes, this falls under Sec. 146 of the LGC and Art. 233 of the IRR of the LGC. |  |
| **Section 147, RA No. 7160 (LGC)**  *Fees and Charges.* - The municipality may impose and collect such reasonable fees and charges on business and occupation and, except as reserved to the province in Section 139 of this Code, on the practice of any profession or calling, commensurate with the cost of regulation, inspection and licensing before any person may engage in such business or occupation, or practice such profession or calling. | |  |
| **Section 148, RA No. 7160 (LGC)**  *Fees for Sealing and Licensing of Weights and Measures.* -   * 1. The municipality may levy fees for the sealing and licensing of weights and measures at such reasonable rates as shall be prescribed by the sangguniang bayan.   2. The sangguniang bayan shall prescribe the necessary regulations for the use of such weights and measures, subject to such guidelines as shall be prescribed by the Department of Science and Technology. The sanggunian concerned shall, by appropriate ordinance, penalize fraudulent practices and unlawful possession or use of instruments of weights and measures and prescribe the criminal penalty therefor in accordance with the provisions of this Code. Provided, however, That the sanggunian concerned may authorize the municipal treasurer to settle an offense not involving the commission of fraud before a case therefor is filed in court, upon payment of a compromise penalty of not less than Two hundred pesos (P200.00). | |  |
| **Section 149, RA No. 7160 (LGC)**  *Fishery Rentals, Fees and Charges.* -   * 1. Municipalities shall have the exclusive authority to grant fishery privileges in the municipal waters and impose rentals, fees or charges therefor in accordance with the provisions of this Section.   2. The sangguniang bayan may:  1. Grant fishery privileges to erect fish corrals, oysters, mussels or other aquatic beds or bangus fry areas, within a definite zone of the municipal waters, as determined by it: Provided, however, That duly registered organizations and cooperatives of marginal fishermen shall have the preferential right to such fishery privileges: Provided, further, That the sangguniang bayan may require a public bidding in conformity with and pursuant to an ordinance for the grant of such privileges: Provided, finally, That in the absence of such organizations and cooperatives or their failure to exercise their preferential right, other parties may participate in the public bidding in conformity with the above cited procedure. 2. Grant the privilege to gather, take or catch bangus fry, prawn fry or kawag-kawag or fry of other species and fish from the municipal waters by nets, traps or other fishing gears to marginal fishermen free of any rental, fee, charge or any other imposition whatsoever. 3. Issue licenses for the operation of fishing vessels of three (3) tons or less for which purpose the sangguniang bayan shall promulgate rules and regulations regarding the issuances of such licenses to qualified applicants under existing laws.   Provided, however, That the sanggunian concerned shall, by appropriate ordinance, penalize the use of explosives, noxious or poisonous substances, electricity, muro-ami, and other deleterious methods of fishing and prescribe a criminal penalty therefor in accordance with the provisions of this Code: Provided, finally, That the sanggunian concerned shall have the authority to prosecute any violation of the provisions of applicable fishery laws. | |  |
| **Section 150, RA No. 7160 (LGC)**  *Situs of the Tax.* -   * + 1. For purposes of collection of the taxes under Section 143 of this Code, manufacturers, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, contractors, banks and other financial institutions, and other businesses, maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality.     2. The following sales allocation shall apply to manufacturers, assemblers, contractors, producers, and exporters with factories, project offices, plants, and plantations in the pursuit of their business:  1. Thirty percent (30%) of all sales recorded in the principal office shall be taxable by the city or municipality where the principal office is located; and 2. Seventy percent (70%) of all sales recorded in the principal office shall be taxable by the city or municipality where the factory, project office, plant, or plantation is located.    * 1. In case of a plantation located at a place other than the place where the factory is located, said seventy percent (70%) mentioned in subparagraph (b) of subsection (2) above shall be divided as follows: 3. Sixty percent (60%) to the city or municipality where the factory is located; and 4. Forty percent (40%) to the city or municipality where the plantation is located.    * 1. In cases where a manufacturer, assembler, producer, exporter or contractor has two (2) or more factories, project offices, plants, or plantations located in different localities, the seventy percent (70%) sales allocation mentioned in subparagraph (b) of subsection (2) above shall be prorated among the localities where the factories, project offices, plants, and plantations are located in proportion to their respective volumes of production during the period for which the tax is due.      2. The foregoing sales allocation shall be applied irrespective of whether or not sales are made in the locality where the factory, project office, plant, or plantation is located. | |  |
| **Section 151, RA No.7160 (LGC)**  *Scope of Taxing Powers.* - Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.  The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes. | |  |
| **Barangay** | | |
| **Section 152, RA No.7160 (LGC)**  *Scope of Taxing Powers.* - The barangays may levy taxes, fees, and charges, as provided in this Article, which shall exclusively accrue to them:   * 1. **Taxes** - On stores or retailers with fixed business establishments with gross sales of receipts of the preceding calendar year of Fifty thousand pesos (P50,000.00) or less, in the case of cities and Thirty thousand pesos (P30,000.00) or less, in the case of municipalities, at a rate not exceeding one percent (1%) on such gross sales or receipts.   2. **Service Fees or Charges** - Barangays may collect reasonable fees or charges for services rendered in connection with the regulations or the use of barangay-owned properties or service facilities such as palay, copra, or tobacco dryers.   3. **Barangay Clearance** - No city or municipality may issue any license or permit for any business or activity unless a clearance is first obtained from the barangay where such business or activity is located or conducted. For such clearance, the sangguniang barangay may impose a reasonable fee. The application for clearance shall be acted upon within seven (7) working days from the filing thereof. In the event that the clearance is not issued within the said period, the city or municipality may issue the said license or permit.   4. **Other fees and Charges** - The barangay may levy reasonable fees and charges:  1. On commercial breeding of fighting cocks, cockfights and cockpits; 2. On places of recreation which charge admission fees; and 3. On billboards, signboards, neon signs, and outdoor advertisements. | |  |
| **Section 153, RA No.7160 (LGC)**  *Service Fees and Charges.* - Local government units may impose and collect such reasonable fees and charges for services rendered. | **Q: What are the common revenue-raising powers of the LGC?**  **A:**   1. *Service Fees and Charges (*Section 153, RA No.7160 (LGC) 2. *Public Utility Charges* Section 154, RA No.7160 (LGC) 3. *Toll Fees or Charges (*Section 155, RA No.7160 (LGC) |  |
| **Section 154, RA No. 7160 (LGC)**  *Public Utility Charges.* - Local government units may fix the rates for the operation of public utilities owned, operated and maintained by them within their jurisdiction. | |  |
| **Section 155, RA No.7160 (LGC)**  *Toll Fees or Charges.* - The sanggunian concerned may prescribe the terms and conditions and fix the rates for the imposition of toll fees or charges for the use of any public road, pier, or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by the local government unit concerned: Provided, That no such toll fees or charges shall be collected from officers and enlisted men of the Armed Forces of the Philippines and members of the Philippine National Police on mission, post office personnel delivering mail, physically-handicapped, and disabled citizens who are sixty-five (65) years or older.  When public safety and welfare so requires, the sanggunian concerned may discontinue the collection of the tolls, and thereafter the said facility shall be free and open for public use. | **Q: Who are exempted from the reasonable fees and charges for services rendered?**  **A:**   1. Officers and enlisted men of the AFP 2. Members of the PNP on mission 3. Post office personnel delivering mail 4. Physically handicapped and disabled citizens who are 65 years or older |  |
| **Community Tax** | | |
| **Section 156, RA No.7160 (LGC)**  *Community Tax.* - Cities or municipalities may levy a community tax in accordance with the provisions of this Article. | |  |
| **Section 157, RA No.7160 (LGC)**  *Individuals Liable to Community Tax.* - Every inhabitant of the Philippines eighteen (18) years of age or over who has been regularly employed on a wage or salary basis for at least thirty (30) consecutive working days during any calendar year, or who is engaged in business or occupation, or who owns real property with an aggregate assessed value of One thousand pesos (P1,000.00) or more, or who is required by law to file an income tax return shall pay an annual additional tax of Five pesos (P5.00) and an annual additional tax of One peso (P1.00) for every One thousand pesos (P1,000.00) of income regardless of whether from business, exercise of profession or from property which in no case shall exceed Five thousand pesos (P5,000.00).  In the case of husband and wife, the additional tax herein imposed shall be based upon the total property owned by them and the total gross receipts or earnings derived by them. | **Q: Who are liable to pay community tax?**  **A:** Every inhabitant of the Philippines eighteen (18) years of age or over who has been regularly employed on a wage or salary basis for at least thirty (30) consecutive working days during any calendar year, or who is engaged in business or occupation, or who owns real property with an aggregate assessed value of One thousand pesos (P1,000.00) or more, or who is required by law to file an income tax return shall pay an annual additional tax of Five pesos (P5.00) and an annual additional tax of One peso (P1.00) for every One thousand pesos (P1,000.00) of income regardless of whether from business, exercise of profession or from property which in no case shall exceed Five thousand pesos (P5,000.00).  In the case of husband and wife, the additional tax herein imposed shall be based upon the total property owned by them and the total gross receipts or earnings derived by them. |  |
| **Section 158, RA No.7160 (LGC)**  *Juridical Persons Liable to Community Tax.* - Every corporation no matter how created or organized, whether domestic or resident foreign, engaged in or doing business in the Philippines shall pay an annual community tax of Five hundred pesos (P500.00) and an annual additional tax, which, in no case, shall exceed Ten thousand pesos (P10,000.00) in accordance with the following schedule:  (1) For every Five thousand pesos (P5,000.00) worth of real property in the Philippines owned by it during the preceding year based on the valuation used for the payment of real property tax under existing laws, found in the assessment rolls of the city or municipality where the real property is situated - Two pesos (P2.00); and  (2) For every Five thousand pesos (P5,000.00) of gross receipts or earnings derived by it from its business in the Philippines during the preceding year - Two pesos (P2.00).  The dividends received by a corporation from another corporation however shall, for the purpose of the additional tax, be considered as part of the gross receipts or earnings of said corporation. | **Q: How about juridical persons, do they pay community tax too?**    **A: Section 158, RA No.7160 (LGC)**  *Juridical Persons Liable to Community Tax.* - Every corporation no matter how created or organized, whether domestic or resident foreign, engaged in or doing business in the Philippines shall pay an annual community tax of Five hundred pesos (P500.00) and an annual additional tax, which, in no case, shall exceed Ten thousand pesos (P10,000.00) in accordance with the following schedule:   * + 1. For every Five thousand pesos (P5,000.00) worth of real property in the Philippines owned by it during the preceding year based on the valuation used for the payment of real property tax under existing laws, found in the assessment rolls of the city or municipality where the real property is situated - Two pesos (P2.00); and     2. For every Five thousand pesos (P5,000.00) of gross receipts or earnings derived by it from its business in the Philippines during the preceding year – Two pesos (P2.00).   The dividends received by a corporation from another corporation however shall, for the purpose of the additional tax, be considered as part of the gross receipts or earnings of said corporation. |  |
| **Section 159, RA No.7160 (LGC)**  *Exemptions.* - The following are exempt from the community tax:  (1) Diplomatic and consular representatives; and  (2) Transient visitors when their stay in the Philippines does not exceed three (3) months. | |  |
| **Section 160, RA No.7160 (LGC)**  *Place of Payment.* - The community tax shall be paid in the place of residence of the individual, or in the place where the principal office of the juridical entity is located. | |  |
| **Section 161, RA No.7160 (LGC)**  *Time for Payment; Penalties for Delinquency.* -   1. The community tax shall accrue on the first (1st) day of January of each year which shall be paid not later than the last day of February of each year. If a person reaches the age of eighteen (18) years or otherwise loses the benefit of exemption on or before the last day of June, he shall be liable for the community tax on the day he reaches such age or upon the day the exemption ends. However, if a person reaches the age of eighteen (18) years or loses the benefit of exemption on or before the last day of March, he shall have twenty (20) days to pay the community tax without becoming delinquent.   Persons who come to reside in the Philippines or reach the age of eighteen (18) years on or after the first (1st) day of July of any year, or who cease to belong to an exempt class or after the same date, shall not be subject to the community tax for that year.   1. Corporations established and organized on or before the last day of June shall be liable for the community tax for that year. But corporations established and organized on or before the last day of March shall have twenty (20) days within which to pay the community tax without becoming delinquent. Corporations established and organized on or after the first day of July shall not be subject to the community tax for that year.   If the tax is not paid within the time prescribed above, there shall be added to the unpaid amount an interest of twenty-four percent (24%) per annum from the due date until it is paid. | |  |
| **Section 162, RA No.7160 (LGC)**  *Community Tax Certificate.* - A community tax certificate shall be issued to every person or corporation upon payment of the community tax. A community tax certificate may also be issued to any person or corporation not subject to the community tax upon payment of One peso (P1.00). | |  |
| **Section 163, RA No.7160 (LGC)**  *Presentation of Community Tax Certificate On Certain Occasions.* -   1. When an individual subject to the community tax acknowledges any document before a notary public, takes the oath of office upon election or appointment to any position in the government service; receives any license, certificate. or permit from any public authority; pays any tax or free; receives any money from any public fund; transacts other official business; or receives any salary or wage from any person or corporation with whom such transaction is made or business done or from whom any salary or wage is received to require such individual to exhibit the community tax certificate.   The presentation of community tax certificate shall not be required in connection with the registration of a voter.   1. When, through its authorized officers, any corporation subject to the community tax receives any license, certificate, or permit from any public authority, pays any tax or fee, receives money from public funds, or transacts other official business, it shall be the duty of the public official with whom such transaction is made or business done, to require such corporation to exhibit the community tax certificate. 2. The community tax certificate required in the two preceding paragraphs shall be the one issued for the current year, except for the period from January until the fifteenth (15th) of April each year, in which case, the certificate issued for the preceding year shall suffice. | |  |
| **Section 164, RA No.7160 (LGC)**  *Printing of Community Tax Certificates and Distribution of Proceeds.* -   1. The Bureau of Internal Revenue shall cause the printing of community tax certificates and distribute the same to the cities and municipalities through the city and municipal treasurers in accordance with prescribed regulations.   The proceeds of the tax shall accrue to the general funds of the cities, municipalities and barangays except a portion thereof which shall accrue to the general fund of the national government to cover the actual cost of printing and distribution of the forms and other related expenses. The city or municipal treasurer concerned shall remit to the national treasurer the said share of the national government in the proceeds of the tax within ten (10) days after the end of each quarter.   1. The city or municipal treasurer shall deputize the barangay treasurer to collect the community tax in their respective jurisdictions: Provided, however, That said barangay treasurer shall be bonded in accordance with existing laws. 2. The proceeds of the community tax actually and directly collected by the city or municipal treasurer shall accrue entirely to the general fund of the city or municipality concerned. However, proceeds of the community tax collected through the barangay treasurers shall be apportioned as follows: 3. Fifty percent (50%) shall accrue to the general fund of the city or municipality concerned; and 4. Fifty percent (50%) shall accrue to the barangay where the tax is collected. | |  |
| **Collection of Taxes** | | |
| **Section 165, RA No.7160 (LGC)**  *Tax Period and Manner of Payment.* - Unless otherwise provided in this Code, the tax period of all local taxes, fees and charges shall be the calendar year. Such taxes, fees and charges may be paid in quarterly installments. | |  |
| **Section 166, RA No.7160 (LGC)**  *Accrual of Tax.* - Unless otherwise provided in this Code, all local taxes, fees, and charges shall accrue on the first (1st) day of January of each year. However, new taxes, fees or charges, or changes in the rates thereof, shall accrue on the first (1st) day of the quarter next following the effectivity of the ordinance imposing such new levies or rates. | |  |
| **Section 167, RA No.7160 (LGC)**  *Time of Payment.* - Unless otherwise provided in this Code, all local taxes, fees, and charges shall be paid within the first twenty (20) days of January or of each subsequent quarter, as the case may be. The sanggunian concerned may, for a justifiable reason or cause, extend the time for payment of such taxes, fees, or charges without surcharges or penalties, but only for a period not exceeding six (6) months. | |  |
| **Section 168, RA No.7160 (LGC)**  *Surcharges and Penalties on Unpaid Taxes, Fees, or Charges.* - The sanggunian may impose a surcharge not exceeding twenty-five (25%) of the amount of taxes, fees or charges not paid on time and an interest at the rate not exceeding two percent (2%) per month of the unpaid taxes, fees or charges including surcharges, until such amount is fully paid but in no case shall the total thirty-six (36%) months. | |  |
| **Section 169, RA No.7160 (LGC)**  *Interests on Other Unpaid Revenues.* - Where the amount of any other revenue due a local government unit, except voluntary contributions or donations, is not paid on the date fixed in the ordinance, or in the contract, expressed or implied, or upon the occurrence of the event which has given rise to its collection, there shall be collected as part of that amount an interest thereon at the rate not exceeding two percent (2%) per month from the date it is due until it is paid, but in no case shall the total interest on the unpaid amount or a portion thereof exceed thirty-six (36) months. | |  |
| **Section 170, RA No.7160 (LGC)**  *Collection of Local Revenue by Treasurer.* - All local taxes, fees, and charges shall be collected by the provincial, city, municipal, or barangay treasurer, or their duly authorized deputies.  The provincial, city or municipal treasurer may designate the barangay treasurer as his deputy to collect local taxes, fees, or charges. In case a bond is required for the purpose, the provincial, city or municipal government shall pay the premiums thereon in addition to the premiums of bond that may be required under this Code. | |  |
| **Section 171, RA No.7160 (LGC)**  *Examination of Books of Accounts and Pertinent Records of Businessmen by Local Treasurer.* - The provincial, city, municipal or barangay treasurer may, by himself or through any of his deputies duly authorized in writing, examine the books, accounts, and other pertinent records of any person, partnership, corporation, or association subject to local taxes, fees and charges in order to ascertain. assess, and collect the correct amount of the tax, fee, or charge. Such examination shall be made during regular business hours, only once for every tax period, and shall be certified to by the examining official. Such certificate shall be made of record in the books of accounts of the taxpayer examined.  In case the examination herein authorized is made by a duly authorized deputy of the local treasurer, the written authority of the deputy concerned shall specifically state the name, address, and business of the taxpayer whose books, accounts, and pertinent records are to be examined, the date and place of such examination and the procedure to be followed in conducting the same.  For this purpose, the records of the revenue district office of the Bureau of Internal Revenue shall be made available to the local treasurer, his deputy or duly authorized representative. | |  |
| **Civil Remedies for Collection of Revenues** | | |
| **Section 172, RA No. 7160 (LGC)**  *Application of Chapter.* - The provisions of this Chapter and the remedies provided hereon may be availed of for the collection of any delinquent local tax, fee, charge, or other revenue. | |  |
| **Section 173, RA No. 7160 (LGC)**  *Local Government's Lien.* - Local taxes, fees, charges and other revenues constitute a lien, superior to all liens, charges or encumbrances in favor of any person, enforceable by appropriate administrative or judicial action, not only upon any property or rights therein which may be subject to the lien but also upon property used in business, occupation, practice of profession or calling, or exercise of privilege with respect to which the lien is imposed. The lien may only be extinguished upon full payment of the delinquent local taxes fees and charges including related surcharges and interest. | |  |
| **Section 174, RA No. 7160 (LGC)**  *Civil Remedies.* - The civil remedies for the collection of local taxes, fees, or charges, and related surcharges and interest resulting from delinquency shall be:   * 1. By administrative action thru distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts, and interest in and rights to personal property, and by levy upon real property and interest in or rights to real property;   2. By judicial action.   Either of these remedies or all may be pursued concurrently or simultaneously at the discretion of the local government unit concerned. | |  |
| **Section 175, RA No. 7160 (LGC)**  *Distraint of Personal Property.* - The remedy by distraint shall proceed as follows:   * + 1. **Seizure** - Upon failure of the person owing any local tax, fee, or charge to pay the same at the time required, the local treasurer or his deputy may, upon written notice, seize or confiscate any personal property belonging to that person or any personal property subject to the lien in sufficient quantity to satisfy the tax, fee, or charge in question, together with any increment thereto incident to delinquency and the expenses of seizure. In such case, the local treasurer or his deputy shall issue a duly authenticated certificate based upon the records of his office showing the fact of delinquency and the amounts of the tax, fee, or charge and penalty due. Such certificate shall serve as sufficient warrant for the distraint of personal property aforementioned, subject to the taxpayer's right to claim exemption under the provisions of existing laws. Distrained personal property shall be sold at public auction in the manner hereon provided for.     2. **Accounting of distrained goods.** - The officer executing the distraint shall make or cause to be made an account of the goods, chattels or effects distrained, a copy of which signed by himself shall be left either with the owner or person from whose possession the goods, chattels or effects are taken, or at the dwelling or place or business of that person and with someone of suitable age and discretion, to which list shall be added a statement of the sum demanded and a note of the time and place of sale.     3. **Publication** - The officer shall forthwith cause a notification to be exhibited in not less than three (3) public and conspicuous places in the territory of the local government unit where the distraint is made, specifying the time and place of sale, and the articles distrained. The time of sale shall not be less than twenty (20) days after the notice to the owner or possessor of the property as above specified and the publication or posting of the notice. One place for the posting of the notice shall be at the office of the chief executive of the local government unit in which the property is distrained.     4. **Release of distrained property upon payment prior to sale** - If at any time prior to the consummation of the sale, all the proper charges are paid to the officer conducting the sale, the goods or effects distrained shall be restored to the owner.     5. **Procedure of sale** - At the time and place fixed in the notice, the officer conducting the sale shall sell the goods or effects so distrained at public auction to the highest bidder for cash. Within five (5) days after the sale, the local treasurer shall make a report of the proceedings in writing to the local chief executive concerned.   Should the property distrained be not disposed of within one hundred and twenty (120) days from the date of distraint, the same shall be considered as sold to the local government unit concerned for the amount of the assessment made thereon by the Committee on Appraisal and to the extent of the same amount, the tax delinquencies shall be cancelled.  Said Committee on Appraisal shall be composed of the city or municipal treasurer as chairman, with a representative of the Commission on Audit and the city or municipal assessor as members.   * + 1. **Disposition of proceeds** - The proceeds of the sale shall be applied to satisfy the tax, including the surcharges, interest, and other penalties incident to delinquency, and the expenses of the distraint and sale. The balance over and above what is required to pay the entire claim shall be returned to the owner of the property sold. The expenses chargeable upon the seizure and sale shall embrace only the actual expenses of seizure and preservation of the property pending the sale, and no charge shall be imposed for the services of the local officer or his deputy. Where the proceeds of the sale are insufficient to satisfy the claim, other property may, in like manner, be distrained until the full amount due, including all expenses, is collected. | |  |
| **Section 176, RA No. 7160 (LGC)**  *Levy on Real Property.* - After the expiration of the time required to pay the delinquent tax, fee, or charge, real property may be levied on before, simultaneously, or after the distraint of personal property belonging to the delinquent taxpayer. To this end, the provincial, city or municipal treasurer, as the case may be, shall prepare a duly authenticated certificate showing the name of the taxpayer and the amount of the tax, fee, or charge, and penalty due from him. Said certificate shall operate with the force of a legal execution throughout the Philippines. Levy shall be effected by writing upon said certificate the description of the property upon which levy is made. At the same time, written notice of the levy shall be mailed to or served upon the assessor and the Register of Deeds of the province or city where the property is located who shall annotate the levy on the tax declaration and certificate of title of the property, respectively, and the delinquent taxpayer or, if he be absent from the Philippines, to his agent or the manager of the business in respect to which the liability arose, or if there be none, to the occupant of the property in question.  In case the levy on real property is not issued before or simultaneously with the warrant of distraint on personal property, and the personal property of the taxpayer is not sufficient to satisfy his delinquency, the provincial, city or municipal treasurer, as the case may be, shall within thirty (30) days after execution of the distraint, proceed with the levy on the taxpayer's real property.  A report on any levy shall, within ten (10) days after receipt of the warrant, be submitted by the levying officer to the sanggunian concerned. | |  |
| **Section 177, RA No. 7160 (LGC)**  *Penalty for Failure to Issue and Execute Warrant.* - Without prejudice to criminal prosecution under the Revised Penal Code and other applicable laws, any local treasurer who fails to issue or execute the warrant of distraint or levy after the expiration of the time prescribed, or who is found guilty of abusing the exercise thereof by competent authority shall be automatically dismissed from the service after due notice and hearing. | |  |
| **Section 178, RA No. 7160 (LGC)**  *Advertisement and Sale.* - Within thirty (30) days after the levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the claim and cost of sale; and such advertisement shall cover a period of at least thirty (30) days. It shall be effected by posting a notice at the main entrance of the municipal building or city hall, and in a public and conspicuous place in the barangay where the real property is located, and by publication once a week for three (3) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. The advertisement shall contain the amount of taxes, fees or charges, and penalties due thereon, and the time and place of sale, the name of the taxpayer against whom the taxes, fees, or charges are levied, and a short description of the property to be sold. At any time before the date fixed for the sale, the taxpayer may stay they proceedings by paying the taxes, fees, charges, penalties and interests. If he fails to do so, the sale shall proceed and shall be held either at the main entrance of the provincial, city or municipal building, or on the property to be sold, or at any other place as determined by the local treasurer conducting the sale and specified in the notice of sale.  Within thirty (30) days after the sale, the local treasurer or his deputy shall make a report of the sale to the sanggunian concerned, and which shall form part of his records. After consultation with the sanggunian, the local treasurer shall make and deliver to the purchaser a certificate of sale, showing the proceeding of the sale, describing the property sold, stating the name of the purchaser and setting out the exact amount of all taxes, fees, charges, and related surcharges, interests, or penalties: Provided, however, That any excess in the proceeds of the sale over the claim and cost of sales shall be turned over to the owner of the property.  The local treasurer may, by ordinance duly approved, advance an amount sufficient to defray the costs of collection by means of the remedies provided for in this Title, including the preservation or transportation in case of personal property, and the advertisement and subsequent sale, in cases of personal and real property including improvements thereon. | |  |
| **Section 179, RA No. 7160 (LGC)**  *Redemption of Property Sold.* - Within one (1) year from the date of sale, the delinquent taxpayer or his representative shall have the right to redeem the property upon payment to the local treasurer of the total amount of taxes, fees, or charges, and related surcharges, interests or penalties from the date of delinquency to the date of sale, plus interest of not more than two percent (2%) per month on the purchase price from the date of purchase to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner shall be entitled to a certificate of redemption from the provincial, city or municipal treasurer or his deputy.  The provincial, city or municipal treasurer or his deputy, upon surrender by the purchaser of the certificate of sale previously issued to him, shall forthwith return to the latter the entire purchase price paid by him plus the interest of not more than two percent (2%) per month herein provided for, the portion of the cost of sale and other legitimate expenses incurred by him, and said property thereafter shall be free from the lien of such taxes, fees, or charges, related surcharges, interests, and penalties.  The owner shall not, however, be deprived of the possession of said property and shall be entitled to the rentals and other income thereof until the expiration of the time allowed for its redemption. | |  |
| **Section 180, RA No. 7160 (LGC)**  *Final Deed to Purchaser.* - In case the taxpayer fails to redeem the property as provided herein, the local treasurer shall execute a deed conveying to the purchaser so much of the property as has been sold, free from liens of any taxes, fees, charges, related surcharges, interests, and penalties. The deed shall succinctly recite all the proceedings upon which the validity of the sale depends. | |  |
| **Section 181, RA No. 7160 (LGC)**  *Purchase of Property By the Local Government Units for Want of Bidder.* - In case there is no bidder for the real property advertised for sale as provided herein, or if the highest bid is for an amount insufficient to pay the taxes, fees, or charges, related surcharges, interests, penalties and costs, the local treasurer conducting the sale shall purchase the property in behalf of the local government unit concerned to satisfy the claim and within two (2) days thereafter shall make a report of his proceedings which shall be reflected upon the records of his office. It shall be the duty of the Registrar of Deeds concerned upon registration with his office of any such declaration of forfeiture to transfer the title of the forfeited property to the local government unit concerned without the necessity of an order from a competent court.  Within one (1) year from the date of such forfeiture, the taxpayer or any of his representative, may redeem the property by paying to the local treasurer the full amount of the taxes, fees, charges, and related surcharges, interests, or penalties, and the costs of sale. If the property is not redeemed as provided herein, the ownership thereof shall be fully vested on the local government unit concerned. | |  |
| **Section 182, RA No. 7160 (LGC)**  *Resale of Real Estate Taken for Taxes, Fees, or Charges.* - The sanggunian concerned may, by ordinance duly approved, and upon notice of not less than twenty (20) days, sell and dispose of the real property acquired under the preceding section at public auction. The proceeds of the sale shall accrue to the general fund of the local government unit concerned. | |  |
| **Section 183, RA No. 7160 (LGC)**  *Collection of Delinquent Taxes, Fees, Charges or other Revenues through Judicial Action.* - The local government unit concerned may enforce the collection of delinquent taxes, fees, charges or other revenues by civil action in any court of competent jurisdiction. The civil action shall be filed by the local treasurer within the period prescribed in Section 194 of this Code. | |  |
| **Section 184, RA No. 7160 (LGC)**  *Further Distraint or Levy.* - The remedies by distraint and levy may be repeated if necessary until the full amount due, including all expenses, is collected. | |  |
| **Section 185, RA No. 7160 (LGC)**  *Personal Property Exempt from Distraint or Levy.* - The following property shall be exempt from distraint and the levy, attachment or execution thereof for delinquency in the payment of any local tax, fee or charge, including the related surcharge and interest:   1. Tools and implements necessarily used by the delinquent taxpayer in his trade or employment; 2. One (1) horse, cow, carabao, or other beast of burden, such as the delinquent taxpayer may select, and necessarily used by him in his ordinary occupation; 3. His necessary clothing, and that of all his family; 4. Household furniture and utensils necessary for housekeeping and used for that purpose by the delinquent taxpayer, such as he may select, of a value not exceeding Ten thousand pesos (P10,000.00); 5. Provisions, including crops, actually provided for individual or family use sufficient for four (4) months; 6. The professional libraries of doctors, engineers, lawyers and judges; 7. One fishing boat and net, not exceeding the total value of Ten thousand pesos (P10,000.00), by the lawful use of which a fisherman earns his livelihood; and 8. Any material or article forming part of a house or improvement of any real property. | |  |
| **Miscellaneous Provisions** | | |
| **Section 186, RA No.7160 (LGC)**  *Power To Levy Other Taxes, Fees or Charges.* - Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, That the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose. | |  |
| **Section 187, RA No.7160 (LGC)**  *Procedure for Approval and Effectivity of Tax, Ordinances and Revenue Measures; Mandatory Public Hearings.* - The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: Provided, That public hearings shall be conducted for the purpose prior to the enactment thereof: Provided, further, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: Provided, finally, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction. | |  |
| **Section 188, RA No.7160 (LGC)**  *Publication of Tax Ordinances and Revenue Measures.* - Within ten (10) days after their approval, certified true copies of all provincial, city, and municipal tax ordinances or revenue measures shall be published in full for three (3) consecutive days in a newspaper of local circulation: Provided, however, That in provinces, cities and municipalities where there are no newspapers of local circulation, the same may be posted in at least two (2) conspicuous and publicly accessible places. | |  |
| **Section 189, RA No.7160 (LGC)**  *Furnishing of Copies of Tax Ordinances and Revenue Measures.* - Copies of all provincial, city, and municipal and barangay tax ordinances and revenue measures shall be furnished the respective local treasurers for public dissemination. | |  |
| **Section 190, RA No.7160 (LGC)**  *Attempt to Enforce Void or Suspended Tax Ordinances and revenue measures.* - The enforcement of any tax ordinance or revenue measure after due notice of the disapproval or suspension thereof shall be sufficient ground for administrative disciplinary action against the local officials and employees responsible therefor. | |  |
| **Section 191, RA No. 7160 (LGC)**  *Authority of Local Government Units to Adjust Rates of Tax Ordinances.* - Local government units shall have the authority to adjust the tax rates as prescribed herein not oftener than once every five (5) years, but in no case shall such adjustment exceed ten percent (10%) of the rates fixed under this Code. | **Q: Can the LGUs adjust local tax rates?**  **A:** Yes, LGUs have authority to adjust the local tax rate, not often than once every 5 years but in no case shall exceed 10% of the rates fixed in the Code *(LGC, Sec. 191).* |  |
| **Q: But can they impose surcharges and interest?**  **A:** Yes, the Sanggunian can impose a surcharge not exceeding 25% of the taxes, charges or fees not paid on time and an interest rate of not more than 2% per month of the unpaid tax, but in no case shall the same total 36 months *(Sec. 168, LGC).* | |  |
| **Section 192, RA No.7160 (LGC)**  *Authority to Grant Tax Exemption Privileges.* - Local government units may, through ordinances duly approved, grant tax exemptions, incentives or reliefs under such terms and conditions as they may deem necessary. | **Q: Can LGUs grant tax exemptions?**  **A:** YES, the LGU may do so, specifically:   * Grant tax exemptions or provide relief in case of natural calamities, civil disturbance, general failure of crops * Exemption shall be granted in the next calendar year and only for a period of 12 months * Grant tax incentives to new investments and for a definite period not exceeding one year |  |
| **Q: How can a tax exemption certificate be conferred?**  **A:** Through the issuance of a non-transferable tax exemption certificate *(IRR of LGC, Art. 282).* | |  |
| **Section 193, RA No.7160 (LGC)**  *Withdrawal of Tax Exemption Privileges.* - Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code. | **Q: Sec. 193 provides for withdrawal of tax exemption privileges, but are there still entities enjoying the exemption?**  **A:** Yes.   1. Local Water Districts 2. Cooperatives duly registered under R.A. 6938 3. Non-stock and Non-profit Hospitals and Educational Institutions 4. Business enterprises certified by BOl as Pioneer or Non-pioneer for a period of 6 and 4 years from date of registration 5. Business entity registered under R.A. 6810 (Countryside and 6. Barangay Business Enterprises 7. Printer and/or publisher of books or other reading materials prescribed by DECS as school texts or references as to receipts from printing or publication *(IRR of LGC, Art. 283)* |  |
| **Q: What are the guidelines for granting tax exemptions?**  **A:** The guidelines are:   * + - 1. May be granted in cases of natural calamities, civil disturbance, general failure of crops or adverse economic conditions;       2. Grant shall be through an ordinance;       3. Any exemption granted to a type of business shall apply to all businesses similarly situated;       4. The same may take effect only during the calendar year not exceeding 12 months as may be provided in the ordinance       5. In case of shared revenues, exemption shall only extend to the LGU granting such exemption. | |  |
| **Q: What are the guidelines for granting tax incentives?**  **A:** The guidelines for granting tax incentives are:  Shall only be granted to new investments in the locality and the ordinance shall prescribe the terms and conditions  Grant shall be for a period not exceeding one (1) year  Grant shall be through an ordinance passed prior to January 1 of any year  Tax incentive granted to a type of business shall apply to all businesses similarly situated. | |  |
| **Miscellaneous Provisions** | | |
| **Section 194, RA No.7160 (LGC)**    *Periods of Assessment and Collection.* -   1. Local taxes, fees, or charges shall be assessed within five (5) years from the date they became due. No action for the collection of such taxes, fees, or charges, whether administrative or judicial, shall be instituted after the expiration of such period: Provided, That. taxes, fees or charges which have accrued before the effectivity of this Code may be assessed within a period of three (3) years from the date they became due. 2. In case of fraud or intent to evade the payment of taxes, fees, or charges, the same may be assessed within ten (10) years from discovery of the fraud or intent to evade payment. 3. Local taxes, fees, or charges may be collected within five (5) years from the date of assessment by administrative or judicial action. No such action shall be instituted after the expiration of said period: Provided, however, That, taxes, fees or charges assessed before the effectivity of this Code may be collected within a period of three (3) years from the date of assessment. 4. The running of the periods of prescription provided in the preceding paragraphs shall be suspended for the time during which: 5. The treasurer is legally prevented from making the assessment of collection; 6. The taxpayer requests for a reinvestigation and executes a waiver in writing before expiration of the period within which to assess or collect; and 7. The taxpayer is out of the country or otherwise cannot be located. | |  |
| **Section 195, RA No. 7160 (LGC)**  *Protest of Assessment.* - When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable. | |  |
| **Section 196, RA No. 7160 (LGC)**  *Claim for Refund of Tax Credit.* - No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit. | |  |
| **Q: What is the rule on interpretation of taxes?**    **A:** According to Sec. 5(b) of the LGC, ‘In case of doubt, any tax ordinance or revenue measure shall be construed strictly against the LGU enacting it, and liberally in favor of the taxpayer.  Any tax exemption, incentive or relief granted by any LGU pursuant to the provisions of this Code shall be construed strictly against the person claiming it.” | |  |
| **Implementing Rules and Regulations** | | |
| **Demaala vs. Commission on Audit**  **G.R. No. 199752 | February 17, 2015**  *Whether or not an LGU (municipality within Metropolitan Manila, city or province) may impose additional levy on real property for the Special Education Fund at the rate of less than 1% as prescribed under Sec. 235 of the LGC?*  YES.Section 235 of the LGC allows provinces and cities, as well as municipalities in MetroManila, to collect, on top of the basic annual real property tax, an additional levy which shall exclusively accrue to the special education fund.  The operative phrase in Sec. 235 is “may levy and collect an annual tax of one percent (1%)” has been interpreted by the Supreme Court in Buklod ng Magbubukid v. E.M. Ramos as mandatory but discretionary. The use of the word “may” denotes that it is directory in nature and generally permissive only.  In this case, the Supreme Court held that the specified rate (151%) of the Sec. 235 is a MAXIMUM RATE, rather than an immutable edict. Accordingly, it was well within the power of the Sangguniang Panlalawigan of Palawan to enact an ordinance providing for additional levy on real property tax for the special education fund at the rate of 0.5% rather than at 1%  Therefore, COA committed grave abuse of discretion when it held that there was a deficiency in the Municipality of Narra’s collection of additional levy for the special education fund. | |  |
| **Prieto vs. City of Manila**  **G.R. No. 221366 | July 18, 2019**  *Whether or not the CA erred in finding that petitioner failed to prove that it complied with pertinent laws in the exercise of its power of eminent domain.*  No,the CA did not err as petitioner failed to establish that the other modes of acquisition under Section 10 of R.A. No. 7279 were first exhausted.  "The government must exhaust all reasonable efforts to obtain by agreement the land it desires. Its failure to comply will warrant the dismissal of the complaint."[39] This finds further legal basis in Article 35 of the Rules and Regulations Implementing the Local Government Code, which reads:  *ART. 35. Offer to Buy and Contract of Sale, (a) The offer to buy private property for public use or purpose shall be in writing. It shall specify the property sought to be acquired, the reasons for its acquisition, and the price offered.*  *(c) If the owner or owners are willing to sell their property but at a price higher than that offered to them, the local chief executive shall call them to a conference for the purpose of reaching an agreement on the selling price. The chairman of the appropriation or finance committee of the sanggunian, or in his absence, any member of the sanggunian duly chosen as its representative, shall participate in the conference. When an agreement is reached by the parties, a contract of sale shall be drawn and executed.*  Here, it is undisputed that after respondents rejected petitioner's offer of P2,000.00 per square meter to purchase their lots for being too low compared to the fair market value of their properties, petitioner readily instituted the present expropriation suit without bothering to renegotiate its offer.  Thus, there is no valid and definite offer made by the petitioner before it filed the expropriation complaint. | |  |
| **Randy Allied Ventures Inc. vs. City of Davao**  **G.R. No. 241697 | July 29, 2019**  *Whether or not the CTA En Banc erred in its classification of RAVI as not being an NBFI subject to LBT under Section 143 (f) of the LGC.*  No. Sec. 143(f) of the Local Government Code provides:  *SECTION 143. Tax on Business. — The municipality may impose taxes on the following businesses:*  *x x x x*  *(f) On banks and* ***other financial institutions****, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium*  Essentially, LBT are taxes imposed by local government units on the **privilege of doing business within their jurisdictions**.  In order to be considered as an NBFI under the National Internal Revenue Code, banking laws, and pertinent regulations, the following must concur:[20]   1. The person or entity is authorized by the BSP to perform quasi-banking functions;[21] 2. The principal functions of said person or entity include the lending, investing or placement of funds or evidences of indebtedness or equity deposited to them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others;[22] and 3. The person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis, to wit:[23]     1. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;    2. Use principally the funds received for acquiring various types of debt or equity securities;    3. Borrow against, or lend on, or buy or sell debt or equity securities   In sum, since RAVI is not a bank or other financial institution, i.e., an NBFI, it cannot be held liable for LBT under Section 143 (f) of the LGC. | |  |
| **Cosmos Bottling Corp. vs. City of Manila**  **G.R. No. 196681 | June 27, 2018**    *Whether or not a taxpayer who initially protested and paid an assessment subsequently shift its remedy to one of refund under Section 196 of the Local Government Code (LGC), and what are the procedural requirements for doing so.* Yes, a taxpayer who protested and paid an assessment may later institute an action for refund, provided they comply with the procedural requirements. A taxpayer facing an assessment may protest it under Section 195 of the LGC, even without making payment. However, there is nothing to prevent the taxpayer from paying the tax under protest or simultaneously with a protest. Where payment was made, the taxpayer may maintain an action in court questioning the validity and correctness of the assessment (Section 195, LGC) and at the same time seeking a refund of the taxes. The judicial action for refund must be instituted within thirty (30) days from the denial of or inaction on the letter-protest or claim. Cosmos complied with these requirements by protesting the assessment, paying the tax, filing a claim for refund, and initiating the action before the RTC within 30 days from receipt of the denial of its protest. | |  |
| **Noemi Cruz vs. City of Makati**  **G.R. No. 210894 | September 12, 2018**    *Whether or not the CA committed reversible error in affirming the March 29, 2012, and December 27, 2012 Orders of the trial court, dismissing the complaint for annulment of sale in Civil Case No. 07-1155 considering the gross and inexcusable negligence of their erstwhile counsel which led to the dismissal of their case and consequent deprivation of their property without due process of law.*  Yes, the CA committed reversible error. The Supreme Court held that the trial court's sole reason for dismissing the case was the petitioners' repeated failure to comply with orders to inform the court of developments in a related case, which had become moot due to the dismissal of that related case.  The Court emphasized that the developments in LRC Case No. M-5237, specifically its dismissal for lack of compliance with the LGC regarding notice of tax delinquency, warrant of levy, and billing statements, provided grounds to believe that the levy and auction sale should be annulled.  The Court cited Genato Investments, Inc. v. Barrientos (2014), a case involving the same respondent (Laverne), where the Court ruled that a buyer at a tax delinquency sale did not acquire valid rights due to the city's failure to properly notify the owner. The Court reiterated that strict adherence to tax sale statutes is imperative to protect taxpayers and prevent collusion. | |  |
| **VI. REAL PROPERTY TAXATION** | | |
| **General Principles and Fundamental Principles** | | |
| **Q: What are the fundamental principles of real property tax?**  **A:** Under Section 198 of the LGC, the appraisal, assessment, levy and collection of real property tax shall be guided by the following fundamental principles:   * 1. Real property shall be appraised at its current and fair market value;   2. Real property shall be classified for assessment purposes on the basis of its actual use;   3. Real property shall be assessed on the basis of a uniform classification within each local government unit;   4. The appraisal, assessment, levy and collection of real property tax shall not be let to any private person; and   5. The appraisal and assessment of real property shall be equitable. | |  |
| **Q: Who is responsible for the proper, efficient and effective administration of the real property tax?**  **A:** The provinces, and cities, including the municipalities within the Metropolitan Manila Area shall be responsible for the proper, efficient and effective administration of the real property tax as  stated in Section 200 of the LGC. | |  |
| **Appraisal and Assessment of Real Property** | | |
| **Q: What is the value determined during the appraisal of real property?**  **A:** Under Section 201 of the LGC, All real property, whether taxable or exempt, shall be appraised at the current and fair market value prevailing in the locality where the property is situated. | |  |
| **Q: What are the classes of Real Property?**  **A:** Real property shall be classified as:   * Residential * Agricultural * Commercial * Industrial * Mineral * Timberland; or * Special | |  |
| **Q: Why do we have to classify the real property?**  **A:** Real property needs to be classified for the purposes of assessment. | |  |
| **Q: Who shall have the power to classify lands?**  **A:** Under Section 215(2) the city or municipality within the Metropolitan Manila Area shall have the power to classify lands. | |  |
| **Q: What properties are considered as special?**  **A:** Under Section 216 of the LGC, All lands, buildings, and other improvements thereon actually, directly and exclusively used for hospitals, cultural, or scientific purposes, and those owned and used by local water districts, and government-owned or controlled corporations rendering essential public services in the supply and distribution of water and/or generation and transmission of electric power shall be classified as special. | |  |
| **Q: How are the assessment levels to be applied be fixed?**  **A:** assessment levels to be applied to the fair market value of real property to determine its assessed value shall be fixed by ordinances of the sangguniang panlalawigan, sangguniang panlungsod or sangguniang bayan of a municipality within the Metropolitan Manila Area. | |  |
| **Assessment Appeals** | | |
| **Q: Where can the owner of real property appeal if they are not satisfied with the assessment in their property?**  **A:** Under Sec. 226 of the LGC, Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the provincial or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal. | |  |
| **Q: What will happen if the owner of the property files an appeal?**  **A:** Appeal on assessments of real property suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal. | |  |
| **Imposition of Real Property Tax** | | |
| **Q: Who has the power to levy an annual advalorem tax on real property?**  **A:** A province or city or a municipality within the Metropolitan Manila Area may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted under Section 232 of the LGC. | |  |
| **Q: What is the rate of real property tax?**  **A:** The following are the uniform rate of basic real property tax applicable to respective localities:   1. In the case of a province, at the rate not exceeding one percent (1%) of the assessed value of real property; and 2. In the case of a city or a municipality within the Metropolitan Manila Area, at the rate not exceeding two percent (2%) of the assessed value of real property. | |  |
| **Q: What are the exceptions from paying real property tax?**  **A:** The following are exempted from payment of the real property tax:   * 1. Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;   2. Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;   3. All machineries and equipment that are actually, directly and exclusively used by local water districts and government owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;   4. All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and   5. Machinery and equipment used for pollution control and environmental protection.   **NOTE:** Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code. *(LGC Sec. 234)* | |  |
| **Special Levies on Real Property** | | |
| **Q: Can a province or city, or municipality within the metropolitan Manila Area may levy and collect annual tax on the assessed value of real property in addition to the basic real property tax?**  **A:** Yes, they may levy and collect an annual tax of one percent (1%). | |  |
| **Q: Where shall the proceed go?**  **A:** The proceeds shall exclusively accrue to the Special Education Fund. | |  |
| **Q: Can a province or city, or municipality within the metropolitan Manila Area may levy and collect annual tax on idle lands of the assessed value of real property in addition to the basic real property tax?**  **A:** Yes, they may levy and collect an annual tax on idle lands at the rate not exceeding five percent (5%). | |  |
| **Q: When can idle lands be exempted from tax?**  **A:** A province or city or a municipality within the Metropolitan Manila Area may exempt idle lands from the additional levy by reason of force majeure, civil disturbance, natural calamity or any cause or circumstance which physically or legally prevents the owner of the property or person having legal interest therein from improving, utilizing or cultivating the same. | |  |
| **Collection of Real Property Tax** | | |
| **Q: When shall the real property tax accrue?**  **A:** The real property tax for any year shall accrue on the first day of January and from that date it shall constitute a lien on the property which shall be superior to any other lien, mortgage, or encumbrance of any kind whatsoever, and shall be extinguished only upon the payment of the delinquent tax. | |  |
| **Q: Who has the responsibility to collect the real property tax and related expenses?**  **A:** The city or municipal treasurer shall be responsible for the collection of the real property tax. | |  |
| **Q: Can the payment of real property tax be in installment?**  **A:** Yes. The owner of the real property or the person having legal interest therein may pay the basic real property tax and the additional tax for Special Education Fund (SEF) due thereon without interest in four (4) equal installments. | |  |
| **Q: What will the taxpayer do if there is an illegal or erroneous assessment of basic real property tax?**  **A:** When an assessment of basic real property tax, or any other tax levied is found to be illegal or erroneous and the tax is accordingly reduced or adjusted, the taxpayer may file a written claim for refund or credit for taxes and interests with the provincial or city treasurer within two (2) years from the date the taxpayer is entitled to such reduction or adjustment. | |  |
| **Q: What are the remedies for the collection of real property tax?**  **A:** For the collection of the basic real property tax and any other tax levied, the local government unit concerned may avail of the remedies by administrative action thru levy on real property or by judicial action. | |  |
| **Q: When can they collect real property taxes?**  **A:** The basic real property tax and any other tax levied shall be collected within five (5) years from the date they become due. In case of fraud or intent to evade payment of the tax, such action may be instituted for the collection of the same within ten (10) years from the discovery of such fraud or intent to evade payment. | |  |
| **Disposition of Proceeds** | | |
| **Q: What will happen to the proceeds of the tax on idle lands?**  **A:** The proceeds of the additional real property tax on idle lands shall accrue to the respective general fund of the province or city where the land is located. In the case of a municipality within the Metropolitan Manila Area, the proceeds shall accrue equally to the Metropolitan Manila Authority and the municipality where the land is located. | |  |
| **Q: Where shall the proceeds of the special levy be directed?**  **A:** The proceeds of the special levy on lands benefited by public works, projects and other improvements shall accrue to the general fund of the local government unit which financed such public works, projects or other improvements. | |  |
| **VII. REMEDIES UNDER THE NIRC** | | |
| **Q: What are the remedies of the government for** **collection of delinquent taxes?**  **A:** There are two types of remedies that the government can do for the collection of delinquent taxes: administrative remedies and judicial remedies.  **Administrative Remedies** are the ones that the BIR, through its administrative authority, can directly enforce collection mechanisms to secure tax revenues without immediately resorting to court action, such as:   * 1. Distraint of personal property   2. Levy on real property   3. Tax lien   4. Warrant of garnishment of bank accounts and receivables   5. Suspension of business operations   **Judicial remedies**:   1. Civil action for collection of taxes 2. Criminal prosecution for tax evasion 3. Compromise agreement | |  |
| **VIII. COURT OF TAX APPEALS** | | |
| **Q: What is the Court of Tax Appeals (CTA)?**    **A:** It is a regular court vested with the exclusive appellate jurisdiction over those cases arising out of the NIRC and the CMTA *(CIR v. Court of Appeals, G.R. No. 104151, March 10, 1995).*  It is a highly specialized body created for the purpose of reviewing tax cases *(CIR v. General Foods, G.R. No. 143672, April 24, 2003).* | |  |
| **Q: What are the salient features of the Court of Tax Appeals?**  **A:** Its salient features are:   1. It can only take cognizance of such matters as are clearly within its jurisdiction; 2. The proceedings are judicial in nature although it is not bound by technical rules of evidence *(Sec. 8, R.A. No. 1125).* | |  |
| **Q: What is the composition of the Court of Tax Appeals?**  **A:** It consists of a Presiding Judge and eight (8) Associate Judges, each of whom shall be appointed by the President, upon nomination by the Judicial and Bar Council *(Sec. 1 R.A. No. 1125, as amended by R.A. No. 9503)*. | |  |
| **Q: Who will serve as chairmen of the three divisions of the CTA?**  **A:** The Presiding Justice and the two most Senior Associate Justices, all of whom are incumbent *(Sec. 1, R.A. No. 1125, as amended by R.A. No. 9503)*. | |  |
| **Q: Who will serve as members of the divisions?**  **A:** The other three incumbent Associate Justices and the three additional Associate Justices *(Sec. 1, R.A. No. 1125, as amended by R.A. No. 9503)*. | |  |
| **Q: What are the qualifications, rank, salary, and benefits of the CTA justices?**  **A:** They have the same qualifications, rank, category, salary, emoluments, and other privileges, and are subject to the same inhibitions, disqualifications, and benefits as those provided for the Presiding Justice and Associate Justices of the Court of Appeals *(Sec. 1, R.A. No. 1125, as amended by R.A. No. 9503)*. | |  |
| **Q: What are the cases within the jurisdiction of the CTA Division?**    **A:** The CTA in Divisions shall exercise:   1. **Exclusive original over or appellate jurisdiction to review by appeal the following:** 2. Decisions of the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR; 3. Inaction by the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR, where the NIRC or other applicable law provides a specific period for action:  * Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the NIRC shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the CIR on the tax case; * Provided, further, that should the taxpayer opt to await the final decision of the CIR on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and Provided, still further, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the NIRC;  1. Decisions, resolutions or orders of the RTC in local tax cases decided or resolved by them in the exercise of their original jurisdiction; 2. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the BOC; 3. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs adverse to the Government under Section 2315 of the Tariff and Customs Code; and 4. Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture, in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties; 5. **Exclusive jurisdiction over cases involving criminal offenses:** 6. **Original jurisdiction:**  * All criminal offenses arisingg from violations of the NIRC or Tariff and Customs Code and other laws administered by the BIR or the BOC, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and  1. **Appellate jurisdiction:**  * Appeals from the judgments, resolutions or orders of the RTC in their original jurisdiction in criminal offenses arising from violations of the NIRC or Tariff and Customs Code and other laws administered by the BIR or BOC, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than one million pesos or where there is no specified amount claimed;  1. **Exclusive jurisdiction over tax collection cases:** 2. **Original jurisdiction**  * Tax collection cases involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and  1. **Appellate jurisdiction:**  * Appeals from the judgments, resolutions or orders of the RTC in tax collection cases originally decided by them within their respective territorial jurisdiction *(Sec. 3, Rule 4, Revised Rules of the Court of Tax Appeals).* | |  |
| **Q: What are the cases within the jurisdiction of the CTA *en banc*?**    **A:** The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:   1. **Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:** 2. Cases arising from administrative agencies BIR, BOC, DOF, DTI, DA; 3. Local tax cases decided by the RTC in the exercise of their original jurisdiction; and 4. Tax collection cases decided by the RTC in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos; 5. Decisions, resolutions or orders of the RTC in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction; 6. Decisions, resolutions or orders of the RTC in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction; 7. Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases; 8. Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals; 9. Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the NIRC or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs; 10. Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses mentioned in the preceding subparagraph; and 11. Decisions, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f) *(Sec. 2, Rule 4, Revised Rules of the Court of Tax Appeals).* | |  |
| **Q: Where may the decision of the CTA Division be appealed?**  **A:** The decision of the CTA Division may be appealed to the CTA en banc *(Sec. 18-19, R.A. No. 9282).* | |  |
| **Q: What shall be the subject of appeal to the CTA *en banc?***  **A:** What is appealable to the CTA are decisions of the CIR on the protest of the taxpayer against assessments *(CIR v. V.Y. Domingo Jewellers, Inc., G.R. No. 221780, March 25, 2019).* | |  |
| **Q: Who has the burden of proof in an appeal to the CTA?**  **A:** The taxpayer has the burden of proof to prove by full disclosure of data on his possession that:   1. The tax assessment is wrong; 2. The tax assessment is merely a presumption and not based on actual facts; and 3. The correct computation of liability, if any *(Sy Po v. Court of Tax Appeals, G.R. No. 81446, August 18, 1988).* | |  |
| **Q: How is the Revised Rules of Court of Tax Appeals construed?**  **A:** The Rules shall be liberally construed m order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court *(Sec. 2, Rule 1, Revised Rules of the Court of Tax Appeals).* | |  |
| **Q: May the Rules of Court apply suppletorily to the Revised Rules of the Court of Tax Appeals?**  **A:** Yes. The Rules of Court in the Philippines shall apply suppletorily to these Rules *(Sec. 3, Rule 1, Revised Rules of the Court of Tax Appeals).* | |  |
| **Suspension of Collection** | | |
| **Q: May an appeal be taken to Court to suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of his tax liability?**  **A:** No. No appeal taken to the Court shall suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of his tax liability as provided under existing laws, except as herein prescribed *(Sec. 1, Rule 10, Revised Rules of the Court of Tax Appeals)*. | |  |
| **Q: What can an interested party do if the collection of a taxpayer's liability might jeopardize the interests of the government or the taxpayer?**  **A:** An interested party may file a motion for the suspension of the collection of the tax liability *(Sec. 2, Rule 10, Revised Rules of the Court of Tax Appeals)*. | |  |
| **Q: When may the motion for suspension of the collection of tax be filed?**  **A:** The motion for the suspension of the collection of the tax may be fi led together with the petition for review or with the answer, or in a separate motion fi led by the interested party at any stage of the proceedings *(Sec. 3, Rule 10, Revised Rules of the Court of Tax Appeals)*. | |  |
| **Q: What should be the contents and the attachments of a motion for suspension of collection of tax?**  **A:** The motion for the suspension of the collection of the tax shall be:   * Verified and * Shall state clearly and distinctly the facts and the grounds relied upon in support of the motion. * Affidavits and other documentary evidence in support thereof shall be attached thereto, which, if uncontroverted, would be admissible in evidence as proof of the facts alleged in the motion *(Sec. 4, Rule 10, Revised Rules of the Court of Tax Appeals)*. | |  |
| **Q: When should the opposition to the motion be filed?**    **A:** Unless a shorter period is fixed by the Court because of the urgency of the motion, the adverse party shall, within five days after receipt of a copy of the motion, file an opposition thereto, if any, which shall state clearly and distinctly the facts and the grounds relied upon in support of the opposition *(Sec. 5, Rule 10, Revised Rules of the Court of Tax Appeals)*. | |  |
| **V.Y. Domingo Jewellers, Inc. vs. CIR**  **G.R. No. 221780 | March 25, 2019**  *Whether or not the Court of Tax Appeals (CTA) had jurisdiction to entertain the taxpayer's petition for review.*  No. The Court of Tax Appeals does not have jurisdiction. Petitioner V.Y. Domingo Jewellers failed to exhaust administrative remedies. A taxpayer must first file a protest with the Commissioner of Internal Revenue (CIR) and receive a decision (or a deemed denial due to inaction) before appealing to the CTA. Because the taxpayer in this case, V.Y. Domingo, filed a petition for review with the CTA without first filing an administrative protest, the assessment became final and the CTA lacked jurisdiction to hear the case. | |  |
| **Roca Security & Investigation Agency Inc. vs. CIR**  **G.R. No. 241338 | April 10, 2019**    *Whether or not the Final Assessment Notice (FAN) issued by the Commissioner of Internal Revenue (CIR) is void for violating the taxpayer's right to due process.*  The Final Assessment Notice (FAN) is void. The main issue is the violation of the taxpayer's right to due process, as the CIR issued the FAN before the expiration of the 60-day period granted to the taxpayer to submit supporting documents for their protest against the Preliminary Assessment Notice (PAN). The taxpayer filed the protest on April 18, 2013, and had until June 17, 2013, to submit documents. However, the CIR issued the FAN on April 12, 2013, and the taxpayer received it on April 19, 2013. This action by the CIR improperly cut short the taxpayer's legally mandated period to present their case, rendering the FAN null and void. | |  |
| **Misnet Inc. vs. CIR**  **G.R. No. 210604 | June 3, 2019**  *Whether or not the taxpayer's appeal to the Court of Tax Appeals (CTA) was filed belatedly, considering that a protest on a component of the total tax liability was still pending with the Regional Director.*  No. The taxpayer's appeal to the CTA was not filed belatedly. There was no final and appealable decision from the Commissioner of Internal Revenue (CIR) because the taxpayer's protest on the amended deficiency EWT, which was a component of the Final Decision on Disputed Assessment (FDDA), was still pending with the Regional Director. The FDDA could not be considered the final decision while one of its components was still under protest. Therefore, the prescriptive period for appealing to the CTA had not yet begun to run. The court opted not to apply the statutory period to appeal, finding that the taxpayer was merely exhausting administrative remedies, and thus, the case should be remanded to the CTA for a resolution on the merits. | |  |