

## SYLLABUS FOR THE 2019 BAR EXAMINATIONS

# TAXATION LAW

**NOTE:** This syllabus is an outline of the key topics that fall under the core subject “Taxation Law”. Accordingly, all Bar candidates should be guided that only laws, rules, issuances, and jurisprudence pertinent to these topics as of **June 30, 2018** are examinable materials within the coverage of the 2019 Bar Examinations.

### I. GENERAL PRINCIPLES

- A. Power of taxation as distinguished from Police Power and Eminent Domain
- B. Inherent and constitutional limitations of taxation
- C. Requisites of a valid tax
- D. Tax as distinguished from other forms of exactions
- E. Kinds of taxes
- F. Doctrines in taxation
  - 1. Construction and interpretation of tax laws, rules, and regulations
  - 2. Prospectivity of tax laws
  - 3. Imprescriptibility of taxes
  - 4. Double taxation
  - 5. Escape from taxation
    - a. Shifting of tax burden
    - b. Tax avoidance
    - c. Tax evasion
  - 6. Exemption from taxation
  - 7. Equitable recoupment
  - 8. Prohibition on compensation and set-off
  - 9. Compromise and tax amnesty

### II. NATIONAL TAXATION (National Internal Revenue Code of 1997, as amended by RA 10963 or the Tax Reform for Acceleration and Inclusion Law)

- A. Taxing authority
  - 1. Jurisdiction, power, and functions of the Commissioner of Internal Revenue
    - a. Interpreting tax laws and deciding tax cases
    - b. Non-retroactivity of rulings
  - 2. Rule-making authority of the Secretary of Finance
- B. Income tax
  - 1. Definition, nature, and general principles
    - a. Criteria in imposing Philippine income tax
    - b. Types of Philippine income taxes
    - c. Taxable period
    - d. Kinds of taxpayers
  - 2. Income
    - a. Definition and nature
    - b. When income is taxable
      - i. Existence of income
      - ii. Realization and recognition of income
    - c. Tests in determining whether income is earned for tax purposes
      - i. Realization test
      - ii. Economic benefit test, doctrine of proprietary interest
      - iii. Severance test
    - d. Tax-free exchanges
    - e. Situs of income taxation
  - 3. Gross income

- a. Definition
  - b. Concept of income from whatever source derived
  - c. Gross income vs. net income vs. taxable income
  - d. Classification of income subject to tax
    - i. Compensation income
    - ii. Fringe benefits
    - iii. Professional income
    - iv. Income from business
    - v. Income from dealings in property
    - vi. Passive investment income
    - vii. Annuities, proceeds from life insurance or other types of insurance
    - viii. Prizes and awards
    - ix. Pensions, retirement benefit or separation pay
    - x. Income from any source
  - e. Exclusions and exemptions
    - i. Rationale
    - ii. Taxpayers who may avail
    - iii. Distinguished from deductions and tax credits
4. Deductions from gross income
    - a. Concept as return of capital
    - b. Itemized deductions vs. Optional Standard Deduction
    - c. Items not deductible
  5. Income tax on individuals
    - a. Resident citizens, non-resident citizens, and resident aliens
      - i. Inclusions and exclusions for taxation on compensation income
      - ii. Taxation of business income/income from practice of profession
      - iii. Taxation of passive income
      - iv. Taxation of capital gains
      - v. Capital asset vs. ordinary asset
    - b. Income tax on non-resident aliens engaged in trade or business
    - c. Income tax on non-resident aliens not engaged in trade or business
    - d. Individual taxpayers exempt from income tax
      - i. Senior citizens
      - ii. Minimum wage earners
      - iii. Exemptions granted under international agreements
  6. Income tax on corporations
    - a. Income tax on domestic corporations and resident foreign corporations
      - i. Minimum Corporate Income Tax
      - ii. Branch Profit Remittance Tax
      - iii. Itemized deductions vs. Optional Standard Deductions
      - iv. Taxation of passive income
      - v. Taxation of capital gains
    - b. Income tax on non-resident foreign corporations
    - c. Income tax on special corporations
      - i. Proprietary educational institutions and hospitals
      - ii. Non-profit hospitals
      - iii. Government-owned or controlled corporations, agencies, or instrumentalities
      - iv. Domestic depository banks (foreign currency deposit units)
      - v. International carriers doing business in the Philippines
      - vi. Off-shore banking units
      - vii. Resident foreign depository banks (foreign currency deposit units)
      - viii. Regional or area headquarters and regional operating headquarters of multinational companies
    - d. Improperly Accumulated Earnings Tax (IAET)

- e. Exemptions from tax on corporations
- f. Tax on other business entities: general partnerships, general professional partnerships, co-ownerships, joint ventures, and consortia
- 7. Filing of returns and payment
  - a. Period within which to file income tax return of individuals and corporations
  - b. Substituted filing
  - c. Failure to file returns
- 8. Withholding taxes
  - a. Concept
  - b. Creditable vs. withholding taxes
  - c. Duties of a withholding agent
- C. Transfer taxes
  - 1. Estate tax
    - a. Basic principles, concept, and definition
    - b. Classification of decedent
    - c. Determination of gross and net estate
    - d. Deductions and exclusions from estate
    - e. Exemption of certain acquisitions and transmissions
    - f. Period for filing estate tax returns
  - 2. Donor's tax
    - a. Basic principles, concept, and definition
    - b. Requisites of a valid donation
    - c. Transfers which may be constituted as donation
      - i. Transfer of property for insufficient consideration
      - ii. Condonation/remission of debt
      - iii. Bona fide arms-length transfers
    - d. Determination of gross gift
    - e. Exemption of gifts from donor's tax
- D. Value-Added Tax (VAT)
  - 1. Concept and elements of VATable transactions
  - 2. Impact and incidence of tax
  - 3. Destination Principle; Cross-Border Doctrine
  - 4. Imposition of VAT on transfer of goods by tax exempt persons
  - 5. Transactions deemed sale subject to VAT
  - 6. Zero-rated and effectively zero-rated sales of goods or properties
  - 7. VAT-exempt transactions
  - 8. Input and output tax
  - 9. Tax refund or tax credit
    - a. *San Roque* doctrine
    - b. Enhanced VAT refund system
  - 10. Filing of returns and payment
- E. Tax remedies under the NIRC
  - 1. General concepts
    - a. Requisites of a valid assessment
    - b. Tax delinquency vs. tax deficiency
    - c. Prescriptive period for assessment
      - i. False returns vs. fraudulent returns vs. non-filing of returns
      - ii. Suspension of the running of statute of limitations
  - 2. Civil penalties
    - a. New rule on delinquency interest and deficiency interest
    - b. Surcharge
    - c. Compromise penalty
  - 3. Assessment process and reglementary periods
    - a. Letter of Authority
    - b. Notice of Informal Conference
    - c. Issuance of Preliminary Assessment Notice

- d. Issuance of Formal Letter of Demand/ Final Assessment Notice
    - e. Disputed assessment
  - 4. Collection
    - a. Requisites
    - b. Prescriptive periods
- F. Taxpayer's remedies
  - 1. Protesting an assessment
    - a. Period to file protest
    - b. Submission of supporting documents
    - c. Effect of failure to file protest
    - d. Decision of the Commissioner on the protest filed
      - i. Period to act upon or decide on protest filed
      - ii. Remedies of the taxpayer in case the Commissioner denies the protest or fails to act on the protest
      - iii. Effect of failure to appeal
  - 2. Compromise and abatement of taxes
  - 3. Recovery of tax erroneously or illegally collected
    - a. Grounds, requisites, and period for filing a claim for refund or issuance of a tax credit certificate
    - b. Proper party to file claim for refund or tax credit
- G. Government remedies
  - 1. Kinds
  - 2. Judicial remedies

### **III. LOCAL TAXATION (Local Government Code of 1991 [RA 7160], as amended)**

- A. Local government taxation
  - 1. Fundamental principles
  - 2. Specific taxing powers of Local Government Units (exclude rates)
  - 3. Common limitations on the taxing powers of LGUs
  - 4. Procedure for approval and effectivity of tax ordinances
  - 5. Periods of assessment and collection of local taxes, fees, or charges
  - 6. Taxpayer's remedies
    - a. Protest of assessment
    - b. Claim for refund of tax credit for erroneously or illegally collected taxes, fees, or charges
  - 7. Remedies of the LGUs for collection of revenues
    - a. Administrative action
    - b. Judicial action
- B. Real property taxation
  - 1. Fundamental principles
  - 2. Exemption from real property taxes
  - 3. Collection of real property tax
    - a. Date of accrual of real property taxes and special levies
    - b. Collection of taxes
    - c. Periods within which to collect real property taxes
  - 4. Taxpayer's remedies
    - a. Contesting an assessment
      - i. Payment under protest
      - ii. File protest with treasurer
      - iii. Refunds or credits of real property taxes
    - b. Contesting a valuation of real property
      - i. Appeal to the Local Board of Assessment Appeals (LBAA)
      - ii. Appeal to the Central Board of Assessment Appeals (CBAA)
      - iii. Effect of payment of tax
  - 5. Remedies of LGUs for collection of real property taxes

**IV. JUDICIAL REMEDIES (RA 1125, as amended, and the Revised Rules of the Court of Tax Appeals)**

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

- NOTHING FOLLOWS -