

MODULE 2

TAXES, TAX LAWS, AND TAX ADMINISTRATION

TAXATION LAW

Taxation law refers to any law that arises from the exercise of the taxation power of the State.

Types of taxation laws

1. **Tax laws** – There are laws that provide for the assessment and collection of taxes

Examples:

- The National Internal Revenue Code (NIRC) (primary law)
- The Tariff and Customs Code
- The Local Tax Code
- The Real Property Tax Code

2. **Tax exemption laws** – These are laws that grant certain immunity from taxation

Examples:

- The Minimum Wage Law
- The Omnibus Investment Code of 1987 (EO206)
- Barangay Micro-Business Enterprise (BMBE) Law
- Cooperative Development Act

Cooperatives are tax-exempt for as long as transactions are within its members.

Cooperatives with non-members are taxable.

When a cooperative has revenue funds of more than P1 million, it is taxable.

Sources of Taxation Laws (primary)

- Constitution
- Statutes and Presidential Decrees
- Judicial Decisions or case laws
- Executive Orders and Bids, Pambansa
- Administrative Issuances (issued by DOJ)
- Local Ordinances
- Tax Treaties and Conventions with foreign countries
- Revenue Regulations

Types of Administrative Issuances

- Revenue regulations
- Revenue memorandum orders
- Revenue memorandum rulings
- Revenue memorandum circulars
- Revenue bulletins
- BIR rulings

Revenue Regulations are issuances signed by the Secretary of Finance upon recommendation of the Commissioner of Internal Revenue (CIR) 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. Revenue regulations are formal pronouncements intended to clarify or explain the tax law and carry into effect its general provisions by providing details of administration and procedure. Revenue regulation has the force and effect of a law but is not intended to expand or limit the application of the law; otherwise, it is void.

Revenue Memorandum Orders (RMOs) are issuances that provide directives or instructions, prescribe guidelines, and outline processes, operations, activities, workflows, methods, and procedures necessary in the implementation of stated policies, goals, objectives, plans, and programs of the Bureau in all areas of operations conceptualizing. (RMOs that are directives for DOJ explained)

Revenue Memorandum Rulings (RMRs) are rulings, opinions and interpretations of the CIR with respect to the provisions of the Tax Code and other tax laws as applied to a specific set of facts, with or without established precedents, and which the CIR may issue from time to time for the purpose of providing taxpayer guidance on the tax consequences in specific situations. BIR Rulings, therefore, cannot contravene duly issued RMOs; otherwise, the Rulings are null and void ab initio.

Revenue Memorandum Circulars (RMCs) are issuances that publish pertinent and applicable portions as well as applications of laws, rules, regulations, and procedures issued by the BIR and other agencies/offices.

Revenue Bulletin (RB) refers to periodic issuances, notices, and official announcements of the Commissioner of Internal Revenue that consolidate the Bureau of Internal Revenue's position on certain specific issues of law or administration in relation to the provisions of the Tax Code, relevant tax laws, and other issuances for the guidance of the public.

BIR Rulings are official positions of the Bureau to queries raised by taxpayers and other stakeholders relative to clarification and interpretation of tax laws. Rulings are merely advisory or a sort of information service to the taxpayer such that none of them is binding except to the addressee and may be reversed by the BIR at anytime.

Types of rulings

- Value Added Tax (VAT) rulings
- International Tax Affairs Division (ITAD) rulings
- BIR rulings
- Delegated Authority (DA) rulings

Generally Accepted Accounting Principles (GAAP) or Tax Law

Generally accepted accounting principles or GAAP are not laws but are mere conventions of financial reporting. They are benchmarks for the fair and relevant valuation and recognition of income, expenses, assets, liabilities, and equity of a reporting entity for general purpose financial reporting. GAAP accounting reports are intended to meet the common needs of a vast number of users in the general public.

Tax laws including rules, regulations, and rulings prescribe the criteria for tax reporting, a special form of financial reporting which is intended to meet specific needs of tax authorities.

Taxpayers normally follow GAAP in recording transactions in their books. However, in the preparation and filing of tax returns, taxpayers are mandated to follow the tax law instead of adhering to GAAP.

The law shall be followed when preparing reports for submission to the BIR. In the case of financial statements for stakeholders of a company, GAAP/IFRS shall prevail.

NATURE OF PHILIPPINE TAX LAWS

Philippine tax laws are civil and not political in nature. They are effective even during periods of enemy occupation. They are laws of the occupied territory and not by the occupying enemy. Tax payments made during occupations of foreign enemies are valid.

Our internal revenue laws are not penal in nature because they do not define crime. Their penalty provisions are merely intended to secure taxpayer's compliance.

TAX

Tax is an enforced proportional contribution levied by the lawmaking body of the State to raise revenue for public purposes.

Elements of a Valid Tax

- Tax must be levied by the taxing power having jurisdiction over the object of taxation.
- Tax must not violate Constitutional and inherent limitations.
- Tax must be uniform and equitable
- Tax must be for public purpose
- Tax must be proportional in character
- Tax is generally payable in money

Classification of Taxes

1. **As to purpose**

- Revenue tax** – a tax imposed for general purposes
- Regulatory** – a tax imposed to regulate business, conduct, acts or transactions

Ex. Local Business Tax

- Compulsory** – a tax levied to achieve some social or economic objectives

2. **As to subject matter**

- Personal, real or corporeal** – a tax on persons who are residents of a particular territory
- Property tax** – a tax on property, real or personal
- Excise or privilege tax** – a tax imposed upon the performance of an act, enjoyment of a privilege or engagement in an occupation

Ex. Income tax

3. **As to incidence**

- Direct tax** – when both the impact and incidence of taxation rest upon the same taxpayer, the tax is said to be direct. The tax is collected from the person who is intended to pay the same. The statutory taxpayer is the economic taxpayer.

Ex. Income tax

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O. Ray Whittington, Patrick R. Delaney

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