

TAXATION

ATTY. MACMOD, CPA

Basic Principles of Taxation

BASIC PRINCIPLES OF MODERN TAXATION

A. Define Taxation

1. As a state power: Taxation refers to the inherent power of a sovereign state acting through its legislature to impose a proportionate burden upon persons, property rights or transaction to raise revenue to support government expenditure and as a tool for general and economic welfare.
2. As a process: Taxation refers to the act of imposing a tax by a sovereign state to raise revenue for government expenses.

B. What are the PURPOSES of taxation?

1. Primary purposes to raise funds for the expenses of the government: (also called Revenue Purpose)
2. Secondary purpose: as a tool for general social and economic welfare (also called Regulatory/sumptuary/Compensatory purpose)

C. Give the NATURE or CHARACTERISTICS of the taxing power

1. It is inherent power of a sovereign state - being inherent in sovereignty, the state has the power to tax even if not expressly granted by the constitution.
2. It is legislative in character - taxation is generally exercised by the lawmaking body of a state.
3. It is subject to inherent and constitutional limitations.

D. What is SCOPE of the power of taxation?

- In the absence of inherent and constitutional limitations, the power to tax is comprehensive & unlimited. As a rule, the state thru the congress can tax any thing at any time and at any amount.
1. Subject matter of the tax.
 2. Situs of taxation.
 3. Purpose of the tax.
 4. Amount or rate of tax
 5. Method of collection / Importance of Taxation

E. Where does the power of taxation proceed from?

It proceeds from the necessity of the existence of the government, and since it exists for the People, it can compel them to pay taxes.

F. What is the basis of taxation?

The reciprocal obligation of protection and support between the state and its citizens. In Return for the protection provided by the state, the people pay taxes. Benefit-Protection Theory.

G. Power of judicial REVIEW/ROLE OF COURTS IN TAX CASES (CTA & SC)

LECTURE NOTES

Courts cannot inquire into the wisdom of a taxing act. Courts can only review the legality of the tax based on the constitutional as well as inherent limitations and other applicable laws.

H. Sources of tax laws:

- 1.
- 2.
- 3.
- 4.
- 5.

I. Construction and application of tax laws

- 1.
- 2.

J. What are the three inherent powers of the state?

- 1.
- 2.
- 3.

J-1. Give the similarities and distinctions of Taxation, Police Power and Power of Eminent Domain.

Three inherent powers of a state:

1. Power of Taxation - refer to letter A
2. Power of Eminent Domain - it refers to the inherent power of a sovereign state to take private property for public use upon payment of a just compensation.
3. Police Power - it refers to the inherent power of a sovereign state to enact laws to promote public health, public safety, public morals and the common good.

SIMILARITIES:

1. They are indispensable to government existence.
2. They can exist independent of the constitution.
3. They are the means by which the state interferes with private rights and properties.
4. They are generally exercised by the legislature.
5. They contemplate an equivalent compensation or benefit.

K. What are the forms of avoiding a tax (tax escape)?

- 1.
- 2.
- 3.
- 4.
- 5.

The only thing that stands between a man and what he wants from life is often merely the Will to try it and the FAITH to believe that it is possible. R. Devos

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**Ephraim P. Smith, Philip J.
Harmelink, James R. Hasselback**

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