Ateneo de Manila University

BASIC TAXATION I

General Concepts

Title	Facts	Doctrine	Notes
Concept, Nature, and Characteristics of Taxation and Taxes			
✅ La Suerte Cigar & Cigarette Factory v. CIR [*En Banc*]	Since 1939, the tax code has been imposing tax on "tobacco prepared" or "partially prepared for sale" tobacco products. The cigarette corporations have not been taxed since then, until 1990, when the BIR assessed them for deficiency excise tax on importation and local purchase of stemmed leaf tobacco. Is the government estopped from collecting the deficiency excise tax? NO	The government is never *estopped* from collecting legitimate taxes because of the error committed by its agents. The BIR is not precluded from making a new interpretation of the law, especially when the old interpretation was flawed. Erroneous application and enforcement of the law by public officers do not block subsequent correct application of the statute, and that the government is never estopped by mistake or error on the part of its agents.	The doctrine of estoppel, insofar as taxation is concerned, is really based on the lifeblood doctrine.
✅ Reyes v. Almanzor [*En Banc*]	Despite a prevailing rent freeze policy, the City of Manila changed its basis for assessing real property taxes to the "comparable sales approach." Taxpayers contend that an "income approach" should be used, because the current rates were "excessive, unwarranted, inequitable, confiscatory and unconstitutional," considering that the taxes imposed greatly exceeded the annual income derived from the properties. Is the comparable sales approach unconstitutional? YES	Taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. However, such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself. It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxations, which is the promotion of the common good, may be achieved.	*Compare with Chavez v. Ongpin.*
✅ Marcos II v. CA	Ferdinand R. Marcos II questioned the actuation of the CIR in assessing, and collecting through the summary remedy of Levy on Real Properties, estate and income tax delinquencies upon the estate and properties of his father, despite the pendency of the proceedings on probate of the will of the late president. May the BIR levy the affected properties	The court recognized the liberal treatment of claims for taxes charged against the estate of the decedent. Such taxes, we said, were exempted from the application of the statute of non-claims, and this is justified by the necessity of government funding, immortalized in the maxim that taxes are the lifeblood of the government.	

	despite the pending probate proceedings? YES		
✅ Philippine Guaranty Co. Inc. v. CIR	PGC entered into several reinsurance contracts with several foreign insurance companies not doing business in the Philippines. Thus, PGC ceded premiums to the foreign insurance companies. As a consequence, PGC excluded the premiums ceded from its gross income when it filed its income tax and did not pay tax on them. The BIR, however, assessed withholding tax on the ceded insurance premiums. May the BIR collect taxes on the ceded insurance premium? YES	For purposes of taxation, what is controlling is not the place of business but the place of activity that created an income. An activity may occur outside the place of business.	
✅ Lutz v. Araneta	Commonwealth Act No. 567 imposed higher taxes on the manufacture of sugar, on a graduated basis, and levies on owners or persons in control of lands devoted to the cultivation of sugar cane and ceded to others for a consideration. Lutz assails the validity of the tax measure because it is being levied for the aid and support of the sugar industry exclusively. Is the law valid? YES	It is inherent in the power to tax that a state be free to select the subjects of taxation, and it has been repeatedly held that inequalities which result from a singling out of one particular class for taxation, or exemption infringe no constitutional limitation.	
✅ Chavez v. Ongpin [*En Banc*]	A law was passed updating the basis of real property taxes from 1978 values to 1984 values. This led to the increase in real property taxes by 100% to 400%. Chavez assails the validity of the increase, arguing it is oppressive. Is the law valid? YES	Certainly, to continue collecting real property taxes based on valuations arrived at several years ago, in disregard of the increases in the value of real properties that have occurred since then, is not in consonance with a sound tax system. Fiscal adequacy, which is one of the characteristics of a sound tax system, requires that sources of revenues must be adequate to meet government expenditures and their variations.	
✅ Diaz v. Secretary of Finance [*En Banc*]	The BIR imposed value-added tax on toll fees. Petitioners assail the imposition, claiming it is not administratively feasible (*i.e.,* to claim input VAT, the name, address and tax identification number of the tollway user must be indicated in the VAT receipt or invoice–a	Administrative feasibility is one of the canons of a sound tax system. It simply means that the tax system should be capable of being effectively administered and enforced with the least inconvenience to the taxpayer. Non-observance of the canon, however, will	

	logistical nightmare). Is the issuance valid? YES	not render a tax imposition invalid except to the extent that specific constitutional or statutory limitations are impaired.	
Classifications and Distinctions			
✅ Esso Standard Eastern Inc. v. CIR	ESSO wanted to deduct "ordinary and necessary expenses" from the margin fees it paid to the Central Bank on its profit remittances to its New York head office. Are margin fees taxes? NO	A margin fee is not a tax but an exaction designed to curb the excessive demands upon our international reserve. Thus, the margin fee was imposed by the State in the exercise of its police power and not the power of taxation.	The question of tax vs. fee mattered because if they are tax, they can deduct it.
✅ Progressive Development Corp. v. Quezon City	Quezon City passed an ordinance imposing "supervision fees" against public and private markets. Thus, they are required to pay 10% of the gross receipts from stall rentals. Farmers Market sued the City Government, alleging that the "supervision fee" was a tax on income, which is expressly prohibited by the Local Government Code. Is it an income tax? NO	Although license fee is a legal concept distinguishable from tax: the former is imposed in the exercise of police power primarily for purposes of regulation, while the latter is imposed under the taxing power primarily for purposes of raising revenues. To be considered a license fee, the imposition questioned must relate to an occupation or activity that so engages the public interest in health, morals, safety and development as to require regulation for the protection and promotion of such public interest; the imposition must also bear a reasonable relation to the probable expenses of regulation, taking into account not only the costs of direct regulation but also its incidental consequences as well. Test: If the generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.	
✅ Philippine Airlines v. Edu [*En Banc*]	Under its franchise, PAL is exempt from paying taxes. On the strength of an opinion of the Secretary of Justice, PAL has, since 1956, not been paying motor vehicle registration fees. Sometime in 1971, however, Edu issued a regulation requiring all tax exempt entities, among them PAL to pay motor vehicle registration fees.	Fees may be properly regarded as taxes even though they also serve as an instrument of regulation. If the purpose is primarily revenue, or if revenue is at least one of the real and substantial purposes, then the exaction is properly called a tax. These exactions are sometimes called regulatory taxes.	It is quite apparent that vehicle registration fees were originally simple exactions intended only for regulatory purposes in the exercise of the state's police powers. Over the years, however, as vehicular traffic exploded in number and motor vehicles became absolute necessities without which modern life as we know it would stand still,

	Is the motor vehicle registration fees a tax? YES		Congress found the registration of vehicles a very convenient way of raising much needed revenues. Without changing the earlier denomination of registration payments as fees, their nature has become that of taxes.
✅ American Mail Lines v. City of Basilan [*En Banc*]	The City of Basilan passed an ordinance imposing anchorage fees at a rate of ½ centavo per registered gross ton of a vehicle per day. The city argues that the fee was imposed based on its police power and that the fees imposed therein are for purely regulatory purposes. Is the anchorage fee a regulatory fee? NO	The fees have no proper or reasonable relation to the cost of issuing the permits and the cost of inspection or surveillance.	Fees for purely regulatory purposes may only be of sufficient amount to include the expenses of issuing the license and the cost of the necessary inspection or police surveillance, taking into account not only the expense of direct regulation but also incidental expenses. The amount of the imposition matters. Being based upon the tonnage of the vessels, the fees have no proper or reasonable relation to the cost of issuing the permits and the cost of inspection or surveillance. In the second place, the fee imposed on foreign vessels—1/2 centavo per registered gross ton for the first 24 hours, and which shall not exceed P75.00 per day—exceeds even the harbor fee imposed by the National Government, which is only P50.00 for foreign vessels.
✅ Planters Products Inc. v. Fertiphil Corporation	Marcos Sr. issued a LOI imposing P10 “capital contribution component” per bag of fertilizer sold. Thus, Fertiphil did so and remitted it to the government. Thereafter, the government remitted it to the Far East Bank and Trust Co., the depositary bank of the Planters Products Inc. After the EDSA Revolution, Fertiphil demanded a refund of the amounts it paid. Is the LOI unconstitutional? YES	An inherent limitation on the power of taxation is public purpose. Taxes are exacted only for a public purpose. They cannot be used for purely private purposes or for the exclusive benefit of private persons.	Tax vs. fee mattered here, because if it’s a tax, the government may refund it.
🟧 Angeles University Foundation v. City of Angeles	AUF is a nonstock nonprofit education foundation. Pursuant to RA 6055, they are exempt from the payment of “all taxes … and other charges imposed by the Government on all income derived from or property …” In 2005, AUF wanted to build its medical school building and renovate a school building. AUF applied for a building permit, and Angeles	A charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power. In distinguishing tax and regulation as a form of police power, the determining factor is the purpose of the implemented measure. If the purpose is primarily to raise revenue, then it	

	City required the payment of P826,662.99 for the permits. AUF paid in protest, and sued the city to recover the payment, arguing it is exempt from said fees by virtue of RA 6055. Is AUF exempted from the payment of building permit and related fees under the National Building Code? NO	will be deemed a tax even though the measure results in some form of regulation. On the other hand, if the purpose is primarily to regulate, then it is deemed a regulation and an exercise of the police power of the state, even though incidentally, revenue is generated.	
✅ Bases Conversion and Development Authority v. Baguio City	Pursuant to RA 7916, as amended, economic zones are exempt from taxes under the NIRC and those imposed by the government. Eventually, Baguio City sought to enforce an ordinance requiring establishments inside the city to secure business permits and licenses from the city government, including Camp John Hay. For the city, the exemption only applies to national and local taxes, and not to local business or license fees and charges. Is John Hay exempt from business permits and license fees? NO	As a test to determine if an exaction is a fee or a tax, one must look into the purpose of its collection. If the exaction is made to raise revenue for the government to discharge its principal functions, the exaction is a tax. If the exaction is primarily regulatory, it is a fee, even if it incidentally raises revenue, as long as the revenue generated does not exceed the cost of regulation. If the revenue exceeds the regulatory costs, it is a tax. Business taxes imposed in the exercise of police power for regulatory purposes are paid for the privilege of carrying on a business in the year the tax was paid. It is paid at the beginning of the year as a fee to allow the business to operate for the rest of the year. It is deemed a prerequisite to the conduct of business.	Test applied: The purpose of the collection "In lieu of all taxes" - It is almost always a preferential rate - Foreign investors are very attracted to the simplicity of doing business (paying just one tax)
✅ CIR v. PLDT	Under PLDT's franchise, it shall pay a 3% franchise tax "in lieu of all taxes on this franchise or earnings thereof." However, the PLDT assessed it for compensating tax, advance sales tax and VAT. Is PLDT liable for VAT? YES	Based on the possibility of shifting the incidence (or burden) of taxation, or as to who shall bear the burden of taxation, taxes may be classified into either direct tax or indirect tax: Direct taxes are those that are exacted from the very person who, it is intended or desired, should pay them Indirect taxes are those that are demanded, in the first instance, from, or are paid by, one person in the expectation and intention that he can shift the burden to someone else, *i.e.,* the liability for the payment falls on one person but the burden thereof can be shifted or passed on to another person.	Tax exemptions are strictly construed. Thus, the qualifying clause "on this franchise or earnings thereof" pertains to taxes *directly* imposed on PLDT. Otherwise, the clause will mean nothing. Direct vs. indirect taxes was a preliminary question to answer whether the exempting provision is applicable. In income taxes, the incidence and burden fall on one person. It's a direct tax.

Limitations on the Power of Taxation			
Inherent limitations			
✅ Pascual v. Secretary of Public Works [*En Banc*]	Congress passed a law appropriating sums of money for the construction, reconstruction, repair, extension and improvement of the Pasig feeder road terminals. However, during the law's passage, said feeder roads were still nonexistent. In fact, the said feeder roads were planned to be built in and/or connect the Antonio Subdivision, which was owned by Sen. Zulueta (private property). Is the item of appropriation valid? NO	The taxing power must be exercised for public purposes only,, money raised by taxation can be expanded only for public purposes and not for the advantage of private individuals. The test of the constitutionality of a statute requiring the use of public funds is whether the statute is designed to promote the public interests, as opposed to the furtherance of the advantage of individuals, although each advantage to individuals might incidentally serve the public.	Crony capitalism!
✅ Pepsi-Cola Bottling Co. v. Municipality of Tanauan [*En Banc*]	Tanauan City passed two municipal ordinances: (1) levying from soft drink producers and manufacturers 1/16 centavo for every soft drink corked; and (2) one centavo on each gallon of soft drink produced or manufactured in the city. Aggrieved, Pepsi sued, seeking the invalidity of the ordinances as undue delegation of the power to tax (pursuant to the old Local Government Code). Are the ordinances invalid? NO	The power of taxation is a power that is purely legislative and which the central legislative body cannot delegate either to the executive or judicial department of the government without infringing upon the theory of separation of powers. The exception, however, lies in the case of municipal corporations, to which said theory does not apply. Legislative powers may be delegated to local governments in respect of matters of local concern. By necessary implication, the legislative power to create political corporations for purposes of local self-government carries with it the power to confer on such local governmental agencies the power to tax.	
✅ MIAA v. CA [*En Banc*]	MIAA operated NAIA under its charter, EO 903. The OGCC opined that the LGC withdrew the tax exemption granted to MIAA under § 21 of the MIAA Charter. Thus, MIAA negotiated with Parañaque City to pay the real estate tax due. MIAA paid some of the tax due. In June 2001, MIAA received final notices of real estate tax delinquency from the city for years 1992 to 2001. Because of the tax delinquency, the city threatened to sell	The LGC recognizes the basic principle that local governments cannot tax the national government, which historically merely delegated to local governments the power to tax. While the 1987 Constitution now includes taxation as one of the powers of local governments, local governments may only exercise such power subject to such guidelines and limitations as the Congress may provide. There is, moreover, no point in	

	at a public auction the airport lands and buildings should MIAA fail to pay the taxes due. Thus, MIAA sought clarification from the OGCC, which opined in Aug. 2001 that § 21 of the MIAA Charter is proof that MIAA is exempt from real estate tax, per § 206 of the LGC. Is MIAA exempt from paying RPT? YES	national and local governments taxing each other, unless a sound and compelling policy requires such transfer of public funds from one government pocket to another.	
✅ CIR v. Mitsubishi Metal Corporation	Atlas entered into a loan and sales contract with MMC to expand the former's mines in Cebu. Thus, MMC loaned USD20 million. Thereafter, MMC applied for a loan with the Eximbank to fund its obligations to Atlas. Pursuant to the agreement, interest payments were made by Atlas to MMC. A 15% tax was withheld and remitted to the BIR. However, Atlas and MMC filed a claim for tax credit of the 15% withheld (P1.97M), arguing that the interest payment was tax-exempt as MMC was a mere agent of Eximbank (which is owned by the Government of Japan). Is the interest income from the loans extended to Atlas by MMC excludible from gross income taxation? NO	Laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power. Taxation is the rule and exemption is the exception. The burden of proof rests upon the party claiming exemption to prove that it is in fact covered by the exemption so claimed. While international comity is invoked in this case on the nebulous representation that the funds involved in the loans are those of a foreign government, scrupulous care must be taken to avoid opening the floodgates to the violation of our tax laws.	When MITSUBISHI therefore secured such loans, it was in its own independent capacity as a private entity and not as a conduit of the consortium of Japanese banks or the EXIMBANK of Japan. While the loans were secured by MITSUBISHI primarily 'as a loan to and in consideration for importing copper concentrates from ATLAS, the fact remains that it was a loan by EXIMBANK of Japan to MITSUBISHI and not to ATLAS.
✅ Deutsche Bank AG Manila Branch v. CIR	Deutsche Bank withheld and remitted to the BIR P67M, which was the 15% branch profit remittance tax on its regular banking unit net income remitted to its head office in Germany. Believing that it made an overpayment, Deutsche Bank filed for a refund worth P22.5M, arguing its entitlement to the preferential tax rate of 10% under the RP-Germany Tax Treaty. However, BIR issued RMO No. 1-2000, which required an application with the BIR before the tax treaty relief be availed of. Is Deutsche Bank entitled to the refund? YES	The time-honored international principle of *pacta sunt servanda* demands the performance in good faith of treaty obligations on the part of the states that enter into the agreement. Thus, laws and issuances must ensure that the reliefs granted under tax treaties are accorded to the parties entitled thereto. The BIR must not impose additional requirements that would negate the availment of the reliefs provided for under international agreements. The obligation to comply with a tax treaty must take precedence over the objective of RMO No. 1-2000.	Tax treaties are entered into to reconcile the national fiscal legislations of the contracting parties and, in turn, help the taxpayer avoid simultaneous taxations in two different jurisdictions. It is drafted with a view towards the elimination of international juridical double taxation.
✅ CIR v. Marubeni Corporation	The National Development Company (NDC) and Marubeni entered into two contracts: (1) construction and installation of a wharf/port complex; and (2) construction of an ammonia	A contractor's tax is an excise tax, which may only be levied by the taxing authority when the said acts, privileges or business are done or performed within the jurisdiction of said	All services for the design, fabrication, engineering and manufacture of the materials and equipment under Japanese Yen Portion I were made and completed in Japan. These

	storage complex. The contract had three portions: (1) Japanese Yen Portion 1 [materials and equipment manufactured and paid for in Japan]; (2) Japanese Yen Portion 2; (3) Philippine Pesos Portion. The last two portions involved construction and installation work performed in Leyte. The BIR assessed contractor's tax against Marubeni over the two contracts. Marubeni, however, contended that it had already paid the taxes, arguing that it wasn't liable to the BIR over the Japan-phase of the projects. Is Marubeni liable to pay the taxes assessed? NO	authority (like a property tax).	services were rendered outside the taxing jurisdiction of the Philippines and are therefore not subject to contractor's tax.
✅ Saint Wealth Ltd. v. BIR [*En Banc*]	In 2017, the BIR issued RMC No. 102-2017, which taxed POGOs. In particular, it subjected the gross gaming receipts from POGOs to a 5% franchise tax, and value-added tax from their other related services income. POGO operators assail the constitutionality of the issuance on various grounds. May the BIR impose income tax upon the POGO's gross receipts? NO	The word "source" in taxation conveys that of the origin–that the origin of the income was the Philippines. Thus, the test is to determine if the income originated from the Philippines. For the source of income to be considered as coming from the Philippines, it is sufficient that the income is derived from activity within the Philippines. The "source" of income is not determined by where income is disbursed or physically received, but rather, where the business activity that produced such income is actually conducted. The *situs* of the source of payments is the Philippines. The flow of wealth proceeded from, and occurred within, Philippine territory, enjoying the protection accorded by the Philippine government. In consideration of such protection, the flow of wealth should share the burden of supporting the government. In this case, offshore-based POGO licensees derive no income from the sources within the Philippines because the activity which produces income occurs and is located outside the territory of the Philippines.	Three components of offshore gaming: 1. Prize 2. Player who: a. Enters the game remotely (outside PH and not a Filipino) b. Gives a monetary payment 3. Winning of a prize is by chance All these three components do not involve and are not performed within the Philippine territory. None of these components likewise deals with Filipino citizens. To reiterate, the placing of bets occurs outside the Philippines; the players must not be Filipino citizens, or within the Philippines; and the payment of the prize also occurs outside of the Philippines. Nevertheless, the NIRC provides that foreign corporations are only taxed for income derived in the Philippines. Three jurisprudential tests: 1. Substance – This test determines if a foreign corporation is doing business by evaluating whether it continues to perform the core functions and commercial activities for which it was originally organized within the country. 2. Contract – This test focuses on the

			continuity of transactions, that doing business requires a series of commercial dealings rather than a single, isolated transaction that lacks the intent to establish a market presence. 3. Intention – This test identifies doing business based on a corporation's underlying intent to pursue its business objectives progressively within the country, viewing the frequency of acts merely as evidence of that intent rather than the sole determining factor. 4. Actual performance – This test stipulates that a corporation is only considered to be doing business if it physically performs specific commercial acts within Philippine territory, as the state lacks jurisdiction over activities conducted entirely abroad
Constitutional limitations			
✅ Coconut Oil Refiners Association Inc. v. BCDA [*En Banc*]	Following the declaration of Subic and Clark as economic zones, the president issued executive orders granting the same tax and duty-free importations. Filipinos residing inside the Subic economic zone may bring consumer items (duty free) up to USD100 per person, and nonresidents for USD200 per month. Petitioners assail the issuances for being violative of the equal protection clause. To support this argument, they assert that private respondents operating inside the SSEZ are not different from the retail establishments located outside, the products sold being essentially the same. The only distinction, they claim, lies in the products' variety and source, and the fact that private respondents import their items tax-free, to the prejudice of the retailers and manufacturers located outside the zone. Are the issuances unconstitutional? <u>NO</u>	Equal protection is <u>not</u> violated by legislation based on a reasonable classification. A valid classification must: 1. Rest on substantial distinction 2. Be germane to the purpose of the law 3. Not be limited to existing conditions only 4. Apply equally to all members of the same class It is well-settled that the equal-protection guarantee does not require territorial uniformity of laws. As long as there are actual and material differences between territories, there is no violation of the constitutional clause	There are substantial distinctions between the big investors who are being lured and the present business operators. Millions and new jobs are expected–the impact is national, not local. The classification is germane, because Congress wanted to convert the old bases into economic or industrial areas. The law applies to future conditions. The classification applies to all retailers within the secured area. They are all similarly treated.

✅ Tolentino v. Secretary of Finance [*En Banc*]	The value-added tax (VAT) is levied on the sale, barter or exchange of goods and properties as well as on the sale or exchange of services. It is equivalent to 10% of the gross selling price or gross value in money of goods or properties sold, bartered or exchanged or of the gross receipts from the sale or exchange of services. RA 7716 seeks to widen the tax base of the existing VAT system and enhance its administration by amending the National Internal Revenue Code. Does VAT violate the rule on uniformity of taxes? NO	Equality and uniformity of taxation means that all taxable articles or kinds of property of the same class be taxed at the same rate. The taxing power has the authority to make reasonable and natural classification for purposes of taxation. To satisfy this requirement it is enough that the statute or ordinance applies equally to all persons, forms and corporations placed in similar situation. The Constitution does not really prohibit the imposition of indirect taxes which, like the VAT, are regressive. What it simply provides is that Congress shall " evolve a progressive system of taxation. " The constitutional provision has been interpreted to mean simply that "direct taxes are . . . to be preferred [and] as much as possible, indirect taxes should be minimized. The mandate to Congress is not to prescribe, but to evolve, a progressive tax system.	Resort to indirect taxes should be minimized but not avoided entirely because it is difficult, if not impossible, to avoid them by imposing such taxes according to the taxpayers' ability to pay. In the case of the VAT, the law minimizes the regressive effects of this imposition by providing for zero rating of certain transactions, while granting exemptions to others.
✅ ABAKADA Guro Party-list v. Ermita [*En Banc*]	Several petitioners are assailing the constitutionality of Republic Act (RA) 9337, which raised the current value-added tax (VAT) from 10 to 12% after meeting certain conditions. The raise by 2 points will be effected by the president, upon recommendation of the finance secretary after a condition set in the law is met. Is the VAT hike unconstitutional? NO	Progressive taxation is built on the principle of the taxpayer's ability to pay. Taxation is progressive when its rate goes up depending on the resources of the person affected. The constitution does not really prohibit the imposition of indirect taxes, like the VAT. What it simply provides is that Congress shall "evolve a progressive system of taxation." The constitutional provision has been interpreted to mean simply that direct taxes are to be preferred and as much as possible, indirect taxes should be minimized.	
✅ Sison v. Ancheta [*En Banc*]	Alleging discrimination against the imposition of higher tax rates upon his income arising from the exercise of his profession, petitioner Antero Sison assails the constitutionality of BP 135, which amended the tax rates for taxable compensation income, taxable net income, among others. BP 135 adopted the gross system of income taxation to compensation	To survive an equal protection challenge, it suffices then that the laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed.	There is quite a similarity then to the standard of equal protection for all that is required is that the tax "applies equally to all persons, firms and corporations placed in similar situation." Taxpayers who are recipients of compensation income are set apart as a class.

	income, while continuing the system of net income taxation as regards professional and business income. He contended that the imposition of a higher tax rate on taxable net income derived from business or profession than on compensation is unconstitutional. Is §1 of BP 135 unconstitutional? NO	The rule of uniformity does not call for perfect uniformity or perfect equality, because this is hardly attainable.	These taxpayers are not entitled to make deductions for income tax purposes because they are in the same situation more or less. On the other hand, in the case of professionals in the practice of their calling and businessmen, there is no uniformity in the costs or expenses necessary to produce their income.
✅ Ormoc Sugar v. Treasurer [*En Banc*]	The Municipal Board of Ormoc City passed Ordinance No. 4, Series of 1964. Section 1 of the ordinance states: "There shall be paid to the City Treasurer on any and all productions of centrifugal sugar milled at the Ormoc Sugar Company Incorporated, in Ormoc City a municipal tax equivalent to one per centum (1%) per export sale to the United States of America and other foreign countries." Payments for said tax were made, under protest for a total of P12,087.50. Is the ordinance violative of the equal protection clause? YES	The taxing ordinance should not be singular and exclusive as to exclude any subsequently established sugar central, of the same class as plaintiff, from the coverage of the tax. As it is now, even if later a similar company is set up, it cannot be subject to the tax because the ordinance expressly points only to Ormoc Sugar Company, Inc. as the entity to be levied upon.	
✅ British American Tobacco v. Camacho [*En Banc*]	In 1997, Congress passed a law that moved the tax system from ad valorem (tax based on a percentage of the value) to specific tax (a fixed amount of money per pack) . It created a four-tiered system where cigarettes were taxed at different rates based on their price: low, medium, high, and premium. For old brands, i.e., brands that existed in 1996 (like Marlboro or Philip Morris) had their prices surveyed on October 1, 1996. Their tax rate was "frozen" based on those 1996 prices. Brands introduced later (like Lucky Strike in 2001) were surveyed when they launched. Once the Bureau of Internal Revenue (BIR) determined their price, their tax rate was also frozen. Is the classification freeze unconstitutional? NO	A tax is uniform when it operates with the same force and effect in every place where the subject of it is found. It does not signify an intrinsic but simply a geographical uniformity. A levy of tax is not unconstitutional because it is not intrinsically equal and uniform in its operation. The uniformity rule does not prohibit classification for purposes of taxation. In this, there is no question that the classification freeze provision meets the geographical uniformity requirement because the assailed law applies to all cigarette brands in the Philippines. **Rational basis test** – Under this test, a legislative classification, to survive an equal protection challenge, must be shown to rationally further a legitimate state interest. - The classification freeze provision	As years passed, the "Old Brands" raised their prices. By 2004, Marlboro was being sold at a "Premium" price, but because of the freeze, it was still being taxed at the lower "High" price from 1996 . When Lucky Strike came out, it was immediately taxed at the "Premium" rate because its current price was high . This meant the new brand paid more tax than the old brand, even though they were being sold for similar prices.

		would, thus, aid in the revenue planning of the government.	
✅ BOCEA v. Teves [*En Banc*]	Congress enacted the Attrition Act 2005 to improve tax collection. It aims for BIR and BOC employees and officials to exceed their revenue targets by rewarding those who exceed their targets, and sanctioning those who fail to reach their targets. To implement this, it created a Rewards and Incentives Fund, which is funded by the excess collection subject to a mathematical formula, and implemented by the Revenue Performance Evaluation Board. BOCEA assailed the law for violating the equal protection clause. Is the law unconstitutional for violating the equal protection clause? NO	Equal protection simply provides that all persons or things similarly situated should be treated in a similar manner, both as to rights conferred and responsibilities imposed. The purpose of the equal protection clause is to secure every person within a state's jurisdiction against intentional and arbitrary discrimination, whether occasioned by the express terms of a statute or by its improper execution through the state's duly constituted authorities. In other words, the concept of equal justice under the law requires the state to govern impartially, and it may not draw distinctions between individuals solely on differences that are irrelevant to a legitimate governmental objective.	
✅ Commissioner of Customs v. Hypermix Food Corp.	The Commissioner of Customs issued CMO 27- 2003. Under it, for tariff purposes, wheat was classified according to the following: (1) importer or consignee; (2) country of origin; and (3) port of discharge. The regulation provided an exclusive list of corporations, ports of discharge, commodity descriptions and countries of origin. Depending on these factors, wheat would be classified either as food grade or feed grade. The corresponding tariff for food grade wheat was 3%, for feed grade, 7%. Is the issuance violative of the equal protection clause? YES	The equal protection clause means that no person or class of persons shall be deprived of the same protection of laws enjoyed by other persons or other classes in the same place in like circumstances. Thus, the guarantee of the equal protection of laws is not violated if there is a reasonable classification.	In this case, the classifications are not germane. We do not see how the quality of wheat is affected by who imports it, where it is discharged, or which country it came from.
Non-impairment			
✅ Republic v. Caguioa	RA 7227 granted tax exemptions to businesses and enterprises operating within the Subic economic zone. As a result, respondents availed of the law's benefits and accordingly established their business of general merchandise, including alcohol and tobacco products. However, in 2005, RA 9334 took effect, eliminating the tax	There is no vested right in a tax exemption, more so when the latest expression of legislative intent renders its continuance doubtful. Being a mere statutory privilege, a tax exemption may be modified or withdrawn at will by the granting authority.	To "escape" *Caguioa*: The taxpayer must not be merely induced. They must have a vested right. For example, Lululemon can enter the Philippines, with a tax break, in exchange, the company will provide free uniforms for Philippine Teams. It's a contract!

	exemption insofar as alcohol and tobacco products were concerned. Respondents sued, arguing that the subsequent law was an impairment of contracts. The trial court granted injunction. Did the trial court commit grave abuse of discretion in issuing the injunction? YES		
✅ Casanovas v. Hord	In Jan. 1897, the Spanish government granted Casanovas certain mines in Ambos Camarines. These were valid, perfected mining concessions. In a royal decree effective 1867, the tax imposed was P20 or P10; the iron mines were tax-exempt until 1897; a 3% tax on gross earnings; and nothing more. This was embodied in a deed in a particular form. However, the new tax code levied a tax of P100. Casanovas assailed the new tax law, claiming impairment of contracts. Is Casanovas required to pay the new taxes? NO	The deed constituted a contract between the Spanish Government and the plaintiff, the obligation of which contract was impaired by the enactment of the new tax law. Therefore, it is void as to them.	
Taxation of special entities			
✅ CIR v. CA & YMCA	YMCA is a nonstock, nonprofit institution which conducts programs beneficial to the youth, pursuant to its religious, educational and charitable objectives. In 1980, it earned income from leasing out a portion of its premises to stores and parking fees. Thus, the BIR assessed YMCA. YMCA protested the assessment, claiming its tax exemption under Const. art. VI, § 28 (3). Is YMCA's income tax-exempt? NO	Under the said provision, what is exempted is not the institution itself. Those exempted from real estate taxes are lands, buildings and improvements actually, directly and exclusively used for religious, charitable or educational purposes.	YMCA is not an educational institution. It's not a school.
✅ Lung Center v. Quezon City	In Jun. 1993, Quezon City assessed the real property tax (RPT) of the Lung Center of the Philippines (LCP) in the amount of P4,554,860. LCP claimed exemption, claiming they were a charitable institution because 60% of its beds were for nonpaying patients. The city government denied the exemption, ruling that LCP was not a charitable institution,	Those portions of its real property that are leased to private entities are not exempt from real property taxes as these are not actually, directly and exclusively used for charitable purposes. "Exclusive" – possessed and enjoyed to the exclusion of others; debarred from	The test whether an enterprise is charitable or not is whether it exists to carry out a purpose reorganized in law as charitable or whether it is maintained for gain, profit, or private advantage. What is meant by ADE use of the property for charitable purposes is the direct and

	and that its real properties were not ADE used for charitable purposes, hence, it must pay RPT. Is the LCP exempt from paying RPT? <u>YES</u>	participation or enjoyment. "Dominant use" or "principal use" is not "used exclusively." If real property is used for one or more commercial purposes, it is not exclusively used for the exempted purposes but is subject to taxation.	immediate and actual application of the property itself to the purposes for which the charitable institution is organized.
✅ CIR v. St. Luke's Medical Center Inc.	In 2002, the BIR assessed SLMC amounting to P76M comprised of deficiency income tax, VAT, WT on compensation and expanded WT. BIR argued that SLMC is subject to the 10% preferential tax rate on proprietary nonprofit hospitals, because only 13% of SLMC's revenue came from charitable purposes. On the other hand, SLMC maintained that it is a nonstock, nonprofit institution, making it tax-exempt. Is SLMC tax-exempt? <u>NO</u>	Proprietary means private. Nonprofit means no net income or asset accrues to our benefits any member or specific person, with all the net income or asset devoted to the institution's purposes and all its activities conducted not for profit. Nonprofit does not necessarily mean "charitable." <u>Charitable institutions</u> provide for free goods and services to the public which would otherwise fall on the shoulders of government	*Revisit pp. 5, et seq. of the case*.
✅ CIR v. De La Salle University Inc.	In 2004, BIR assessed DLSU for FY 2003 and unverified prior years. Following the assessment, BIR demanded the following deficiencies: - Income tax on rental earnings from restaurants/canteens and bookstores on campus; - VAT on business income; and - DST on loans and lease contracts. The BIR demanded the payment of P17,303,001.12 for tax years 2001-2003. DLSU, a non-stock, non-profit educational institution, protested the assessment, but the BIR didn't act on it. So, it filed a petition for review in the CTA div. in 2005. The CTA div. partially granted the petition, amending the deficiencies to P18,421,363.53. On reconsideration, DLSU adduced evidence to prove that its rental income was used *ADE* for educational purposes. Hence, the CTA div. modified the deficiencies to P5,506,456.71. On elevation to the CTA *En Banc*, DLSU says the entire assessment should be canceled similar to the case of Ateneo, and that the	Const. art. XIV, §4(3) does not require that the revenues and income must have been sourced from educational activities. "All revenues" is unqualified. So long as the revenues and incomes are used *ADE* for educational purposes, they are tax-exempt. Read together, when a non-stock, non-profit educational institution proves that it uses its revenues actually, directly, and exclusively for educational purposes, it shall be exempted from income tax, VAT, and local business tax (§4(3)). When it also shows that it uses its assets in the form of real property for educational purposes, it shall be exempted from RPT (§28(3)). Proving the actual use of the taxable item (revenues) will result in an exemption, but the specific tax from which the entity shall be exempted shall depend on whether the item is an item of revenue (§4(3)) or asset (§28(3)).	Const. art. VI, §28(3) exempts from real estate taxes the lands, buildings, and improvements ADE used for religious, charitable or educational purposes. However, unlike Const. art. VI, §28(3), Const. art. XIV, §4(3) states that "all revenues and assets" used *ADE* for educational purposes shall be exempt from taxes and duties. If a university leases a portion of its school building to a bookstore or cafeteria, the leased portion is not actually, directly and exclusively used for educational purposes, even if the bookstore or canteen caters only to university students, faculty and staff. The leased portion may be subject to RPT. Commercial use is not incidental to and reasonably necessary to educate students. <u>HOWEVER</u>, if the university uses ADE for educational purposes the revenues from such lease/commercial activities, such revenues shall be exempt from taxes and duties (§4(3)). <u>The crucial inquiry is use of assets vs. use of revenues</u>. To avail of this, the taxpayer must

	CTA div. erred in finding that a portion of DLSU's rental income was not proven to be used *ADE* for educational purposes. The CTA *En Banc* modified DLSU's tax liabilities to P2,554,825.47. Were DLSU's income and revenues proven to have been used *ADE* for educational purposes and therefore are exempt from duties and taxes? YES		facially prove that it used ADE for educational purposes the revenues or income sought to be exempted. *Revisit pp. 9, et seq. of the case*.
Situs of Taxation and Double Taxation			
✅ Republic Bank v. CTA	The Republic Bank appealed a tax assessment totaling over P3.2 million for reserve deficiencies incurred in 1969 and 1970, arguing that the legal basis for the tax had been repealed. The bank contended that Section 249 of the Tax Code, which imposed a 1% monthly tax on reserve deficiencies by referencing Section 126 of the Corporation Law, became inoperative when the latter was repealed by the General Banking Act and the Central Bank Act. Conversely, the Commissioner of Internal Revenue maintained that the Tax Code effectively incorporated the new banking laws by reference, ensuring the tax remained enforceable. Was there double taxation? NO	It is clear from the statutes then in force that there was no double taxation involved—one was a penalty and the other was a tax.	The payment of 1/10 of 1% for incurring reserve deficiencies (Section 106, Central Bank Act) is a penalty as the primary purpose involved is regulation, while the payment of 1% for the same violation (Second Paragraph, Section 249, NIRC) is a tax for the generation of revenue which is the primary purpose in this instance.
✅ Province of Bulacan v. CA	Bulacan imposed a 10% tax on the FMV of every metric ton of quarry materials extracted from public lands in Bulacan. Republic Cement was thus assessed for local tax, but contested the ordinance's validity. Is the Ordinance valid? NO	A province may not levy excise taxes on articles already taxed by the National Internal Revenue Code.	It is clearly apparent from the above provision that the NIRC levies a tax on all quarry resources, regardless of origin, whether extracted from public or private land. Thus, a province may not ordinarily impose taxes on stones, sand, gravel, earth and other quarry resources, as the same are already taxed under the NIRC. The province can, however, impose a tax on stones, sand, gravel, earth and other quarry resources extracted from public land because it is expressly empowered to do so under the LGC. As to stones, sand, gravel, earth and other quarry resources extracted from private land, however, it may not do so, because of the

			limitation provided by § 133 of the LGC in relation to § 151 of the NIRC.
✅ Swedish Match Philippines Inc. v. Treasurer of the City of Manila	Swedish Match was assessed by Manila for payment of local taxes under § 14 and § 21. Swedish Match protested the assessment under § 21, saying it is double taxation. Was there double taxation? YES	Double taxation means taxing the same property twice when it should be taxed only once; that is, taxing the same person twice by the same jurisdiction for the same thing. It is obnoxious when the taxpayer is taxed twice, when it should be but once. Otherwise described as direct duplicate taxation, the two taxes must be imposed on the same subject matter, for the same purpose, by the same taxing authority, within the same jurisdiction, during the same taxing period; and the taxes must be of the same kind or character.	SEC. 14. Tax on Manufacturers, Assemblers and other Processors. — There is hereby imposed a graduated tax on manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers and compounders of liquors, distilled spirits, and wines on manufacturers of any articles of commerce of whatever kind or nature in accordance with the following schedule... SEC. 21. Tax on Business Subject to the Excise, Value-Added or Percentage Taxes under the NIRC. — On any of the following businesses and articles of commerce subject to the excise, value-added or percentage taxes under the National Internal Revenue Code, hereinafter referred to as NIRC, as amended, a tax of FIFTY PERCENT (50%) OF ONE PERCENT (1%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed: A) On person who sells goods and services in the course of trade or businesses
Forms of Escape from Taxation			
✅ Delpher Trades Corp. v. IAC	The Pachecos own a parcel of land, which was leased to Construction Components, with a ROFR. The lease was assigned to Hydro Pipes. Eventually, the Pachecos conveyed the property to Delpher Trades Corp. Thus, Hydro Pipes sued to enforce its ROFR. In its defense, Delpher Trades said that the company is a family corporation of the Pachecos, and the conveyance was merely made to perpetuate their control over the property through the corporation and to avoid taxes. Thus, there was actually no transfer of ownership because the Pachecos remained in control of the property. May Hydro Pipes exercise its ROFR? NO	The legal right of a taxpayer to decrease the amount of what otherwise could be his taxes or altogether avoid them, by means which the law permits, cannot be doubted. In effect, the Delpher Trades Corporation is a business conduit of the Pachecos. What they really did was to invest in their properties and change the nature of their ownership from unincorporated to incorporated form by organizing Delpher Trades Corporation to take control of their properties and at the same time save on inheritance taxes.	
✅ CIR v. Toda	CIC, through Toda, sold the Cibeles Bldg. and the two parcels of land to Altonaga for P100M. In turn, Altonaga sold it to Royal Match Inc. for P200M. For sale of the property to RMI, Altonaga paid CGT worth P10M. In 1990, Toda	Tax evasion connotes the integration of three factors: 1. The end to be achieved, *i.e.,* the payment of less than that known by the taxpayer to be legally due, or the	Tax avoidance is the tax saving device within the means sanctioned by law. This method should be used by the taxpayer in good faith and at arms length. Tax evasion, on the other hand, is a scheme used outside of those

	sold his entire shares of stocks in CIC to Choa for P12.M. In 1994, Toda died. Eventually, the BIR assessed the Estate of Toda for deficiency tax worth P79M. The BIR stated that a fraudulent scheme was perpetuated by CIC (wholly owned and controlled by Toda) by covering up the additional gain of P100M, which resulted in the change in the income structure of the proceeds of the sale of the properties, thus evading the higher CIT rate of 35%. Did Toda commit fraud with intent to evade tax on the sale of the properties? <u>YES</u>	nonpayment of tax when it is shown that a tax is due 2. An accompanying state of mind which is described as being evil, in bad faith, willful, or deliberate and not accidental 3. A course of action or failure of action which is unlawful	lawful means and when availed of, it usually subjects the taxpayer to further or additional civil or criminal liabilities. The scheme resorted to by CIC in making it appear that there were two sales of the subject properties, i.e., from CIC to Altonaga, and then from Altonaga to RMI cannot be considered a legitimate tax planning. Such scheme is tainted with fraud. In a nutshell, the intermediary transaction, *i.e.*, the sale of Altonaga, which was prompted more on the mitigation of tax liabilities than for legitimate business purposes constitutes one of tax evasion. Generally, a sale or exchange of assets will have an income tax incidence only when it is consummated. The incidence of taxation depends upon the substance of a transaction. The tax consequences arising from gains from a sale of property are not finally to be determined solely by the means employed to transfer legal title. <u>Rather, the transaction must be viewed as a whole, and each step from the commencement of negotiations to the consummation of the sale is relevant. A sale by one person cannot be transformed for tax purposes into a sale by another by using the latter as a conduit through which to pass title.</u> To permit the true nature of the transaction to be disguised by mere formalisms, which exist solely to alter tax liabilities, would seriously impair the effective administration of the tax policies of Congress. To allow a taxpayer to deny tax liability on the ground that the sale was made through another and distinct entity when it is proved that the latter was merely a conduit is to sanction a circumvention of our tax laws. Hence, the sale to Altonaga should be disregarded for income tax purposes. <u>The two sale transactions should be treated as a single direct sale by CIC to RMI.</u>

Exemption from taxation			
✅ Luzon Stevedoring Corp. v. CTA	§ 190 of the NIRC provided that, "the tax imposed in this section shall not apply to articles to be used by the importer himself in the manufacture or preparation of articles subject to specific tax or those for consignment abroad and are to form part thereof or to articles to be used by the importer himself as passenger and/or cargo vessel, whether coastwise or ocean-going, including engines and spare parts of said vessel." Petitioner contends that tugboats are embraced and included in the term cargo vessel under the tax exemption provisions. Are tugboats included in the tax exemption? NO	As the power of taxation is a high prerogative of sovereignty, the relinquishment is never presumed and any reduction or diminution thereof with respect to its mode or its rate, must be strictly construed, and the same must be coached in clear and unmistakable terms in order that it may be applied. More specifically stated, the general rule is that any claim for exemption from the tax statute should be strictly construed against the taxpayer.	
✅ CIR v. CA & Ateneo de Manila University	The IPC is a Philippine unit engaged in social science studies of Philippine society and culture. Occasionally, it accepts sponsorships for its research activities from international organizations, private foundations and government agencies. The BIR assessed the IPC for contractor's tax, arguing it is an independent contractor under the NIRC. Is Ateneo de Manila University, through its auxiliary unit or branch — the Institute of Philippine Culture — performing the work of an independent contractor and, thus, subject to the three percent contractor's tax? NO	A statute will not be construed as imposing a tax unless it does so clearly, expressly, and unambiguously. A tax cannot be imposed without clear and express words for that purpose. 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. In case of doubt, such statutes are to be construed most strongly against the government and in favor of the subjects or citizens because burdens are not to be imposed nor presumed to be imposed beyond what statutes expressly and clearly import.	The funds received by Ateneo's Institute of Philippine Culture are not given in the concept of a fee or price in exchange for the performance of a service or delivery of an object. Rather, the amounts are in the nature of an endowment or donation given by IPC's benefactors solely for the purpose of sponsoring or funding the research with no strings attached.
✅ National Development Company v. CIR	NDC bought 12 ships from various shipbuilders in Tokyo. The purchase price was to come from the proceeds of bonds issued by the Central Bank. Initial payments were made in cash and through irrevocable letters of credit. Fourteen promissory notes were signed for the balance by the NDC and, as required by the shipbuilders, guaranteed by the Republic of the Philippines. Pursuant	There is nothing in the above undertaking by the finance secretary exempting the interests from taxes. Petitioner has not established a clear waiver therein of the right to tax interests. Tax exemptions cannot be merely implied but must be categorically and unmistakably expressed. Any doubt concerning this	Manifestly, the said undertaking of the Republic of the Philippines merely guaranteed the obligations of the NDC but without diminution of its taxing power under existing laws. NDC also forgets that it is not the NDC that is being taxed. The tax was due on the interests earned by the Japanese shipbuilders. It was

	thereto, the remaining payments and the interests thereon were remitted in due time by the NDC to Tokyo. The vessels were eventually completed and delivered to the NDC in Tokyo. The NDC remitted to the shipbuilders in Tokyo the total amount of USD4,066,580.70 as interest on the balance of the purchase price. No tax was withheld. NDC argues it is exempt from paying income tax, arguing that it is an interest on government securities and that the PNs were signed by the finance secretary. Is the interest on the transaction tax-exempt? NO.	question must be resolved in favor of the taxing power.	the income of these companies and not the Republic of the Philippines that was subject to the tax the NDC did not withhold.
✅ Smart Communications Inc. v. City of Davao	The Tax Code of Davao provided that notwithstanding any exemption granted by law, a franchise tax was imposed on all business at a rate of 75% of 1% of the gross annual receipts based on the income or receipts realized within the city. Smart contends that it is exempt from said local franchise tax, because of the "in lieu of all taxes" clause found in its franchise (RA 7294). Is Smart liable to pay the Davao taxes? YES	The uncertainty in the "in lieu of all taxes" clause in R.A. No. 7294 on whether Smart is exempted from both local and national franchise tax is construed strictly against Smart who is claiming the exemption. The doubt must be resolved in favor of Davao City. The "in lieu of all taxes" clause does not apply to local taxes. If Congress intended the "in lieu of all taxes" clause in Smart's franchise to also apply to local taxes, Congress would have expressly mentioned the exemption from municipal and provincial taxes. There is no essential difference between a tax exemption and a tax exclusion. An exemption is an immunity or a privilege; it is the freedom from a charge or burden to which others are subjected. An exclusion, on the other hand, is the removal of otherwise taxable items from the reach of taxation, *e.g.,* exclusions from gross income and allowable deductions. An exclusion is, thus, also an immunity or privilege which frees a taxpayer from a charge to which others are subjected. Consequently, the rule that a tax exemption should be applied in *strictissimi juris* against the taxpayer and liberally in favor of the government applies equally to tax exclusions.	Two months before Smart's franchise was passed, the LGC was enacted, allowing LGUs to impose a franchise tax at a rate of 50% of 1%, "notwithstanding any exemption granted by law." Likewise, § 193, LGC has also withdrawn all tax exemption privileges granted.

Purisima v. Lazantin [*En Banc*]	Finance Sec. Purisima signed Revenue Regulation (RR) No. 2-2012 to prevent smuggling of petroleum and petroleum products. Under it, an FEZ locator must first pay the required taxes upon entry into the FEZ of a petroleum product, and must thereafter prove the use of the petroleum product for the locator's registered activity in order to secure a credit for the taxes paid. Rep. Lazantin argued that pursuant to RA 9400, Clark FEZ has tax and duty-free importations of raw materials, capital and equipment into the zone. Thus, the imposition of VAT and excise taxes goes against the law. Is RR 2-2012 invalid? <u>YES</u>	The tax exemption granted to FEZ enterprises is an immunity from tax liability and from the payment of the tax. The essence of a tax exemption is the immunity or freedom from a charge or burden to which others are subjected. It is a waiver of the government's right to collect the amounts that would have been collectible under our tax laws. Thus, when the law speaks of a tax exemption, it should be understood as freedom from the imposition and payment of a particular tax.	
✅ CIR v. J.P. Morgan Chase Bank, N.A. – Philippine Customer Care Center	J.P. Morgan Chase Bank, N.A. - Philippine Customer Care Center entered into a Master Service Provider Agreement with PeopleSupport (Philippines), Inc. in May 2007, under which the latter provided physical plant space, infrastructure, and IT services at its Makati facility. Between May and July 2007, J.P. Morgan paid PeopleSupport a total of P56,913,080.40 and withheld P2,845,654.02 in taxes, which it subsequently remitted to the government in August 2007. However, upon realizing that PeopleSupport was a PEZA-registered enterprise enjoying an income tax holiday during that period, J.P. Morgan determined the withholding was erroneous and reimbursed the full amount of the withheld tax to PeopleSupport on August 16, 2007. Consequently, JP Morgan applied for a tax refund. Is JP Morgan entitled to the refund? <u>NO</u>	Tax incentives partake of the nature of tax exemptions. They are a privilege to which the rule that tax exemptions must be strictly construed against the taxpayer apply. One who seeks an exemption must justify it by words too plain to be mistaken and too categorical to be misinterpreted.	PeopleSupport is registered with PEZA as an Economic Zone Information Technology (Export) Enterprise, not an Information Technology Facilities Provider/Enterprise. JP Morgan's lease of the physical plant space, infrastructure, and other transmission facilities of PeopleSupport (Philippines), Inc., a Philippine Economic Zone Authority (PEZA)-registered Export Enterprise, is not covered within its registered activities. Thus, income derived from it is subject to the regular corporate income tax.
✅ CIR v. Pilipinas Shell Petroleum Corporation	In the Original Decision, the Court ruled that the CTA erred in granting Shell a Tax Refund because Shell failed to establish a tax exemption in its favor under Sec. 135(a) of the NIRC, which exempted international carriers from paying excise taxes on petroleum products sold to them.	The avowed purpose of a tax exemption is always some public benefit or interest, which the law-making body considers sufficient to offset the monetary loss entailed in the grant of the exemption.	The exemption from excise tax of aviation fuel purchased by international carriers for consumption outside the Philippines fulfills a treaty obligation pursuant to which our Government supports the promotion and expansion of international travel through avoidance of multiple taxation and ensuring

	Should local petroleum manufacturers like Shell be exempt from the payment of excise taxes on petroleum products sold to international carriers? YES		the viability and safety of international air travel.
✅ Philippine Airlines Inc. v. CIR	Caltex sold 804,370L of aviation fuel to PAL. Consequently, Caltex filed its excise tax returns. However, PAL received from Caltex an invoice for the excise tax on the sale of jet fuel. PAL then sought clarification from the CIR and sought a refund of the excise taxes passed on it by Caltex, using its franchise which granted it tax exemption privileges. May PAL apply for a refund? YES	As a general rule, it is the statutory taxpayer which has the legal personality to file a claim for refund, not the party who merely bears its economic burden. However, the said rule should not apply to instances where the law clearly grants the party to which the economic burden of the tax is shifted an exemption from both direct and indirect taxes. In which case, the latter must be allowed to claim a tax refund even if it is not considered as the statutory taxpayer under the law. If the law confers an exemption from both direct or indirect taxes, a claimant is entitled to a tax refund even if it only bears the economic burden of the applicable tax. On the other hand, if the exemption conferred only applies to direct taxes, then the statutory taxpayer is regarded as the proper party to file the refund claim.	
Nature, construction, application and sources of tax laws			
✅ CIR v. Philippine Health Care Providers Inc.	VAT was imposed on Jan. 1, 1988. Pursuant to an opinion of the BIR, PHCPI was exempted from paying VAT. Eventually, E-VAT took effect on Jan. 1, 1996, and the BIR assessed PHCPI for VAT and DST (1996, 1997). May the revocation of Ruling 231-88 be applied retroactively? NO	Rulings, circulars and rules and regulations promulgated by the CIR have no retroactive application if to apply them would prejudice the taxpayer. Exceptions: 1. Where the taxpayer deliberately misstates or omits material facts from his return 2. Where the facts subsequently gathered by the BIR are materially different from the facts on which the ruling is based 3. Where the taxpayer acted in bad faith	Clearly, undue prejudice will be caused to PHCPI if the revocation of VAT Ruling No. 231-88 will be retroactively applied to its case.

✅ Philippine Bank of Communications v. CIR	In Q1-2, PBCOM had profits and paid quarterly income tax worth P5M. However, by end of 1985, it actually had a net loss, thus showing no tax liability. Subsequently in 1987, PBCOM sought a refund of the P5M tax paid. The CTA denied the refund, on the ground that it was filed beyond the 2-year period provided by law. The lower courts struck down RMC 7-85. Did the CA err in denying the plea for tax refund or credits on the ground of prescription, despite PBCOM's reliance on RMC No. 7-85, changing the prescriptive period from 2 to 10 years? NO	When BIR issued RMC 7-85, it legislated guidelines contrary to the statute passed by Congress. The non-retroactivity of rulings by the Commissioner of Internal Revenue is not applicable in this case because the nullity of RMC No. 7-85 was declared by respondent courts and not by the Commissioner of Internal Revenue.	
✅ Subic Bay Freeport Chamber of Commerce Inc. v. Department of Finance	Under RA 7227, SMBA enterprises were only entitled to a 5% final tax in lieu of all taxes. In 2021, CREATE Law was passed, defining registered business enterprises (RBEs) as either domestic or registered. Under CREATE Law's IRR, VAT zero-rating was on local purchases to Export Enterprises only. A subsequent BIR RMC clarified that domestic market enterprises (DME) were not qualified to avail the VAT zero-rating and must accordingly pay 12% VAT. Thus, SBFCCI assailed the BIR issuances and IRR for excluding DMEs from VAT zero-rating. Are the issuances invalid? YES	The power to promulgate rules in the implementation of a statute is necessarily limited to what is provided for in the legislative enactment. Its terms must be followed, for an administrative agency cannot amend an Act of Congress. Thus, the rule-making power must be confined to details for regulating the mode or proceedings to carry into effect the law as it has been enacted, and it cannot be extended to amend or expand the statutory requirements or to embrace matters not covered by the statute. If a discrepancy occurs between the basic law and an implementing rule or regulation, the former prevails.	Sections 294 (E) and 295 (D) of the CREATE Act are clear — all RBEs, which include REEs and DMEs, are entitled to VAT zero-rating on their local purchases of goods and services directly and exclusively used in the registered project or activity. This rule is consistent with the nature of SBFZ as a separate customs territory.
Certain doctrines in taxation			
Power to tax involves power to destroy			
✅ CIR v. Tokyo Shipping Co. Ltd.	Tokyo Shipping Co. Ltd., a foreign corporation operating the vessel M/V Gardenia, is seeking a tax refund or credit for P107,142.75 representing pre-paid income and common carrier's taxes paid in December 1980. These taxes were advanced by its Philippine agent, Soriamont Steamship Agencies, based on expected gross receipts from a charter agreement to load 16,500 metric tons of raw sugar for NASUTRA. However, because no	The power of taxation is sometimes called also the power to destroy. Therefore it should be exercised with caution to minimize injury to the proprietary rights of a taxpayer. It must be exercised fairly, equally and uniformly, lest the tax collector kill the hen that lays the golden egg. And, in order to maintain the general public's trust and confidence in the Government this power must be used justly and not treacherously.	A resident foreign corporation engaged in the transport of cargo is liable for taxes depending on the amount of income it derives from sources within the Philippines. Thus, before such a tax liability can be enforced the taxpayer must be shown to have earned income sourced from the Philippines.

	sugar was available upon the vessel's arrival at Guimaras Port, the parties mutually agreed to let the vessel sail for Japan without cargo, resulting in zero actual receipts and rendering the initial tax payments erroneous. Is Tokyo Shipping entitled to a refund? YES		
✅ Tridharma Marketing Corporation v. CTA	Tridharma was issued a PAN and a subsequent demand letter by the BIR for deficiency taxes totaling over P4.6 billion, primarily driven by the complete disallowance of P4.9 billion in purchases from Etheria Trading. While the CIR denied Tridharma's protest and request for reconsideration, the petitioner proactively paid P5,836,786.10 to cover the deficiency assessments for withholding tax on compensation (WTC), documentary stamp tax (DST), and expanded withholding tax (EWT). Despite these payments and an outstanding offer to compromise the remaining income tax (IT) and value-added tax (VAT) assessments, the petitioner ultimately elevated the matter to the CTA to contest the CIR's final decision. Did the CTA commit grave abuse of discretion in requiring the petitioner to file a surety bond despite the supposedly patent illegality of the assessment that was beyond the petitioner's net worth but equivalent to the deficiency assessment for IT and VAT? YES	Legitimate enterprises enjoy constitutional protection not to be taxed out of existence. Incurring losses because of a tax imposition may be an acceptable consequence but killing the business of an entity is another matter and should not be allowed. It is counter-productive and ultimately subversive of the nation's thrust towards a better economy which will ultimately benefit the majority of our people.	The requirement of the bond as a condition precedent to suspension of the collection applies only in cases where the processes by which the collection sought to be made by means thereof are carried out in consonance with the law, not when the processes are in plain violation of the law that they have to be suspended for jeopardizing the interests of the taxpayer.
Set-off taxes			
✅ Philex Mining Corp. v. CIR	BIR sent a letter to Philex asking it to settle its tax liabilities in the total amount of P123,821,982.52. Philex protested the demand for payment of the tax liabilities stating that it has pending claims for VAT input credit/refund for the taxes it paid for the years 1989 to 1991 in the amount of P119,977,037.02 plus interest. Therefore, these claims for tax credit/refund should be applied against the tax liabilities.	Taxes cannot be subject to compensation for the simple reason that the government and the taxpayer are not creditors and debtors of each other. There is a material distinction between a tax and debt. Debts are due to the Government in its corporate capacity, while taxes are due to the Government in its sovereign capacity. A person cannot refuse to pay a tax on the ground that the government owes him an	A taxpayer cannot refuse to pay his taxes when they fall due simply because he has a claim against the government or that the collection of the tax is contingent on the result of the lawsuit it filed against the government.

	May Philex set off? NO	amount equal to or greater than the tax being collected. The collection of a tax cannot await the results of a lawsuit against the government.	
✅ South African Airways v. CIR	South African Airways, a foreign corporation with no landing rights or license to do business in the Philippines, seeks a refund of P1,727,766.38 in taxes paid on Gross Philippine Billings (GPB) for the taxable year 2000. Operating as an off-line carrier, SAA sells passage documents through its general sales agent, Aerotel Limited Corporation, for flights between ports outside Philippine territory. Despite having filed quarterly and annual returns and paying the 2.5% GPB tax on passenger and cargo sales, SAA filed a claim for refund with the BIR, asserting that these payments were made erroneously given its status as an off-line carrier. May SAA set-off tax? NO	To avoid multiplicity of suits and unnecessary difficulties or expenses, it is both logically necessary and legally appropriate that the issue of the deficiency tax assessment be resolved jointly with a claim for tax refund, to determine once and for all in a single proceeding the true and correct amount of tax due or refundable.	SAA's similar tax refund claim assumes that the tax return that it filed was correct. Given, however, the finding of the CTA that SAA, although not liable under Sec. 28 (A) (3) (a) of the 1997 NIRC, is liable under Sec. 28 (A) (1), the correctness of the return filed by petitioner is now put in doubt. As such, we cannot grant the prayer for a refund.
✅ CIR v. Toledo Power Company	Toledo Power Corporation (TPC) filed an administrative claim with the BIR on for the refund or credit of P14,254,013.27 in unutilized input Value Added Tax (VAT) for the taxable year 2002. Invoking the provisions of the EPIRA and the NIRC, TPC sought recovery of these credits after they remained unapplied. TPC elevated the matter to the CTA, where the CIR contested the claim, asserting that the corporation failed to sufficiently prove its legal entitlement to the refund. Is TPC entitled to set-off? YES	The court allowed offsetting of taxes only because the determination of the taxpayer's liability is intertwined with the resolution of the claim for tax refund of erroneously or illegally collected taxes.	In this case, TPC filed a claim for tax refund or credit under Section 112 of the NIRC, where the issue to be resolved is whether TPC is entitled to a refund or credit of its unutilized input VAT for the taxable year 2002. And since it is not a claim for refund under Section 229 of the NIRC, the correctness of TPC's VAT returns is not an issue.
Taxpayer suit			
Anti-Graft League of the Philippines v. San Juan	In 1975, Rizal acquired four parcels of land from Ortigas & Co., Ltd. at P110.00 per square meter specifically to construct the Rizal Technological Colleges and a provincial hospital. Following years of inactivity and the diversion of provincial resources, the Province attempted to sell the idle land to Valley View	To constitute a taxpayer's suit, two requisites must be met: 1. That public funds are disbursed by a political subdivision or instrumentality and in doing so, a law is violated or some irregularity is committed, and	As a taxpayer, petitioner would somehow be adversely affected by an illegal use of public money. When, however, no such unlawful spending has been shown, as in the case at bar, petitioner, even as a taxpayer, cannot question the transaction validly executed by and between the Province and Ortigas for the

	Realty in 1987 for P700.00 per square meter, prompting Ortigas to file a rescission suit (Civil Case No. 55904) alleging a violation of the contractual intent for the land's use. After the Province rescinded its deal with Valley View due to an undervalued price, it entered into a court-approved compromise agreement with Ortigas on March 20, 1989, agreeing to reconvey the property to Ortigas at P2,250.00 per square meter—a rate higher than contemporary appraisals. Although Ortigas completed its payments by March 1991, the petitioner subsequently filed for certiorari to nullify the compromise agreement and the resulting judicial decision. Does he have standing to sue? NO	2. That the petitioner is directly affected by the alleged ultra vires act.	simple reason that it is not privy to said contract. In other words, petitioner has absolutely no cause of action, and consequently no *locus standi*.
Land Bank of the Philippines v. Cacayuran	Agoo, La Union launched a multi-phased redevelopment plan to redevelop the Agoo Public Plaza. Thus, LBP extended two loans in favor of the municipality: (1) for the construction of 10 kiosks for P4M; and (2) for the construction of a commercial center for P28M. Cacayuran objected to the proposed project. Invoking his right as a taxpayer, he assailed the validity of the loans on the ground that the Plaza Lot used as a collateral thereof is property of public dominion and beyond the commerce of man. Does Cacayuran have standing to sue? YES	It is hornbook principle that a taxpayer is allowed to sue where there is a claim that public funds are illegally disbursed, or that 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. For a taxpayer's suit to prosper, two requisites must be met namely, (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.	Both requisites are present: 1. Public funds derived from taxation are bound to be expended as the Municipality assigned a portion of its IRA as a security for the foregoing loans. 2. Cacayuran had a direct interest in ensuring that the Agoo Plaza would not be exploited for commercial purposes through the APC's construction.

Ateneo de Manila University

BASIC TAXATION I

Income Taxation

Title	Facts	Doctrine	Notes
Definitions			
🟠 Garrison v. CA	Six individuals (petitioners) are US citizens who entered this country under § 9 (a) of the Immigration Act. They are all working in the USN Base, Olongapo City. All received separate notices from RDO Olongapo City, directing them to file their tax returns for the year 1969. Petitioners refused to do so, claiming they are not resident aliens, but only special temporary visitors. Are petitioners excused from filing ITR? NO	The IRC requires the filing of an ITR by any "alien residing in the Philippines, regardless of whether the gross income was derived from sources within or outside the Philippines." None of them may be considered a non-resident alien, a "mere transient or sojourner" who is not under any legal duty to file an ITR under the Philippine tax code.	RR No. 2 (1940): Whether he is a transient or not is determined by his intentions with regards to the **length and nature of his stay**. A mere floating intention indefinite as to time, to return to another country is not sufficient to constitute him as transient. If he lives in the Philippines and has no definite intention as to his stay, he is a resident. One who comes to the Philippines for a definite purpose which in its nature may be promptly accomplished is a transient. But if his purpose is of such a nature that an extended stay may be necessary to its accomplishment, and to that end the alien makes his home temporarily in the Philippines, he becomes a resident, though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned.
🟠 AFISCO Insurance Corp. v. CA	Forty-one non-life insurance corporations, organized and existing under Philippine laws, entered into a Quota Share Reinsurance Treaty and a Surplus Reinsurance Treaty with Munich, a nonresident foreign insurance corporation. The treaties required petitioners to form a pool, which they did. In 1976, the pool submitted a financial statement and filed an "information return of organization exempt from income tax," on the basis of which it was assessed by the CIR deficiency corporate taxes and withholding taxes. Petitioners submitted a protest, which the CIR denied. On review, the CA ruled that the pool was a partnership taxable as a corporation.	A partnership is formed when persons contract "to devote to a common purpose either money, property, or labor with the intention of dividing the profits between themselves." Meanwhile, an association implies associates who enter into a "joint enterprise . . . for the transaction of business."	In this case, the companies entered into an association that would handle all the insurance business covered under their quota-share reinsurance treaty and surplus reinsurance treaty: 1. The pool has a common fund, consisting of money and other valuables that are deposited in the name and credit of the pool 2. The pool functions through an executive board, which resembles the board of directors of a corporation 3. True, the pool itself is not a reinsurer and does not issue any insurance

	Was the clearing house a partnership or association subject to tax as a corporation? YES		policy; however, its work is indispensable, beneficial and economically useful to the business of the ceding companies and Munich. The ceding companies share in the business and expenses. Profit is the primordial reason for the pool's formation.
🟠 Pascual v. CIR	Pascual and Dragon bought 2 parcels of land in 1965, and another 3 in 1966. and on May 28, 1966, they bought another three (3) parcels of land from Juan Roque. The first two parcels of land were sold in 1968, while the three parcels of land were sold on March 19, 1970. They realized a net profit in the sale made in 1968 in the amount of P165,224.70, while they realized a net profit of P60,000.00 in the sale made in 1970. The corresponding capital gains taxes were paid by petitioners in 1973 and 1974 by availing of the tax amnesties granted in the said years. However, the BIR assessed them for deficiency in corporate income taxes, deeming them an unregistered partnership or joint venture taxable as a corporation. Are the petitioners an unregistered partnership? NO	In *Evangelista*, there was a series of transactions where petitioners purchased 24 lots showing that the purpose was not limited to the conservation or preservation of the common fund or even the properties acquired by them. The *character of habituality peculiar to business transactions engaged in for the purpose of gain was present*. In this case, the transactions were isolated.	
🟠 Oña v. CIR	Following the death of Julia Buñales, her surviving spouse, Lorenzo T. Oña, and their five children opted not to divide the inherited estate after the court approved the project of partition in 1949. Instead, Oña managed the properties as a single unit, reinvesting the income and proceeds from sales into new real estate and securities, which caused the collective wealth to grow significantly over several years. Because the heirs allowed their shares to be pooled and used by Oña in a series of business transactions for profit, the Commissioner of Internal Revenue (CIR) ruled that they had formed an unregistered partnership. Consequently, the estate's earnings were found subject to corporate	For tax purposes, the co-ownership of inherited properties is automatically converted into an unregistered partnership the moment the said common properties and/or the incomes derived therefrom are used as a common fund with intent to produce profits for the heirs in proportion to their respective shares in the inheritance as determined in a project partition either duly executed in an extrajudicial settlement or approved by the court in the corresponding testate or intestate proceeding.	

	income tax. Are the petitioners an unregistered partnership? YES		
Income			
✅ Fisher v. Trinidad	In 1919, the Philippine American Drug Company declared a stock dividend, of which the appellant (a stockholder) received a share valued at P24,800. Under protest, the appellant paid P889.91 in income tax on that dividend to the appellee in March 1920. This legal action was subsequently filed to recover the paid amount, challenging the taxability of stock dividends as income. Are stock dividends income and taxable? NO	The receipt of a stock dividend in no way increases the money received by the stockholder nor his cash account at the close of the year. It simply shows that there has been an increase in the amount of the capital of the corporation during the particular period, which may be due to an increased business or to a natural increase of the value of the capital due to business, economic, or another reason. We believe that the Legislature, when it provided for an income tax, intended to tax only the income of corporations, firms, or individuals, as that term is generally used in its common acceptation; that is, that the income means money received, common to a person or corporation for services, interest, or profit from investments. We do not believe that the Legislature intended that a mere increase in the value of the capital or assets of a corporation, firm, or individual, should be taxed as income. Such property can be reached under the ordinary form of taxation.	That the fundamental relation of 'capital' to 'income' has been much discussed by economists, the former being likened to the tree or the land, the latter to the fruit or the crop; the former depicted as a reservoir supplied from springs; the latter as the outlet stream, to be measured by its flow during a period of time.
✅ Commissioner v. Glenshaw Glass Co	Glenshaw Glass Co. and William Goldman Theaters Inc., in separate cases, both received payment of punitive damages for fraud and antitrust violations, and treble damages, respectively. Should money received as exemplary damages for fraud be reported as gross income? YES	Congress applied no limitations as to the source of taxable receipts, nor restrictive labels as to their nature. And the Court has given a liberal construction to this broad phraseology in recognition of the intention of Congress to tax all gains except those specifically exempted. The mere fact that the payments were extracted from the wrongdoers as punishment for unlawful conduct cannot detract from their character as taxable income to the recipients.	“Gross income includes ... gains or profits and income derived from any source whatever”
🟠 Cesarini v. US	In 1964, a couple discovered $4,467 in old	While neither of these listings expressly	Except as otherwise provided in this subtitle,

	currency hidden inside a used piano they had purchased years earlier for only $15. After exchanging the cash at a bank, they initially reported the find as ordinary income on their joint tax return but later filed an amended return seeking a refund of $836.51, arguing the "treasure trove" should not be taxed. The Commissioner of Internal Revenue rejected their refund claim, leading the plaintiffs to file a lawsuit in 1967 to recover the disputed tax payment. Are the plaintiffs entitled to a refund? NO	includes the type of income which is at issue in the case at bar, Part III of Subchapter B (Sections 101 et seq.) deals with items specifically excluded from gross income, and found money is not listed in those sections either. This absence of express mention in any of the code sections necessitates a return to the "all income from whatever source" language of Section 61(a) of the code, and the express statement there that gross income is "not limited to" the following fifteen examples. The decisions of the United States Supreme Court have frequently stated that this broad all-inclusive language was used by Congress to exert the full measure of its taxing power.	gross income means all income from whatever source derived, including (but not limited to) the following items Found money constitutes taxable gross income in the year it is reduced to undisputed possession
🟠 Association of Non-Profit Clubs Inc. v. BIR	In 2012, the BIR issued RMC No. 35-2012, which declared that *non-profit recreational clubs are subject to both income tax and VAT*. The BIR justified this change by noting that such clubs were intentionally omitted from the tax-exempt list in the 1997 NIRC and argued that their gross receipts—*including membership fees and assessment dues*—constitute taxable income and payments for services. In response, ANPC filed a petition for declaratory relief, arguing that the BIR exceeded its rule-making authority by taxing fees that are merely used to defray collective expenses rather than generate profit. Is the RMC entirely valid? NO	*Madrigal v. Rafferty:* “Capital" has been delineated as a "fund" or "wealth, " as opposed to "income" being "the flow of services rendered by capital" or the "service of wealth. The essential difference between capital and income is that capital is a fund; income is a flow. A fund of property existing at an instant of time is called capital. A flow of services rendered by that capital by the payment of money from it or any other benefit rendered by a fund of capital in relation to such a fund through a period of time is called income. Capital is wealth, while income is the service of wealth. Income may be defined as an amount of money coming to a person or corporation within a specified time, whether as payment for services, interest or profit from investment. Income can also be thought of as a flow of the fruits of one's labor. To constitute "income," there must be realized "gain.”	Indeed, applying the doctrine of *casus omissus pro omisso habendus est* (meaning, a person, object or thing omitted from an enumeration must be held to have been omitted intentionally), the fact that the 1997 NIRC omitted recreational clubs from the list of exempt organizations under the 1977 Tax Code evinces the deliberate intent of Congress to remove the tax income exemption previously accorded to these clubs. As such, the income that recreational clubs derive “from whatever source” is now subject to income tax under the provisions of the 1997 NIRC. However, RMC No. 35-2012 erroneously foisted a sweeping interpretation that membership fees and assessment dues are sources of income of recreational clubs from which income tax liability may accrue. Membership fees, assessment dues, and other fees of similar nature only constitute contributions to and/or replenishment of the funds for the maintenance and operations of the facilities offered by recreational clubs to their exclusive members. They represent funds "held in trust" by these clubs to defray their operating and general costs and hence, only constitute infusion of capital.

			For as long as these membership fees, assessment dues, and the like are treated as collections by recreational clubs from their members as an inherent consequence of their membership, and are, by nature, intended for the maintenance, preservation, and upkeep of the clubs' general operations and facilities, then these fees cannot be classified as "the income of recreational clubs from whatever source" that are "subject to income tax. " 54 Instead, they only form part of capital from which no income tax may be collected or imposed
Statutory 'inclusions'			
✅ Old Colony Trust v. CIR	Between 1918 and 1920, the American Woolen Company paid its president, William M. Wood, a substantial salary and commissions. Under a corporate resolution, the company also agreed to pay all of Wood's federal and state income taxes directly to the government so that his compensation would remain "net" and undiminished. Did the payment by the employer of the income taxes assessable against the employee constitute additional taxable income to such employee? YES	Payment by an employer of the income taxes assessable against the compensation of an employee, made in consideration of his services, constitutes additional taxable income of the employee. The payment of the tax by the employers was in consideration of the services rendered by the employee and was a gain derived by the employee from his labor. The form of the payment is expressly declared to make no difference. It is therefore immaterial that the taxes were directly paid over to the Government. The discharge by a third person of an obligation to him is equivalent to receipt by the person taxed. The taxes were paid upon a valuable consideration, namely, the services rendered by the employee and as part of the compensation therefor. Nor can it be argued that the payment of the tax was a gift. The payment for services, even though entirely voluntary, was nevertheless compensation within the statute	
✅ Hevelring v. Bruun	In 1915, a landowner entered into a 99-year lease that allowed the tenant to demolish existing structures and build new ones, provided all improvements were surrendered to the lessor upon the lease's termination. In	While it is true that economic gain is not always taxable as income, it is settled that the realization of gain need not be in cash derived from the sale of an asset. Gain may occur as a result of exchange of property,	Here, as a result of a business transaction, the respondent received back his land with a new building on it, which added an ascertainable amount to its value. It is not necessary to recognition of taxable gain that he should be

	1929, the tenant replaced the old building with a new one, but the lease was subsequently canceled in 1933 due to the tenant's default. Upon regaining possession of the property, the lessor acquired a new building with a net fair market value of $51,434.25 (after accounting for the unamortized cost of the demolished structure). The CIR determined that this amount represented realization of a gain subject to income tax in the year of the lease cancellation. Is the gain in question taxable gross income? YES	payment of the taxpayer's indebtedness, relief from a liability, or other profit realized from the completion of a transaction. The fact that the gain is a portion of the value of property received by the taxpayer in the transaction does not negative its realization.	able to sever the improvement begetting the gain from his original capital. If that were necessary, no income could arise from the exchange of property; whereas such gain has always been recognized as realized taxable gain.
✅ CIR v. CA [1999]	Following the death of founder Don Andres Soriano, the family-owned corporation ANSCOR underwent a series of capital restructurings, including the reclassification of common shares into preferred shares for his widow, Doña Carmen, to facilitate a recapitalization scheme. Between 1968 and 1969, the corporation redeemed 108,000 common shares from Don Andres's estate, citing the business purpose of reducing foreign exchange remittances on future dividends. However, the BIR disputed this characterization, assessing the company for deficiency withholding tax-at-source on the exchange and redemption of these stocks. Should ANSCOR's redemption of common shares from the estate of Don Andres, alongside the exchange of common shares for preferred shares by Doña Carmen, be characterized as being "essentially equivalent to the distribution of a taxable dividend," thereby rendering the proceeds subject to deficiency withholding tax-at-source? YES	General rule: A stock dividend representing the transfer of surplus to capital account shall not be subject to tax Exception: 1. There is redemption or cancellation 2. The transaction involves stock dividends 3. The "Time and Manner" requisite The test of taxability under the exempting clause, when it provides "such time and manner" as would make the redemption "essentially equivalent to the distribution of a taxable dividend," is whether the redemption resulted in a flow of wealth. If no wealth is realized from the redemption, there may not be a dividend equivalence treatment. The three elements in the imposition of income tax are: 1. there must be gain or profit, 2. that the gain or profit is realized or received, actually or constructively, and 3. it is not exempted by law or treaty from income tax	(1) there was a clear redemption when the corporation reacquired 108,000 shares from the estate in exchange for cash; (2) the transaction involved stock dividends because the number of shares redeemed far exceeded the estate's original capital investment, with the balance of 82,752.5 shares necessarily coming from profit-based stock declarations; and (3) the "time and manner" of the transaction made it essentially equivalent to a taxable dividend because the "net effect" was a flow of wealth to the shareholder, a conclusion bolstered by the short interval between issuance and redemption and the absence of a credible business purpose, as the alleged "Filipinization" plan was unsupported by corporate records and contradicted by the company's thirty-year failure to declare regular cash dividends.
✅ Wise & Co. Inc. v. Meer	In 1937, the shareholders of Wise & Co. authorized the sale of Manila Wine Merchants	The distinction between an ordinary dividend and a liquidating dividend lies in the context	

	Ltd. (a Hong Kong company) to a new Philippine entity, initiating a process to dissolve the foreign corporation. Between the sale agreement and the formal liquidation, the company passed several resolutions distributing over P280,000 in "dividends" and "surplus" to its stockholders. While the plaintiffs argued these were ordinary dividends exempt from certain taxes, the BIR classified them as liquidating dividends under Section 25(a) of the Income Tax Law. Are they liquidating dividends? YES	of the distribution: - Ordinary dividends are distributed in the ordinary course of business with an intent to maintain the corporation as an ongoing concern - Liquidating dividends are distributed during the liquidation of a business and are in the nature of payments for the surrender and relinquishment of the stockholders' interest in a corporation. Contrary to the plaintiffs' claim, the distributions in this case are not ordinary dividends but are liquidating dividends, as both Schedules B and B-1 contained an instruction that the surplus to be distributed be that resulting after providing for the return of the capital and various expenses. Consequently, these distributions were to be made after the complete and final liquidation of the HK Company. Furthermore, because the HK company agreed in its July 22 meeting that the sale and transfer of assets would take effect as of June 1, 1937, any distributions made after that date are considered liquidating dividends since the corporation could no longer be deemed a going concern.	
✅ James v. US	Eugene James, a union official, embezzled over $738,000 between 1951 and 1954 from his employer union and an insurance company. James failed to report these embezzled funds as gross income on his federal tax returns. Are the embezzled funds considered gross income? YES	Ill-gotten gains are taxable income even if they must be repaid. The scope of the Sixteenth Amendment was not limited to "lawful" income, a distinction that had been found in the Revenue Act of 1913. The absence of the "lawful" modifier indicated that the framers of the Sixteenth Amendment had intended no safe harbor for illegal income.	
✅ CIR v. Sps. Manly	The tax investigation into spouses Antonio and Ruby Manly began in 2005 when the BIR issued a Letter of Authority to examine their liabilities for 2003 and prior years. While Antonio's declared net income from 1998 to	The BIR's Complaint-Affidavit clearly stated the amount of tax due, explained the expenditure method used, and identified the rental business as the likely source of unreported income. The BIR's evidence,	In the case of income, for it to be taxable, there must be a gain realized or received by the taxpayer, which is not excluded by law or treaty from taxation.

	2003 totaled only approximately 1.72M, the couple made over 20.8M in cash purchases, including a Tagaytay log cabin and two luxury vehicles. By applying the expenditure method, the BIR identified massive underdeclarations reaching as high as 957.27% for the year 2000. Under Section 248(B) of the NIRC, these discrepancies exceeded the 30% threshold, constituting prima facie evidence of false or fraudulent tax returns. In their defense, the spouses claimed the funds came from 24 years of accumulated savings and argued that a prior deficiency assessment was required before criminal charges could be filed. However, after the couple refused to allow an inspection of Antonio's rental property, the BIR concluded that the business was the likely source of the undeclared income. Was there probable cause? YES	massive cash purchases grossly disproportionate to the declared income, Antonio's refusal to allow inspection of the rental property, and underdeclarations exceeding 30% of declared income was sufficient to establish probable cause. The spouses' defense of "lifetime savings" was found self-serving for purposes of the probable cause determination since no evidence was presented to support it.	The government is allowed to resort to all evidence or resources available to determine a taxpayer's income and to use methods to reconstruct his income. A method commonly used by the government is the expenditure method, which is a method of reconstructing a taxpayer's income by deducting the aggregate yearly expenditures from the declared yearly income. The theory of this method is that when the amount of the money that a taxpayer spends during a given year exceeds his reported or declared income and the source of such money is unexplained, it may be inferred that such expenditures represent unreported or undeclared income.
Exclusions			
🟠 CIR v. CA [1992]	The GCL Retirement Plan, an employees' trust maintained by GCL Inc. to provide retirement, pension, disability, and death benefits, was officially qualified by the CIR as exempt from income tax under RA No. 4917. Despite this status, 15% was withheld from the Plan's 1984 interest income earned through market placements and treasury bills pursuant to the final withholding tax under PD No. 1959. In response, GCL filed two claims for refund in early 1985 for amounts withheld by Anscor Capital and Investment Corp. and the Commercial Bank of Manila, totaling over P11,000. GCL argued against the lawfulness of these collections, maintaining that as a qualified trust, it remained fully exempt from income tax under RA No. 4917 in relation to Section 56(b) (now 53(b)) of the Tax Code. Should the refund be granted? YES	The final withholding tax is collected from income in respect of which employees trusts are declared exempt. The application of the withholdings system to interest on bank deposits or yield from deposit substitute is essentially to maximize and expedite the collection of income taxes by requiring its payment at the source. If an employees' trust like the GCL enjoys a tax-exempt status from income, the Court sees no logic in withholding a certain percentage of that income which it is not supposed to pay in the first place. Since the final tax and the withholding thereof are embraced within the title on "Income Tax" of the Tax Code, it follows that said trust must be deemed exempt therefrom. Otherwise, the exception becomes meaningless.	The tax advantage in the Tax Code was conceived in order to encourage the formation and establishment of private Plans for the benefit of employees outside of the Social Security Act. The explanatory note of RA 1983 suggests that the tax exemption is likewise to be enjoyed by the income of the pension trust. Otherwise, taxation of those earnings would result in a diminution of accumulated income and reduce whatever the trust beneficiaries would receive out of the trust fund. The GLC Plan was formally qualified as exempt in accordance with RA 4917; insofar as employees' trust are concerned, this should be taken in relation to Section 56(b) of the Tax Code, as amended by RA 1983. The tax-exemption privilege of employees' trusts springs from the foregoing provisions; manifest is that the Tax Code has singled out employees' trusts for exemption. By virtue of

			the raison d'etre behind the creation of employees' trusts: trusts or benefit plans provide economic assistance to employees upon the occurrence of certain contingencies. It provides security against certain hazards; is an independent and additional source of protection; and is established for their exclusive benefit and for no other purpose.
🟠 IBC v. Amarilla	Between 1975 and the mid-1990s, IBC underwent a complex ownership transition, beginning with its sequestration by the government from its original owner, Roberto Benedicto, and culminating in a Compromise Agreement with the PCGG that officially transferred all of Benedicto's interests to the state. During this period, employees Quinones Jr., Lagahit, Otadoy, and Amarilla served the station until their eventual retirement, at which point they received retirement benefits on a staggered basis under the 1993 Collective Bargaining Agreement (CBA). While a subsequent P1,500 salary increase was granted to both current and retired staff, IBC refused to release these funds to the four specific retirees, claiming the differentials would instead be used to offset taxes due on their retirement benefits under the NIRC. This refusal prompted the four retirees to file formal complaints before the NLRC for unfair labor practice and non-payment of backwages.	Under the NIRC, the retirement benefits of respondents are part of their gross income subject to taxes. For the retirement benefits to be exempt from the withholding tax, the taxpayer is burdened to prove the concurrence of the following elements: (1) a reasonable private benefit plan is maintained by the employer; (2) the retiring official or employee has been in the service of the same employer for at least 10 years; (3) the retiring official or employee is not less than 50 years of age at the time of his retirement; and (4) the benefit had been availed of only once	
🟠 CIR v. Mitsubishi Metal Corp.	*Id.*	Mitsubishi is not a mere conduit of the Japanese government's Eximbank. Thus, it is not exempt from income taxation	For income derived *by* a foreign government to be exempt, the income should be received by: 1. Foreign governments 2. Financing institutions owned, controlled or enjoying re-financing from foreign governments 3. International or regional financial institutions established by foreign governments
Source of Income Rules			

✅ CIR v. Marubeni Corp.	*Id.*	A contractor's tax, being an excise tax, can be levied by the taxing authority only when the acts, privileges or business are done or performed within the jurisdiction of said authority.	
🟠 CIR v. BOAC	British Overseas Airways Corporation (BOAC), a state-owned British airline, conducted ticket sales in the Philippines through a general sales agent between 1959 and 1963, despite having no landing rights or direct flight operations within the country. This commercial activity led the Commissioner of Internal Revenue (CIR) to issue deficiency income tax assessments, initially totaling P2.5 million, on the grounds that the revenue generated from these domestic ticket sales constituted taxable income from Philippine sources. Following a protest and subsequent reinvestigation, the CIR reduced the assessment to approximately P850,000, a sum which BOAC paid under protest to challenge the legal basis of taxing an international carrier that does not physically operate within the jurisdiction.	For the source of income to be considered as coming from the Philippines, it is sufficient that the income is derived from activity within the Philippines.	In BOAC's case, the sale of tickets in the Philippines is the activity that produces the income. The tickets exchanged hands here and payments for fares were also made here in Philippine currency. The source of payments is the Philippines. The flow of wealth proceeded from, and occurred within, Philippine territory, enjoying the protection accorded by the Philippine government. In consideration of such protection, the flow of wealth should share the burden of supporting the government.
✅ NDC v. CIR	*Id.*	The residence of the obligor who pays the interest rather than the physical location of the securities, bonds or notes or the place of payment, is the determining factor of the source of interest income.	Sec. 42 (A) (1): Interests derived from sources within the Philippines, and interests on bonds, notes or other interest-bearing obligations of residents, corporate or otherwise.
🟠 Howden & Co. Ltd. v. CIR	Commonwealth Insurance Co., a domestic corporation, entered into reinsurance contracts with 32 British insurance companies not engaged in business in the Philippines. Alexander Howden & Co., another British corporation, represented these foreign companies. While the contracts were signed by the reinsurers in England, they were perfected in Manila when signed by Commonwealth. In 1951, Commonwealth remitted reinsurance premiums and paid income tax on behalf of the foreign corporations, but later filed for a refund, arguing that the premiums were from sources	The source of an income is the property, activity, or service that produced the income. An activity may consist of a single act, as compared to a business which implies continuity of transactions. An income may be earned by a corporation in the Philippines, although such corporation conducts all its business abroad.	Thus, reinsurance premiums ceded to foreign reinsurers are considered income from Philippine sources.

	outside the Philippines and thus not taxable.		
✅ CIR v. Baier-Nickel	JUBANITEX, a domestic corporation, appointed Juliane Baier-Nickel, a non-resident German citizen and its President, as a commission agent entitled to 10% sales commission on sales she generated. She received P1.7M in commissions, from which P170,000 withholding tax was deducted and remitted to the BIR. Three years later, Baier-Nickel claimed a refund, arguing that the income was not taxable in the Philippines because it was compensation for marketing services performed in Germany, thus income from sources outside the Philippines.	The important factor which determines the source of income of personal services is not the residence of the payor, or the place where the contract for service is entered into, or the place of payment, but the place where the services were actually rendered. With respect to rendition of labor or personal service, as in the instant case, it is the place where the labor or service was performed that determines the source of the income.	
🟠 A. Soriano Y Cia v. CIR	A. Soriano y Cia acquired surplus tractors from the Foreign Liquidation Commission and sold 57 of them to United Africa Co., Ltd., a foreign buyer, under an agreement that the tractors would be delivered f.a.s. Manila and in working condition. Although the buyer's technician, Tex Taylor, selected the tractors from U.S. military bases, Soriano first withdrew them, brought them to its own yards in Manila for inspection and reconditioning, and later delivered them to the Manila pier for shipment to East Africa.	For purposes of sales tax and source-of-income analysis, the controlling factor is where title or ownership passes. When the contract provides for delivery f.a.s. Manila, ownership passes only upon delivery at the wharf or dock, absent proof of a contrary intent; thus, if title passes in the Philippines, the sale is deemed consummated here and is taxable here even if the goods are intended for export	Gain on sale of <u>personal</u> property
✅ Aces Philippines v. CIR	Under their agreement, Aces Bermuda provided satellite communications time via a system where a satellite in outer space transmitted signals to ground terminals and gateways operated by Aces Philippines. The BIR issued a deficiency assessment of Php 170.9 million, contending that these payments constitute income from Philippine sources subject to a 35% final withholding tax. Conversely, Aces Philippines argues that the income is sourced outside the Philippines because the revenue-generating activity—the transmission of radio signals—occurs entirely in outer space, and Aces Bermuda maintains no physical equipment, machinery, or employees within Philippine jurisdiction to	In ascertaining the income source, we must inquire into the property, activity, or service that produced the income, or where the inflow of wealth originated. - It is insufficient to identify just any property, activity, or service. The subject may only be regarded as an income source if the particular property, activity, or service causes an increase in **economic benefits**, which may be in the form of an inflow or enhancement of assets or a decrease in liabilities with a corresponding increase in equity other than that attributable to a capital contribution	

	facilitate the calls.		
🟠 South Dakota v. Wayfair Inc.	The Dormant Commerce Clause has historically shielded out-of-state retailers from state tax collection duties, with Supreme Court precedents in 1967 and 1992 establishing that a physical presence was required before a state could demand sales tax. However, as the digital economy began to hollow out state budgets, Justice Kennedy's 2015 concurrence signaled a potential judicial shift, suggesting that these older rules were increasingly obsolete in the age of internet commerce. Seizing this opening, the South Dakota Legislature enacted a law requiring major out-of-state sellers—those with over $100,000 in revenue or 200 transactions—to remit sales tax.	Sellers who engage in a significant quantity of business within a state may be required to collect and remit taxes, despite not having a physical presence in the state. A substantial nexus is established when a business avails itself of a state's market through significant economic activity.	
Deductions			
✅ CIR v. Isabela Cultural Corp.	The Bureau of Internal Revenue (BIR) issued two deficiency tax assessments against Isabela Cultural Corporation (ICC) for the 1986 taxable year. The first assessment for deficiency income tax resulted from the disallowance of claimed expense deductions for auditing, legal, and security services—including those billed and paid in 1986 but pertaining to prior years—as well as an alleged understatement of interest income from promissory notes. The second assessment for deficiency expanded withholding tax was based on ICC's failure to withhold the required 1% tax on its security service payments	The requisites for the deductibility of ordinary and necessary trade, business, or professional expenses are: (a) the expense must be ordinary and necessary; (b) it must have been paid or incurred during the taxable year (*matching principle*); (c) it must have been paid or incurred in carrying on the trade or business of the taxpayer; and (d) it must be supported by receipts, records or other pertinent papers.	As to 2nd requisite: - The deduction shall be taken for the taxable year in which paid or accrued or paid or incurred, dependent upon the method of accounting upon the basis of which the net income is computed
✅ CIR v. General Foods Inc.	General Foods (Phils.), Inc. claimed a deduction of P9,461,246 for media advertising of a single product, "Tang," in its 1985 tax return. The Commissioner of Internal Revenue (CIR) disallowed 50% of this deduction, arguing it was excessive and more akin to a capital expenditure for goodwill than an ordinary business expense.	First requisite. While an expense may be considered "necessary" if incurred in the conduct of business, it must also be "ordinary," which requires that the expenditure be reasonable in amount. **Reasonableness** is determined by considering factors such as the type and size of the business, net earnings, the nature of	Thus, advertising expenses that are inordinately large or incurred to protect or enhance a brand franchise (analogous to maintaining goodwill or property rights) are not considered ordinary business expenses and therefore are not fully deductible in the year incurred.

		the expenditure, the taxpayer's intention, and prevailing economic conditions. Moreover, a distinction must be drawn between advertising expenses aimed at stimulating current sales, which are deductible, and those intended to stimulate future sales or enhance goodwill, which must be amortized over time as capital expenditures.	
🟠 CIR v. Lancaster Philippines Inc.	Lancaster Philippines, a domestic tobacco corporation, challenged a P6.4 million deficiency income tax assessment after the BIR disallowed tobacco purchases made in early 1998 as deductions for the 1999 fiscal year, arguing they should have been declared in 1998 instead. Lancaster defended its accounting treatment by asserting that it aligns its deductions with the tobacco-cropping season to satisfy the matching principle, ensuring that costs are offset against the related revenues. The corporation maintains that under the National Internal Revenue Code and relevant regulations, these purchases are properly deductible in the 1999 fiscal year to accurately reflect its annual income and business cycle.	Second requisite. Under the crop method of accounting, the recognition of the expenses incurred for the production of crops are deducted in the year that the crops are sold (when income is realized).	
✅ Aguinaldo Industries Corp. v. CIR	Aguinaldo Industries Corporation, which operated both a tax-exempt fishing net division and a taxable furniture division, challenged the denial of a tax deduction for bonuses paid to its officers following the sale of its Muntinlupa land. The corporation argued that the profit from the sale was non-taxable because it was recorded under the books of its fish net division, which enjoyed tax-exempt status as a "new and necessary industry."	Whenever a controversy arises on the deductibility, for purposes of income tax, of certain items for alleged compensation of officers of the taxpayer, two questions become material: (a) Have personal services been actually rendered by said officers? (b) In the affirmative case, what is the reasonable allowance thereof?	Thus, the payment of a bonus to them of the gain realized from the sale cannot be considered as a selling expense; nor can it be deemed reasonable and necessary so as to make it deductible for tax purposes.
🟠 Atlas Consolidated Mining v. CIR	In 1957 and 1958, the CIR issued deficiency income tax assessments against Atlas Consolidated Mining, which the corporation subsequently protested. After the 1957 assessment was canceled and the 1958 assessment was significantly reduced, Atlas	"Necessary" – Considered necessary where the expenditure is appropriate and helpful in the development of the taxpayer's business "Ordinary" - Ordinary when it connotes a	Hence, litigation expenses incurred in defense of title to property are capital in nature and are *not* deductible.

	appealed to the CTA to argue for the deductibility of several items, including transfer agent fees, stockholders relation service fees, and litigation expenses. The CTA allowed most deductions but specifically denied the stockholders relation service fees paid to a New York PR firm and certain suit expenses.	payment which is normal in relation to the business of the taxpayer and the surrounding circumstances - Ordinary does not require that payments be habitual, since the payments may be unique or non-recurring	
🟠 Calanoc v. CIR	Calanoc financed and promoted a boxing and wrestling exhibition for a charitable purpose; for the orphans and destitute children of the Children Workers Club. He applied with the CIR for exemption from payment of amusement tax. The CIR demanded P7,378.57 after the event, as it found that only a portion of its proceeds was actually remitted to the Club. Thus, Calanoc assailed the CIR's assessment.	Fourth requisite (receipts): Most of the items of expenditures contained in the statement submitted to the agent are either exorbitant or not supported by receipts. The payment of P461.65 for police protection is illegal as it is a consideration given by the petitioner to the police for the performance by the latter of the functions required of them to be rendered by law. The expenditures of P460.00 for gifts, P1,880.05 for parties and other items for representation are rather excessive, considering that the purpose of the exhibition was for a charitable cause.	
🟠 Pilmico-Mauri Corp. v. CIR	Pilmico-Mauri Foods Corp. (PMFC) was assessed by the CIR for tax deficiencies amounting to Php 3.0M. PMFC contested this stating that the CIR did not allow the deductions of its purchase of raw materials from its gross income. CIR disallowed this due to the lack of substantiation through evidence that such purchases were actually made. The CTA ruled in favor of the CIR finding that the evidence that PMFC actually submitted contained discrepancies which raised doubts on its authenticity. It based its decision on Sec. 238 (NIRC of 1977), requiring the issuance and preservation of receipts or invoices	Fourth requisite (receipts): Deductible expenses are required to be substantiated by the taxpayer to be able to claim the same. Aside from the substantial requirements for claiming an expense, substantiating the said claims is also an indispensable requisite. In addition, not only must the taxpayer meet the business test, he must substantially prove by evidence or records the deductions claimed under the law, otherwise, the same will be disallowed.	Revenue laws are not intended to be liberally construed. Taxes are the lifeblood of the government. While the 1977 NIRC required substantiation requirements for claimed deductions to be allowed, PMFC insists on leniency, *which is not warranted under the circumstances.*
✅ DOF v. AUB	The DOF and BIR issued Revenue Regulations No. 4-2011, which required banks and other financial institutions to allocate their costs and expenses among their different income streams and units, such as their Regular Banking Unit (RBU) and Foreign Currency Deposit Unit (FCDU), thereby	A revenue regulation cannot impose an additional requirement for the deductibility of ordinary and necessary business expenses under Section 34(A)(1) where the Tax Code itself does not require such allocation or limitation.	The regulation required banks to allocate their common expenses among different income streams, including those subject to preferential or final tax, based on the proportion of each unit's gross income. This allocation system reduced the amount of

	limiting what may be deducted from taxable RBU income.		expenses that could be deducted against income subject to regular corporate income tax, thereby imposing a limitation not found in the statute.
🟠 Paper Industries Corp. v. CA	In April 1983, Paper Industries Corporation of the Philippines (PICOP), a BOI-registered pioneer and non-pioneer enterprise, received two formal letters of assessment and demand from the CIR for deficiencies in transaction tax, documentary and science stamp tax, and 1977 income tax totaling PHP 88,763,255.00. Later that same month, PICOP filed a formal protest against these assessments, challenging the legal and factual basis of the multi-million peso tax liabilities. For over a year, the CIR failed to take formal action on these protests until September 1984, when the CIR finally denied PICOP's claims and simultaneously issued warrants of distraint and levy against the corporation's properties to forcibly collect the contested amounts	Interest payments on loans incurred by a taxpayer (whether BOI-registered or not) are allowed by the NIRC as deductions against the taxpayer's gross income. Thus, **the general rule is that interest expenses are deductible against gross income and this certainly includes interest paid under loans incurred in connection with the carrying on of the business of the taxpayer**.	
🟠 CIR v. Vda. de Prieto	In 1954, Prieto donated real property to her four children and subsequently paid a total gift tax assessment of P117,000, which included P55,000 in accrued interest. When she filed her income tax return for that year, she claimed the Php 55,000 interest payment as a deductible expense from her gross income, asserting it was interest paid on indebtedness under the tax code. Are interest payments on unpaid taxes deductible? YES	For interest to be allowed as deduction from gross income, it must be shown that: 1. there be indebtedness, 2. that there should be interest upon it, and 3. that what is claimed as an interest deduction should have been paid or accrued within the year The term "indebtedness" has been defined as an **unconditional and legally enforceable obligation for the payment of money**. Within the meaning of that definition **a tax may be considered an indebtedness**. Hence, *interest paid for late payment of donor's tax is deductible* from gross income under said section.	
✅ CIR v. Lednicky	Spouses Lednicky are both American citizens residing in the Philippines, and have derived all their income from Philippine sources. Since they were U.S. citizens, they also had to pay income tax to the US on that income. They	An **alien** resident who derives income *wholly* from sources within the Philippines may **not deduct** from gross income **the income taxes he paid to his home country** for the taxable year.	*As to tax credits, only resident citizens and domestic corporations are affected by this*. - Alien individuals and foreign corporations are not allowed to avail of tax credits.

	filed their Philippine income tax return in 1956 and paid P326,000. Subsequently, they sought to deduct the U.S. income taxes they paid from their Philippine gross income. They also claim a refund for the excess payment in the years 1955 & 1967, on the same basis.	An alien resident's right to deduct from gross income the income taxes he paid to a foreign government is **given only as an alternative to his right to claim a tax credit for such foreign income taxes**; so that unless he has a right to claim such tax credit if he chooses, he is precluded from said deduction. However, an alien resident is not entitled to tax credit for foreign income taxes paid when his income is derived wholly from sources within the Philippines. - So, no deductions.	Formula: [(Net income from foreign country) / (Net income worldwide)] x Tax due (total)
✅ Tambunting Pawnshop v. CIR	The BIR issued assessment notices and demand letters to H. Tambunting Pawnshop, Inc. (Tambunting) for alleged deficiency percentage tax, income tax, and compromise penalties for the taxable year 1997. Tambunting, a domestic corporation engaged in the pawnshop business, filed an administrative protest with the CIR challenging these assessments. When the CIR failed to act on the protest, Tambunting filed a petition for review with the CTA, asserting that it was entitled to deductions for losses from auction sales and loss due to fire.	The CTA En Banc aptly rejected Tambunting's claim for deductions due to losses from fire and theft. The documents it had submitted to support the claim, namely: (a) the certification from the Bureau of Fire Protection in Malolos; (b) the certification from the Police Station in Malolos; (c) the accounting entry for the losses; and (d) the list of properties lost, were not enough. What was required was for Tambunting to **submit the sworn declaration of loss**. Its failure to do so was prejudicial to the claim because the sworn declaration of loss was necessary to forewarn the BIR that it had suffered a loss whose extent it would be claiming as a deduction of its tax liability, and thus enable the BIR to conduct its own investigation of the incident leading to the loss.	A declaration of loss which must be filed with the Commissioner of Internal Revenue or his deputies within a certain period prescribed in these regulations after the occurrence of the casualty, robbery, theft or embezzlement (RR 12-77).
✅ Philex Mining Corp. v. CIR	Philex Mining entered into a "Power of Attorney" with Baguio Gold to manage and operate the Sto. Niño mine, and under that arrangement both parties contributed money, property, and industry to the project, while Philex would receive 50% of the net profits. When the mine suffered losses and operations ceased, the parties executed compromise agreements recognizing Baguio Gold's liability to Philex, and Philex later wrote off the remaining balance and claimed it as a	Requisites to deduct a bad debt: 1. There was a valid and existing debt; 2. The debt was ascertained to be worthless; and 3. It was charged off within the taxable year when it was determined to be worthless Losses from investments is not a bad debt. Hence, it's not deductible.	

	bad debt deduction in its 1982 income tax return.		
✅ Philippine Refining Company v. CA	Petitioner Philippine Refining Company (PRC) was assessed by respondent Commissioner of Internal Revenue (Commissioner) to pay a deficiency tax for the year 1985 in the amount of P1,892,584. The assessment was protested by petitioner on the ground that it was based on the erroneous disallowances of "bad debts" and "interest expense" although the same are both allowable and legal deductions.	For debts to be considered as "worthless," and thereby qualify as bad debts making them deductible, the taxpayer should show that: (1) there is a valid and subsisting debt; (2) the debt must be actually ascertained to be worthless and uncollectible during the taxable year; (3) the debt must be charged off during the taxable year; and (4) the debt must arise from the business or trade of the taxpayer. Additionally, before a debt can be considered worthless, the taxpayer must also **show that it is indeed uncollectible** even in the future. Furthermore, there are steps outlined to be undertaken by the taxpayer to prove that he exerted diligent efforts to collect the debts, viz: (1) sending of statement of accounts; (2) sending of collection letters; (3) giving the account to a lawyer for collection; and (4) filing a collection case in court.	
✅ Basilan Estates Inc. v. CIR	On March 24, 1954, Basilan Estates, Inc. filed its 1953 income tax return and paid P8,028, reporting a substantial depreciation deduction of P51,252.98 based on the reappraised value of its assets and new hospital equipment. During a subsequent investigation, the CIR discovered that the corporation had abandoned the original acquisition cost of its assets—which yielded an allowable depreciation of only P36,842.04 in 1952—in favor of a higher reappraised valuation for the 1953 tax year. Consequently, the CIR disallowed the excess deduction of P10,500.49 resulting from this unauthorized change in accounting method and issued a deficiency income tax assessment of P3,912 against the company.	Depreciation is the gradual diminution in the useful value of tangible property resulting from wear and tear and normal obsolescence. - The term is also applied to amortization of the value of intangible assets, the use of which in the trade or business is definitely limited in duration. Depreciation commences with the acquisition of the property and its owner is not bound to see his property gradually waste, without making provision out of earnings for its replacement. It is entitled to see that from earnings the value of the property invested is kept unimpaired, so that at the end of any given term of years, the original investment	The income tax law does not authorize the depreciation of an asset beyond its acquisition cost. Hence, a deduction over and above such cost cannot be claimed and allowed.

		remains as it was in the beginning. It is not only the right of a company to make such a provision, but it is its duty to its bond and stockholders, and, in the case of a public service corporation, at least, its plain duty to the public.	
✅ 3M Philippines v. CIR	In 1974, 3M Philippines, the local subsidiary of 3M USA, entered into technical service and royalty agreements with its parent company, agreeing to pay fees totaling 5% of its net sales. On its income tax return for that fiscal year, the corporation claimed P3 million in royalty and service fee deductions and a P97,000 pre-operational cost for a new tape coater. During an ensuing investigation, the CIR disallowed P2 million of the claimed royalties, arguing that fees should only apply to locally manufactured goods rather than finished products imported from the parent company—effectively treating the excess payment as a disguised dividend. Additionally, the CIR ruled that the P97,000 capital expenditure must be amortized over five years, allowing only one-fifth of the deduction for 1974. Consequently, the CIR issued a deficiency assessment of P840,000 plus interest, eventually leading to the issuance of warrants of distraint and levy which 3M Philippines successfully moved to enjoin through the CTA.	No royalty is payable on the wholesale price of finished products imported by the licensee from the licensor. Improper payments of royalty are not deductible as legitimate business expenses.	
✅ Paper Industries Corp. v. CA	*Id.*	Under our Tax Code, losses may be deducted from gross income only if such losses were actually sustained in the same year that they are deducted or charged off.	
✅ Esso Standard Eastern Inc. v. CIR	*Id.*	The margin fees were paid for the remittance by ESSO as part of the profits to the head office in the United States. Such remittance was an expenditure necessary and proper for the conduct of its corporate affairs. As stated in the Lopez case, the margin fees are not expenses in connection with the production or earning of petitioner's incomes in the Philippines. They were expenses incurred in	A margin fee is not a tax but an exaction designed to curb the excessive demands upon our international reserve. Margin fees are *not* deductible.

		the disposition of said incomes; expenses for the remittance of funds after they have already been earned by petitioner's branch in the Philippines for the disposal of its Head Office in New York which is already another distinct and separate income taxpayer.	