

Bar Examination Questionnaire for Taxation  
Set A

1. A municipality may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement only if

- A. the real property is within the Metropolitan Manila Area.
- B. the real property is located in the municipality.
- C. the DILG authorizes it to do so.
- D. the power is delegated to it by the province.

2. Anne Lapada, a student activist, wants to impugn the validity of a tax on text messages. Aside from claiming that the law adversely affects her since she sends messages by text, what may she allege that would strengthen her claim to the right to file a taxpayer's suit?

- A. That she is entitled to the return of the taxes collected from her in case the court nullifies the tax measure.
- B. That tax money is being extracted and spent in violation of the constitutionally guaranteed right to freedom of communication.
- C. That she is filing the case in behalf of a substantial number of taxpayers.
- D. That text messages are an important part of the lives of the people she represents.

3. There is no taxable income until such income is recognized. Taxable income is recognized when the

- A. taxpayer fails to include the income in his income tax return.
- B. income has been actually received in money or its equivalent.
- C. income has been received, either actually or constructively.
- D. transaction that is the source of the income is consummated.

4. Keyrand, Inc., a Philippine corporation, sold through the local stock exchange 10,000 PLDT shares that it bought 2 years ago. Keyrand sold the shares for P2 million and realized a net gain of P200,000.00. How shall it pay tax on the transaction?

- A. It shall declare a P2 million gross income in its income tax return, deducting its cost of acquisition as an expense.
- B. It shall report the P200,000.00 in its corporate income tax return adjusted by the holding period.
- C. It shall pay 5% tax on the first P100,000.00 of the P200,000.00 and 10% tax on the remaining P100,000.00.
- D. It shall pay a tax of one-half of 1% of the P2 million gross sales.

5. Amaretto, Inc., imported 100 cases of Marula wine from South Africa. The shipment was assessed duties and value-added taxes of P300,000 which Amaretto, Inc. immediately paid. The Bureau of Customs did not, however, issue the release papers of the shipment yet since the Food and Drug Administration (FDA) needed to test the suitability of the wine for human consumption. Is the Bureau of Customs at fault for refusing to release the shipment just as yet?

- A. Yes, because the importation was already terminated as a result of the payment of the taxes due.
- B. Yes, the Bureau of Customs is estopped from holding the release of the shipment after receiving the payment.

Bar Examination Questionnaire for Taxation  
Set A

C. No, if the amount paid as duties and value-added taxes due on the importation was insufficient.

D. No, because the Bureau of Customs has not yet issued the legal permit for withdrawal pending the FDA's findings.

6. Which theory in taxation states that without taxes, a government would be paralyzed for lack of power to activate and operate it, resulting in its destruction?

A. Power to destroy theory

B. Lifeblood theory

C. Sumptuary theory

D. Symbiotic doctrine

7. The spouses Helena and Federico wanted to donate a parcel of land to their son Dondon who is getting married in December, 2011. The parcel of land has a zonal valuation of P420,000.00. What is the most efficient mode of donating the property?

A. The spouses should first donate in 2011 a portion of the property valued at P20,000.00 then spread the P400,000.00 equally for 2012, 2013, 2014 and 2015.

B. Spread the donation over a period of 5 years by the spouses donating P100,000.00 each year from 2011 to 2015.

C. The spouses should each donate a P110,000.00 portion of the value of the property in 2011 then each should donate P100,000.00 in 2012.

D. The spouses should each donate a P100,000.00 portion of the value of the property in 2011, and another P100,000.00 each in 2012. Then, in 2013, Helena should donate the remaining P20,000.00.

8. Mia, a compensation income earner, filed her income tax return for the taxable year 2007 on March 30, 2008. On May 20, 2011, Mia received an assessment notice and letter of demand covering the taxable year 2007 but the postmark on the envelope shows April 10, 2011. Her return is not a false and fraudulent return. Can Mia raise the defense of prescription?

A. No. The 3 year prescriptive period started to run on April 15, 2008, hence, it has not yet expired on April 10, 2011.

B. Yes. The 3 year prescriptive period started to run on April 15, 2008, hence, it had already expired by May 20, 2011.

C. No. The prescriptive period started to run on March 30, 2008, hence, the 3 year period expired on April 10, 2011.

D. Yes. Since the 3-year prescriptive period started to run on March 30, 2008, it already expired by May 20, 2011.

9. Double taxation in its general sense means taxing the same subject twice during the same taxing period. In this sense, double taxation

A. violates substantive due process.

B. does not violate substantive due process.

C. violates the right to equal protection.

D. does not violate the right to equal protection.

10. The payor of passive income subject to final tax is required to withhold the

Bar Examination Questionnaire for Taxation  
Set A

tax from the payment due the recipient. The withholding of the tax has the effect of

- A. a final settlement of the tax liability on the income.
- B. a credit from the recipient's income tax liability.
- C. consummating the transaction resulting in an income.
- D. a deduction in the recipient's income tax return.

11. Guidant Resources Corporation, a corporation registered in Norway, has a 50 MW electric power plant in San Jose, Batangas. Aside from Guidant's income from its power plant, which among the following is considered as part of its income from sources within the Philippines?

- A. Gains from the sale to an Ilocos Norte power plant of generators bought from the United States.
- B. Interests earned on its dollar deposits in a Philippine bank under the Expanded Foreign Currency Deposit System.
- C. Dividends from a two-year old Norwegian subsidiary with operations in Zambia but derives 60% of its gross income from the Philippines.
- D. Royalties from the use in Brazil of generator sets designed in the Philippines by its engineers.

12. Tong Siok, a Chinese billionaire and a Canadian resident, died and left assets in China valued at P80 billion and in the Philippines assets valued at P20 billion. For Philippine estate tax purposes the allowable deductions for expenses, losses, indebtedness, and taxes, property previously taxed, transfers for public use, and the share of his surviving spouse in their conjugal partnership amounted to P15 billion. Tong's gross estate for Philippine estate tax purposes is

- A. P20 billion.
- B. P5 billion.
- C. P100 billion.
- D. P85 billion.

13. Anktryd, Inc., bought a parcel of land in 2009 for P7 million as part of its inventory of real properties. In 2010, it sold the land for P12 million which was its zonal valuation. In the same year, it incurred a loss of P6 million for selling another parcel of land in its inventory. These were the only transactions it had in its real estate business. Which of the following is the applicable tax treatment?

- A. Anktryd shall be subject to a tax of 6% of P12 million.
- B. Anktryd could deduct its P6 million loss from its P5 million gain.
- C. Anktryd's gain of P5 million shall be subject to the holding period.
- D. Anktryd's P6 million loss could not be deducted from its P5 million gain.

14. Aplets Corporation is registered under the laws of the Virgin Islands. It has extensive operations in Southeast Asia. In the Philippines, Its products are imported and sold at a mark-up by its exclusive distributor, Kim's Trading, Inc. The BIR compiled a record of all the imports of Kim from Aplets and imposed a tax on Aplets net income derived from its exports to Kim. Is the BIR correct?

- A. Yes. Aplets is a non-resident foreign corporation engaged in trade or business

Bar Examination Questionnaire for Taxation  
Set A

in the Philippines.

B. No. The tax should have been computed on the basis of gross revenues and not net income.

C. No. Aplets is a non-resident foreign corporation not engaged in trade or business in the Philippines.

D. Yes. Aplets is doing business in the Philippines through its exclusive distributor Kim's Trading, Inc.

15. In 2009, Spratz, Inc.'s net profit before tax was P35 million while its operating expenses was P31 million. In 2010, its net profit before tax was P40 million and its operating expenses was P38 million. It did not declare dividends for 2009 and 2010. And it has no proposed capital expenditures for 2011 and the immediate future. May Spratz be subject to the improperly accumulated tax on its retained profits for 2009 and 2010?

A. Yes, since the accumulated amounts are reasonable for operations in relation to what it usually needed annually.

B. Yes, since the accumulation is not reasonably necessary for the immediate needs of the business.

C. No, because there is no showing that the taxpayer's 2009 and 2010 net profit before tax exceeded its paid-up capital.

D. No, because the taxpayer is not shown to be a publicly-listed corporation, a bank, or an insurance company.

16. The actual effort exerted by the government to effect the exaction of what is due from the taxpayer is known as

A. assessment.

B. levy.

C. payment.

D. collection.

17. Although the power of taxation is basically legislative in character, it is NOT the function of Congress to

A. fix with certainty the amount of taxes.

B. collect the tax levied under the law.

C. identify who should collect the tax.

D. determine who should be subject to the tax.

18. Passive income includes income derived from an activity in which the earner does not have any substantial participation. This type of income is

A. usually subject to a final tax.

B. exempt from income taxation.

C. taxable only if earned by a citizen.

D. included in the income tax return.

19. In 2010, Juliet Ulbod earned P500,000.00 as income from her beauty parlor and received P250,000.00 as Christmas gift from her spinster aunt. She had no other receipts for the year. She spent P150,000.00 for the operation of her beauty parlor. For tax purposes, her gross income for 2010 is

Bar Examination Questionnaire for Taxation  
Set A

- A. P750,000.00.
- B. P500,000.00.
- C. P350,000.00.
- D. P600,000.00.

20. Exempted from donor's taxation are gifts made

- A. for the use of the barangay.
- B. in consideration of marriage.
- C. to a school which is a stock corporation.
- D. to a for-profit government corporation.

21. Federico, a Filipino citizen, migrated to the United States some six years ago and got a permanent resident status or green card. He should pay his Philippine income taxes on

- A. the gains derived from the sale in California, U.S.A. of jewelry he purchased in the Philippines.
- B. the proceeds he received from a Philippine insurance company as the sole beneficiary of life insurance taken by his father who died recently.
- C. the gains derived from the sale in the New York Stock Exchange of shares of stock in PLDT, a Philippine corporation.
- D. dividends received from a two year old foreign corporation whose gross income was derived solely from Philippine sources.

22. An example of a tax where the concept of progressivity finds application is the

- A. income tax on individuals.
- B. excise tax on petroleum products.
- C. value-added tax on certain articles.
- D. amusement tax on boxing exhibitions.

23. A corporation may change its taxable year to calendar or fiscal year in filing its annual income tax return, provided

- A. it seeks prior BIR approval of its proposed change in accounting period.
- B. it simultaneously seeks BIR approval of its new accounting period.
- C. it should change its accounting period two years prior to changing its taxable year.
- D. its constitution and by-laws authorizes the change.

24. What is the rule on the taxability of income that a government educational institution derives from its school operations? Such income is

- A. subject to 10% tax on its net taxable income as if it is a proprietary educational institution.
- B. Exempt from income taxation if it is actually, directly, and exclusively used for educational purposes.
- C. subject to the ordinary income tax rates with respect to incomes derived from educational activities.

Bar Examination Questionnaire for Taxation  
Set A

D. Exempt from income taxation in the same manner as government-owned and controlled corporations.

25. Which among the following reduces the gross estate (not the net estate) of a citizen of the Philippines for purposes of estate taxation?

- A. Transfers for public use
- B. Property previously taxed
- C. Standard deduction of P1 million
- D. Capital of the surviving spouse

26. Ka Pedring Matibag, a sole proprietor, buys and sells “kumot at kulambo” both of which are subject to value-added tax. Since he is using the calendar year as his taxable year, his taxable quarters end on the last day of March, June, September, and December. When should Ka Pedring file the VAT quarterly return for his gross sales or receipts for the period of June 1 to September 30?

- A. Within 25 days from September 30
- B. Within 45 days from September 30
- C. Within 15 days from September 30
- D. Within 30 days from September 30

27. In January 2011, the BIR issued a ruling that Clemen's vodka imports were not subject to increased excise tax based on his claim that his net retail price was only P200 per 750 milliliter bottle. This ruling was applied to his imports for May, June, and July 2011. In September 2011, the BIR revoked its ruling and assessed him for deficiency taxes respecting his May, June and July 2011 vodka imports because it discovered that his net retail price for the vodka was P250 per bottle from January to September 2011. Does the retroactive application of the revocation violate Clemen's right to due process as a taxpayer?

- A. Yes, since the presumption is that the BIR ascertained the facts before it made its ruling.
- B. No, because he acted in bad faith when he claimed a lower net retail price than what he actually used.
- C. No, since he could avail of remedies available for disputing the assessment.
- D. Yes, since he had already acquired a vested right in the favorable BIR ruling.

28. Don Fortunato, a widower, died in May, 2011. In his will, he left his estate of P100 million to his four children. He named his compadre, Don Eпитacio, to be the administrator of the estate. When the BIR sent a demand letter to Don Eпитacio for the payment of the estate tax, he refused to pay claiming that he did not benefit from the estate, he not being an heir. Forthwith, he resigned as administrator. As a result of the resignation, who may be held liable for the payment of the estate tax?

- A. Don Eпитacio since the tax became due prior to his resignation.
- B. The eldest child who would be reimbursed by the others.
- C. All the four children, the tax to be divided equally among them.
- D. The person designated by the will as the one liable.

29. On July 31, 2011, Esperanza received a preliminary assessment notice from

Bar Examination Questionnaire for Taxation  
Set A

the BIR demanding that she pays P180,000.00 deficiency income taxes on her 2009 income. How many days from July 31, 2011 should Esperanza respond to the notice?

- A. 180 days.
- B. 30 days.
- C. 60 days.
- D. 15 days.

30. The BIR could not avail itself of the remedy of levy and distraint to implement, through collection, an assessment that has become final, executory, and demandable where

- A. the subject of the assessment is an income tax.
- B. the amount of the tax involved does not exceed P100.00.
- C. the corporate taxpayer has no other uncollected tax liability.
- D. the taxpayer is an individual compensation income earner.

31. Alain Descartes, a French citizen permanently residing in the Philippines, received several items during the taxable year. Which among the following is NOT subject to Philippine income taxation?

- A. Consultancy fees received for designing a computer program and installing the same in the Shanghai facility of a Chinese firm.
- B. Interests from his deposits in a local bank of foreign currency earned abroad converted to Philippine pesos.
- C. Dividends received from an American corporation which derived 60% of its annual gross receipts from Philippine sources for the past 7 years.
- D. Gains derived from the sale of his condominium unit located in The Fort, Taguig City to another resident alien.

32. Income is considered realized for tax purposes when

- A. it is recognized as revenue under accounting standards even if the law does not do so.
- B. the taxpayer retires from the business without approval from the BIR.
- C. the taxpayer has been paid and has received in cash or near cash the taxable income.
- D. the earning process is complete or virtually complete and an exchange has taken place.

33. Which among the following circumstances negates the prima facie presumption of correctness of a BIR assessment?

- A. The BIR assessment was seasonably protested within 30 days from receipt.
- B. No preliminary assessment notice was issued prior to the assessment notice.
- C. Proof that the assessment is utterly without foundation, arbitrary, and capricious.
- D. The BIR did not include a formal letter of demand to pay the alleged deficiency.

34. On March 30, 2005 Miguel Foods, Inc. received a notice of assessment and

Bar Examination Questionnaire for Taxation  
Set A

a letter of demand on its April 15, 2002 final adjustment return from the BIR. Miguel Foods then filed a request for reinvestigation together with the requisite supporting documents on April 25, 2005. On June 2, 2005, the BIR issued a final assessment reducing the amount of the tax demanded. Since Miguel Foods was satisfied with the reduction, it did not do anything anymore. On April 15, 2010 the BIR garnished the corporation's bank deposits to answer for the tax liability. Was the BIR action proper?

- A. Yes. The BIR has 5 years from the filing of the protest within which to collect.
- B. Yes. The BIR has 5 years from the issuance of the final assessment within which to collect.
- C. No. The taxpayer did not apply for a compromise.
- D. No. Without the taxpayer's prior authority, the BIR action violated the Bank Deposit Secrecy Law.

35. Which among the following taxpayers is required to use only the calendar year for tax purposes?

- A. Partnership exclusively for the design of government infrastructure projects considered as practice of civil engineering.
- B. Joint-stock company formed for the purpose of undertaking construction projects.
- C. Business partnership engaged in energy operations under a service contract with the government.
- D. Joint account (cuentas en participacion) engaged in the trading of mineral ores.

36. Spanflex Int'l Inc. received a notice of assessment from the BIR. It seasonably filed a protest with all the necessary supporting documents but the BIR failed to act on the protest. Thirty days from the lapse of 180 days from the filing of its protest, Spanflex still has not elevated the matter to the CTA. What remedy, if any, can Spanflex take?

- A. It may file a motion to admit appeal if it could prove that its failure to appeal was due to the negligence of counsel.
- B. It may no longer appeal since there is no BIR decision from which it could appeal.
- C. It may wait for the final decision of the BIR on his protest and appeal it to the CTA within 30 days from receipt of such decision.
- D. None. Its right to appeal to the CTA has prescribed.

37. Gerardo died on July 31, 2011. His estate tax return should be filed within

- A. six months from filing of the notice of death.
- B. sixty days from the appointment of an administrator.
- C. six months from the time he died on July 31, 2011.
- D. sixty days from the time he died on July 31, 2011.

38. Income from dealings in property (real, personal, or mixed) is the gain or loss derived

- A. only from the cash sales of property.



Bar Examination Questionnaire for Taxation  
Set A

- B. from cash and gratuitous receipts of property.
- C. from sale and lease of property.
- D. only from the sale of property.

39. In March 2009, Tonette, who is fond of jewelries, bought a diamond ring for P750,000.00, a bracelet for P250,000.00, a necklace for P500,000.00, and a brooch for P500,000.00. Tonette derives income from the exercise of her profession as a licensed CPA. In October 2009, Tonette sold her diamond ring, bracelet, and necklace for only P1.25 million incurring a loss of P250,000.00. She used the P1.25 million to buy a solo diamond ring in November 2009 which she sold for P1.5 million in September 2010. Tonette had no other transaction in jewelry in 2010. Which among the following describes the tax implications arising from the above transactions?

- A. Tonette may deduct his 2009 loss only from her 2009 professional income.
- B. Tonette may carry over and deduct her 2009 loss only from her 2010 gain.
- C. Tonette may carry over and deduct her 2009 loss from her 2010 professional income as well as from her gain.
- D. Tonette may not deduct her 2009 loss from both her 2010 professional income and her gain.

40. Anion, Inc. received a notice of assessment and a letter from the BIR demanding the payment of P3 million pesos in deficiency income taxes for the taxable year 2008. The financial statements of the company show that it has been suffering financial reverses from the year 2009 up to the present. Its asset position shows that it could pay only P500,000.00 which it offered as a compromise to the BIR. Which among the following may the BIR require to enable it to enter into a compromise with Anion, Inc.?

- A. Anion must show it has faithfully paid taxes before 2009.
- B. Anion must promise to pay its deficiency when financially able.
- C. Anion must waive its right to the secrecy of its bank deposits.
- D. Anion must immediately deposit the P500,000.00 with the BIR.

41. Real property owned by the national government is exempt from real property taxation unless the national government

- A. transfers it for the use of a local government unit.
- B. leases the real property to a business establishment.
- C. gratuitously allows its use for educational purposes by a school established for profit.
- D. sells the property to a government-owned non-profit corporation.

42. Dondon and Helena were legally separated. They had six minor children, all qualified to be claimed as additional exemptions for income tax purposes. The court awarded custody of two of the children to Dondon and three to Helena, with Dondon directed to provide full financial support for them as well. The court awarded the 6th child to Dondon's father with Dondon also providing full financial support. Assuming that only Dondon is gainfully employed while Helena is not, for how many children could Dondon claim additional exemptions when he files his income tax return?

Bar Examination Questionnaire for Taxation  
Set A

- A. Six children.
- B. Five children.
- C. Three children.
- D. Two children.

43. Political campaign contributions are NOT deductible from gross income

- A. if they are not reported to the Commission on Elections.
- B. if the candidate supported wins the election because of possible corruption.
- C. since they do not help earn the income from which they are to be deducted.
- D. since such amounts are not considered as income of the candidate to whom given.

44. When a BIR decision affirming an assessment is appealed to the CTA, the BIR's power to garnish the taxpayer's bank deposits

- A. is suspended to await the finality of such decision.
- B. is suspended given that the CTA can reverse BIR decisions when prejudicial to the taxpayer.
- C. is not suspended because only final decisions of the BIR are subject to appeal.
- D. is not suspended since the continued existence of government depends on tax revenues.

45. Real property taxes should not disregard increases in the value of real property occurring over a long period of time. To do otherwise would violate the canon of a sound tax system referred to as

- A. theoretical justice.
- B. fiscal adequacy.
- C. administrative feasibility.
- D. symbiotic relationship.

46. The power to tax is the power to destroy. Is this always so?

- A. No. The Executive Branch may decide not to enforce a tax law which it believes to be confiscatory.
- B. Yes. The tax collectors should enforce a tax law even if it results to the destruction of the property rights of a taxpayer.
- C. Yes. Tax laws should always be enforced because without taxes the very existence of the State is endangered.
- D. No. The Supreme Court may nullify a tax law, hence, property rights are not affected.

47. Jeopardy assessment is a valid ground to compromise a tax liability

- A. involving deficiency income taxes only, but not for other taxes.
- B. because of doubt as to the validity of the assessment.
- C. if the compromise amount does not exceed 10% of the basic tax.
- D. only when there is an approval of the National Evaluation Board.

48. Zygomite Minerals, Inc., a corporation registered and holding office in

Bar Examination Questionnaire for Taxation  
Set A

Australia, not operating in the Philippines, may be subject to Philippine income taxation on

- A. gains it derived from sale in Australia of an ore crusher it bought from the Philippines with the proceeds converted to pesos.
- B. gains it derived from sale in Australia of shares of stock of Philex Mining Corporation, a Philippine corporation.
- C. dividends earned from investment in a foreign corporation that derived 40% of its gross income from Philippine sources.
- D. interests derived from its dollar deposits in a Philippine bank under the Expanded Foreign Currency Deposit System.

49. As a general rule, within what period must a taxpayer elevate to the Court of Tax Appeals a denial of his application for refund of income tax overpayment?

- A. Within 30 days from receipt of the Commissioner's denial of his application for refund.
- B. Within 30 days from receipt of the denial which must not exceed 2 years from payment of income tax.
- C. Within 2 years from payment of the income taxes sought to be refunded.
- D. Within 30 days from receipt of the denial or within two years from payment.

50. After the province has constructed a barangay road, the Sangguniang Panglalawigan may impose a special levy upon the lands specifically benefitted by the road up to an amount not to exceed

- A. 60% of the actual cost of the road without giving any portion to the barangay.
- B. 100% of the actual project cost without giving any portion to the barangay.
- C. 100% of the actual project cost, keeping 60% for the province and giving 40% to the barangay.
- D. 60% of the actual cost, dividing the same between the province and the barangay.

51. Celia donated P110,000.00 to her friend Victoria who was getting married. Celia gave no other gift during the calendar year. What is the donor's tax implication on Celia's donation?

- A. The P100,000.00 portion of the donation is exempt since given in consideration of marriage.
- B. A P10,000.00 portion of the donation is exempt being a donation in consideration of marriage.
- C. Celia shall pay a 30% donor's tax on the P110,000.00 donation.
- D. The P100,000.00 portion of the donation is exempt under the rate schedule for donor's tax.

52. Levox Corporation wanted to donate P5 million as prize money for the world professional billiard championship to be held in the Philippines. Since the Billiard Sports Confederation of the Philippines does not recognize the event, it was held under the auspices of the International Professional Billiards Association, Inc. Is Levox subject to the donor's tax on its donation?

- A. No, so long as the donated money goes directly to the winners and not

Bar Examination Questionnaire for Taxation  
Set A

through the association.

B. Yes, since the national sports association for billiards does not sanction the event.

C. No, because it is donated as prize for an international competition under the billiards association.

D. Yes, but only that part that exceeds the first P100,000.00 of total Levox donations for the calendar year.

53. A violation of the tariff and customs laws is the failure to

A. pay the customs duties and taxes and to comply with the rules on customs procedures.

B. pay the customs duties and taxes or to comply with the rules on customs procedures.

C. pay the customs duties and taxes.

D. comply with the rules on customs procedures.

54. What is the effect on the tax liability of a taxpayer who does not protest an assessment for deficiency taxes?

A. The taxpayer may appeal his liability to the CTA since the assessment is a final decision of the Commissioner on the matter.

B. The BIR could already enforce the collection of the taxpayer's liability if it could secure authority from the CTA.

C. The taxpayer's liability becomes fixed and subject to collection as the assessment becomes final and collectible.

D. The taxpayer's liability remains suspended for 180 days from the expiration of the period to protest.

55. A non-stock, non-profit school always had cash flow problems, resulting in failure to recruit well-trained administrative personnel to effectively manage the school. In 2010, Don Leon donated P100 million pesos to the school, provided the money shall be used solely for paying the salaries, wages, and benefits of administrative personnel. The donation represents less than 10% of Don Leon's taxable income for the year. Is he subject to donor's taxes?

A. No, since the donation is actually, directly, and exclusively used for educational purposes.

B. Yes, because the donation is to be wholly used for administration purposes.

C. Yes, since he did not obtain the requisite NGO certification before he made the donation.

D. No, because the donation does not exceed 10% of his taxable income for 2010.

56. What is the tax base for the imposition by the province of professional taxes?

A. That which Congress determined.

B. The pertinent provision of the local Government Code.

C. The reasonable classification made by the provincial sanggunian.

D. That which the Dept. of Interior and Local Government determined.

57. There is prima facie evidence of a false or fraudulent return where the

Bar Examination Questionnaire for Taxation  
Set A

- A. tax return was amended after a notice of assessment was issued.
- B. tax return was filed beyond the reglementary period.
- C. taxpayer changed his address without notifying the BIR.
- D. deductions claimed exceed by 30% the actual deductions.

58. The proceeds received under a life insurance endowment contract is NOT considered part of gross income

- A. if it is so stated in the life insurance endowment policy.
- B. if the price for the endowment policy was not fully paid.
- C. where payment is made as a result of the death of the insured.
- D. where the beneficiary was not the one who took out the endowment contract.

59. The excess of allowable deductions over gross income of the business in a taxable year is known as

- A. net operating loss.
- B. ordinary loss.
- C. net deductible loss.
- D. NOLCO.

60. No action shall be taken by the BIR on the taxpayer's disputed issues until the taxpayer has paid the deficiency taxes

- A. when the assessment was issued against a false and fraudulent return.
- B. if there was a failure to pay the deficiency tax within 60 days from BIR demand.
- C. if the Regional Trial Court issues a writ of preliminary injunction to enjoin the BIR.
- D. attributable to the undisputed issues in the assessment notice.

61. Is an article previously exported from the Philippines subject to the payment of customs duties?

- A. Yes, because all articles that are imported from any foreign country are subject to duty.
- B. No, because there is no basis for imposing duties on articles previously exported from the Philippines.
- C. Yes, because exemptions are strictly construed against the importer who is the taxpayer.
- D. No, if it is covered by a certificate of identification and has not been improved in value.

62. Prior to the enactment of the Local Government Code, consumer's cooperatives registered under the Cooperative Development Act enjoyed exemption from all taxes imposed by a local government. With the Local Government Code's withdrawal of exemptions, could these cooperatives continue to enjoy such exemption?

- A. Yes, because the Local Government Code, a general law, could not amend a special law such as the Cooperative Development Act.

Bar Examination Questionnaire for Taxation  
Set A

- B. No, Congress has not by the majority vote of all its members granted exemption to consumers' cooperatives.  
C. No, the exemption has been withdrawn to level the playing field for all taxpayers and preserve the LGUs' financial position.  
D. Yes, their exemption is specifically mentioned among those not withdrawn by the Local Government Code.

63. Under the Tariff and Customs Code, abandoned imported articles becomes the property of the

- A. government whatever be the circumstances.  
B. insurance company that covered the shipment.  
C. shipping company in case the freight was not paid.  
D. bank if the shipment is covered by a letter of credit.

64. Ka Tato owns a parcel of land in San Jose, Batangas declared for real property taxation, as agricultural. In 1990, he used the land for a poultry feed processing plant but continued to declare the property as agricultural. In March 2011, the local tax assessor discovered Ka Tato's change of use of his land and informed the local treasurer who demanded payment of deficiency real property taxes from 1990 to 2011. Has the action prescribed?

- A. No, the deficiency taxes may be collected within five years from when they fell due.  
B. No. The deficiency taxes for the period 1990 up to 2011 may still be collected within 10 years from March 2011.  
C. Yes. More than 10 years had lapsed for the period 1990 up to 2000, hence the right to collect the deficiency taxes has prescribed.  
D. Yes. More than 5 years had lapsed for the collection of the deficiency taxes for the period 1990 up to 2005.

65. Pierre de Savigny, a Frenchman, arrived in the Philippines on January 1, 2010 and continued to live and engage in business in the Philippines. He went on a tour of Southeast Asia from August 1 to November 5, 2010. He returned to the Philippines on November 6, 2010 and stayed until April 15, 2011 when he returned to France. He earned during his stay in the Philippines a gross income of P3 million from his investments in the country. For the year 2010, Pierre's taxable status is that of

- A. a non-resident alien not engaged in trade or business in the Philippines.  
B. a non-resident alien engaged in trade or business in the Philippines.  
C. a resident alien not engaged in trade or business in the Philippines.  
D. a resident alien engaged in trade or business in the Philippines.

66. Lualhati Educational Foundation, Inc., a stock educational institution organized for profit, decided to lease for commercial use a 1,500 sq. m. portion of its school. The school actually, directly, and exclusively used the rents for the maintenance of its school buildings, including payment of janitorial services. Is the leased portion subject to real property tax?

- A. Yes, since Lualhati is a stock and for profit educational institution.  
B. No, since the school actually, directly, and exclusively used the rents for

Bar Examination Questionnaire for Taxation  
Set A

educational purposes.

C. No, but it may be subject to income taxation on the rents it receives.

D. Yes, since the leased portion is not actually, directly, and exclusively used for educational purposes.

67. Apparently the law does not provide for the refund of real property taxes that have been collected as a result of an erroneous or illegal assessment by the provincial or city assessor. What should be done in such instance to avoid an injustice?

A. Question the legality of the no-refund rule before the Supreme Court.

B. Enact a new ordinance amending the erroneous or illegal assessment to correct the error.

C. Subsequent adjustment in tax computation and the application of the excess payment to future real property tax liabilities.

D. Pass a new ordinance providing for the refund of real property taxes that have been erroneously or illegally collected.

68. What should the BIR do when the prescriptive period for the assessment of a tax deficiency is about to prescribe but the taxpayer has not yet complied with the BIR requirements for the production of books of accounts and other records to substantiate the claimed deductions, exemptions or credits?

A. Call the taxpayer to a conference to explain the delay.

B. Immediately conduct an investigation of the taxpayer's activities.

C. Issue a jeopardy assessment coupled with a letter of demand.

D. Issue a notice of constructive distraint to protect government interest.

69. Money collected from taxation shall not be paid to any religious dignitary EXCEPT when

A. the religious dignitary is assigned to the Philippine Army.

B. it is paid by a local government unit.

C. the payment is passed in audit by the COA.

D. it is part of a lawmaker's pork barrel.

70. Discriminatory duties may NOT be imposed upon articles

A. wholly manufactured in the discriminating country but carried by vessels of another country.

B. not manufactured in the discriminating country but carried by vessels of such country.

C. partly manufactured in the discriminating country but carried by vessels of another country.

D. not manufactured in the discriminating country and carried by vessels of another country.

71. The taxpayer seasonably filed his protest together with all the supporting documents. It is already July 31, 2011, or 180 days from submission of the protest but the BIR Commissioner has not yet decided his protest. Desirous of an early resolution of his protested assessment, the taxpayer should file his appeal to the Court of Tax Appeals not later than

Bar Examination Questionnaire for Taxation  
Set A

- A. August 31, 2011.
- B. August 30, 2011.
- C. August 15, 2011.
- D. August 1, 2011.

72. Which of the following are NOT usually imposed when there is a tax amnesty?

- A. Civil, criminal, and administrative penalties
- B. Civil and criminal penalties
- C. Civil and administrative penalties
- D. Criminal and administrative penalties

73. Which among the following concepts of taxation is the basis for the situs of income taxation?

- A. Lifeblood doctrine of taxation
- B. Symbiotic relation in taxation
- C. Compensatory purpose of taxation
- D. Sumptuary purpose of taxation

74. In "Operation Kandado," the BIR temporarily closed business establishments, including New Dynasty Corporation that failed to comply with VAT regulations. New Dynasty contends that it should not be temporarily closed since it has a valid and existing VAT registration, it faithfully issued VAT receipts, and filed the proper VAT returns. The contention may be rejected if the BIR investigation reveals that

- A. the taxpayer has not been regularly filing its income tax returns for the past 4 years.
- B. the taxpayer deliberately filed a false and fraudulent return with deliberate intention to evade taxes.
- C. the taxpayer used falsified documents to support its application for refund of taxes.
- D. there was an understatement of taxable sales or receipts by 30% or more for the taxable quarter.

75. The head priest of the religious sect Tres Personas Solo Dios, as the corporation sole, rented out a 5,000 sq. m. lot registered in its name for use as school site of a school organized for profit. The sect used the rentals for the support and upkeep of its priests. The rented lot is

- A. not exempt from real property taxes because the user is organized for profit.
- B. exempt from real property taxes since it is actually, directly, and exclusively used for religious purposes.
- C. not exempt from real property taxes since it is the rents, not the land, that is used for religious purposes.
- D. exempt from real property taxes since it is actually, directly, and exclusively used for educational purposes.