

## INSTRUCTIONS

1. This Questionnaire contains eight (8) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are 22 items (I to XXII) to be answered within four (4) hours.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only on the *front*, not the back, page of every sheet in your Notebook. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back page of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *legibly, clearly, and concisely*. Start each number on a separate page. An answer to a sub-question under the same number may be written continuously on the same page and the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, to reason logically in a lawyer-like manner, and to form a sound conclusion from the given premises.

A mere "Yes" or "No" answer without any corresponding explanation or discussion will not be given any credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Notebook.

4. Make sure you do not write your *name* or any *extraneous note/s* or *distinctive marking/s* on your Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the exam Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

**YOU CAN BRING HOME THIS QUESTIONNAIRE OR SUBMIT IT TOGETHER WITH YOUR NOTEBOOK**

JUSTICE TERESITA J. LEONARDO-DE CASTRO  
Chairperson  
2015 Bar Examinations

- I. Explain the principles of a sound tax system. (3%)
- II. Mr. A, a citizen and resident of the Philippines, is a professional boxer. In a professional boxing match held in 2013, he won prize money in United States (US) dollars equivalent to P300,000,000.
  - a) Is the prize money paid to and received by Mr. A in the US taxable in the Philippines? Why? (2%)
  - b) May Mr. A's prize money qualify as an exclusion from his gross income? Why? (2%)
  - c) The US already imposed and withheld income taxes from Mr. A's prize money. How may Mr. A use or apply the income taxes he paid on his prize money to the US when he computes his income tax liability in the Philippines for 2013? (4%)
- III. Ms. C, a resident citizen, bought ready-to-wear goods from Ms. B, a nonresident citizen.
  - a) If the goods were produced from Ms. B's factory in the Philippines, is Ms. B's income from the sale to Ms. C taxable in the Philippines? Explain. (2%)
  - b) If Ms. B is an alien individual and the goods were produced in her factory in China, is Ms. B's income from the sale of the goods to Ms. C taxable in the Philippines? Explain. (2%)
- IV. Mr. E and Ms. F are both employees of AAA Corp. They got married on February 14, 2011. On December 29, 2011, the couple gave birth to triplets. On June 25, 2013, they had twins. What were the personal exemptions/deductions which Mr. E and Ms. F could claim in the following taxable years:
  - a) For 2010 (2%)
  - b) For 2011 (3%)
  - c) For 2013 (2%)
- V. BBB, Inc., a domestic corporation, enjoyed a particularly profitable year in 2014. In June 2015, its Board of Directors approved the distribution of cash dividends to its stockholders. BBB, Inc. has individual and corporate stockholders. What is the tax treatment of the cash dividends received from BBB, Inc. by the following stockholders:
  - a) A resident citizen (1%)
  - b) Non-resident alien engaged in trade or business (1%)
  - c) Non-resident alien not engaged in trade or business (1%)
  - d) Domestic corporation (1%)
  - e) Non-resident foreign corporation (1%)
- VI. Differentiate between double taxation in the strict sense and in a broad sense and give an

example of each. (4%)

- VII. On May 15, 2013, CCC, Inc. received the Final Decision on Disputed Assessment issued by the Commissioner of Internal Revenue (CIR) dismissing the protest of CCC, Inc. and affirming the assessment against said corporation. On June 10, 2013, CCC, Inc. filed a Petition for Review with the Court of Tax Appeals (CTA) in division. On July 31, 2015, CCC, Inc. received a copy of the Decision dated July 22, 2015 of the CT A division dismissing its Petition. CCC, Inc. immediately filed a Petition for Review with the CT A *en banc* on August 6, 2015. Is the immediate appeal by CCC, Inc. to the CTA *en banc* of the adverse Decision of the CTA division the proper remedy? (3%)
- VIII. In June 2013, DDD Corp., a domestic corporation engaged in the business of leasing real properties in the Philippines, entered into a lease agreement of a residential house and lot with EEE, Inc., a non-resident foreign corporation. The residential house and lot will be used by officials of EEE, Inc. during their visit to the Philippines. The lease agreement was signed by representatives from DDD Corp. and EEE, Inc. in Singapore. DDD Corp. did not subject the said lease to VAT believing that it was not a domestic service contract. Was DDD Corp. correct? Explain. (3%)
- IX. For calendar year 2011, FFF, Inc., a VAT-registered corporation, reported unutilized excess input VAT in the amount of PI ,000,000.00 attributable to its zero-rated sales. Hoping to impress his boss, Mr. G, the accountant of FFF, Inc., filed with the Bureau of Internal Revenue (BIR) on January 31, 2013 a claim for tax refund/credit of the PI,000,000.00 unutilized excess input VAT of FFF, Inc. for 2011. Not having received any communication from the BIR, Mr. G filed a Petition for Review with the CTA on March 15, 2013, praying for the tax refund/credit of the PI,000,000.00 unutilized excess input VAT of FFF, Inc. for 2011.
- a) Did the CTA acquire jurisdiction over the Petition of FFF, Inc.? (2%)
- b) Discuss the proper procedure and applicable time periods for administrative and judicial claims for refund/credit of unutilized excess input VAT. (4%)
- X. Indicate whether each of the following individuals is required or not required to file an income tax return:
- a) Filipino citizen residing outside the Philippines on his income from sources outside the Philippines. (1%)
- b) Resident alien on income derived from sources within the Philippines. (1%)
- c) Resident citizen earning purely compensation income from two employers within the Philippines, whose income taxes have been correctly withheld. (1%)
- d) Resident citizen who falls under the classification of minimum wage earners. (1%)
- e) An individual whose sole income has been subjected to final withholding tax. (1%)
- XI. What are *de minimis* benefits and how are these taxed? Give three (3) examples of *de minimis* benefits. (4%)

- XII. Mr. H decided to sell the house and lot wherein he and his family have lived for the past 10 years, hoping to buy and move to a new house and lot closer to his children's school. Concerned about the capital gains tax that will be due on the sale of their house, Mr. H approaches you as a friend for advice if it is possible for the sale of their house to be exempted from capital gains tax and the conditions they must comply with to avail themselves of said exemption. How will you respond? (4%)
- XIII. GGG, Inc. offered to sell through competitive bidding its shares in HHH Corp., equivalent to 40% of the total outstanding capital stock of the latter. JJJ, Inc. acquired the said shares in HHH Corp. as the highest bidder. Before it could secure a certificate authorizing registration/tax clearance for the transfer of the shares of stock to JJJ, Inc., GGG, Inc. had to request a ruling from the BIR confirming that its sale of the said shares was at fair market value and was thus not subject to donor's tax. In BIR Ruling No. 012-14, the CIR held that the selling price for the shares of stock of HHH Corp. was lower than their book value, so the difference between the selling price and the book value of said shares was a taxable donation. GGG, Inc. requested the Secretary of Finance to review BIR Ruling No. 012-14, but the Secretary affirmed said ruling. GGG, Inc. filed with the Court of Appeals a Petition for Review under Rule 43 of the Revised Rules of Court. The Court of Appeals, however, dismissed the Petition for lack of jurisdiction declaring that it is the CTA which has jurisdiction over the issues raised. Before which Court should GGG, Inc. seek recourse from the adverse ruling of the Secretary of Finance in the exercise of the latter's power of review? (3%)
- XIV. KKK Corp. secured its Certificate of Incorporation from the Securities and Exchange Commission on June 3, 2013. It commenced business operations on August 12, 2013. In April 2014, Ms. J, an employee of KKK Corp. in charge of preparing the annual income tax return of the corporation for 2013, got confused on whether she should prepare payment for the regular corporate income tax or the minimum corporate income tax.
- a) As Ms. J's supervisor, what will be your advice? (2%)
- b) What are the distinctions between regular corporate income tax and minimum corporate income tax? (3%)
- XV. In 2012, Dr. K decided to return to his hometown to start his own practice. At the end of 2012, Dr. K found that he earned gross professional income in the amount of P1,000,000.00; while he incurred expenses amounting to P560,000.00 constituting mostly of his office space rent, utilities, and miscellaneous expenses related to his medical practice. However, to Dr. K's dismay, only P320,000.00 of his expenses were duly covered by receipts. What are the options available for Dr. K so he could maximize the deductions from his gross income? (3%)
- XVI. LLL is a government instrumentality created by Executive Order to be primarily responsible for integrating and directing all reclamation projects for the National Government. It was not organized as a stock or a non-stock corporation, nor was it intended to operate commercially and compete in the private market.
- By virtue of its mandate, LLL reclaimed several portions of the foreshore and offshore areas of the Manila Bay, some of which were within the territorial jurisdiction of Q City. Certificates of title to the reclaimed properties in Q City were issued in the name of LLL in 2008. In 2014, Q City issued Warrants of Levy on said reclaimed properties of LLL based on the assessment for delinquent property taxes for the years 2010 to 2013.

a. Are the reclaimed properties registered in the name of LLL subject to real property tax? (4 % )

b. Will your answer be the same in (a) if from 2010 to the present time, LLL is leasing portions of the reclaimed properties for the establishment and use of popular fastfood restaurants J Burgers, G Pizza, and K Chicken? (2%)

XVII. Mr. L owned several parcels of land and he donated a parcel each to his two children. Mr. L acquired both parcels of land in 1975 for P200,000.00. At the time of donation, the fair market value of the two parcels of land, as determined by the CIR, was P112,300,000.00; while the fair market value of the same properties as shown in the schedule of values prepared by the City Assessors was P112,500,000.00. What is the proper valuation of Mr. L's gifts to his children for purposes of computing donor's tax? (3%)

XVIII. Under the Tariff and Customs Code, as amended:

a. When does importation begin and when is it deemed terminated? (2%)

b. In what cases is the decision of the Collector automatically reviewed by the Commissioner of Customs? In what instance/s is the decision of the Commissioner automatically appealed to the Secretary of Finance? (4%)

XIX. In 2014, M City approved an ordinance levying customs duties and fees on goods coming into the territorial jurisdiction of the city. Said city ordinance was duly published on February 15, 2014 with effectivity date on March 1, 2014.

a. Is there a ground for opposing said ordinance? (2%)

b. What is the proper procedural remedy and applicable time periods for challenging the ordinance? (4%)

XX. After filing an Information for violation of Section 254 of the National Internal Revenue Code (Attempt to Evade or Defeat Tax) with the CTA, the Public Prosecutor manifested that the People is reserving the right to file the corresponding civil action for the recovery of the civil liability for taxes. As counsel for the accused, comment on the People's manifestation. (3%)

XXI. MMM, Inc., a domestic telecommunications company, handles incoming telecommunications services for non-resident foreign companies by relaying international calls within the Philippines. To broaden the coverage of its telecommunications services throughout the country, MMM, Inc. entered into various interconnection agreements with local carriers. The non-resident foreign corporations pay MMM, Inc. in US dollars inwardly remitted through Philippine banks, in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas*.

MMM, Inc. filed its Quarterly VAT Returns for 2000. Subsequently, MMM, Inc. timely filed with the BIR an administrative claim for the refund of the amount of P6,321,486.50, representing excess input VAT attributable to its effectively zero-rated sales in 2000. The BIR ruled to deny the claim for refund of MMM, Inc. because the VAT official receipts submitted by MMM, Inc. to substantiate said claim did not bear the words "zero-rated" as required under Section 4.108-1 of Revenue Regulations (RR) No. 7-95. On appeal, the CTA division and the CT A en

*bane* affirmed the BIR ruling.

MMM, Inc. appealed to the Supreme Court arguing that the NIRC itself did not provide for such a requirement. RR No. 7-95 should not prevail over a taxpayer's substantive right to claim tax refund or credit.

a. Rule on the appeal of MMM, Inc. (3%)

b. Will your answer in (a) be any different if MMM, Inc. was claiming refund of excess input VAT attributable to its effectively zero-rated sales in 2012? (2%)

XXII. State the conditions for allowing the following as deductions from the gross estate of a citizen or resident alien for the purpose of imposing estate tax:

a. Claims against the estate (2%)

b. Medical expenses (2%)

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