

**2010 – 2015**  
**TAXATION BAR EXAM QUESTIONS**  
**ON**  
**REAL PROPERTY TAXATION**

**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? (2011 Bar Question)**

- (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.

**SUGGESTED ANSWER:**

- (B) Anktryd could deduct its P6 million loss from its P5 million gain.

**A inherited a two-storey building in Makati from his father, a real estate broker in the '60s. A group of Tibetan monks approached A and offered to lease the building in order to use it as a venue for their Buddhist rituals and ceremonies. A accepted the rental of P1 million for the whole year.**

**The following year, the City Assessor issued an assessment against A for non-payment of real property taxes.**

**Is the assessor justified in assessing A's deficiency real property taxes? Explain. (2010 Bar Question)**

**SUGGESTED ANSWER:**

No. The property is exempt from real property tax by virtue of the beneficial use thereof by the Tibetan monks for their religious rituals and ceremonies. A property that is actually, directly and exclusively used for religious purposes is exempt from real property tax. The test of exemption from the tax is not ownership but the beneficial use of the property.

**A municipality may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement only if: (2011 Bar Question)**

- (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.

**SUGGESTED ANSWER:**

- (A) the real property is within the Metropolitan Manila Area.

**Real property owned by the national government is exempt from real property taxation unless the national government: (2011 Bar Question)**

- (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.

**SUGGESTED ANSWER:**

(B) leases the real property to a business establishment.

**The Manila International Airport Authority (MIAA) is exempt from real property tax. Which statement below is NOT correct? (2012 Bar Question)**

- a) MIAA is not a government-owned or controlled corporation because it is not organized as a stock or non-stock corporation;
- b) MIAA is a government instrumentality vested with corporate powers and performing essential public services;
- c) MIAA is not a taxable entity because the real property is owned by the Republic of the Philippines and the beneficial use of such property has not been granted to a private entity;
- d) MIAA is a government-owned or controlled corporation because it is required to meet the test of economic viability.

**SUGGESTED ANSWER:**

**d)** MIAA is a government-owned or controlled corporation because it is required to meet the test of economic viability.

MIAA v. City of Pasay. G.R. No. 163072, April 2, 2009.

**For purposes of real property taxes, the tax rates are applied on: (2012 Bar Question)**

- a) Zonal values;
- b) Fair market value;
- c) Assessed values;
- d) Reproduction values.

**SUGGESTED ANSWER:**

**c)** Assessed values

Section 233, RA 7160.

**The appraisal, assessment, levy and collection of real property tax shall be guided by the following principles. Which statement does NOT belong here? (2012 Bar Question)**

- a) Real property shall be appraised at its current and fair market value;
- b) Real property shall be classified for assessment purposes on the basis of its actual use;
- c) Real property shall be assessed on the basis of a uniform classification within each local political subdivision;
- d) The appraisal and assessment of real property shall be based on audited financial statements of the owner.

**SUGGESTED ANSWER:**

**d)** The appraisal and assessment of real property shall be based on audited financial statements of the owner.

Section 198, RA 7160.

**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? (2011 Bar Question)**

- (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.

**SUGGESTED ANSWER:**

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

**Madam X owns real property in Caloocan City. On July 1, 2014, she received a notice of assessment from the City Assessor, informing her of a deficiency tax on her property. She wants to contest the assessment. (4%)**

**(A) What are the administrative remedies available to Madam X in order to contest the assessment and their respective prescriptive periods?**

**(B) May Madam X refuse to pay the deficiency tax assessment during the pendency of her appeal? (2014 Bar Question)**

**SUGGESTED ANSWER :**

(A) The administrative remedies available to *Madam X* to contest the assessment and their respective prescriptive periods are as follows:

1. Pay the deficiency real property tax under protest (*Section 252, LGC*);
2. File the protest with the local treasurer – The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city, or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt (*Section 252, LGC*);
3. Appeal to the LBAA – If protest is denied or upon the lapse of the 60-day period for the treasurer to decide, the taxpayer may appeal to the LBAA within 60 days and the case decided within 120 days (*Section 226 & 229, LGC*);
4. Appeal to the CBAA – If not satisfied with the decision of the LBAA, appeal to the CBAA within 30 days from receipt of a copy of the decision (*Section 229(c), LGC*).

(B) No. The payment of the deficiency tax is a condition before she can protest the deficiency assessment. It is the decision on the protest or inaction thereon that gives her the right to appeal. This

means that she cannot refuse to pay the deficiency tax assessment during the pendency of the appeal because it is the payment itself which gives rise to the remedy. The law provides that no protest (which is the beginning of the disputation process) shall be entertained unless the taxpayer first pays the tax (*Section 252, LGC*).