

Reviewer

# BUSINESS TAXATION

General Principles



# INTRODUCTION TO BUSINESS TAXATION

**Business Taxes** are those imposed upon **onerous transfers** (transfer with consideration) such as sale, barter, exchange, and importation.

## Onerous Transfer

1. *In the ordinary course of trade or business*

Applicable Tax:

a. Business Tax – on the sale itself, regardless of the result of the transaction.

b. Income Tax – on income derived from sale, barter or exchange.

2. *Not in the ordinary course of trade or business*

May result to imposition of income tax only. Business tax is not applicable if the onerous transfer was made not in the ordinary course of trade or business, except in the case of importation.

## Nature:

1. Relative Consumption Tax
2. Indirect Tax
3. Privilege Tax
4. National Tax

## Types of Business Taxes

1. Percentage Tax
2. Value-Added Tax
3. Excise Tax

## Procedures of Business Taxation

1. Evaluate if the sales activity qualifies a business.
2. Identify the taxable person, is it individual or juridical.
3. Determine the activity type, whether sales of goods or sales of services.
4. Classify the sales or receipts whether they are exempt, subject to specific percentage tax and vatable sales or receipts.
5. Determine taxpayer registration type if VAT registered or non-VAT registered.
6. Determine if the goods or service offered is excisable.

## Elements of Business

1. Habitual Engagement
2. Commercial Activity

## NOT BUSINESSES

1. Government agencies and instrumentalities (*render essential government services*)
2. Non-profit organizations and associations (*absence of the purpose to make profit*)
3. Employment (*Compensation subject to income tax*)
4. Directorship in corporation (*not derived from economic or commercial activity*)
5. Business for mere subsistence or livelihood (*Marginal income earners with gross sales or receipts not exceeding 100,000 per year*)

## **MARGINAL TAXPAYERS**

1. Subsistential farmers or fishermen
2. Small sari-sari stores
3. Small carinderias or turo-turos
4. Drivers or operators of a single unit of tricycle
5. Other similarly situated

## **PERSONS CONSIDERED ENGAGED IN BUSINESS**

1. Consultants
2. Sales Agents and Brokers
3. Television or Movie Talents
4. Cooking and Martial Arts Instructors

## **BUSINESS TAXPAYERS**

1. Natural and juridical persons (*individual, trust, estate, partnership, corporation, joint venture, cooperative or association.*)
2. Husband and wife (*separate taxpayers*)
3. Parent and Subsidiary Companies (*separate taxpayers*)
4. Home and Branch Offices (*not separate taxable person*)
5. Proprietorship (*subject to business tax to the individual taxpayer*)

## **EXEMPT TAXPAYERS FROM INCOME TAX BUT SUBJECT TO BUSINESS TAX**

1. General professional partnership (GPP)
2. Joint venture engaged in construction or oil exploration
3. Local water districts
4. Barangay micro-business enterprise

## **TYPES OF BUSINESS TAXPAYERS**

1. Vat Taxpayers (12% VAT)
2. Non – Vat Taxpayer  
Train Law: 3% GPT  
**Create Law:** 1% GPT (Effective JULY 1, 2020 – JUNE 30, 2023)

## **BUSINESS ACTIVITIES**

1. Sale of Vatable Goods
2. Sale of Properties
3. Sale of Services or Lease of Properties

## **BASIS OF BUSINESS TAX PER TYPE OF ACTIVITY**

1. Sale of Vatable Goods (*Gross Selling Price*) – Inclusive
2. Sale of Properties (*Gross Selling Price*) – Consideration or FMV whichever is higher
3. Sale of Services (*Gross Receipts*) – Actually and constructively received

## **GROSS SELLING PRICE – Basic Concepts**

1. Total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller.
2. Excise Tax if any on such goods or properties shall form part of the gross selling price.
3. Includes sales made in cash, on credit and installment basis.
4. Analogous to the concept of gross sales in income taxation.
5. Contingent discounts (quota discounts, rebates) are not deductible to gross selling price.

## **GROSS SELLING PRICE - Summary**

1. Cash Sales
2. Credit Sales or on Account
3. Installment sales
4. Inclusive of Excise Tax
5. Vat Exclusive
6. Production Cost + OPEX + Desired Profit =  
Selling Price

## **ALLOWABLE DEDUCTIONS**

1. Discounts determined and granted at the point of sale. *(Must be determinable) (Not contingent)*
2. Sales Return and Allowances *(Proper credit or refund was made)*

## **GROSS RECEIPTS – Basic Concepts**

### **(Vat Exclusive)**

Total amount of money or its equivalent representing:

1. Contract price
2. Compensation
3. Service Fees
4. Rental
5. Royalty
6. Amount charged for materials supplied with the services
7. Deposits applied as payments for services
8. Advanced payments actually or constructively received.
9. Withholding Taxes

## **CONSTRUCTIVE RECEIPT**

1. Deposits in the bank account of the seller by the buyer.
2. Issuance by the debtor of a notice to offset any debt or obligations.
3. Transfer of the amounts retained by the payor to the account of the contractor.

## **NOT VIEWED AS SALES OR RECEIPTS**

1. Agency Monies
2. Insurance Proceeds on damaged assets

## **VAT THRESHOLD**

**General Rule:** The 3,000,000 VAT Threshold is applicable to all taxpayers.

### **Exception:**

*Franchise grantees of radio or television* are mandatorily required to register to the VAT system when their annual receipts exceed 10,000,000.

## **OPTIONAL VAT REGISTRATION**

1. Voluntary registration of taxpayers whose gross sales or receipts below the threshold.
2. Subject to 3 – years lock in period.

## **TYPES OF VAT TAXPAYERS**

1. VAT-registered taxpayer
2. VAT-registrable taxpayer

## **VARIABLE SALES OR RECEIPTS**

1. 1% general percentage tax – if the taxpayer is non-VAT registered taxpayer.
2. 12% Value-added tax – if the taxpayer is a VAT taxpayer.

## **TYPES OF PERCENTAGE TAX**

1. Specific percentage tax – these rates apply regardless of the registration type of the taxpayer, whether VAT or non-VAT registered.
2. General Percentage tax – for variable sales or receipts of a non-VAT taxpayers.

## **DIFFERENCE: GROSS SALES OR RECEIPTS BETWEEN VAT AND NON-VAT TAXPAYERS**

1. Non-VAT Taxpayers – The amount billed to the customer or client on the sale of goods or services is respectively the sales or gross receipts.
2. VAT – Taxpayers – The amount billed to the customer or client (invoice price) on the sale of goods or services includes the sales or gross receipts plus the 12% output VAT.

## **BUSINESS TAX ACCOUNTING PERIOD**

- One Quarter – is the length of accounting period for business taxes and this is referred to as a *taxable quarter*.
- Individual taxpayers are limited to use only the calendar year accounting period.
- Corporate taxpayers may opt either calendar or fiscal year accounting period.

## **BUSINESS TAX REPORTING**

Types of Business Tax Returns

1. VAT Taxpayers
  - a. BIR Form 2550 **M** (Monthly)
  - b. BIR Form 2550 **Q** (Quarterly)
2. Non- VAT Taxpayers
  - a. BIR Form 2551 **Q** (Quarterly)

## **REPORTING OF VAT TAXPAYERS**

1. Required to report their receipts or sales in two monthly estimated VAT Returns for the first two months of the quarter using BIR Form 2550 **M** within 20 days.
2. And a quarterly VAT Return on the third month of the quarter, using BIR Form 2550 Q within 25 days.
3. In effect, VAT Taxpayers pay remit VAT on a monthly basis.

## **REPORTING OF NON-VAT TAXPAYERS** (Percentage Taxpayers)

1. TRAIN LAW – requires percentage taxpayers to file quarterly percentage tax returns (BIR Form 2551Q).
2. All percentage taxpayers pay percentage taxes on a quarterly basis within 25 days before the deadline.

### **SHORT-PERIOD RETURN**

1. Shall file a final quarterly return and pay the tax due thereon within 25 days from the end of the month when the business ceases to operate or when the VAT registration has been officially cancelled.
2. Subsequent monthly declarations/quarterly returns are still required to be filed if the results of the winding up of the affairs/business of the taxpayer reveal taxable transactions.

### **TIMING OF VAT REGISTRATION**

1. Persons commencing business with an expectation to exceed the VAT Threshold within the 12 months.
2. Persons exceeding the VAT Threshold shall register as VAT Taxpayer before the end of the month following the month the threshold is exceeded.
3. Franchise grantees of radio and television broadcasting, whose gross annual receipt for the preceding calendar year exceeded 10,000,000 shall register as VAT Taxpayer within 30 days from the end of the calendar year.
4. Persons who are below the threshold but opt to be registered as VAT Taxpayer shall register not less than 10 days before the beginning of the taxable year.

### **ESSENCE OF VOLUNTARY THE VAT REGISTRATION**

1. Beneficial for taxpayers who are into export business so that their export sales would be zero-rated rather than merely exempt.
2. Take note that optional VAT registration is not allowed to self-employed and or professional individuals who opted to the 8% commuted tax under income taxation.
3. VAT Taxpayers shall continue to pay VAT until the cancellation or revocation of their VAT registration.

### **REVOCABILITY OF VAT REGISTRATION**

1. Franchise grantees of radio or television is perpetually irrevocable.
2. Persons who are below the threshold but opt to be registered as VAT Taxpayer shall not allowed to cancel their registration for the next three years as a lock-in period.
3. Any person who registered as VAT Taxpayers with an expectation to exceed the VAT threshold but failed to exceed the same within 12 months of operations may apply for cancellation of the registration. In this case, the 3-year lock-in period does not apply.

### **PENALTY FOR REGISTRABLE PERSONS**

1. Registrable persons are still liable to VAT but without the benefit of the input VAT credit in the periods in which they are not properly registered.

## *References*

Banggawan, Rex B. *Business and Transfer Taxation Laws and Principles and Applications* (2019). Real Excellence Publishing.

De Vera, Jack. *Quicknotes Taxation* (2018).

Tabag, Enrico D. *Introduction to Business Taxation*.