

**2010 – 2015**  
**TAXATION BAR EXAM QUESTIONS**  
**ON**  
**DONOR'S TAX**

**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 11200,000.00. At the time of donation, the fair market value of the two parcels of land, as determined by the CIR, was 112,300,000.00; while the fair**

**market value of the same properties as shown in the schedule of values prepared by the City Assessors was 112,500,000.00. What is the proper valuation of Mr. L's gifts to his children for purposes of computing donor's tax? (2015 Bar Question)**

**SUGGESTED ANSWER:**

The valuation of Mr. L's gift to his children is the fair market value (FMV) of the property at the time of donation. It is the higher of the FMV as determined by the Commissioner or the FMV as shown in the schedule of values fixed by the provincial or city assessors. In this case, for the purpose of computing donor's tax, the proper valuation is the value prepared by the City Assessors amounting to P2,500,00.00 because it is higher than the FMV determined by the CIR.

**In May 2010, Mr. And Mrs. Melencio Antonio donated a house and lot with a fair market value of P10 Million to their sob, Roberto, who is to be married during the same year to Josefina Angeles. Which statement below is INCORRECT? (2012 Bar Question)**

- a) There are four (4) donations made – two (2) donations are made by Mr. Melencio Antonio to Roberto and Josefina, and two (2) donations are made by Mrs. Antonio;
- b) The four (4) donations are made by the Spouses Antonio to members of the family, hence, subject to the graduated donor's tax rates (2%-15%);
- c) Two (2) donations are made by the spouses to members of the family, while two (2) other donations are made to strangers;
- d) Two (2) donations made by the spouses to Roberto are entitled to deduction from the gross gift as donation *proper nuptias*.

**SUGGESTED ANSWER:**

- d)** Two (2) donations made by the spouses to Roberto are entitled to deduction from the gross gift as donation *proper nuptias*.

Section 101, NIRC; Tang Ho v. Court of Appeals.

**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? (2011 Bar Question)**

- (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.

**SUGGESTED ANSWER:**

(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.

**Exempted from donor's taxation are gifts made:** (2011 Bar Question)

- (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.

**SUGGESTED ANSWER:**

- (A) for the use of the barangay.

**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?** (2011 Bar Question)

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

**SUGGESTED ANSWER:**

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

**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?** (2011 Bar Question)

- (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.

**SUGGESTED ANSWER:**

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

**On January 10, 2011, Maria Reyes, single-mother, donated cash in the amount of P50,000.00 to her daughter Cristina, and on December 20, 2011, she donated another P50,000.00 to Cristina. Which statement is correct? (2012 Bar Question)**

- a) Maria Reyes is subject to donor's tax in 2011 because gross gift is P100,000.00;
- b) Maria Reyes is exempt from donor's tax in 2011 because gross gift is P100,000.00;
- c) Maria Reyes is exempt from donor's tax in 2011 only to the extent of P50,000.00;
- d) Maria Reyes is exempt from donor's tax in 2011 because the donee is minor.

**SUGGESTED ANSWER:**

- b) Maria Reyes is exempt from donor's tax in 2011 because gross gift is P100,000.00

Section 99(A), NIRC.

**Mr. De Sarapen is a candidate in the upcoming Senatorial elections. Mr. De Almacen, believing in the sincerity and ability of Mr. De Sarapen to introduce much needed reforms in the country, contributed P500,000.00 in cash to the campaign chest of Mr. De Sarapen. In addition, Mr. De Almacen purchased tarpaulins, t-shirts, umbrellas, caps and other campaign materials that he also donated to Mr. De Sarapen for use in his campaign. Is the contribution of cash and campaign materials subject to donor's tax? (2014 Bar Question)**

**SUGGESTED ANSWER :**

The answer must be qualified. Section 99(C) of the NIRC explicitly provides that any contribution in cash or in kind to any candidate, political party or coalition of parties for campaign purposes shall be governed by the Election Code, as amended. On the other hand, Section 13 of the Republic Act No. 7166 specifically states that any provision of law to the contrary notwithstanding, any contribution in cash or kind to any candidate or political party or coalition of parties for campaign purposes, duly reports to the Commission on Elections (COMELEC) shall not be subject to the payment of any gift tax.

Thus, if *Mr. De Almacen* reported his campaign contributions of Php 500,000.00 in cash, tarpaulins, t-shirts, umbrellas, caps, and other campaign materials to the COMELEC, then the BIR cannot impose donor's tax on such contributions. Conversely, if *Mr. De Almacen* failed to report these campaign contributions to the COMELEC, such contributions would be subject to donor's tax.

**The spouses Jun and Elvira Sandoval purchased a piece of land for P5,000,000 and included their two (2) minor children as co-purchasers in the Deed of Absolute Sale. The Commissioner of Internal Revenue (CIR) ruled that there was an implied donation and assessed donors' taxes against the spouses.**

**Rule on the CIR's action. (1%)(2013 Bar Question)**

- (A) The CIR is wrong; a donation must be express.
- (B) The CIR is wrong; financial capacity is not a requirement for a valid sale.
- (C) The CIR is correct; the amount involved is huge and ultimately ends up with the children.
- (D) The CIR is correct; there was animus donandi since the children had no financial capacity to be co-purchasers.

**SUGGESTED ANSWER:**

(D) The CIR is correct; there was animus donandi since the children had no financial capacity to be co-purchasers.

The present case is similar to the case of *Sps. Hordon H. Evono and Maribel C. Evono v. CIR, et al.*, [CTA EB No. 705, (CTA Case No. 7573), June 4, 2012]. The CTA held that the inclusion of the minor children's names in the transfer of the titles/properties shall be deemed a donation or gift from their parents. This is so because the minor children, at an early age, have no source of income. There is a clear *animus donandi*. Therefore, the imposition of donor's tax is in accordance with Section 98 of the NIRC.

(Note: Although the cited case was only decided by the CTA, it provides an authoritative insight on the answer to the given problem, considering that there is no exact applicable law and jurisprudence on the matter.)

**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? (2011 Bar Question)**

- (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.

**SUGGESTED ANSWER:**

(C) Celia shall pay a 30% donor's tax on the P110,000.00 donation.