

# FUNDAMENTAL PRINCIPLES OF TAXATION

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## DEFINITION OF TAXATION

- Taxation as a power** – refers to the inherent power of the state to demand enforced contribution for public purpose to support the government.
- Taxation as a process** – the legislative act of laying a tax to raise income for the government to defray its necessary expenses
- Taxation as a mode of cost allocation** – taxation is a means of allocating government burden to the people

## TAXATION AS A POWER OF THE GOVERNMENT

### The Inherent Powers of the State

- Power of Taxation** – the power to take property for the support of the government and for public purpose
- Police Power** – the power to enact laws to promote the general welfare of the people. It is wider in application because it is the general power to make laws.
- Power of Eminent Domain** – the power to take private property for public use upon payment of just compensation

### Differences and similarities

Point of Difference	Taxation	Police Power	Eminent Domain
Exercising Authority	Government	Government	Government or private entities
Necessity of Delegation	Delegation is not necessary since it is inherent	There must be delegation before local governments could exercise it	There must be due delegation before local government or private party may exercise it
Purpose	Revenue and support of the government	Protection of well-being of the people	Property is taken for public use
Persons affected	Community or class of individuals	Community or class of individuals	Operates on the owner of the property
Effect of transfer of property rights	Money paid as taxes becomes part of the public fund	There is no transfer of title, at most there is restraint on the injurious use of property	There is transfer of right to property whether it be of ownership or lesser right
Amount of Imposition	Unlimited	Sufficient to cover the costs of regulation	No imposition, the owner is paid the fair market value of his property
Importance	Most important of the three	Most superior	
Relationship with the Constitution	Inferior to the "Non-Impairment Clause" of the Constitution	Superior to the "Non-Impairment Clause" of the Constitution	Superior and may override the "Non-Impairment Clause" because the welfare of the state is superior to private contracts
Limitation	Constitutionally and inherently restricted	Public interest and the requirement of due process	Public purpose and just compensation

### Similarities of the Three Powers

- All three powers are necessary attributes of sovereignty, resting upon necessity
- all are inherent powers of the State
- All are legislative in nature
- They are ways in which the State interferes with private rights and property
- They exist independently with the Constitution although the condition for their exercise may be prescribed or limited by the Constitution
- They all presuppose an equivalent compensation received by the persons affected by the exercise of the power, whether directly, indirectly or remote.
- The exercise of these powers by the local government units may be limited by national legislature

\*Police power can be used to raise revenue for the government (ex: license fee)

# Fundamentals Of Taxation 20appendix B Solutions

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