IMPLEMENTING THE TAX INCENTIVES PROVISIONS OF REPUBLIC ACT NO. 8525, OTHERWISE KNOWN AS THE “ADOPT-A-SCHOOL ACT OF 1998”

BIR REGULATIONS NO. 10-2003, January 27, 2003

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SECTION 1. Scope. — Pursuant to Sections 4 and 244 of the National Internal Revenue Code (Tax Code) of 1997, the following Regulations are hereby promulgated to implement the tax provisions of R.A. No. 8525, otherwise known as the "Adopt-a-School Act of 1998."

SEC. 2. Definition Of Terms. — For purposes of these Regulations, the following terms are operationally defined as follows:

(a) "Act" — refers to Republic Act No. 8525, otherwise known as the "Adopt-a-School Act of 1998."

(b) "Adopt-a-School Program" — or "Program" shall refer to a program which allows private entities to assist a public school in a particular aspect of its educational program within an agreed period.

(c) "Public school" — shall refer to a government school, whether elementary, secondary, post-secondary or tertiary, which enters into an Agreement with an adopting private entity concerning assistance referred to under paragraph (e) hereof.

(d) "Private entity" — shall refer to an individual engaged in trade or business or engaged in the practice of his profession or other business organizations, like a partnership, corporation or cooperative, either resident or non-resident, who/which teams up with the Department of Education (DepEd), or with the Commission on Higher Education (CHED), or with the Technical Education and Skills Development Authority (TESDA), towards providing much needed assistance and service to public schools. It shall be known hereafter as the adopting private entity.

(e) "Assistance" — shall refer to the aid/help/contribution/donation provided by an adopting private entity to a public school. Assistance may be in the form of, but not limited to, infrastructure, teaching and skills development, learning support, computer and science laboratories, and food and nutrition.

(f) "Agreement" — shall refer to a Memorandum of Agreement (MOA) or Agreement/Deed of Donation entered into by and between the adopting private entity and the public school specifying the terms and conditions of the adoption, including the tasks and responsibilities of the contracting parties.

(g) "National Secretariat" — shall refer to the office composed of representatives of the three education agencies, namely the DepEd, CHED and TESDA, which will provide overall management and coordination of the Program.

(h) "Application for tax incentives or tax exemption" — shall refer to the application for tax credit by the adopting private entity referred to under Section 4 of the Act, which means application for additional deduction in arriving at the net taxable income.

SEC. 3. Tax Incentives Accruing To The Adopting Private Entity. — A pre-qualified adopting private entity, which

enters into an Agreement with a public school, shall be entitled to the following tax incentives:

(a) Deduction from the gross income of the amount of contribution/donation that were actually, directly and exclusively incurred for the Program, subject to limitations, conditions and rules set forth in Section 34(H) of the Tax Code, plus an additional amount equivalent to fifty percent (50%) of such contribution/donation subject to the following conditions:

(1) That the deduction shall be availed of in the taxable year in which the expenses have been paid or incurred;

(2) That the taxpayer can substantiate the deduction with sufficient evidence, such as official receipts or delivery receipt and other adequate records —

(2.1) The amount of expenses being claimed as deduction;

(2.2) The direct connection or relation of the expenses to the adopting private entity's participation in the Adopt-a-School Program. The adopting private entity shall also provide a list of projects and/or activities undertaken and the cost of each undertaking, indicating in particular where and how the assistance has been utilized as supported by the Agreement; and

(2.3) Proof or acknowledgment of receipt of the contributed/donated property by the recipient public school.

(3) That the application, together with the approved Agreement endorsed by the National Secretariat, shall be filed with the Revenue District Office (RDO) having jurisdiction over the place of business of the donor/adopting private entity, copy furnished the RDO having jurisdiction over the property, if the contribution/donation is in the form of real property.

(b) Exemption of the Assistance made by the donor from payment of donor's tax pursuant to Sections 101 (A)(2) and (B)(1) of the Tax Code of 1997.

SEC. 4. Other Tax Consequences Of The Assistance To The Public School. —

(a) In the case of foreign donation, the VAT and excise tax, if any, on the importation of goods shall be assumed by the DepEd, or CHED, or TESDA, as the case may be, being the consignee or the importer thereof, except in cases where the importation is exempt from VAT under Section 109 of the Tax Code. In this connection, VAT on importation payable by the concerned national government agency (namely, DepEd, CHED or TESDA) to the National Government arising from the subject foreign donation is deemed automatically appropriated and shall be considered as expenditure of the government pursuant to the provisions of Section 13 of the Government Appropriation Act (GAA) as determined by the Congress on an annual basis.

(b) In the case of local donation considered as a "transaction deemed sale" of goods or properties originally intended for sale by the adopting private entity, the same shall be subject to VAT on the transfer of the said goods or properties under Section 106(B)(1) of the Tax Code. The said donor/adopting private entity, however, is entitled to claim the available input tax subject to the rules on allocation among taxable sales, zero-rated sales and exempt sales. On the other hand, the donee-public school, shall be deemed as the final consumer/end-user, and therefore, not entitled to any input VAT.

If the local donation is not considered as a "transaction deemed sale," then the transfer of the goods or properties to the public school shall be exempt from VAT.

SEC. 5. Valuation Of The Assistance/Contribution Or Donation. —

(a) Cash assistance/contribution or donation. — The amount of assistance/contribution or donation shall be based on the actual amount contributed/donated appearing in the official receipt issued by the donee.

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(b) Assistance/contribution or donation other than money. —

(i) Personal property. — If the contribution or donation is in the form of personal property, the amount of the contribution or donation shall be based on the acquisition cost of the said assistance or contribution. However, if the said property had already been used, then such valuation shall take into consideration the depreciated value of the property.

(ii) Consumable goods. — If the assistance is in the form of consumable goods, the amount of the contribution or donation shall be based on the acquisition cost by the donor or the actual cost thereof at the time of the donation, whichever is lower.

(iii) Services. — If the assistance is in the form of services, the amount of the contribution or donation shall be based on the value of the services rendered as agreed upon by the donor and the service provider and the public school as fixed in the Memorandum of Agreement, or the actual expenses incurred by the donor, whichever is lower.

(iv) Real Property. — If the assistance is in the form of real property, the amount of the contribution or donation shall be the fair market value of the property at the time of the contribution/donation, as determined pursuant to Section 6(É) of the Tax Code or the book value/depreciated value of the property, whichever is lower. Appraisal increase or appreciation in the value of the asset recorded in the books of account should not be considered in computing the book value of the asset.

SEC. 6. Procedures For The Availment Of Tax Incentives Under The Program By The Adopting Private Entity. — In order to avail of the tax incentives provided for under these Regulations, the following procedures and requirements should be complied with, viz:

(a) National Secretariat shall endorse to the RDO of the Bureau of Internal Revenue (BIR) having jurisdiction over the place of business of the adopting private entity, copy furnished the RDO having jurisdiction over the property if the donation or contribution is in the form of real property), the following:

(i) duly notarized/approved Agreement,

(ii) duly notarized Deed of Donation,

(iii) Official receipts or any document showing the actual value of the contribution/donation;

(iv) Certificate of Title and Tax Declaration, if the donation is in the form of real property; and

(v) Other adequate records showing the direct connection or relation of the expenses being claimed as deduction/donation to the adopting private entity's participation in the Program, as well as showing or proving receipt of the donated property.

(b) Adopting private entity shall submit application for entitlement to the additional 50% special deduction from the gross income, and for exemption from donor's tax to the RDO having jurisdiction over the place of business of the adopting private entity, copy furnished the RDO having jurisdiction over the donated real property.

SEC. 7. Repealing Clause. — All revenue rules and regulations, and other revenue issuances or parts thereof, which are inconsistent with these Regulations are hereby repealed or modified accordingly.

SEC. 8. Effectivity. — These Regulations shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation, whichever comes first.

Adopted: 27 Jan. 2003

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