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IMPLEMENTING THE TAX PRIVILEGES PROVISIONS OF REPUBLIC ACT NO. 9994, OTHERWISE KNOWN AS THE “EXPANDED SENIOR CITIZENS ACT OF 2010”, AND PRESCRIBING THE GUIDELINES FOR THE AVAILM...

BIR REVENUE REGULATIONS NO. 7-2010, July 20, 2010

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SECTION 1. Scope. – Pursuant to Section 244 of the National Internal Revenue Code of 1997, as amended (Tax Code), in relation to Section 2 of Republic Act No. 9994 (Act), otherwise known as the “Expanded Senior Citizens Act of 2010” (hereinafter referred to as the “Act”) and Section 2, Article 4, Rule II of the Implementing Rules and Regulations of the Act, these Regulations are hereby promulgated to prescribe the guidelines for:

1. The availment of the income tax exemption of Senior Citizens;
2. The value-added tax exemption privileges granted to VAT-registered taxpayers selling goods and services identified in the Act to Senior Citizens;
3. The tax privileges granted to establishments giving discount on their sale of goods and services to Senior Citizens;
4. The tax implication of taking care and supporting senior citizens by their benefactors; and
5. The tax privileges granted to private entities who engage Senior Citizens as their employees.

SEC. 2. Definitions. – For purposes of these Regulations, the following terms and phrases shall be defined as follows:

a. Senior Citizen or Elderly – refers to any Filipino citizen who is a resident of the Philippines, and who is sixty (60) years old or above. It may apply to senior citizens with “dual citizenship” status provided they prove their Filipino citizenship and have at least six (6) months residency in the Philippines.

b. Resident Citizen – a Filipino Citizen with permanent/legal residence in the Philippines, and shall include one, who, having migrated to a foreign country, has returned to the Philippines with a definite intention to reside therein, and whose immigrant visa has been surrendered to the foreign government.

c. Benefactor – refers to any person whether related or not to the senior citizen who provides care or who gives any form of assistance to him/her, and on whom the senior citizen is dependent on for primary care and material support, as certified by the City or Municipal Social Welfare and Development Officer (C/MSWDO).

d. Dependent – a Senior Citizen, who may or may not be related to his/her Benefactor and who is living with and dependent upon his/her Benefactor for his/her chief support.

e. Minimum Wage Earner – a worker in the private sector who is paid the statutory minimum wage, or an employee in the public sector with compensation income of not more than the statutory minimum wage in the non-agricultural sector where he/she is assigned.

f. OSCA – the Office of the Senior Citizens Affairs of cities and municipalities, which is headed by a Senior Citizen who shall serve for a term of three (3) years.

i. NEDA – the National Economic and Development Authority.

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j. NSCB – the National Statistical Coordinating Board.

k. Annual Taxable Income of a Resident Senior Citizen – the compensation, business and other income received by a Resident Senior Citizen during each taxable year from all sources as defined in Section 31 of the Tax Code.

l. Sales Discount – the actual discount, or that discount, which in no case shall be lower than twenty (20%) per cent of the gross selling price of the goods sold or services rendered to Senior Citizens by certain establishments enumerated under the Act and in these Regulations, Provided, that, for purchase of water and electricity from public utilities, the sales discount shall be a minimum of five (5%) per cent.

m. Establishment – any entity, public or private, duly licensed and/or franchised by the national government agencies or the local government units.

SEC. 3. Income Tax of Senior Citizens. – Generally, qualified Senior Citizens deriving returnable income during the taxable year, whether from compensation or otherwise, are required to file their income tax returns and pay the tax as they file the return.

However, if the returnable income of a Senior Citizen is in the nature of compensation income but he qualifies as a minimum wage earner under RA No. 9504, he shall be exempt from income tax on the said compensation income subject to the rules provided under Revenue Regulations No. 10-2008 applicable to minimum wage earners.

Likewise, if the aggregate amount of gross income earned by the Senior Citizen during the taxable year does not exceed the amount of his personal exemptions (basic and additional), he shall be exempt from income tax and shall not be required to file an income tax return.

The exemption of Senior Citizens from income tax granted in the Act will not extend to all types of income earned during the taxable year. Hence, he can still be liable for other taxes such as:

1. The 20% final withholding tax on interest income from any currency bank deposit, yield and other monetary benefit from deposit substitutes, trust fund and similar arrangements; royalties (except on books, as well as other literary works and musical compositions, which shall be imposed a final withholding tax of 10%); prizes (except prizes amounting to P10,000 or less which shall be subject to income tax at the rates prescribed under Sec. 24(A) of the Tax Code, and other winnings (except Philippine Charity Sweepstakes and Lotto winnings) (Sec. 24(B)(1), Tax Code);

2. The 7.5% final withholding tax on interest income from a depository bank under the expanded foreign currency deposit system (Sec. 24(B)(1), Tax Code);

3. If the Senior Citizen will pre-terminate his 5-year long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas before the fifth year, he shall be subject to the final withholding tax imposed on the entire income depending on the holding period of the deposit or investment. If held for a period of:

- Four years to less than five years – 5%

- Three years to less than four years – 12%; and

- Less than three years – 20%

4. The 10% final withholding tax –

a. On cash and/or property dividends actually or constructively received from a domestic corporation or from a

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joint stock company, insurance or mutual fund company and a regional operating headquarters of a multinational company; or

b. On the share of an individual in the distributable net income after tax of a partnership (except a general professional partnership) of which he is a partner; or

c. On the share of an individual in the net income after tax of an association, a joint account, or a joint venture or consortium taxable as a corporation of which he is a member or a co-venturer (Sec. 24(B)(2), Tax Code).

5. Capital gains tax from sales of shares of stock not traded in the stock exchange (Sec. 24(C), Tax Code); and

6. The 6% final withholding tax on presumed capital gains from sale of real property, classified as capital asset, except capital gains presumed to have been realized from the sale or disposition of principal residence (Sec. 24(D), Tax Code).

SEC. 4. Grant of Discounts to Senior Citizens. - All establishments, supplying any of the following goods and services, as specified in the Act to Senior Citizens, for their exclusive use and enjoyment or availment, shall give a discount of twenty (20%) per cent. The granting of discount herein mentioned shall apply to the sale of the following goods and services:

a. Medicines, including influenza and pneumococcal vaccines, and such other essential medical supplies, accessories and equipment to be determined by the Department of Health (DOH).

a.1 On all drug stores, hospital pharmacies, medical and optical clinics and similar establishments dispensing medicines, the discount for sales of drugs/ medicines shall be subject to the Guidelines to be issued by the Bureau of Food and Drugs, Department of Health (BFAD-DOH), in coordination with the Philippine Health Insurance Corporation (PHILHEALTH). For this purpose, the term “medicines” shall refer to both prescription and non-prescription medicines, and articles approved by the BFAD-DOH, which are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man; but do not include food and devices or their components, parts, or accessories.

b. On the professional fees of attending physician/s in all private hospitals, medical facilities, outpatient clinics and home health care services, where the discount shall be based on the compensation for services charged from the Senior Citizen.

c. On professional fees of licensed professional health workers providing home health care services as endorsed by private hospitals or employed through home health care employment agencies, where the discount shall be based on the fees charged from the Senior Citizen.

d. On medical and dental services, diagnostic and laboratory fees in all private hospitals, medical facilities, outpatient clinics, and home health care services, in accordance with the rules and regulations to be issued by the DOH, in coordination with the Philippine Health Insurance Corporation (PhilHealth).

d.1 “Medical services” refers to hospital services, professional services of physicians and other health care professionals and diagnostic and laboratory tests that are necessary for the diagnosis or treatment of an illness or injury.
d.2 “Dental services” refers to oral examination, cleaning, permanent and temporary filling extractions and gum treatments, restoration, replacement or repositioning of teeth, or alteration of the alveolar or periodontium process of the maxilla and the mandible that are necessary for the diagnosis or treatment of an illness or injury.
d.3 “Home health care service” refers to health or supportive care provided to the Senior Citizen patient at home by licensed health care professionals to include but not limited to, physicians, nurses, midwives, physical therapists and caregivers.

e. In actual fare for land transportation travel in public utility buses (PUBs), public utility jeepneys (PUJs), taxis, Asian utility vehicles (AUVs), shuttle services and public railways, including Light Rail Transit (LRT), Mass Rail Transit (MRT), and Philippine National Railways (PNR).

f. On actual transportation fare for domestic air transport services and sea shipping vessels and the like, based on the actual fare and advanced booking.

g. On the utilization of services in hotels and similar lodging establishments, restaurants and recreation centers.

> g.1 For hotels and similar lodging establishments, the discount shall be for room accommodation and other amenities offered by the establishment, such as, but not limited to, massage parlor, sauna bath, food, drinks and other services offered.
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> g.2 For this purpose, the term “hotel/hostel” shall refer to the building, edifice or premises or a completely independent part thereof, which is used for the regular reception, accommodation or lodging of travelers and tourists, and the provision of services incidental thereto, for a fee.
>
> g.3 “Lodging establishment” shall refer to a building, edifice, structure, apartment or house including tourist inn, apartelle, motorist hotel and pension house engaged in catering, leasing or providing facilities to transients, tourists or travelers. The following are considered as lodging establishments:
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> g.3.1 Tourist Inn – a lodging establishment catering to transients, which does not meet the minimum requirement of an economy hotel.
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> g.3.2 Apartelle – a building or edifice containing several independent and furnished or semi-furnished apartments, regularly leased to tourists and travelers for dwelling on a more or less long-term basis and offering basic services to its tenants, similar to hotels.
>
> g.3.3 Motorist Hotel – any structure with several separate units, primarily located along the highway, with individual or common parking space, at which motorists may obtain lodging and in some instance, meals.
>
> g.3.4 Pension House – a private, or family-operated tourist boarding house, tourist guest house or tourist lodging house, regularly catering to tourist, and/ or traveler, containing several independent table rooms, providing common facilities, such as toilets, bathrooms/showers, living and dining rooms and/or kitchen and where a combination of board and lodging may be provided.

g.4 The term lodging establishment shall also include lodging houses, which shall mean such establishments are regularly engaged in the hotel business, but which, nevertheless, are not registered, classified and licensed as hotels by reason of inadequate essential facilities and services. Long term arrangement for residential purposes is not covered.

g.5 For restaurants, the discount shall be for the sale of food, drinks, desert and other consumable items served by the establishments, including value meals and promotional meals offered for the consumption of the general public.

g.6 For this purpose, the term “restaurant” shall refer to any establishment offering to the public, regular and special meals or menu, fast food, cooked food and short orders. Such eating places may also serve coffee, beverages and drinks. Food and goods sold by establishments that are not restaurants are not covered, therefore not allowed to give the 20% discount.

g.7 For recreation centers, the discount shall be for the utilization of services in the form of fees, charges and rental facilities, such as, but not limited to, sports facilities and equipment.

h. On admission fees charged by theaters, cinema houses and concert halls, circuses, carnivals, and other similar

places of culture, leisure and amusement, where the discount shall be on the admission fees charged by the said establishments;

i. On funeral and burial services for the death of Senior Citizens. The beneficiary or any person who shall shoulder the funeral and burial expenses of the deceased Senior Citizen shall claim the discount, such as casket, embalmment, cremation cost and other related services for the Senior Citizen upon payment and presentation of his death certificate;

SEC. 5. Special Discount granted to Senior Citizens and Senior Citizens Centers. – The monthly utilization of water and electricity by the Senior Citizen supplied by public utilities will be subject to a five percent (5%) discount upon concurrence of the following:

1. the individual meters for the said utilities are registered in the name of the Senior Citizen residing therein;
2. the monthly consumption does not exceed one hundred kilowatt hours (100kwh) of electricity and thirty cubic meters (30 m[3]) of water; and
3. the privilege is granted per household regardless of the number of Senior Citizens residing therein.

For the consumption of water, electricity and telephone, there shall be granted by public utilities a discount of at least fifty (50%) per cent on the consumption by a Senior Citizens Center and residential care/group homes that are run by the Government or by a non-stock, non-profit domestic corporation organized and operated primarily for the purpose of promoting the well-being of abandoned, neglected, unattached, or homeless Senior Citizens, subject to the guidelines formulated by the Department of Social Welfare and Development (DSWD).

Provisions of Section 4 and the foregoing paragraphs of this Section, notwithstanding, if any of the foregoing goods or services is offered by the establishment at a promotional discount, the discount that shall be granted to the Senior Citizen shall be the promotional discount or the minimum discount prescribed in this Regulation. This means that, in no case shall be the discount granted to Senior Citizens be less than 20%, or in the case of water and electricity supplied by public utility companies, be less than 5%. The minimum discount shall not be treated as an addition to the promotional discount, provided that, if the promotional discount is less than the minimum discount prescribed in the Act for Senior Citizens, the seller shall increase the discount to meet the said minimum discount prescribed for Senior Citizens.

SEC. 6. Determination of the Amount of Discount. – The grant of the discount is only for the purchase of goods and services enumerated in the Act for the EXCLUSIVE USE AND ENJOYMENT OR AVAILMENT OF THE SENIOR CITIZEN. The following rules shall be observed in granting the discount:

Medical-Related Privileges:

(a) MEDICINE AND DRUG PURCHASES – The 20% discount and VAT exemption shall apply to the purchase of generic or branded medicines and drugs by or for senior citizens, including the purchase of influenza and pneumococcal vaccines. The 20% discount and VAT exemption shall also be granted to the purchase of vitamins and mineral supplements which are medically prescribed by an attending physician for prevention and treatment of diseases, illness, or injury whose prescription is in the name of the Senior Citizen.

(b) ESSENTIAL MEDICAL SUPPLIES, ACCESSORIES AND EQUIPMENT – The 20% discount and VAT exemption privilege shall also apply to the purchase of eyeglasses, hearing aids, dentures, prosthetics, artificial bone replacements like steel, walkers, crutches, wheelchairs whether manual or electric-powered, canes/quad canes, geriatric diapers, and other essential medical supplies, accessories and equipment by or for senior citizens.

The purchases under Sections 1 (a) and (b) from drug stores, hospital pharmacies, medical and optical clinics and similar establishments including non-traditional outlets dispensing medicines, shall be subject to

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guidelines that shall be issued by the DOH within thirty (30) days from effectivity of these Rules, in coordination with the Food and Drug Administration (FDA) and the Philippine Health Insurance Corporation (PHILHEALTH). Said guidelines shall also indicate what constitutes discounted essential medical supplies, accessories and equipment as contemplated by Section 1 (b), and will be subjected to a regular review as deemed necessary in keeping with the changes, demands and needs of senior citizens.

The guidelines issued by the DOH, in consultation with the DOF and the BIR, shall also establish mechanisms of compulsory rebates in the sharing of burden of discounts among retailers, manufacturers, and distributors, taking into consideration their respective margins. When necessary, the DOF and the BIR shall come up with the appropriate Revenue Regulations for this purpose.

(c) MEDICAL AND DENTAL SERVICES IN PRIVATE FACILITIES – Medical and dental services, diagnostic and laboratory tests such as but not limited to X-rays, computerized tomography scans, and blood tests, that are requested by a physician as necessary for the diagnosis and/or treatment of an illness or injury are subject to the 20% discount and VAT exemption.

(d) PROFESSIONAL FEES OF ATTENDING PHYSICIAN/S in all private hospitals, medical facilities, outpatient clinics and home health care facilities shall be subject to the 20% discount and VAT exemption;

(e) PROFESSIONAL FEES OF LICENSED HEALTH WORKERS PROVIDING HOME HEALTH CARE SERVICES as endorsed by private hospitals or employed through home health care employment agencies are entitled to the 20% discount and VAT exemption. The burden of the discount shall be borne solely by the employment agency given the health worker’s very minimal share compared to the agency fee.

Domestic Transportation Privileges:

The Department of Transportation and Communication (DOTC), in coordination with the Maritime Industry Authority (MARINA), Philippine Ports Authority (PPA), the Civil Aeronautics Board (CAB), Light Rail Transit Authority (LRTA), Philippine National Railways (PNR), Mass Rail Transit Authority (MRTA) and Land Transportation Franchising and Regulatory Board (LTFRB), shall within thirty (30) days from effectivity of these Rules issue the necessary circulars or directives on the following transportation privileges of senior citizens:

(a) AIR AND SEA TRANSPORTATION PRIVILEGES – Fare for domestic air, and sea travel, including advanced booking, shall be subject to the 20% discount and VAT exemption, if applicable.

(b) PUBLIC LAND TRANSPORTATION PRIVILEGES – Fare in public railways, including LRT, MRT, and PNR, fares in buses (PUB), jeepneys (PUJ), taxi and shuttle services (AUV), are likewise subject to the 20% discount and VAT exemption, if applicable.

Hotels, Restaurants, Recreational Centers and Places of Leisure, and Funeral Services:

The Department of Interior and Local Government (DILG) and Department of Tourism (DOT) shall, within thirty (30) days from effectivity of these Rules, issue the necessary circulars or directives to establishments for its implementation to ensure compliance herewith.

(a) HOTELS AND SIMILAR LODGING ESTABLISHMENTS – The discount shall be for room accommodation and other amenities offered by the establishment such as but not limited to hotel-based parlors and barbershops, restaurants, massage parlor, spa, sauna bath, aromatherapy rooms, workout gyms, swimming pools, jacuzzis, ktv bars, internet facilities, food, drinks and other services offered. The term “hotel” shall include beach and mountain resorts.

(b) RESTAURANTS – The discount shall be for the purchase of food, drinks, dessert, and other consumable items served by the establishments offered for the consumption of the general public.

(c) For Dine-in services under paragraphs (a) and (b) of Section 3, and Section 4, paragraph 2 of Article 7, the privilege must be personally availed of by the senior citizen as defined under these Rules, and no proxies or authorization in favor of another person who is not a senior citizen will be honored.

(d) Consistent with the intent of the Act, the phrase "exclusive use and enjoyment" of the senior citizen shall mean "for the senior citizen's personal consumption" only. As such, the 20% senior citizen discount shall not apply to children's meals" which are primarily prepared and intentionally marketed for children. Similarly, the 20% senior citizen discount shall not apply to "pre-contracted" party packages or bulk orders.

(e) Food, drinks and other consumable items provided in Section 3 (a) and (b), and Section 4, paragraph 2 of Article 7 purchased by the senior citizen shall be processed separately as an independent transaction from his/her non-eligible companions to ensure that it is for his/her exclusive consumption and to enable computation of the 20% discount and the exemption from the Value Added Tax (VAT), which only the senior citizen is entitled to.

However, if the group of diners is composed entirely of senior citizens, all of whom present valid senior citizen IDs, each shall be entitled to a 20% discount and exemption from Value Added Tax.

(f) The 20% discount shall apply to Take-Out/Take-Home/Drive-Thru orders (excluding bulk orders) as long as it is the senior citizen himself/herself who is present and personally ordering, and he/she can show a valid senior citizen ID card.

(g) For Delivery Orders (excluding bulk orders), the 20% discount shall likewise apply subject to certain conditions; i.e, senior citizen ID card number must be given while making the order over the telephone; the senior citizen ID card must also be presented upon delivery to verify the identity of the senior citizen entitled to the 20% discount. Delivery fee charged separately are not entitled to the discount and is subject to tax.

(h) For the above-mentioned transactions under paragraphs (f) and (g) of Section 3 of Article 7, the Most Expensive Meal Combination (MEMC) shall apply to food purchases by senior citizens. The MEMC is an amount corresponding to the combination of the most expensive and biggest single-serving meal with beverage served in a quick service restaurant, is deemed flexible and is adjusted accordingly by food establishments to estimate a single food purchase for an individual senior citizen.

Recreation Centers – The discount shall be for the utilization of services in the form of fees, charges and rental for sports facilities or equipment, including golfcart rentals and green fees, or venues for ballroom dancing, yoga, badminton courts, bowling lanes, table or lawn tennis, workout gyms, martial arts facilities.

Non-profit, stock golf and country clubs which are not open to the general public, and are private and for exclusive membership only as duly proven by their official Securities and Exchange (SEC) registration papers, are not mandated to give the 20% senior citizens discount. However, should restaurants and food establishments inside these country clubs be independent concessionaires and food sold are not consumable items under club membership dues, they must grant the 20% senior citizen discount.

Admission fees Privilege – The discount shall be applied to admission fees charged by theaters, cinema houses and concert halls, circuses, carnivals, and other similar places of culture, leisure and amusement such as museum and parks.

Funeral and Burial Expenses – The beneficiary or any person who shall shoulder the funeral and burial expenses of the deceased senior citizen, shall claim the discount under this Rule for the deceased senior citizen upon presentation of the death certificate. Such expenses shall cover the purchase of casket or urn, embalming, cremation cost, and other related services such as viewing or wake cost, pick-up from the hospital morgue, transport of the body to intended burial site in the place of origin, but shall exclude obituary publication and the cost of the memorial lot.

SEC. 7. Tax Treatment of the Discount Granted to Senior Citizens. – All establishments supplying any of the goods and services referred to in Section 4 and Section 5 of these Regulations, may claim the discounts granted as a tax deduction based on the cost of the goods sold or services rendered to Senior Citizens. By way of example, if a VAT-registered drug store sells ten (10) pieces of Allopurinol to a Senior Citizen at an undiscounted selling price of P5.00 per piece, the cost of the discount is computed as follows:

Selling Price (VAT-exempt) of 10 pcs. At P5.00/pc ———— P50.00
Less: 20% Discount ———————————————————— 10.00
Amount Payable by the Senior Citizen ———————————— P40.00

The selling price to be charged by the seller must be net of VAT because the sale to Senior Citizens is exempt from VAT. The cost of the discount in the above illustration is P10.00 and shall be allowed as a deduction from gross income for the same taxable year that the discount is granted, provided that, the total amount of the claimed tax deduction net of VAT, if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation in accordance with the provisions of the Tax Code. This means that for the establishment to be allowed to claim the discount as a deduction, the amount of sales that must be reported for tax purposes is the undiscounted selling price and not the amount of sales net of the discount. The income statement of the seller must reflect the discount, not as a reduction of sales to arrive at net sales, but as a deduction from its gross income (sales less cost of sales). Thus the entry to record the transaction in the books of the seller should be as follows:

Debit – Cash P40
Senior Citizen Discount Expenses 10

Credit – Sales P50

The discounts granted by the seller of qualified goods and services, i.e. the promotional discount, the 20% discount, the 5% discount on water and electric consumption by Senior Citizens, or the 50% discount on electricity, water and telephone consumption by the Senior Citizens Center, shall be treated as an ordinary and necessary expenses deductible from the gross income of the seller falling under the category of itemized deductions, and can only be claimed if the seller does not opt for the Optional Standard Deduction during the taxable quarter/year. The claim of the discount granted under the Act as an additional item of deduction from the gross income of the seller is subject to the following conditions:

1. Only that portion of the gross sales exclusively used, consumed or enjoyed by the Senior Citizen shall be eligible for the deductible sales discount.

2. The gross selling price and the sales discount must be separately indicated in the official receipt or sales invoice issued by the establishment for the sale of goods or services to the Senior Citizen.

3. Only the actual amount of the discount granted or a sales discount not less than the statutory rate (20%, 5% or 50% when applicable), whichever is higher, based on the gross selling price can be deducted from the gross income, net of value added tax, if applicable, for income tax purposes, and from gross sales or gross receipts of the business enterprise concerned, for VAT or other percentage tax purposes.

4. The seller must record its sales inclusive of the discount granted.

5. The discount can only be allowed as a deduction from gross income for the same taxable year that the discount is granted.

6. The business establishment giving sales discounts to qualified Senior Citizens is required to keep a separate and

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accurate record of sales, which shall include the name of the Senior Citizen, OSCA ID, gross sales/receipts, sales discount granted, dates of transactions and invoice numbers for every sale transaction to Senior Citizen.

7. Only business establishments selling any of the qualified goods and services to Senior Citizens where an actual discount was granted may claim the deduction.

8. The seller must not claim the Optional Standard Deduction during the taxable year.

SEC. 8. Availment of Income Tax Exemption of Senior Citizens. – A Senior Citizen who is a minimum wage earner, or whose taxable income during the year does not exceed his personal exemptions, will be exempt from income tax upon compliance with the following requirements:

1. A Senior Citizen must first be qualified as such by the Commissioner of Internal Revenue or his duly authorized representative (i.e., the Revenue District Officer (RDO) having jurisdiction over the place where the Senior Citizen resides), by submitting a certified true copy of his Senior Citizen Identification Card (OSCA ID) issued by the OSCA of the city or municipality where he resides;

2. He must file a Sworn Statement on or before January 31 of every year that his annual taxable income for the previous year does not exceed the poverty level as determined by the NEDA thru the NSCB; and

3. If qualified, his name shall be recorded by the RDO in the Master List of Tax-Exempt Senior Citizens for that particular year, which the RDO is mandatorily required to keep.

However, a Senior Citizen who is a compensation income earner deriving from only one employer an annual taxable income exceeding the poverty level or the amount determined by the NEDA thru the NSCB on a particular year, but whose income had been subjected to the withholding tax on compensation, shall, although not exempt from income tax, be entitled to the substituted filing of income tax return under Revenue Regulations No. 2-98, as amended.

SEC. 9. Liability for Other Internal Revenue Taxes. – A Senior Citizen shall also be subject to the following internal revenue taxes, among others, imposed under the Tax Code:

1. Value Added Tax (VAT) or other Percentages Taxes, as the case may be. If he is self-employed or engaged in business or practice of profession, and his gross annual sales and/or receipts exceeds P1,500,000 or such amount to which this may be adjusted pursuant to Sec. 109 (1) (V) of the Tax Code, he shall be subject to VAT. Otherwise, he shall be subject to the 3% percentage tax;

2. Donor’s Tax – All donations made by a Senior Citizen during any calendar year, unless exempt under a specific provision of law, shall be subject to the donor’s tax imposed under Title III of the Tax Code;

3. Estate Tax – In the event of death, the estate of the Senior Citizen may also be subject to the estate tax following the rules enunciated under Title III of the Tax Code and its implementing Regulations;

4. Excise Tax on certain goods; and

5. Documentary Stamp Tax.

SEC. 10. Exemption from VAT of the sale to Senior Citizens. –

Sales of any goods and services under Sections 4 and 5 of these Regulations to Senior Citizens shall be exempt from the value-added tax. To ensure the full entitlement of the Senior Citizen to the discount prescribed in the Act, the sellers are precluded from billing any VAT to the Senior Citizen.

The sale to a Senior Citizen must follow the invoicing requirements prescribed under Revenue Regulations No.

16-2005. If the seller uses a Point of Sale Machine or a Cash Register Machine in lieu of the regular sales invoice, the machine tape must properly segregate the exempt sales from the taxable sales.

The input tax attributable to the exempt sale shall not be allowed as an input tax credit and must be closed to cost or expense account by the seller.

The exemption herein granted will not cover other indirect taxes that may be passed on by the seller to a Senior Citizen buyer, such as percentage tax, excise tax, etc. In such case, the discount must be on the total cost of the goods or services charged by the seller exclusive of the tax.

SEC. 11 Personal Exemptions of Benefactors of Senior Citizens. – A Benefactor of a Senior Citizen shall be entitled to claim the basic personal exemption of fifty thousand pesos (P50,000.00) which is the amount of basic personal exemption allowed under Republic Act No. 9504 for all taxpayers required to file income tax returns thereby removing the classification of tax filers into single, head of the family and married. A Senior Citizen who is not gainfully employed, living with and dependent upon his benefactor for chief support, although treated as dependent under the Act, will not entitle the benefactor to claim the additional personal exemption of twenty five thousand pesos (P25,000.00). The entitlement to claim the additional personal exemption per dependent (not exceeding four) is allowable only to individual taxpayers with a qualified dependent child or children subject to the conditions set forth under Section 35(B) of the Tax Code, as amended.

If required to file an income tax return (ITR), the Benefactor shall state therein the name, birthday and OSCA ID number of the dependent Senior Citizen.

SEC. 12. Additional Deduction from Gross Income of Private Establishments for Compensation Paid to Senior Citizens. – Private establishments employing Senior Citizens shall be entitled to additional deduction from their gross income equivalent to fifteen percent (15%) of the total amount paid as salaries and wages to Senior Citizens subject to the provision of Section 34 of the Tax Code and its implementing rules and regulations provided the following conditions are met:

1. The employment shall have to continue for a period of at least six (6) months;

2. The annual taxable income of the Senior Citizen does not exceed the poverty level as may be determined by the NEDA thru the NSCB. For this purpose, the Senior Citizen shall submit to his employer a sworn certification that his annual taxable income does not exceed the poverty level.

SEC. 13. Penalties and Other Sanctions. – Any person who violates any provision of these Regulations shall suffer the penalties provided in the Tax Code. Furthermore, any person who violates any provision of the Implementing Rules and Regulations of the Act shall suffer the following penalties:

1. For the first violation, a fine of not less than Fifty thousand pesos (P50,000.00) but not exceeding One hundred thousand pesos (P100,000.00) and imprisonment of not less than two (2) years but not more than six (6) years; and

2. For any subsequent violation, a fine of not less than One hundred thousand pesos (P100,000.00) but not exceeding Two hundred thousand pesos (P200,000.00) and imprisonment for not less than two (2) years but not less than six (6) years.

Any person who abuses the privileges granted herein shall be punished with a fine of not less than Fifty thousand pesos (P50,000.00), but not more than One hundred thousand pesos (P100,000.00), and imprisonment of not less than six (6) months.

If the offender is an alien or a foreigner, he shall be deported immediately after service of sentence without further

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deportation proceedings.

If the offender is a corporation, organization or any similar entity, the official/s thereof directly involved shall be liable therefore.

Upon filing an appropriate complaint, and after due notice and hearing, the proper authorities may also cause the cancellation or revocation of the business permit, permit to operate, franchise and other similar privileges granted to any business entity that fails to abide by the provisions of the Act and its IRR and these Regulations.

SEC. 14. Repealing Clause. – The provisions of Revenue Regulations Nos. 4-2006, 1-2007 and all existing rules, regulations and other issuance or portions thereof inconsistent with the provisions of these Regulations are hereby modified, repealed or revoked accordingly.

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

(SGD.) CESAR V. PURISIMA
Secretary of Finance

Recommended by:

(SGD.) KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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