

RULES AND REGULATIONS TO IMPLEMENT THE DUTY AND TAX INCENTIVES PROVISION UNDER R.A. 7277, OTHERWISE KNOWN AS THE MAGNA CARTA FOR DISABLED PERSONS.

DOF DEPARTMENT ORDER NO. 109-94, December 19, 1994

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Pursuant to the provisions of Section 42 Title IV of R.A. No. 7277, the following rules and regulations are hereby promulgated:

SECTION 1. Legal Basis - Republic Act No. 7277 otherwise known as the Magna Carta for Disabled Persons, provides:

"Section 42. Tax Incentives, (a) Any donations, bequest, subsidy or financial aid which may be made to government agencies engaged in the rehabilitation of disabled persons and organizations of disabled persons shall be exempt from donor's tax subject to the provisions of Section 94 of the National Internal Revenue Code (NIRC), as amended and shall be allowed as deductions from the donor's gross income for purposes of computing the taxable income subject to the provisions of Section 29 (h) of the Code."

"(b) Donations from foreign countries shall be exempt from taxes and duties on the importation subject to the provisions of Section 105 of the Tariff and Customs Code of the Philippines, as amended, Section 103 of the NIRC, as amended and other relevant laws and international agreements."

SECTION 2. Coverage - This Order covers the procedure/documentary requirement in the availment of the tax and duty exemption on importations by organizations of disabled persons as herein defined.

SECTION 3. Definitions - For purposes of these rules, the terms used herein shall be construed to have the following meanings:

- a. Act - Refers to R.A. No. 7277 otherwise known as the Magna Carta of the Disabled Persons.
- b. Disabled Persons - Shall mean those suffering from restriction of different abilities, as a result of mental, physical or necessary impairment, to perform an activity in the manner or within the range considered normal for a human being.
- c. Government Agencies - Shall mean agencies of the National, Local and Provincial government, including government owned or controlled corporations.
- d. Organization of Disabled Persons - Shall mean a non-stock , non-profit organization duly registered with the Securities and Exchange Commission and qualified by the Bureau of Internal Revenue as a tax-exempt organization, no part of the net income of which inures to the benefit of any other private individual, governed by trustees who receive no compensation and devoting all its income whether gifts, donations, subsidy or other forms of philanthropy to the accomplishment and promotions of the social welfare purposes for the disabled persons. In addition thereto, the organization must be duly registered/accredited with the Department of Social Welfare and Development (DSWD).

SECTION 4. Application for exemption shall be filed with the Revenue Operations Group, Department of

Finance, Manila duly signed by the head of the non-government organization involved in the attainment of the objective of this Act or his authorized representative.

1. The following import documents shall be attached to the application.
 - (i) Bill of Lading, Airway bill, parcel post/notice and other shipping documents;
 - (ii) Commercial invoice and packing list; and
 - (iii) Deed of Donation and Acceptance;
 - (iv) Other relevant documents concerning the shipment.
2. A certification from the Department of Social Welfare and Development that the importer is an accredited non-government organization, together with a recommendation that the importation/s is/are necessary in connection with the attainment of the objective of this Act.
3. Affidavit/statement under oath executed by the applicant stating among others, that the imported articles are essential and will be used actually, directly and exclusively in connection with the rights, privileges of disabled persons.
4. Copy of the articles and certificate of registration of the institution with the SEC and BIR tax exempt certificate or other evidence of the character of the institution.
5. Certification from the Department of Trade and Industry that the articles to be imported are not locally available in sufficient quantity of comparable quality at reasonable price.

SECTION 5. Articles entered under this Act may not be sold, transferred or otherwise disposed of in any manner without the prior approval of the Department of Finance.

In case the articles, which were entered tax and duty free under this Act, are subsequently sold, transferred or exchange in the Philippines to non-exempt persons or entities, the purchaser or recipients shall be considered the importers thereof and shall be liable for the duties and taxes due on such importation.

SECTION 6. Marking - Articles entered tax and duty free under this Act shall be marked "TAX AND DUTY FREE UNDER R.A. 7277" in a conspicuous place as the nature of the importation will permit.

SECTION 7. Inspection - The Department of Finance may conduct such inspection as may be necessary before or after approval of any application for tax and duty incentives under this Act to ensure compliance with the requirements herein.

SECTION 8. Violation - Any violation of the provision of these rules and regulations shall be subject to the penalties and sanctions prescribed under R.A. 7277 and other applicable laws.

SECTION 9. Effectivity - This Order takes effect immediately.

Adopted: 19 Dec. 1994

(SGD.) ROMEO L. BERNARDO
Acting Secretary

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