REPUBLIC ACT NO. 7277 OTHERWISE KNOWN AS THE MAGNA CARTA FOR DISABLED PERSONS, PROVIDING TAX INCENTIVES FOR EMPLOYERS AND DONOR’S TO GOVERNMENT AGENCIES ENGAGED IN THE REHABILIT...

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SECTION 1. Scope. — Pursuant to Section 245 in relation to Sections 29(a) and (h), 94, 103(u) all of the National Internal Revenue Code, these regulations are hereby promulgated to implement the provisions of Section 8, Chapter I, Title II and Section 42 Title IV of Republic Act No. 7277, which provide as follows:

"Title II. Chapter I. — Employment

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"Section 8. Incentives For Employers.

“(a) To encourage the active participation of the private sector in promoting the welfare of disabled persons and to ensure gainful employment for qualified disabled persons, adequate incentives shall be provided to private entities which employ disabled persons.

"(b) Private entities that employ disabled persons who meet the required skills or qualifications, either as regular employee, apprentice or learner shall be entitled to an additional deduction, from their gross income, equivalent to twenty-five percent (25%) of the total amount paid as salaries and wages to disabled persons. Provided, however, that such entities present proof as certified by the Department of Labor and Employment that disabled persons are under their employ: Provided, further, That the disabled employee is accredited with the Department of Labor and Employment and the Department of Health as to his disability, skills and qualifications.

"(c) Private entities that improve or modify their physical facilities in order to provide reasonable accommodation for disabled persons shall also be entitled to an additional deduction from their net taxable income, equivalent to fifty percent (50%) of the direct costs of the improvements or modifications. This section, however, does not apply to improvement or modification of facilities under Batas Pambansa Bilang 344."

"Title Four: Final Provisions

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"Section 42. Tax Incentives.

"(a) Any donation, 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 the 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 Tax Code.

"(b) Donations from foreign countries shall be exempt from taxes and duties on importations 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.

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SECTION 2. Definitions. — For purposes of these Regulations the following terms shall mean:

(a) Act — shall mean the Magna Carta of the Disabled Persons.

(b) Disabled persons shall mean those suffering from restriction or different abilities, as a result of mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being.

(c) Reasonable Accommodation include:

- Improvement of existing facilities used by employees in order to render these readily accessible to and usable by disabled persons; and

- Modification of work schedules, reassignment to a vacant position, acquisition or modifications of examinations, training materials or company policies, rules and regulations, the provision of auxiliary aids and services and other similar accommodations for disabled persons;

(d) Qualified individual with a disability shall mean an individual with a disability, who with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires. However, consideration shall be given to the employer's judgment as to what functions of a job are essential and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(e) Government agencies shall mean agencies of the national, local and provincial government, including government-owned or controlled corporations.

(f) 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, subsidies or other forms of philanthropy to the accomplishment and promotion of the social welfare purposes for the disabled persons.

SECTION 3. Incentives for Employers and Private Entities.

A. Private entities that employ qualified disabled persons either as regular employee, apprentice or learner shall be entitled to an additional deduction from their gross income for the taxable year, in an amount equivalent to 25% of the total amount paid as salaries/wages to disabled persons, over and above the total allowable ordinary and necessary business deductions for said salaries and wages, as provided under Sec. 29 of the NIRC, as amended, subject to the presentation of the following proofs:

a.1.

Proof as certified by the Department of Labor and Employment (DOLE) that qualified disabled persons are under their employ during the taxable year, stating the full name, status, address and taxpayer identification number (TIN) of each of such employees.

a.2.

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A certification from DOLE and the Department of Health (DOH) as to the disability, skills and qualifications of the disabled person/s employed by such private entity.

a.3.

Evidence of actual payment of salaries and wages to the employed disabled person as well as withholding tax, if any.

B. Private entities that undertake the improvement or modification of their physical facilities in order to provide reasonable accommodation for disabled persons shall be entitled to an additional deduction from their net taxable income for the taxable year in an amount equivalent to 50% of the direct costs of the improvement or modification, over and above the total allowable ordinary and necessary business deductions for said improvement or modification actually incurred during the taxable year, as provided for under Section 29 of the NIRC, as amended, provided that this Section shall not apply to improvement or modification of facilities required under Batas Pambansa Bilang 344, otherwise known as "An Act to Enhance the Mobility of Disabled Persons By Requiring Certain Buildings, Institutions, Establishments and Other Public Utilities to Install Facilities and other Devices."

SECTION 4. Availment of Tax Incentives. - The tax incentives referred to in Sections 3 of these regulations shall be availed of in the taxable year in which the expenses for salaries and wages of the employed disabled persons, and/or expenses for improvement/ modification of physical facilities to provide reasonable accommodation for disabled persons have been paid or incurred, unless in order to clearly reflect the income payment to the qualified disabled employees, the deductions should be taken as of a different period provided for under Section 39 of the NIRC, as amended.

The tax-exemption of donation under Section 94(2) of the NIRC, and the deductibility thereof from the donor's taxable income derived from business pursuant to Section 29(h) of the same Code shall be availed of by the donor in the taxable year when the donations/contributions are made.

SECTION 5. Tax Incentives for Donations.

A. Persons, individual or corporate, including estate and trust, that shall make any donation, bequest, subsidy or financial aid to government agencies engaged in the rehabilitation of disabled persons and organizations of disabled persons shall be exempt from donor's tax pursuant to Section 94(2) and (3) of the NIRC provided that not more than 30% of said gifts shall be used by such donee for administration purposes.

B. Donations from foreign countries to such non-stock, non-profit organizations of disabled persons shall be exempt from value added tax on importation pursuant to Section 103(a) of the NIRC, as amended and other relevant laws and international agreements.

SECTION 6. Valuation of Donations/Issuance of Certificate of Donation. - Donation made in kind shall be determined at its fair market value/zonal value as of the date such donations are made. Cash donation shall be determined solely on the cash receipts and disbursement method of accounting.

The Donee Organization of Disabled Persons - shall issue to the donor a certificate of donation showing the date of receipt of the donation, the amount in cash and/or fair market value/zonal value of the real property; or if personal property, its actual cost of acquisition, provided that if the personal property donated had already been used, the depreciated or book value thereof at the time of donation.

SECTION 7. Tax Exemption and Deductibility of Donations.

A. Exemption from the donor's tax of donation pursuant to Section 94 (2) of the NIRC shall be subject to the

condition that not more than 30% thereof shall be utilized for administration purposes.

B. For income tax purposes, donations to government agencies engaged in the rehabilitation of disabled persons and to organizations of disabled persons shall be deductible from gross income of the donor/contributor subject to the limitation of 6% in the case of an individual donor and 3% in the case of a corporate donor, of the said donor's taxable business income as computed without the benefit of the deduction, under Section 29(h)(l) of the NIRC.

C. Notwithstanding the provision in paragraph A above, donations to organizations of disabled persons as defined in these regulations, which are registered and accredited/certified as a donee institution by the BIR pursuant to BIR - NEDA Regulations No. 1-81 as amended by Revenue Regulations Nos. 1-82 and 10-92, implementing Section 29(h)(2) of the NIRC as amended by Batas Pambansa Blg. 45, shall be deductible in full from the donor's taxable business income in the year in which contributions/donations are made.

SECTION 8. Requirements for Availment of Incentives by Employers and Donors.

A. The incentives of additional deductions from gross income/net taxable income provided for in Section 9 of these regulations shall be availed of by the private entities upon filing the final income tax return for the taxable year when the salaries and wages and/or the expenses for direct cost of the modifications and improvements of physical facilities to accommodate qualified disabled persons have been actually paid or incurred, and attaching to the said return the following:

- Proof as certified by DOLE that disabled persons have actually been employed;

- Certification from DOLE and DOH certifying to the disability, skill and qualification of the disabled person employed;

- Evidence of actual payment of salaries and wages to the employed disabled person as well as withholding tax, if any;

- Certified schedule/statement of the actual expenses (direct cost) incurred/paid for improvement and modification of physical facilities to accommodate disabled persons, such as:

1. Adaptation of an office equipment/furniture to be used by the disabled employee.
2. Specialized lift for disabled persons.
3. Customized service vehicle adapted to the use of disabled worker.
4. Special audio-visual effects for the hearing and visually impaired worker.
5. Technical assistive devices, special tools and other occupational safety and anti-hazard gadgets.

- Certification by the local government building inspector and the National Council for the Welfare of Disabled Persons (NCWDP); Provided, that the additional deduction allowed in this Section shall not apply to improvement or modification of facilities required under Batas Pambansa Bilang 344.

B. The claim for limited or full deductibility of donations to the government agencies engaged in the rehabilitation of disabled persons and organizations of disabled persons shall be made by the donor at the time of filing the income tax returns for individuals and corporations as prescribed in the NIRC.

C. Substantiation Requirements and Verification. -

1. For Donors — Donors claiming deduction from their taxable income of donations made under the Act and pursuant to Section 29 (h) of the NIRC as amended by Batas Pambansa Blg. 45 as implemented by BIR-NEDA.

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Regulations No. 1-81 as amended by Revenue Regulations Nos. 1-82 and 10-82, should submit to BIR the following evidence to support their claim:

- Certification of donation by the donee showing the date of receipt of the donation; and

- The amount of the donation, if in cash; if real property the value thereof at the time of donation, which shall be based on the zonal valuation at the time of donation or the fair market value per latest Tax Declaration, if there is no established zonal valuation in the area where the property is located. If personal property, the acquisition cost thereof; but if said personal property had already been used at the time of donation, the depreciated or book value thereof.

SECTION 9. Certificate of Donation and Notice of Donation.

A. Organizations of disabled persons registered with the BIR and qualified as a donee institution under BIR-NEDA Regulations No. 1-81 as amended are required to issue. A certificate of donation which shall be accomplished in three (3) or four (4) copies to be distributed within thirty (30) days after receipt of the donation, as follows:

- Original copy — To Donor

- Duplicate copy — To BIR

- Triplicate copy — To Donee

In the case of donation to the government agency qualified under the national priority plan, a quadruplicate copy shall be furnished to NEDA.

SECTION 10. Utilization Requirements for Donations — Subject to the condition that not more than 30% of the donation shall be used for administrative purposes.

A. All donations to the government agency engaged in the rehabilitation of disabled persons and for projects whether or not included in the National Priority Plan of NEDA for disabled persons shall be used exclusively for the implementation thereof.

B. All donations to organization of disabled persons duly registered with the BIR shall be used exclusively for the rehabilitation and social welfare of disabled persons.

SECTION 11. Filing of Annual Information Return. - Organizations of Disabled Persons. — The annual information return to be submitted by the organization to the BIR and if the donations received are for projects covered by the national priority plan, to be furnished the NEDA under NEDA Forms 3A, 3B and 3C, certified by the authorized official of the organization, shall include a report containing the following:

- a list of donations received during the year, showing the names and addresses of the donors; the amount or market value of each donation and items of other income, the sources and disposition thereof;

- a list of the activities and/or projects undertaken by the organization and the cost of each undertaking indicating in particular where and how the donation has been utilized;

- a list of projects; their corresponding costs; the amount "set aside" and the status of fund balances at the end of the year;

- that the utilization requirements under Section 11 of these Regulations have been sufficiently complied with;

- that no part of its net income inures to the benefit of any private stockholder or individual; and

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- the status of project implementation.

SECTION 12. Taxability of Organization of Disabled Persons.

Notwithstanding the tax-exempt status of a non-stock, non-profit organization of disabled persons, income derived from any activity conducted for profit and income from passive investment i.e. interest of Philippine currency bank deposits, yield or other monetary benefit from deposit substitutes, and from trust fund and similar arrangements; royalties, prizes (except prizes amounting to P3,000 or less, which shall be subject to tax under paragraph (a) and other winnings except Philippine Charity Sweepstakes winnings) as well as income from dealings in property, real and personal, shall be subject to internal revenue taxes provided for under the NIRC.

Organization of disabled persons shall be constituted as withholding agent for the government on income payment to individuals subject to withholding tax on compensation or to persons subject to expanded withholding tax under the NIRC and implementing regulations.

SECTION 13. Bookkeeping and Reportorial Requirements and Verification

Organizations of disabled persons shall keep books of accounts and accurate records of donations received and other income and disbursements of expenses for their projects and operations. They shall file annually, an information return together with duly audited financial statements, on or before the 15th of April, or the 4th month after the end of the taxable period which shall be subject to verification/investigation by authorized revenue officer of the BIR for the purpose of ascertaining whether or not they have complied with the requirements for maintaining their status as qualified donee and the conditions for which they are granted tax-exemption.

SECTION 14. Penalties.

Any donee or donor found to have violated any provision of these Regulations shall be disqualified either by suspension or cancellation of the Certificate of Registration and the right to receive tax free donations or the claim for deductibility of donations made shall be disallowed.

SECTION 15. Effectivity .

These regulations shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Adopted: 16 April 1993

(Sgd.) RAMON R. DEL ROSARIO, JR.

(Sgd.) JOSE U. ONG

Secretary of Finance

Commissioner of Internal Revenue

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