REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

May 16, 2017

REVENUE MEMORANDUM CIRCULAR NO. 46-2017

SUBJECT: Publishing the Full Text of Republic Act No. 10926 which was Approved on April 21, 2017, Entitled "AN ACT EXTENDING FOR TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO SMART COMMUNICATIONS, INC. (FORMERLY SMART INFORMATION TECHNOLOGIES, INC.), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7294, ENTITLED "AN ACT GRANTING SMART INFORMATION TECHNOLOGIES, INC. (SMART) A FRANCHISE TO ESTABLISH, MAINTAIN, LEASE AND OPERATE INTEGRATED TELECOMMUNICATIONS/ COMPUTER/ ELECTRONIC SERVICES, AND STATIONS THROUGHOUT THE PHILIPPINES FOR PUBLIC DOMESTIC AND INTERNATIONAL TELECOMMUNICATIONS, AND FOR OTHER PURPOSES. "

TO : All Internal Revenue Officials, Employees and Others Concerned

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For the information and guidance of all internal revenue officials, and others concerned, attached is the letter from Atty. Concepcion Zeny E. Ferrolino-Enad, Director III of Malacañang Records Office and the certified copy of Republic Act No. 10926 which was approved on April 21, 2017, entitled "An Act Extending for Twenty-Five (25) Years the Franchise Granted to Smart Communications, Inc. (Formerly Smart Information Technologies, Inc.), Amending for the Purpose Republic Act No. 7294, entitled "An Act Granting Smart Information Technologies, Inc. (Smart) a Franchise to Establish, Maintain, Lease and Operate Integrated Telecommunications/ Computer/ Electronic Services, and Stations Throughout the Philippines for Public Domestic and International Telecommunications, and for Other Purposes. "

All concerned are hereby enjoined to be guided accordingly and give this Circular a wide publicity as possible.

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CAESAR R. DULAY
Commissioner of Internal Revenue

007270

H. No. 4637

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
First Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fifth day of July, two thousand sixteen.

[REPUBLIC ACT NO. 10926]

AN ACT EXTENDING FOR TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO SMART COMMUNICATIONS, INC. (FORMERLY SMART INFORMATION TECHNOLOGIES, INC.), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7294, ENTITLED "AN ACT GRANTING SMART INFORMATION TECHNOLOGIES, INC. (SMART) A FRANCHISE TO ESTABLISH, MAINTAIN, LEASE AND OPERATE INTEGRATED TELECOMMUNICATIONS/COMPUTER/ELECTRONIC SERVICES, AND STATIONS THROUGHOUT THE PHILIPPINES FOR PUBLIC DOMESTIC AND INTERNATIONAL TELECOMMUNICATIONS, AND FOR OTHER PURPOSES"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

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SECTION 1. Section 1 of Republic Act No. 7294 is hereby amended to read as follows:

"SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the Philippine Constitution and applicable laws, rules and regulations, the franchise granted to the Smart Communications, Inc. ('SMART', formerly Smart Information Technologies, Inc.), hereunder referred to as the grantee, its successors or assignees, to construct, establish, install, maintain, lease, purchase, operate and carry on the business of providing telecommunications, including electronic telecommunications or electronic communications services throughout the Philippines and between the Philippines and other countries and territories, including outer space, as public interest may warrant, for public domestic and international telecommunications is hereby extended for twenty-five (25) years from the effectivity of this Act. For this purpose, the grantee is hereby granted the right to construct, establish, install, maintain, lease, purchase and operate the corresponding transmitting and receiving stations, satellites, lines, systems, networks, international gateways, local exchanges, and platforms as it may consider necessary, convenient, or reasonable.

"In this Act, the term 'telecommunications' shall include 'electronic communications'. In addition, the following terms shall have the meanings set forth herein:

" 'Electronic communications network' shall mean: (a) a transmission system for conveyance, by use of electrical, magnetic or electro-magnetic energy, of signals of any description; and (b) any of the following as are used, by the person providing the system and in association with it, for conveyance of the signals: (1) apparatus comprised in the system; (2) apparatus used for the switching and routing of the signals; and (3) software and stored data.

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" 'Electronic communications service' shall mean a service consisting in, or having as its principal feature, the conveyance by means of an electronic communications network of signals. It includes wired, wireless, fixed, cellular, and/or mobile, or integrated telecommunications/computer/electronic services, including value-added services, or technologies related to such service which are at present available or made available through technical advances or innovations in the future, and fixed and mobile stations."

SEC. 2. Section 4 of Republic Act No. 7294 is hereby amended to read as follows:

"SEC. 4. *Responsibility to the Public.* – The grantee shall conform to the ethics of honest enterprise and shall not use its stations for obscene or indecent transmissions, or for the dissemination of deliberately false information or willful misrepresentation, or assist in subversive or treasonable acts.

"The grantee shall improve and extend its services in areas not yet served, and in hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk Reduction and Management Council in coordination with the National Telecommunications Commission (NTC).

"The grantee shall also improve and upgrade its equipment, facilities, and services in order to ensure effective compliance with the objectives of Republic Act No. 10639 or the 'Free Mobile Disaster Alerts Act'."

SEC. 3. Section 7 of Republic Act No. 7294 is hereby amended to read as follows:

"SEC. 7. *Term of Franchise.* – The franchise shall be extended and in effect for a period of twenty-five (25) years from the date of the effectivity of this Act, unless sooner revoked or cancelled.

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In the event the grantee fails to operate continuously for two (2) years, this franchise shall be deemed *ipso facto* revoked."

SEC. 4. Section 8 of Republic Act No. 7294 is hereby amended to read as follows:

"SEC. 8. *Acceptance and Compliance.* – Acceptance of this franchise shall be given in writing to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, within sixty (60) days from the effectivity of this Act. Upon giving the acceptance, the grantee shall exercise the privileges granted under this Act. Refusal or failure to accept the franchise within the prescribed period shall render the franchise void."

SEC. 5. Section 9 of Republic Act No. 7294 is hereby amended to read as follows:

"SEC. 9. *Tax Provisions.* – The grantee, its successors or assignees, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other persons or corporations which are now or hereafter may be required by law to pay, except radio telecommunications and electronic communications equipment, machinery and spare parts needed in connection with the business of the grantee which shall be exempt from customs duties, tariffs and other taxes, as well as those declared exempt in this section. In addition thereto, the grantee, its successors or assignees, shall pay a value-added tax on all gross receipts of the business transacted under this franchise by the grantee, its successors or assignees, in the Philippines, in lieu of any and all taxes of any kind, nature or description levied, established or collected by an authority whatsoever including, but not limited to, city, municipal, provincial or national, from which the grantee is hereby expressly exempted

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effective from the date of the effectivity of this Act: *Provided*, That the grantee, its successors or assignees, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

"The grantee shall file the return with and pay the tax due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue."

SEC. 6. Section 11 of Republic Act No. 7294 is hereby amended to read as follows:

"SEC. 11. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign the franchise herein granted or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor shall transfer the controlling interest of the grantee, whether as a whole or in parts, and whether simultaneously or contemporaneously, to any person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which the franchise herein granted is validly sold, transferred or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act."

SEC. 7. Section 13 of Republic Act No. 7294 is hereby amended to read as follows:

"SEC. 13. *Listing of Shares.* – The grantee shall list, subject to the requirements of the Securities and Exchange Commission and the stock exchange concerned, and make a public offering

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through the stock exchange of the shares representing at least thirty *per centum* (30%) of its authorized capital stock in any securities exchange in the Philippines within two (2) years from the effectivity of this Act, unless the grantee is wholly owned by a publicly listed company with at least thirty *per centum* (30%) of whose authorized capital stock is publicly owned."

SEC. 8. A new Section 14 is hereby inserted after Section 13 of Republic Act No. 7294 to read as follows:

"SEC. 14. *Compliance with Labor Standards.* – The grantee, its successors or assignees shall comply with the applicable labor standards under existing labor laws, rules and regulations and such other issuances as may be promulgated by the Department of Labor and Employment, taking into consideration the nature and peculiarities of the telecommunications industry."

SEC. 9. The present Sections 14, 15 and 16 of Republic Act No. 7294 are hereby renumbered as Sections 17, 18 and 19, respectively.

SEC. 10. A new Section 15 shall now read as follows:

"SEC. 15. *Mobile Number Portability.* – The grantee shall provide Mobile Number Portability (MNP) to all its subscribers. It shall set up a mechanism for the purpose of implementing MNP. It shall interconnect directly or indirectly with the infrastructure, facilities, systems or equipment of other telecommunications franchise grantees. It shall not install network features, functions or capabilities that will impede the implementation of a nationwide MNP system. The NTC shall issue rules and regulations for this purpose, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees."

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SEC. 11. A new Section 16 shall now read as follows:

"SEC. 16. *Equality Clause.* – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided,* That the foregoing shall neither apply to nor affect provisions of telecommunications franchises concerning territory covered by the franchise, the lifespan of the franchise or the type of service authorized by the franchise."

SEC. 12. A new Section 20 is hereby inserted to read as follows:

"SEC. 20. *Penalty Clause.* – Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine in the amount of one million pesos (P1,000,000.00) per working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees: *Provided,* That in the interim, the grantee shall be liable to pay the fine of five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC and the same shall be remitted to the National Treasury."

SEC. 13. The present Section 17 of Republic Act No. 7294 is hereby renumbered as Section 21.

SEC. 14. *Applicability Clause.* – All other provisions of Republic Act No. 7294 which are not inconsistent with the provisions of this Act and remain unrepealed shall continue to be in full force and effect: *Provided,* That all pending suits of whatever kind or nature, whether civil, criminal or administrative filed by or against the grantee in connection with the provisions of Republic Act No. 7294 shall continue

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to be prosecuted under the said law: *Provided, further,* That all valid and existing liabilities, fines, penalties, surcharges and/or unpaid tax assessments of the grantee from March 27, 1992 until the effectivity of this new law shall remain valid and enforceable under Republic Act No. 7294.

SEC. 15. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

AQUILINO "KOKO" PIMENTEL III
President of the Senate

PANTALEON D. ALVAREZ
Speaker of the House of Representatives

This Act which originated in the House of Representatives was passed by the House of Representatives on January 16, 2017, amended by the Senate on March 13, 2017, and which amendments were concurred in by the House of Representatives on March 14, 2017.

LUTGARDO B. BARBO
Secretary of the Senate

CESAR STRAIT PAREJA
Secretary General
House of Representatives

Approved: APR 2 1 2017

RODRIGO ROA DUTERTE
President of the Philippines

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ATTY. CONCEPCION EENY C. FERROLINO-ENAD
DIRECTOR III
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