REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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November 7, 2018

REVENUE MEMORANDUM CIRCULAR NO. 97-2018

SUBJECT	:	Publishing the Daily Minimum Wage Rates in National Capital Region Pursuant to Wage Order No. NCR – 22.
TO	:	All Internal Revenue Officials, Employees and Others Concerned

For the information and guidelines of all internal revenue officers, employees and others concerned, we are publishing Wage Order No. NCR No. 22 which was issued on October 30, 2018 and published at Philippine Star on November 5, 2018:

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD-NCR

WAGE ORDER NO.NCR – 22

PROVIDING FOR A MINIMUM WAGE INCREASE IN THE NATIONAL CAPITAL REGION (NCR)

WHEREAS, the Regional Tripartite Wages and Productivity Board – National Capital Region (RTWPB – NCR) is mandated under R.A. No. 6727 (The Wage Rationalization Act), to periodically assess wage rates and conduct continuing studies in the determination of the minimum wage applicable in the region or industry;

WHEREAS, Wage Order No. NCR – 21 took effect on October 5, 2017 and under Section 3, Rule IV of the Amended Rules of Procedure on Minimum Wage Fixing issued by the National Wages and Productivity Commission (NWPC), the Wage Order may not be disturbed for a period of twelve (12) months from its effectivity unless there is a supervening condition, such as extraordinary increase in prices of petroleum products and basic goods/services, as determined by RTWPB – NCR and confirmed by the NWPC;

WHEREAS, the Board as early as February 2018 decided to review the socio – economic conditions in NCR, inviting resource persons from BIR, BSP, NEDA, DTI, PSA, DOF, DA, NFA, LTFRB, CHED, DepEd, DSWD, FNRI and AER (NGO);

WHEREAS, in its Board Meeting last August 14, 2018, the Board issued Board Resolution No. 02 Series of 2018 whereby it decided to review existing wage rates, initiate action or inquiry to determine whether a Wage Order should be issued based on the standards and criteria prescribed under RA 6727;

WHEREAS, after due notice to all concerned sectors, the RTWPB – NCR conducted separate consultations with labor and management, and thereafter a Public Hearing to determine the propriety of issuing a new wage order;

WHEREAS, in setting the Minimum Wage, the Board has to consider the various criteria under RA 6727 and the Guidelines of the National Wages and Productivity Commission (NWPC) particularly on First (1st) Tier that the Minimum Wage should be higher than the Poverty Threshold but lower than the prevailing Average Wage;

WHEREAS, based upon the inputs from the stakeholders derived from the consultations and public hearing, the RTWPB – NCR has determined the need to increase the prevailing minimum wage rates without impairing the viability of business and industry;

WHEREAS, the increase is consistent with the government's policy of achieving higher levels of productivity to promote economic growth, generate employment and to augment the income of workers.

THEREFORE, by virtue of the power and authority vested under Republic Act No 8727, the RTWPB – NCR hereby issues this Wage Order

Section 1. NEW MINIMUM WAGE RATES. Upon effectivity of this Wage Order, the new daily minimum wage rates of covered workers in the private sector in the National Capital Region shall be as follows:

Sector/Industry	Basic Wage Integration of COLA	Basic Wage Increase	New Minimum Wage Rates
Non – Agriculture	₱ 512.00	₱ 25.00	₱ 537.00
Agriculture (Plantation and Non Plantation)	₱ 475.00	₱ 25.00	₱ 500.00
Retail/Service Establishments employing 15 workers or less			
Manufacturing Establishments regularly employing less than 10 workers			

Section 2. COVERAGE. The wage rates per day prescribed in this Order shall apply to all minimum wage earners in the private sector in the region, regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

The Wage Order shall not cover kasambahay/domestic workers, persons in the personal service of another and workers of duly registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act No. 10644.

Section 3. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

Section 4. APPLICATION TO CONTRACTORS. In the case of contracting out of projects and for security, janitorial and similar services, the wage rates prescribed in this Order shall be borne by the principals or clients of the service contractors and the contract shall be deemed amended accordingly.

In the event, however, that the principals or clients fail to pay the prescribed wage rates, the service contractor shall be jointly and severally liable with his respective principal or client.

Section 5. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2018 – 2019 shall be considered as compliance with the wage rates prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2019 – 2020.

Private educational institutions which have not increased their tuition fees for School Year 2018 – 2019 may defer compliance with the wage rates prescribed herein until the beginning of School Year 2019 – 2020.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2019 – 2020.

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Section 6. WORKERS PAID BY RESULT. All workers paid by result, including those who are paid on piecework, "*takay*", "*pakyaw*" or task basis, shall be entitled to receive the prescribed wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 7. WAGES OF SPECIAL GROUPS OF WORKERS. Wages of apprentices and learners shall in no case be less than seventy – five percent (75%) of the applicable minimum wage rates prescribed in this Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new minimum wage rates.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

Section 8. EXEMPTIONS. Upon application with and as determined by the Board, based on documentation and other requirements in accordance with applicable rules and regulations issued by NWPC, the following may be exempted from the applicability of this Order:

1. Distressed Establishments;
2. Retail/Service Establishments Regularly Employing Not More Than Ten (10) workers; and
3. Establishments Adversely Affected by Calamities such as Natural and Human – induced disasters.

Section 9. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file an appeal to NWPC, through the Board, in three (3) printed copies, not later than ten (10) days from the publication of this Wage Order.

Section 10. CREDITABLE WAGE INCREASE. Any increase granted by an employer in an establishment within three (3) months prior to the effectivity of the Order shall be credited as compliance with the prescribed increase set forth herein.

In case the increases given are less than the prescribed wage rates, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization or promotion of employees.

Section 11. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the wage rates prescribed in this Order results in distortions in the wage structure within the establishment, it shall be corrected in accordance with the procedure provided for under Article 124 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.

Section 12. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non – compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment having jurisdiction over the workplace and shall be subject to the mandatory thirty (30) day conciliation and mediation process under Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended."

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Section 13. PRODUCTIVITY AND OTHER PERFORMANCE INCENTIVE PROGRAMS. In order to sustain rising levels of wages and enhance competitiveness, labor and management as partners are encouraged to adopt productivity improvement schemes that will improve the quality of life of workers and in turn enable them to produce more and earn more, such as time and motion studies, good housekeeping, quality circles, labor and management cooperation as well as implement gain – sharing and other performance incentive programs.

Section 14. NON – DIMINUTION OF BENEFITS. Nothing in this Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 15. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 16. FREEDOM TO BARGAIN. This Order shall not be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages with their respective employers.

Section 17. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified report on their wage structure to the Board not later than January 31st of each year and every year thereafter in accordance with the form prescribed by the National Wages and Productivity Commission.

Section 18. PENAL PROVISION. Any employer who refuses or fails to comply with this Order shall be subject to the penalties specified under R.A. No. 6727, as amended under R.A. No. 8188.

Section 19. REPEALING CLAUSE. All orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended or modified accordingly.

Section 20. SEPARABILITY CLAUSE. If any provision or part of this Wage Order is declared unconstitutional, or in conflict with existing laws, the other provisions or parts thereof shall remain valid.

Section 21. IMPLEMENTING RULES. The RTWPB-NCR shall submit to the Commission the necessary Rules and Regulations to implement this Order subject to approval of the Secretary of Labor and Employment not later than ten (10) days from the publication of the Wage Order.

Section 22. ADVISORY ON PRODUCTIVITY BASED PAY. Pursuant to the Two – Tiered Wage System, Wage Advisories have been issued to guide private establishments in the formulation, adoption and implementation of productivity programs and performance and productivity – based incentive schemes that an enterprise may provide based on agreement between workers and management.

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Section 23. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

APPROVED.

Manila, Philippines, 30 October 2018.

Dissenting
ANGELITA D. SENORIN
Labor Representative

VICENTE LEOGARDO, JR.
Employer Representative

With Reservation
GERMAN N. PASCUA, JR.
Labor Representative

ALBERTO R. QUIMPO
Employer Representative

REYNALDO R. CANCIO
Vice-Chairperson

ANACLETO C. BLANCO, JR.
Vice-Chairperson

ANA C. DIONE
Board Chairperson

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

CAESAR R. DULAY
Commissioner of Internal Revenue

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