REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

December 9, 2008

REVENUE REGULATIONS NO. 1-2009

SUBJECT: Rules and Regulations Implementing Republic Act No. 9442, entitled "*An Act Amending Republic Act 7277, Otherwise Known as the Magna Carta for Persons with Disability,*" Relative to the Tax Privileges of Persons with Disability and Tax Incentives for Establishments Granting Sales Discount

TO: All Internal Revenue Officers and Others Concerned

SECTION 1. SCOPE. – Pursuant to the provisions of Section 244 of the Tax Code of 1997, as last amended by Republic Act No. 9504, in relation to Sec. 5 of Republic Act No. 9442, these Regulations are hereby promulgated to implement the tax privileges of persons with disability and tax incentives for establishments granting twenty percent (20%) sales discount under Sections 32 and 33 of R.A. 7277, as amended by R.A. 9442, otherwise known as the "*Magna Carta for Persons with Disability,*" and at the same time amending Section 6.6.12 of the Implementing Rules and Regulations of R.A. 9442, as jointly promulgated by the Department of Social Welfare and Development (DSWD), Department of Finance (DOF), Department of Education (DepEd), Department of Agriculture (DA), Department of Transportation and Communications (DOTC), Department of Trade and Industry (DTI), Department of Health (DOH), Department of Tourism and Department of Interior and Local Government.

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

a. Act – shall refer to Republic No. 7277, as amended by Republic Act No. 9442 otherwise known as the "*Magna Carta for Persons with Disability.*"

b. Person with disability – shall refer to an individual suffering from restriction or different abilities, as a result of mental, physical or sensory impairment to perform an activity in a manner or within the range considered normal for human being.

c. Disability – shall mean a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an

individual or activities of such individuals; a record of such an impairment; or being regarded as having such an impairment.

d. Benefactor – shall refer to any person, whether related or not to the person with disability, who takes care of him/her as a dependent.

e. Dependent – shall refer to a person with disability, whether minor or of legal age, and who is a Filipino citizen, who may or may not be related to his benefactor and who is living with and dependent upon such benefactor for his/her chief support.

f. Sales discount – shall refer to the actual discount, or that discount which in no case shall exceed 20% of the gross selling price of goods sold or services rendered to persons with disability by certain business establishments enumerated under the Act and these Regulations.

g. Establishment – shall refer to any entity, public or private, duly licensed and/or authorized by the national government agencies or by the local government units to operate.

SEC. 3. SALES DISCOUNTS WHICH MAY BE CLAIMED BY PERSONS WITH DISABILITY. - Persons with disability shall be entitled to claim at least twenty percent (20%) discount from the following establishments relative to the sale of goods or services for their exclusive use or enjoyment, viz:

1. Hotels and similar lodging establishments and restaurants;

2. Sports and recreation centers;

3. Theaters, cinema houses, concert halls, circuses, carnivals and other similar places of culture, leisure and amusement;

3. All drugstores regarding purchase of medicine;

4. Medical and dental privileges in government facilities, such as but not limited to diagnostic and laboratory fees (e.g., x-rays, computerized tomography scans and blood tests) subject to guidelines to be issued by the DOH, in coordination with the Philippine Health Insurance Corporation (Philhealth);

5. Medical and dental privileges in private facilities, such as but not limited to diagnostic and laboratory fees (e.g., x-rays, computerized tomography scans and blood tests), including professional fees of attending doctors, subject to guidelines to be issued by the DOH, in coordination with Philhealth; and

6. Domestic air and sea transportation based on the actual fare except promotional fare. If the promotional fare discount is higher than the 20% discount privilege, the person with disability may choose the promotional fare and should no longer be entitled to the 20% discount privilege; and

7. Land transportation privileges in bus fares such as ordinary, aircon fares and on public railways such as LRT, MRT, PNR, and such other similar infrastructure that will be constructed, established and operated by public or private entity. Toll fees of skyways and expressways are likewise subject to at least 20% discount, however, this privilege can be availed only by a person with disability owning the vehicle.

SEC. 4. AVAILMENT BY ESTABLISHMENTS OF SALES DISCOUNTS AS DEDUCTION FROM GROSS INCOME. - Establishments granting sales discounts to persons with disability on their sale of goods and/or services specified under Section 3 above shall be entitled to deduct the said sales discount from their gross income subject to the following conditions:

1. The sales discounts shall be deducted from gross income after deducting the cost of goods sold or the cost of service;

2. The cost of the sales discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted;

3. Only that portion of the gross sales exclusively used, consumed or enjoyed by the person with disability shall be eligible for the deductible sales discount;

4. The gross selling price and the sales discount must be separately indicated in the sales invoice or official receipt issued by the establishment for the sale of goods or services to the person with disability;

5. Only the actual amount of the sales discount granted or a sales discount not exceeding 20% of the gross selling price or gross receipt 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; and shall be subject to proper documentation under pertinent provisions of the Tax Code of 1997, as amended;

6. The business establishment giving sales discount to qualified person with disability is required to keep separate and accurate records of sales, which shall include the name of the person with disability, ID Number, gross sales/receipts, sales discount granted, date of transactions and invoice number for every sale transaction to person with disability; and

7. All establishments mentioned in Section 3 above which granted sales discount to persons with disability on their sale of goods and/or services may claim the said discount as deduction from gross income.

SEC. 5. PROHIBITION ON AVAILMENT OF DOUBLE DISCOUNTS. -

The foregoing privileges granted to person with disability shall not be claimed if the said person with disability claims a higher discount as may be granted by the commercial establishment and/or under other existing laws or in combination with other discount program/s. Thus, a person with disability who is at the same a senior citizen can only claim one 20% discount on a particular sales transaction.

SEC. 6. BASIS OF COMPUTATION OF VALUE-ADDED TAX ON SALE OF GOODS OR SERVICES TO PERSONS WITH DISABILITY. – VAT on sale of goods or services with sales discounts granted by business establishments enumerated under Section 3 hereof shall be computed in accordance with the following illustration:

Amount of sale (without the VAT)	P100.00
Less: 20% sales discount	20.00
Vatable sale	P 80. 00
Plus: 12% VAT (based on P80)	9.60
Total amount to be paid by the person with disability	P 89.60

SEC. 7. NON-AVAILMENT OF THE "HEAD OF FAMILY" STATUS BY BENEFACTORS OF PERSONS WITH DISABILITY. –

Although the Act provides that a benefactor of persons with disability whose civil status is "single" shall be considered as "head of family" and therefore shall be entitled to the personal exemption of P25,000 under Section 35(A) of the Tax Code, said single benefactor can no longer avail the "head of family" status in view of the elimination of the terms "head of family" and "his/her dependents" for purposes of availing the personal exemption of P25,000 **in view of the amendment brought about by R. A. No. 9504 under Section 35(A) and (B) of the Tax Code of 1997.** Section 2.79(I)(1)(a) and (b) of RR 10-2008, which implements R.A. No. 9504, provides as follows:

> *"**Sec. 2.79. Income Tax Collected at Source on Compensation Income.** -*
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> *"x x x x x x*
>
> *"(I) Right to Claim Withholding Exemptions. - x x x The withholding exemptions to which an employee is entitled depends upon his status and the number of dependents qualified for additional exemptions. Each employee shall be allowed to claim the following amount of exemptions, with respect to compensation paid on or after **July 6, 2008**.*
>
> ***"(1) Personal and additional exemptions.-***
>
> ***"(a) Basic personal exemptions.-***

> ***"Individual taxpayers <u>REGARDLESS OF STATUS</u> are entitled to P50,000 personal exemption.***
>
> ***"(b) Additional exemptions for taxpayers with dependents.- An individual, <u>WHETHER SINGLE OR MARRIED</u>,*** *shall be allowed an* ***additional exemption*** *of* ***Twenty-five thousand pesos (P25,000)*** *for each* ***qualified dependent <u>child</u>****, provided that the total number of dependents for which additional exemptions may be claimed shall not exceed four (4) dependents. The* ***<u>additional exemptions for qualified dependent children</u>*** *shall be claimed by only one of the spouses in the case of married individuals.*
>
> *"A* ***<u>dependent</u>*** *means a legitimate, illegitimate or legally adopted* ***<u>child</u>*** *chiefly dependent upon and living with the taxpayer if such dependent is not more than twenty-one (21) years of age, unmarried and not gainfully employed or if such dependent, regardless of age, is incapable of self-support because of mental or physical defect."* (Emphasis supplied.)

Thus, **effective July 6, 2008** (the effectivity date of R.A. No. 9504 and of RR 10-2008), individual taxpayers are just classified as either "**single**" or "**married**" **entitled to a uniform amount of personal exemption.**

However, for the **calendar year 2008**, the personal and additional exemptions applicable shall be as follows:

a. For the period from January 1 to July 5, 2008, single taxpayers are entitled to P10,000.00, head of family at P12,500.00, each married individuals at P16,000.00, and for each qualified dependent child, not exceeding four (4) children, P4,000.00, computed on a pro-rata basis of the full-year exemptions under the old law.

b. For the period from July 6 to December 31, 2008, the pro-rated personal exemption shall be P25,000.00, regardless of status, and P12,500 for each qualified dependent child, not exceeding four (4) children, as additional exemption.

Henceforth, a benefactor of a person with disability whose civil status is single could no longer be considered as "*head of family*" and therefore shall no longer be allowed to avail himself/herself the old P25,000 personal exemption as "head of family," but rather he/she would be **entitled to the <u>new personal exemption of P50,000</u>** just like any other individual taxpayer, whether **single or married, with or without qualified dependent**.

On the other hand, the benefactor of a person with disability may only be entitled to claim the **<u>new additional exemption of P25,000</u>** per **qualified dependent <u>child</u>** (not exceeding four) if the person with disability is his/her legitimate, illegitimate or legally-adopted child, whether minor or of legal age. In other words, for purposes of additional

exemption, the "benefactor" will not be entitled to the additional exemption unless that benefactor is a "parent" of the person with disability.

SEC. 8. PROOFS OF ENTITLEMENT TO THE PRIVILEGES BY PERSON WITH DISABILITY. –

The privileges under the Act and in these Regulations available to persons with disability who are Filipino citizens may only be granted upon presentation of any of the following proof of his/her entitlement thereto:

1. An identification card issued by the city or municipal mayor or the barangay captain of the place where the person with disability resides; or

2. The passport of the person with disability concerned; or

3. Transportation discount fare Identification Card (ID) issued by the National Council for the Welfare of Disabled Persons (NCWDP).

However, upon the effectivity of the Implementing Rules and Regulations jointly promulgated by the different government agencies, NCWDP will already adopt the Identification Card issued by the Local Government Units (LGUs) for purposes of uniformity in the implementation. NCWDP will provide the design and specification of the identification card that will be issued by the LGUs.

SEC. 9. PENALTIES. –

(1) For the first violation of any provision of the Act and these Regulations, a fine of not less than Fifty thousand pesos (P50,000) but not exceeding One hundred thousand pesos (P100,000) or imprisonment of not less than six months but not more than two years, or both at the discretion of the court; and

(2) For any subsequent violation thereto, a fine of not less than One hundred thousand pesos (P100,000) but not exceeding Two hundred thousand pesos (P200,000) or imprisonment for not less than two years but not more than six years, or both at the discretion of the court.

(3) Any person who abuses the privileges granted herein shall be punished with imprisonment of not less than six months or a fine of not less than Five thousand pesos (P5,000), but not more than Fifty thousand pesos (P50,000), or both, at the discretion of the court.

(4) If the violator is a corporation, organization or any similar entity, the officials thereof directly involved shall be liable therefor.

(5) If the violator is an alien or a foreigner, he shall be deported immediately after service of sentence without further deportation proceedings.

(6) Upon filing of 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 these Regulations.

SEC. 10. SEPARABILITY CLAUSE. – If any portion or provision of these Regulations is declared unconstitutional, the remainder of these Regulations or any provision not affected thereby shall remain in force and effect.

SEC. 11. REPEALING CLAUSE. – All revenue regulations and other revenue issuances or parts thereof inconsistent with the provisions of these Regulations are hereby repealed or modified accordingly.

SEC. 12. EFFECTIVITY. – These Regulations shall take effect fifteen (15) days after publication in the Official Gazette or in any two newspapers of general circulation, whichever comes earlier.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
SIXTO S. ESQUIVIAS IV
Commissioner of Internal Revenue

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