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

January 25, 2018

REVENUE REGULATIONS NO. 12-2018

SUBJECT: Consolidated Revenue Regulations on Estate Tax and Donor's Tax Incorporating the Amendments Introduced by Republic Act No. 10963, Otherwise Known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law"

TO : All Revenue Officials, Employees and Others Concerned

SECTION 1. SCOPE. – Pursuant to the provisions of Sec. 244 of the National Internal Revenue Code of 1997, as amended (NIRC), and Sec. 84 of Republic Act No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law", these Regulations are hereby issued to consolidate the rules governing the imposition and payment of the estate and donor's tax incorporating the provisions of the TRAIN Law, particularly the provisions in Chapters I and II of Title III of the NIRC, thereby repealing Revenue Regulations (RR) No. 2-2003, as amended.

SEC. 2. RATE OF ESTATE TAX. – The net estate of every decedent, whether resident or non-resident of the Philippines, as determined in accordance with the NIRC, shall be subject to an estate tax at the rate of six percent (6%).

SEC. 3. THE LAW THAT GOVERNS THE IMPOSITION OF ESTATE TAX. – It is a well-settled rule that estate taxation is governed by the statute in force at the time of death of the decedent. The estate tax accrues as of the death of the decedent and the accrual of the tax is distinct from the obligation to pay the same. Upon the death of the decedent, succession takes place and the right of the State to tax the privilege to transmit the estate vests instantly upon death.

Accordingly, the tax rates and procedures prescribed under these Regulations shall govern the estate of decedent who died on or after the effectivity date of the TRAIN Law.

SEC. 4. COMPOSITION OF THE GROSS ESTATE. – The gross estate of a decedent shall be comprised of the following properties and interest therein at the time of his/her death, including revocable transfers and transfers for insufficient consideration, etc.:

1. Residents and citizens – all properties, real or personal, tangible or intangible, wherever situated.

2. Non-resident aliens – only properties situated in the Philippines provided, that, with respect to intangible personal property, its inclusion in the gross estate is subject to the rule of reciprocity provided for under Section 104 of the NIRC.

Provided, That amounts withdrawn from the deposit accounts of a decedent subjected to the 6% final withholding tax imposed under Section 97 of the NIRC, shall be excluded from the gross estate for purposes of computing the estate tax.

SEC. 5. VALUATION OF THE GROSS ESTATE. – The properties comprising the gross estate shall be valued according to their fair market value as of the time of decedent's death.

If the property is a real property, the appraised value thereof as of the time of death shall be, whichever is the higher of –

(1) The fair market value as determined by the Commissioner, or

(2) The fair market value as shown in the schedule of values fixed by the provincial and city assessors, whichever is higher.

For purposes of prescribing real property values, the Commissioner is authorized to divide the Philippines into different zones or areas and shall, upon consultation with competent appraisers, both from the private and public sectors, determine the fair market value of real properties located in each zone or area.

In the case of shares of stocks, the fair market value shall depend on whether the shares are listed or unlisted in the stock exchanges. Unlisted common shares are valued based on their book value while unlisted preferred shares are valued at par value. In determining the book value of common shares, appraisal surplus shall not be considered as well as the value assigned to preferred shares, if there are any. On this note, the valuation of unlisted shares shall be exempt from the provisions of RR No. 06-2013, as amended.

For shares which are listed in the stock exchanges, the fair market value shall be the arithmetic mean between the highest and lowest quotation at a date nearest the date of death, if none is available on the date of death itself.

The fair market value of units of participation in any association, recreation or amusement club (such as golf, polo, or similar clubs), shall be the bid price nearest the date of death published in any newspaper or publication of general circulation.

To determine the value of the right to usufruct, use or habitation, as well as that of annuity, there shall be taken into account the probable life of the beneficiary in accordance with the latest basic standard mortality table, to be approved by the Secretary of Finance, upon recommendation of the Insurance Commissioner.

SEC 6. COMPUTATION OF THE NET ESTATE OF A DECEDENT WHO IS EITHER A CITIZEN OR RESIDENT OF THE PHILIPPINES- The value of the net estate of a citizen or resident alien of the Philippines shall be determined by deducting from the value of the gross estate the following items of deduction:

1. *Standard deduction.* – A deduction in the amount of Five Million Pesos (P5,000,000) shall be allowed without need of substantiation. The full amount of P5,000,000 shall be allowed as deduction for the benefit of the decedent. The presentation of such deduction

in the computation of the net taxable estate of the decedent is properly illustrated in these Regulations.

2. *Claims against the estate.* – The word "claims" is generally construed to mean debts or demands of a pecuniary nature which could have been enforced against the deceased in his lifetime and could have been reduced to simple money judgements. Claims against the estate or indebtedness in respect of property may arise out of: (1) Contract; (2) Tort; or (3) Operation of Law.

2.1. *Requisites for Deductibility of Claims Against the Estate* -

2.1.1. The liability represents a personal obligation of the deceased existing at the time of his death;

2.1.2. The liability was contracted in good faith and for adequate and full consideration in money or money's worth;

2.1.3. The claim must be a debt or claim which is valid in law and enforceable in court;

2.1.4. The indebtedness must not have been condoned by the creditor or the action to collect from the decedent must not have prescribed.

2.2. *Substantiation Requirements.* - All unpaid obligations and liabilities of the decedent at the time of his death are allowed as deductions from gross estate. *Provided, however,* that the following requirements/documents are complied with/submitted :

2.2.1. *In case of simple loan (including advances):*

2.2.1.1 The debt instrument must be duly notarized at the time the indebtedness was incurred, such as promissory note or contract of loan, except for loans granted by financial institutions where notarization is not part of the business practice/policy of the financial institution-lender;

2.2.1.2. Duly notarized Certification from the creditor as to the unpaid balance of the debt, including interest as of the time of death. If the creditor is a corporation, the sworn certification should be signed by the President, or Vice-President, or other principal officer of the corporation. If the creditor is a partnership, the sworn certification should be signed by any of the general partners. In case the creditor is a bank or other financial institutions, the Certification shall be executed by the branch manager of the bank/financial institution which monitors and manages the loan of the decedent-debtor. If the creditor is an individual, the sworn certification should be signed by him. In any of these cases, the one who should certify must not be a relative of the

borrower within the fourth civil degree, either by consanguinity or affinity, except when the requirement below is complied with.

When the lender, or the President/Vice-president/principal officer of the creditor-corporation, or the general partner of the creditor-partnership is a relative of the debtor in the degree mentioned above, a copy of the promissory note or other evidence of the indebtedness must be filed with the RDO having jurisdiction over the borrower within fifteen days from the execution thereof.

2.2.1.3. In accordance with the requirements as prescribed in existing or prevailing internal revenue issuances, proof of financial capacity of the creditor to lend the amount at the time the loan was granted, as well as its latest audited balance sheet with a detailed schedule of its receivable showing the unpaid balance of the decedent-debtor. In case the creditor is an individual who is no longer required to file income tax returns with the Bureau, a duly notarized Declaration by the creditor of his capacity to lend at the time when the loan was granted without prejudice to verification that may be made by the BIR to substantiate such declaration of the creditor. If the creditor is a non-resident, the executor/administrator or any of the legal heirs must submit a duly notarized declaration by the creditor of his capacity to lend at the time when the loan was granted, authenticated or certified to as such by the tax authority of the country where the non-resident creditor is a resident;

2.2.1.4. A statement under oath executed by the administrator or executor of the estate reflecting the disposition of the proceeds of the loan if said loan was contracted within three (3) years prior to the death of the decedent;

2.2.2. *If the unpaid obligation arose from purchase of goods or services:*

2.2.2.1. Pertinent documents evidencing the purchase of goods or service, such as sales invoice/delivery receipt (for sale of goods), or contract for the services agreed to be rendered (for sale of service), as duly acknowledged, executed and signed by decedent debtor and creditor, and statement of account given by the creditor as duly received by the decedent debtor;

2.2.2.2. Duly notarized Certification from the creditor as to the unpaid balance of the debt, including interest as of the time of death. If the creditor is a corporation, the sworn Certification should be signed by the President, or Vice-President, or other principal officer of the corporation. If the creditor is a partnership, the sworn certification should be signed by any of the general partners. If the creditor is a sole proprietorship, the sworn certification should be signed by the owner of the business. In any of these cases, the one who issues the certification must not be a relative of the decedent-debtor within the fourth civil degree, either by consanguinity or affinity, except when the requirement below is complied with.

When the lender, or the President/Vice-President/principal officer of the creditor-corporation, or the general partner of the creditor-partnership is a relative of the debtor in the degree mentioned above, a copy of the promissory

note or other evidence of the indebtedness must be filed with the RDO having jurisdiction over the borrower within fifteen days from the execution thereof.

2.2.2.3. Certified true copy of the latest audited balance sheet of the creditor with a detailed schedule of its receivable showing the unpaid balance of the decedent-debtor. Moreover, a certified true copy of the updated latest subsidiary ledger/records of the debt of the debtor-decedent, (certified by the creditor, i.e., the officers mentioned in the preceding paragraphs) should likewise be submitted.

2.2.3. Where the settlement is made through the Court in a testate or intestate proceeding, pertinent documents filed with the Court evidencing the claims against the estate, and the Court Order approving the said claims, if already issued, in addition to the documents mentioned in the preceding paragraphs.

3. *Claims of the deceased against insolvent persons as defined under R.A. 10142*[2] *and other existing laws, where the value of the decedent's interest therein is included in the value of the gross estate.*

4. *Unpaid mortgages, taxes and casualty losses.*

4.1. Unpaid mortgages upon, or any indebtedness in respect to, property where the value of the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate. The deduction herein allowed in the case of claims against the estate, unpaid mortgages or any indebtedness shall, when founded upon a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth.

4.2. Taxes which have accrued as of the death of the decedent which were unpaid as of the time of death. This deduction will not include income tax upon income received after death, or property taxes not accrued before his death, or the estate tax due from the transmission of his estate.

4.3. There shall also be deducted losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualties, or from robbery, theft or embezzlement, when such losses are not compensated for by insurance or otherwise, and if at the time of the filing of the return such losses have not been claimed as a deduction for income tax purposes in an income tax return, and provided that such losses were incurred not later than the last day for the payment of the estate tax as prescribed in Subsection (A) of Section 91.

In case unpaid mortgage payable is being claimed by the estate, verification must be made as to who was the beneficiary of the loan proceeds. If the loan is found to be merely an accommodation loan where the loan proceeds went to another person, the value of the unpaid loan must be included as a receivable of the estate. If there is a legal impediment to recognize the same as receivable of the estate, said unpaid obligation/mortgage payable shall not be allowed as a deduction from the gross estate.

[2] "The Financial Rehabilitation and Insolvency Act (FRIA) of 2010"

In all instances, the mortgaged property, to the extent of the decedent's interest therein, should always form part of the gross taxable estate.

5. *Property previously taxed.* – An amount equal to the value specified below of any property forming part of the gross estate situated in the Philippines of any person who died within five (5) years prior to the death of the decedent, or transferred to the decedent by gift within five (5) years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise or inheritance, or which can be identified as having been acquired in exchange for property so received:

   a. One hundred percent (100%) of the value if the prior decedent died within one (1) year prior to the death of the decedent, or if the property was transferred to him by gift, within the same period prior to his death;

   b. Eighty percent (80%) of the value, if the prior decedent died more than one (1) year but not more than two (2) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

   c. Sixty percent (60%) of the value, if the prior decedent died more than two (2) years but not more than three (3) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death;

   d. Forty percent (40%) of the value, if the prior decedent died more than three (3) years but not more than four (4) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death; and

   e. Twenty percent (20%) of the value, if the prior decedent died more than four (4) years but not more than five (5) years prior to the death of the decedent, or if the property was transferred to him by gift within the same period prior to his death.

   These deductions shall be allowed only where a donor's tax, or estate tax imposed under Title III of the NIRC was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate, and only if, in determining the value of the net estate of the prior decedent, no deduction is allowable under this Item, in respect of the property or properties given in exchange therefore. Where a deduction was allowed of any mortgage or other lien in determining the donor's tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this Item shall be reduced by the amount so paid. Such deduction allowable shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under Items 2, 3, 4 and 6 of this Subsection as the amount otherwise deductible under this Item bears to the value of the decedent's estate. Where the property referred to consists of two (2) or more items, the aggregate value of such items shall be used for the purpose of computing the deduction.

6. *Transfers for public use.* – The amount of all bequests, legacies, devises or transfers to or for the use of the Government of the Republic of the Philippines or any political subdivision thereof, for exclusively public purposes.

7. *The Family Home.* – An amount equivalent to the current fair market value of the decedent's family home: *Provided, however*, that if the said current fair market value exceeds Ten million pesos (P10,000,000), the excess shall be subject to estate tax.

   7.1. Definition of terms

   Family home – The dwelling house, including the land on which it is situated, where the husband and wife, or a head of the family, and members of their family reside, as certified to by the Barangay Captain of the locality. The family home is deemed constituted on the house and lot from the time it is actually occupied as a family residence and is considered as such for as long as any of its beneficiaries actually resides therein. (Arts. 152 and 153, Family Code)

   For purposes of these Regulations, however, actual occupancy of the house or house and lot as the family residence shall not be considered interrupted or abandoned in such cases as the temporary absence from the constituted family home due to travel or studies or work abroad, etc.

   In other words, the family home is generally characterized by permanency, that is, the place to which, whenever absent for business or pleasure, one still intends to return.

   The family home must be part of the properties of the absolute community or of the conjugal partnership, or of the exclusive properties of either spouse depending upon the classification of the property (family home) and the property relations prevailing on the properties of the husband and wife. It may also be constituted by an unmarried head of a family on his or her own property. (Art. 156, *Ibid.*)

   For purposes of availing of a family home deduction to the extent allowable, a person may constitute only one family home. (Art. 161, *Ibid.*)

   Husband and Wife – Legally married man and woman.

   Unmarried Head of a Family – An unmarried or legally separated man or woman with one or both parents, or with one or more brothers or sisters, or with one or more legitimate, recognized natural or legally adopted children living with and dependent upon him or her for their chief support, where such brothers or sisters or children are not more than twenty one (21) years of age, unmarried and not gainfully employed or where such children, brothers or sisters, regardless of age are incapable of self-support because of mental or physical defect, or any of the beneficiaries mentioned in Article 154 of the Family Code who is living in the family home and dependent upon the head of the family for legal support.

The beneficiaries of a family home are:

(1) The husband and wife, or the head of a family; and

(2) Their parents, ascendants, descendants including legally adopted children, brothers and sisters, whether the relationship be legitimate or illegitimate, who are living in the family home and who depend upon the head of the family for legal support. (Art. 154, Ibid)

7.2. Conditions for the allowance of family home as deduction from the gross estate:

7.2.1. The family home must be the actual residential home of the decedent and his family at the time of his death, as certified by the Barangay Captain of the locality where the family home is situated;

7.2.2. The total value of the family home must be included as part of the gross estate of the decedent; and

7.2.3. Allowable deduction must be in an amount equivalent to the current fair market value of the family home as declared or included in the gross estate, or the extent of the decedent's interest (whether conjugal/community or exclusive property), whichever is lower, but not exceeding P10,000,000.

8. *Amount received by heirs under Republic Act No. 4917.* - Any amount received by the heirs from the decedent's employer as a consequence of the death of the decedent-employee in accordance with Republic Act No. 4917 is allowed as a deduction provided that the amount of the separation benefit is included as part of the gross estate of the decedent.

9. *Net share of the surviving spouse in the conjugal partnership or community property.* - After deducting the allowable deductions appertaining to the conjugal or community properties included in the gross estate, the share of the surviving spouse must be removed to ensure that only the decedent's interest in the estate is taxed.

SEC. 7. COMPUTATION OF THE NET ESTATE OF A DECEDENT WHO IS A NON-RESIDENT ALIEN OF THE PHILIPPINES. - The value of the net estate of a decedent who is a non-resident alien in the Philippines shall be determined by deducting from the value of that part of his gross estate which at the time of his death is situated in the Philippines the following items of deductions:

1. *Standard deduction.* – A deduction in the amount of Five Hundred Thousand Pesos (P500,000) shall be allowed without need of substantiation. The full amount of P500,000 shall be allowed as deduction for the benefit of the decedent.

2. The proportion of the total losses and indebtedness which the value of such part bears to the value of his entire gross estate wherever situated. Losses and indebtedness shall include the following:

2.1. Claims against the estate.

2.2. Claims of the deceased against insolvent persons where the value of the interest therein is included in the value of the gross estate.

2.3. Unpaid mortgages, taxes and casualty losses.

The allowable deduction under this subsection shall be computed using the following formula:

$$\left[\frac{\text{Phil Gross Estate}}{\text{World Gross Estate}}\right] \text{ X } \left[\text{Item No. 2}\right] = \text{Allowable Deduction}$$

3. *Property previously taxed.*

4. *Transfers for public use.*

5. *Net share of the surviving spouse in the conjugal property or community property.*

Unless otherwise provided in this section, the rules for the availment of deductions in the preceding section shall apply.

SEC. 8. PROPER PRESENTATION OF FAMILY HOME AND STANDARD DEDUCTION AS DEDUCTIONS FROM THE GROSS ESTATE. – Illustrative examples to properly present the manner of deducting family home, standard deduction, and other allowable deduction from the gross estate in accordance with the provisions of the NIRC.

Illustrations:

(1) Decedent is unmarried, family home more than P10,000,000:

Real and personal properties	P 14,000,000	
Family Home	30,000,000	
Gross Estate		**P44,000,000**
Less: Deductions		
Ordinary Deductions		
Unpaid real estate tax	(2,000,000)	
Special Deductions		
Family Home	(10,000,000)	
Standard Deduction	(5,000,000)	
Total Deductions		**(17,000,000)**
NET TAXABLE ESTATE		**P27,000,000**

Although the family home is valued at P30 million, the maximum allowable deduction for the family home is P10million only.

(2) Decedent is married, the family home is conjugal property, more than P10,000,000:

	Exclusive	**Conjugal**	**Total**
Conjugal Properties:			
Family Home		P30,000,000	P30,000,000
Real and personal properties		14,000,000	14,000,000
Exclusive Properties:	5,000,000		5,000,000
Gross Estate	**5,000,000**	**44,000,000**	**P49,000,000**
Less:			
Ordinary Deductions			
Conjugal Ordinary Deductions		(2,000,000)	(2,000,000)
Net Conjugal Estate		42,000,000	
Special Deductions			
Family Home			(10,000,000)
Standard Deduction			(5,000,000)
Total Deductions			**(17,000,000)**
Net Estate			**32,000,000**
Less: ½ Share of Surviving Spouse			**(21,000,000)**
Conjugal Property P44,000,000			
Conjugal Deductions (2,000,000)			
Net Conjugal Estate P42,000,000			
(P42,000,000/2)			
NET TAXABLE ESTATE			**P11,000,000**

(3) Decedent is married, the family home exclusive property, more than P10,000,000:

	Exclusive	**Conjugal**	**Total**
Conjugal Properties:			
Real and personal properties		14,000,000	14,000,000
Exclusive Properties:			
Family Home	30,000,000		30,000,000
Gross Estate	**30,000,000**	**14,000,000**	**P44,000,000**
Less:			
Ordinary Deductions			
Conjugal Ordinary Deductions		(2,000,000)	(2,000,000)
Net Conjugal Estate		12,000,000	
Special Deductions			
Family Home			(10,000,000)
Standard Deduction			(5,000,000)
Total Deductions			**(17,000,000)**
Net Estate			**27,000,000**
Less: ½ Share of Surviving Spouse			**(6,000,000)**
Conjugal Property P14,000,000			
Conjugal Deductions (2,000,000)			
Net Conjugal Estate P12,000,000			
(P12,000,000/2)			

NET TAXABLE ESTATE	**P21,000,000**

(4) Decedent is an unmarried, the family home is below P10,000,000:

Real and personal properties	P 14,000,000	
Family Home	9,000,000	
Gross Estate		**P23,000,000**
Less: Deductions		
Ordinary Deductions		2,000,000
Special Deductions		14,000,000
Family Home	9,000,000	
Standard Deduction	5,000,000	
Total Deductions		**(16,000,000)**
NET TAXABLE ESTATE		**P7,000,000**

(5) Decedent is married, the family home is conjugal property and is below P10,000,000:

	Exclusive	**Conjugal**	**Total**
Conjugal Properties:			
Family Home		P9,000,000	P9,000,000
Real and personal properties		14,000,000	14,000,000
Exclusive Properties:	5,000,000		5,000,000
Gross Estate	**5,000,000**	**23,000,000**	**P28,000,000**
Less:			
Ordinary Deductions			
Conjugal Ordinary Deductions		(2,000,000)	(2,000,000)
Net Conjugal Estate		21,000,000	
Special Deductions			
Family Home			(4,500,000)
Standard Deduction			(5,000,000)
Total Deductions			**(11,500,000)**
Net Estate			**16,500,000**
Less: ½ Share of Surviving Spouse			**(10,500,000)**
Conjugal Property P23,000,000			
Conjugal Deductions (2,000,000)			
Net Conjugal Estate P21,000,000			
(P21,000,000/2)			
NET TAXABLE ESTATE			**P6,000,000**

(6) Decedent is married, the family home exclusive property and below P10,000,000:

	Exclusive	**Conjugal**	**Total**
Conjugal Properties:			
Real and personal properties		14,000,000	14,000,000
Exclusive Properties:			

Family Home	9,000,000		9,000,000
Gross Estate	**9,000,000**	**14,000,000**	**P23,000,000**
Less:			
Ordinary Deductions			
Conjugal Ordinary Deductions		(2,000,000)	(2,000,000)
Net Conjugal Estate		12,000,000	
Special Deductions			
Family Home			(9,000,000)
Standard Deduction			(5,000,000)
Total Deductions			**(16,000,000)**
Net Estate			**7,000,000**
Less: ½ Share of Surviving Spouse			**(6,000,000)**
Conjugal Property P14,000,000			
Conjugal Deductions (2,000,000)			
Net Conjugal Estate P12,000,000			
(P12,000,000/2)			
NET TAXABLE ESTATE			**P1,000,000**

SEC. 9. TIME AND PLACE OF FILING ESTATE TAX RETURN AND PAYMENT OF ESTATE TAX DUE. –

1. *Estate Tax Returns.* - In all cases of transfers subject to the tax imposed herein, or regardless of the gross value of the estate, where the said estate consists of registered or registrable property such as real property, motor vehicle, shares of stock or other similar property for which a Certificate Authorizing Registration from the Bureau of Internal Revenue is required as a condition precedent for the transfer of ownership thereof in the name of the transferee, the executor, or the administrator, or any of the legal heirs, as the case may be, shall file a return under oath.

   Estate tax returns showing a gross value exceeding Five million pesos (P5,000,000) shall be supported with a statement duly certified to by a Certified Public Accountant containing the following:

   1.1 Itemized assets of the decedent with their corresponding gross value at the time of his death, or in the case of a nonresident, not a citizen of the Philippines, of that part of his gross estate situated in the Philippines;

   1.2. Itemized deductions from gross estate allowed in Section 86; and

   1.3. The amount of tax due whether paid or still due and outstanding.

2. *Time for filing estate tax return.* - For purposes of determining the estate tax, the estate tax return shall be filed within one (1) year from the decedent's death. The Court approving the project of partition shall furnish the Commissioner with a certified copy thereof and its order within thirty (30) days after promulgation of such order.

3. *Extension of time to file estate tax return.* - The Commissioner or any Revenue Officer authorized by him pursuant to the NIRC shall have authority to grant, in meritorious

cases, a reasonable extension, not exceeding thirty (30) days, for filing the return. The application for the extension of time to file the estate tax return must be filed with the Revenue District Office (RDO) where the estate is required to secure its Taxpayer Identification Number (TIN) and file the tax returns of the estate, which RDO, likewise, has jurisdiction over the estate tax return required to be filed by any party as a result of the distribution of the assets and liabilities of the decedent.

4. *Time for payment of the estate tax.* – As a general rule, the estate tax imposed under the NIRC shall be paid at the time the return is filed by the executor, administrator or the heirs.

5. *Extension of time to pay estate tax.* – When the Commissioner finds that the payment of the estate tax or of any part thereof would impose undue hardship upon the estate or any of the heirs, he may extend the time for payment of such tax or any part thereof not to exceed five (5) years in case the estate is settled through the courts, or two (2) years in case the estate is settled extrajudicially. In such case, the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for deficiency assessment shall be suspended for the period of any such extension.

   Where the request for extension is by reason of negligence, intentional disregard of rules and regulations, or fraud on the part of the taxpayer, no extension will be granted by the Commissioner.

   If an extension is granted, the Commissioner or his duly authorized representative may require the executor, or administrator, or beneficiary, as the case may be, to furnish a bond in such amount, not exceeding double the amount of the tax and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the said tax in accordance with the terms of the extension.

   Any amount paid after the statutory due date of the tax, but within the extension period, shall be subject to interest but not to surcharge.

6. *Payment of the estate tax by installment and partial disposition of estate.* – In case of insufficiency of cash for the immediate payment of the total estate tax due, the estate may be allowed to pay the estate tax due through the following options, including the corresponding terms and conditions:

   6.1. Cash installment

   i. The cash installments shall be made within two (2) years from the date of filing of the estate tax return;

   ii. The estate tax return shall be filed within one year from the date of decedent's death;

   iii. The frequency (i.e., monthly, quarterly, semi-annually or annually), deadline and amount of each installment shall be indicated in the estate tax return, subject to the prior approval by the BIR;

iv. In case of lapse of two years without the payment of the entire tax due, the remaining balance thereof shall be due and demandable subject to the applicable penalties and interest reckoned from the prescribed deadline for filing the return and payment of the estate tax; and

v. No civil penalties or interest may be imposed on estates permitted to pay the estate tax due by installment. Nothing in this subsection, however, prevents the Commissioner from executing enforcement action against the estate after the due date of the estate tax provided that all the applicable laws and required procedures are followed/observed.

6.2. Partial disposition of estate and application of its proceeds to the estate tax due

i. The disposition, for purposes of this option, shall refer to the conveyance of property, whether real, personal or intangible property, with the equivalent cash consideration;

ii. The estate tax return shall be filed within one year from the date of decedent's death;

iii. The written request for the partial disposition of estate shall be approved by the BIR. The said request shall be filed, together with a notarized undertaking that the proceeds thereof shall be exclusively used for the payment of the total estate tax due;

iv. The computed estate tax due shall be allocated in proportion to the value of each property;

v. The estate shall pay to the BIR the proportionate estate tax due of the property intended to be disposed of;

vi. An electronic Certificate Authorizing Registration (eCAR) shall be issued upon presentation of the proof of payment of the proportionate estate tax due of the property intended to be disposed. Accordingly, eCARs shall be issued as many as there are properties intended to be disposed to cover the total estate tax due, net of the proportionate estate tax(es) previously paid under this option; and

vii. In case of failure to pay the total estate tax due out from the proceeds of the said disposition, the estate tax due shall be immediately due and demandable subject to the applicable penalties and interest reckoned from the prescribed deadline for filing the return and payment of the estate tax, without prejudice of withholding the issuance of eCAR(s) on the remaining properties until the payment of the remaining balance of the estate tax due, including the penalties and interest.

7. *Request for Extension of Time, Installment Payment and Partial Disposition of Estate.* – For purposes of these Regulations, the request for extension of time to file the return, extension of time to pay estate tax and payment by installment shall be filed with the

Revenue District Officer (RDO) where the estate is required to secure its TIN and file the estate tax return. This request shall be approved by the Commissioner or his duly authorized representative.

8. *Place of filing the return and payment of the tax.* – In case of a resident decedent, the administrator or executor shall register the estate of the decedent and secure a new TIN therefor from the Revenue District Office where the decedent was domiciled at the time of his death and shall file the estate tax return and pay the corresponding estate tax with the Accredited Agent Bank (AAB), Revenue District Officer or Revenue Collection Officer having jurisdiction on the place where the decedent was domiciled at the time of his death, whichever is applicable, following prevailing collection rules and procedures.

   In case of a non-resident decedent, whether non-resident citizen or non-resident alien, with executor or administrator in the Philippines, the estate tax return shall be filed with and the TIN for the estate shall be secured from the Revenue District Office where such executor or administrator is registered: *Provided, however,* that in case the executor or administrator is not registered, the estate tax return shall be filed with and the TIN of the estate shall be secured from the Revenue District Office having jurisdiction over the executor or administrator's legal residence. Nonetheless, in case the non-resident decedent does not have an executor or administrator in the Philippines, the estate tax return shall be filed with and the TIN for the estate shall be secured from the Office of the Commissioner through RDO No. 39-South Quezon City.

   The foregoing provisions notwithstanding, the Commissioner of Internal Revenue may continue to exercise his power to allow a different venue/place in the filing of tax returns.

9. *Liability for payment.* – The estate tax imposed under the NIRC shall be paid by the executor or administrator before the delivery of the distributive share in the inheritance to any heir or beneficiary. Where there are two or more executors or administrators, all of them are severally liable for the payment of the tax. The eCAR pertaining to such estate issued by the Commissioner or the Revenue District Officer (RDO) having jurisdiction over the estate, will serve as the authority to distribute the remaining/distributable properties/share in the inheritance to the heir or beneficiary.

   The executor or administrator of an estate has the primary obligation to pay the estate tax but the heir or beneficiary has subsidiary liability for the payment of that portion of the estate which his distributive share bears to the value of the total net estate. The extent of his liability, however, shall in no case exceed the value of his share in the inheritance.

SEC. 10. PAYMENT OF TAX ANTECEDENT TO THE TRANSFER OF SHARES, BONDS OR RIGHTS AND BANK DEPOSITS WITHDRAWAL. – There shall not be transferred to any new owner in the books of any corporation, *sociedad anonima*, partnership, business, or industry organized or established in the Philippines any share, obligation, bond or right by way of gift inter vivos or mortis causa, legacy or inheritance, unless an eCAR is issued by the Commissioner or his duly authorized representative.

If a bank has knowledge of the death of a person, who maintained a bank deposit account alone, or jointly with another, it shall allow the withdrawal from the said deposit account, subject to a final withholding tax of six percent (6%) of the amount to be withdrawn, provided that the withdrawal shall only be made within one year from the date of the decedent. The bank is required to file the prescribed quarterly return on the final tax withheld on or before the last day of the month following the close of the quarter during which the withholding was made. The bank shall issue the corresponding BIR Form No. 2306 certifying such withholding. In all cases, the final tax withheld shall not be refunded, or credited on the tax due on the net taxable estate of the decedent.

The executor, administrator, or any of the legal heirs, withdrawing from the deposit account shall provide the bank where such withdrawal shall be made, with the TIN of the estate of the decedent. For this purpose, the bank shall require prior to such withdrawal, the presentation of BIR Form No. 1904 of the estate, duly stamped received by the BIR,. Further, all withdrawal slips shall contain the following terms and conditions: (a) a sworn statement by any one of the joint depositors to the effect that all of the joint depositors are still living at the time of withdrawal; and, (b) a statement that the withdrawal is subject to the final withholding tax of 6%.

In instances where the bank deposit accounts have been duly included in the gross estate of the decedent and the estate tax due thereon paid, the executor, administrator, or any of the legal heirs shall present the eCAR issued for the said estate prior to withdrawing from the bank deposit account. Such withdrawal shall no longer be subject to the withholding tax imposed under this section.

SEC. 11. RATE OF DONOR'S TAX. –

1.1. *Rate.* - The donor's tax for each calendar year shall be six percent (6%) computed on the basis of the total gifts in excess of Two Hundred Fifty Thousand Pesos (P250,000) exempt gift made during the calendar year.

1.2. The application of the rates as provided above is imposed on donations made on or after the effectivity date of the TRAIN Law.

1.3. *Contribution for election campaign.* - Any contribution in cash or in kind to any candidate, political party or coalition of parties for campaign purposes, shall be governed by the Election Code, as amended.

SEC. 12. THE LAW THAT GOVERNS THE IMPOSITION OF DONOR'S TAX. - The donor's tax is not a property tax, but is a tax imposed on the transfer of property by way of gift *inter vivos*. (*Lladoc vs. Commissioner of Internal Revenue*, L-19201, June 16, 1965; 14 SCRA, 292). The donor's tax shall not apply unless and until there is a completed gift. The transfer of property by gift is perfected from the moment the donor knows of the acceptance by the donee; it is completed by the delivery, either actually or constructively, of the donated property to the donee. Thus, the law in force at the time of the perfection/completion of the donation shall govern the imposition of the donor's tax.

In order that the donation of an immovable may be valid, it must be made in a public document specifying therein the property donated. The acceptance may be made in the same

Deed of Donation or in a separate public document, but it shall not take effect unless it is done during the lifetime of the donor. If the acceptance is made in a separate instrument, the donor shall be notified thereof in an authentic form, and this step shall be noted in both instruments.

A gift that is incomplete because of reserved powers, becomes complete when either: (1) the donor renounces the power; or (2) his right to exercise the reserved power ceases because of the happening of some event or contingency or the fulfilment of some condition, other than because of the donor's death.

Renunciation by the surviving spouse of his/her share in the conjugal partnership or absolute community after the dissolution of the marriage in favor of the heirs of the deceased spouse or any other person/s is subject to donor's tax whereas general renunciation by an heir, including the surviving spouse, of his/her share in the hereditary estate left by the decedent is not subject to donor's tax, unless specifically and categorically done in favor of identified heir/s to the exclusion or disadvantage of the other co-heirs in the hereditary estate.

Where property, other than a real property that has been subjected to the final capital gains tax, is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the fair market value of the property at the time of the execution of the Contract to Sell or execution of the Deed of Sale which is not preceded by a Contract to Sell exceeded the value of the agreed or actual consideration or selling price shall be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

The law in force at the time of the completion of the donation shall govern the imposition of donor's tax.

For purposes of the donor's tax, "NET GIFT" shall mean the net economic benefit from the transfer that accrues to the donee. Accordingly, if a mortgaged property is transferred as a gift, but imposing upon the donee the obligation to pay the mortgage liability, then the net gift is measured by deducting from the fair market value of the property the amount of mortgage assumed.

SEC. 13. VALUATION OF GIFTS MADE IN PROPERTY. – The valuation of gifts in the form of property shall follow the rules set forth in Section 6 of this regulations: *Provided, That* the reckoning point for valuation shall be the date when the donation is made.

SEC. 14. COMPUTATION OF THE DONOR'S TAX. – Donations shall be subject to donor's tax applicable when the donations are made. Hence, for donor's tax purposes, donations made before January 1, 1998 shall be subject to the donor's tax computed on the basis of the old rates imposed under Section 92 of the National Internal Revenue Code of 1977 (R.A. No. 7499), while donations made on or after January 1, 1998 until December 31, 2017 shall be subject to the donor's tax computed in accordance with the amended schedule of rates prescribed under Section 99 of the National Internal Revenue Code of 1997 (R.A. No. 8424), implemented by RR No. 2-2003, as amended. Only donations made on or after January 1, 2018 shall be subject to the donor's tax rate provided under the TRAIN Law as implemented by these Regulations.

The computation of the donor's tax is on a cumulative basis over a period of one calendar year. Husband and wife are considered as separate and distinct taxpayer's for purposes

of the donor's tax. However, if what was donated is a conjugal or community property and only the husband signed the deed of donation, there is only one donor for donor's tax purposes, without prejudice to the right of the wife to question the validity of the donation without her consent pursuant to the pertinent provisions of the Civil Code of the Philippines and the Family Code of the Philippines.

Illustration:

Donations were made on January 30, 2018 at P2,000,000; on March 30, 2018 at P1,000,000; and August 15, 2018 at P500,000.

Solution/computation:

Date of donation	**Amount**		**Donor's Tax**
1. January 30, 2018	P2,000,000		
January 30, 2018 donation		2,000,000	
Less: Exempt Gift		(250,000)	
		1,750,000	P105,000
2. March 30, 2018	1,000,000		
March 30, 2018 donation		1,000,000	
Add: January 30, 2018 donation		2,000,000	
Less: Exempt Gift		(250,000)	
Total		2,750,000	
Tax Due Thereon		165,000	
Less: Tax due/paid on January donation		105,000	
Tax due/payable on the March donation			60,000
3. August 15, 2018	500,000		
August 15, 2018 donation		500,000	
Add: January 2018 donation		2,000,000	
March 2018 donation		1,000,000	
Less: Exempt Gift		(250,000)	
Total		3,250,000	
Tax Due Thereon		195,000	
Less: Tax due/paid on Jan./March donation		165,000	
Tax due/payable on the August donation			30,000

SEC. 15. FILING OF RETURNS AND PAYMENT OF DONOR'S TAX. -

(A) *Requirements.* – Any person making a donation (whether direct or indirect), unless the donation is specifically exempt under the NIRC or other special laws, is required, for every donation, to accomplish under oath a donor's tax return in duplicate. The return shall set forth:

1. Each gift made during the calendar year which is to be included in gifts;
2. The deductions claimed and allowable;
3. Any previous net gifts made during the same calendar year;

4. The name of the donee; and

5. Such further information as the Commissioner may require.

(B) *Time and place of filing and payment.* – The donor's tax return shall be filed within thirty (30) days after the date the gift is made or completed and the tax due thereon shall be paid at the same time that the return is filed. Unless the Commissioner otherwise permits, the return shall be filed and the tax paid to an AAB, the Revenue District Officer and Revenue Collection Officer having jurisdiction over the place where the donor is domiciled at the time of the transfer, or if there be no legal residence in the Philippines, with the Office of the Commissioner. In the case of gifts made by a non-resident, the return may be filed with the Philippine Embassy or Consulate in the country where he is domiciled at the time of the transfer, or directly with the Office of the Commissioner. For this purpose, the term "OFFICE OF THE COMMISSIONER" shall refer to the Revenue District Office (RDO) having jurisdiction over the BIR-National Office Building which houses the Office of the Commissioner, or presently, to the Revenue District Office No. 39-South Quezon City.

(C) *Notice of donation by a donor engaged in business.* – In order to be exempt from donor's tax and to claim full deduction of the donation given to qualified-donee institutions duly accredited, the donor engaged in business shall give a notice of donation on every donation worth at least Fifty Thousand Pesos (P50,000) to the Revenue District Office (RDO) which has jurisdiction over his place of business within thirty (30) days after receipt of the qualified donee institution's duly issued Certificate of Donation, which shall be attached to the said Notice of Donation, stating that not more than thirty percent (30%) of the said donation/gifts for the taxable year shall be used by such accredited non-stock, non-profit corporation/NGO institution (qualified-donee institution) for administration purposes pursuant to the provisions of Section 101(A)(3) and (B)(2) of the NIRC.

SEC. 16. TRANSFER FOR LESS THAN ADEQUATE AND FULL CONSIDERATION. - Where property, other than real property referred to in Section 24(D), is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the fair market value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this Chapter, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year: *Provided, however*, that a sale, exchange, or other transfer of property made in the ordinary course of business (a transaction which is a bona fide, at arm's length, and free from any donative intent) will be considered as made for an adequate and full consideration in money or money's worth.

SEC. 17. EXEMPTION OF CERTAIN GIFTS. - The following are exempt from the donor's tax:

1. Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government; and

2. Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited nongovernment organization, trust or philanthropic organization or research institution or organization: *Provided, however,* That not more

than thirty percent (30%) of said gifts shall be used by such donee for administration purposes. For the purpose of this exemption, a '***non-profit educational and/or charitable corporation, institution, accredited nongovernment organization, trust or philanthropic organization and/or research institution or organization***' is a school, college or university and/or charitable corporation, accredited nongovernment organization, trust or philanthropic organization and/or research institution or organization, incorporated as a non-stock entity, paying no dividends, governed by trustees who receive no compensation, and devoting all its income, whether students' fees or gifts, donation, subsidies or other forms of philanthropy, to the accomplishment and promotion of the purposes enumerated in its Articles of Incorporation.

SEC. 18. REPEALING CLAUSE. – All existing rules and regulations or parts thereof, which are inconsistent with the provisions of these regulations, are hereby repealed, amended or modified accordingly.

SEC. 19. SEPARABILITY CLAUSE. – If any clause, sentence, provision or section of these Rules shall be held invalid or unconstitutional, the remaining parts thereof shall not be affected thereby.

SEC. 20. EFFECTIVITY. – These regulations are effective beginning January 1, 2018, the effectivity of the TRAIN Law.

(Original Signed)
CARLOS G. DOMINGUEZ
Secretary of Finance

Recommending Approval:

(Original Signed)
CAESAR R. DULAY
Commissioner of Internal Revenue