REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

SEP 13 2022

REVENUE REGULATIONS NO. 12-2022

SUBJECT: **Incentives under Republic Act No. 9999, otherwise known as the "Free Legal Assistance Act of 2010", and the Policies and Guidelines for the Availment Thereof**

TO: **All Internal Revenue Officials, Employees and Others Concerned**

SECTION 1. ***Background.*** - Republic Act (RA) No. 9999, otherwise known as the "Free Legal Assistance Act of 2010," was approved on February 23, 2010 with the aim to provide free legal assistance to the poor in accordance with the State's policy to guarantee free legal assistance to the poor and ensure that every person who cannot afford the services of a counsel is provided with competent and independent counsel preferably of his/her own choice.

On March 8, 2010, the BIR issued Revenue Memorandum Circular (RMC) No. 23-2010 circularizing the full text of the Act for the information and guidance of all internal revenue officers, employees and others concerned. On March 8, 2013, the BIR issued RMC No. 26-2013 (Primer on BIR Form 1701, Item 63 and BIR Form 1702, Item 23) specifying that the incentive granted in the Act shall be treated as "Special Allowable Itemized Deduction."

SECTION 2. ***Objective.*** - Pursuant to the provisions of Sections 244 and 245 of the National Internal Revenue Code of 1997, as amended, in relation to Section 8 of the Act, these Regulations are hereby promulgated, aside from the earlier revenue issuances issued, to prescribe more definitive guidelines, procedures and requirements for the proper availment of the incentives granted therein.

SECTION 3. ***Definition of Terms.*** –

a) ***"Act"*** refers to RA No. 9999 entitled "An Act Providing a Mechanism for Free Legal Assistance and for Other Purposes."

b) ***"Lawyer"*** refers to an individual duly licensed by the Supreme Court to practice law in the Philippines and in good standing as of the date of rendering the required legal services.

c) ***"Legal Services"*** refer to any activity which requires the application of law, legal procedure, knowledge, training and experiences which shall include, among others, legal advice and counsel, and the preparation of instruments and contracts, including appearance before the administrative and quasi-judicial offices, bodies and tribunals handling cases in court, and other similar services as may be defined by the Supreme Court.

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For purposes of availing the incentives, the Legal Services to be provided must be within the services as defined by the Supreme Court in Bar Matter No. 2012 and subsequent issuances. The free Legal Service shall refer to the appearance in court or quasi-judicial body for and in behalf of an indigent or pauper litigant and the preparation of pleadings or motions. It shall also cover assistance by a practicing lawyer to indigent or poor litigants in court-annexed mediation and in other modes of alternative dispute resolution (ADR), including being appointed as *counsel de officio*.

SECTION 4. ***Incentives.*** – Lawyers or professional partnerships rendering actual free Legal Services shall be entitled to an allowable deduction from the gross income equivalent to the lower of:

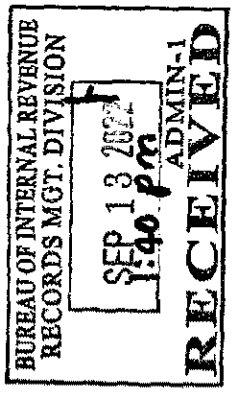
a) the amount that could have been collected for the actual free Legal Services rendered; or

b) ten percent (10%) of the gross income derived from the actual performance of the legal profession.

The actual free Legal Services shall be **exclusive** of the minimum sixty (60)-hour mandatory legal aid services rendered to indigent litigants as required under the Rule on Mandatory Legal Aid Services for Practicing Lawyers, under Bar Matter No. 2012, issued by the Supreme Court.

SECTION 5. ***Required Certifications/Accreditations from Appropriate Government Agencies for the Availment of the Incentives.*** – In order to avail of the incentives provided in Section 4 of these Regulations, the Lawyers or professional partnerships shall attach to their income tax return ("**ITR**") for the period when the deduction was claimed the following documents:

a. Certification from the Public Attorney's Office (PAO), the Department of Justice (DOJ) or accredited association of the Supreme Court indicating that:



i. the Legal Services to be provided are within the services defined by the Supreme Court;

ii. the agencies cannot provide the Legal Services to be provided by the private counsel; and

iii. the Legal Services were actually undertaken.

The Certification from the association and/or organization duly accredited by the Supreme Court shall specify the number of hours actually provided by the Lawyer or professional partnership in the provision of the Legal Services.

b. Accomplished BIR Form No. 1701 (for individual lawyers) or BIR Form No. 1702-EX (for general professional partnership), particularly Schedules 5 and 2, respectively, on "Special Allowable Itemized Deductions."

c. Sworn Statement of the Lawyer or managing partner (in case of professional partnership) as to the amount that could have been collected for the actual free legal service.

SECTION 6. ***Separability Clause.*** – If any provision of these Regulations is declared invalid by a competent court, the remainder of these Regulations or any provision not affected by such declaration of invalidity shall remain in force and effect.

SECTION 7. ***Repealing Clause.*** – The provisions of any regulations, rulings or orders, or portions thereof which are inconsistent with the provisions of these Regulations are hereby revoked, repealed or amended accordingly.

SECTION 8. ***Effectivity Clause.*** – These Regulations shall take effect fifteen (15) days following its publication in the official gazette or in a newspaper of general circulation, whichever comes first.

BENJAMIN E. DIOKNO
Secretary of Finance

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Recommending Approval:

LILIA CATRIS GUILLERMO
Commissioner of Internal Revenue

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