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

February 20, 2019

REVENUE REGULATIONS NO. 2-2019

SUBJECT: Rules and Regulations Implementing the Imposition of Excise Tax on Non-Essential Services Introduced by Republic Act No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law"

To : All Internal Revenue Officers and Others Concerned

SECTION 1. Scope. - Pursuant to Section 244 of the National Internal Revenue Code (NIRC), as amended, and Section 84 of Republic Act (R.A.) No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion" (TRAIN) Law, these regulations are hereby promulgated to implement Section 150-A on the excise tax on non-essential services of the NIRC, as introduced by Section 46 of the TRAIN Law.

SECTION 2. Definition of Terms. – For purposes of these Regulations and for a more effective enforcement and collection of excise taxes, the following words and phrases shall have the meaning indicated below:

2.1. *Plastic Surgery* shall refer to a surgical specialty or procedure concerned with the restoration, construction, reconstruction, or improvement in the form, function, and appearance of body structure that are missing, defective, damaged, or misshapen. It encompasses both reconstructive and aesthetic surgery.

2.2. *Cosmetic Surgery* shall refer to a type of plastic surgery that aims to improve a person's appearance, through invasive cosmetic procedures, surgeries, and body enhancements directed solely on improving, altering, or enhancing the person's appearance and do not necessarily promote the proper functions of the body or prevent or treat illness or disease. Cosmetic surgery can be performed on all areas of the head, neck, and body. Since the treated areas function properly, cosmetic surgery is elective.

2.3 *Reconstructive Surgery* shall refer to another type of plastic surgery which aims to improve function and give a normal appearance to a part of a person's body that has been damaged, ameliorate a deformity arising from, or directly related to, a congenital or developmental defect or abnormality, a personal injury resulting from accident or trauma, or disfiguring disease, tumor, virus or infection.

2.4. *Invasive Cosmetic Procedure* shall refer to a cosmetic surgery that is carried out by entering the body through the skin or through a body cavity or anatomical opening, but with the smallest damage possible to these structures. Invasive Cosmetic Procedures shall include, but not be limited to the following:

- Liposuction
- Mammoplasty

- Breastlift
- Buccal Fat Removal
- Buttocks Augmentation
- Chin Augmentation
- Facelift/Necklift
- Thread Lift
- Embedded Protein Threads
- Hair Restoration/Transplantation
- Eyelid Surgery
- Vaginal Plastic Surgery
- Abdominoplasty or Tummy Tuck
- Auto Grafting
- Rhinoplasty/Alar Trimming
- Otoplasty

2.5. *Non-Invasive Cosmetic Procedure* shall refer to a conservative treatment that does not require incision into the body or the removal of tissue, or when no break in the skin is created and there is no contact with mucosa, or skin break, or internal body cavity beyond a natural or artificial body orifice. Non- Invasive Cosmetic Procedures shall include, but not be limited to the following:

- Acupuncture Rejuvenation Therapy
- Air Dissector
- Botulinum Toxin Injection/ Treatment
- Collagen Induction Therapy
- Dermal Fillers (Crosslinked and non-crosslinked)
- Non-surgical facelifting and skin tightening using radio frequency, ultrasound, infrared
- Carbon dioxide (CO2) fractional laser resurfacing
- Laser and light treatments
- Body Treatments and Contouring Procedures
- Cleanings and Facials
- Peelings (Face and Body)
- Injectables and Weight Management Treatment

COVERAGE, NATURE, BASIS AND RATE OF EXCISE TAX

SECTION 3. Rate and Base of Excise Tax. There shall be levied, assessed, and collected, an excise tax equivalent to five percent (5%) based on gross receipts derived from the performance of services, net of excise tax and value-added tax on invasive cosmetic procedures, surgeries and body enhancements directed solely towards improving, altering, or enhancing the patient's appearance and do not meaningfully promote the proper functions of the body or prevent or treat illness or disease.

For purposes of these Regulations, the term *"Gross Receipts"* shall mean the total amount of money or its equivalent representing the contract price or service fee, including deposits applied as payments for services rendered and advance payments actually or constructively received for services performed or to be performed for another person, but excluding five percent (5%) excise tax and value added tax (VAT).

For purposes of determining the VAT base, the gross receipts shall be inclusive of the 5% excise tax.

"Constructive Receipt" occurs when the money consideration or its equivalent is placed under the control of the person who rendered the service without restrictions by the payor/customer. This shall cover exchange deal arrangements.

SECTION 4. Exclusions. – The excise tax imposed herein shall not apply to procedures necessary to ameliorate a deformity arising from or directly related to a congenital or developmental defect or abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease, tumor, virus or infection. Cases and treatments covered by the National Health Insurance Program shall not also be subject to this tax. Likewise, Non-Invasive Cosmetic Procedures are excluded from the coverage.

SECTION 5. Filing of Return and Payment of Excise Tax on Invasive Cosmetic Procedures. -

SECTION 5.1. Persons Liable to File a Return. –

Any person, whether natural or juridical, performing invasive cosmetic procedures, surgeries, and body enhancements directed solely towards improving, altering, or enhancing the patient's appearance and do not meaningfully promote the proper functions of the body or prevent or treat illness or disease and liable to pay excise tax imposed under Section 150-A of the NIRC, as amended, shall file a return of its monthly gross receipts using BIR Form No. 2200-C (Excise Tax Return on Invasive Cosmetic Procedures, Annex A), together with the Monthly Summary of Cosmetic Procedures Performed (using the prescribed format on Annex B hereof) as an attachment to the said form.

SECTION 5.2. Time for Filing of the Return and Payment of the Tax

The tax return (BIR Form 2200-C) shall be filed and the excise tax due, if any, shall be paid at the same time within ten (10) days following the close of the month.

SECTION 5.3. Place of Filing of the Return and Payment of the Tax. –

Except as the Commissioner otherwise permits, the return shall be filed with and the excise tax remitted to any Authorized Agent Bank (AAB) under the jurisdiction of the Large Taxpayers Service/Revenue District Office where the taxpayer (Head Office of the business establishment) is registered.

For taxpayers located outside the National Capital Region (NCR) and there are no duly accredited agent banks within the municipality or city, the BIR Form 2200-C shall be filed and payments made to the Collection Agent where such taxpayer (head office of the business establishment) is registered.

In cases where no invasive cosmetic procedures were performed during the return period, hence no excise tax due, BIR Form 2200-C shall still be filed with the Excise Large Taxpayers Field Operations Division (ELTFOD) for Large Taxpayers or the concerned Revenue District Office for taxpayers in the National Capital Region (NCR) or Excise Tax Area (EXTA) in Regional Offices for taxpayers outside NCR.

Taxpayers filing via electronic filing and payment system (eFPS) shall comply with the provisions of the eFPS Regulations.

SECTION 5.4. Exceptions. –

The Secretary of Finance, upon the recommendation of the Commissioner, may, by rules and regulations, prescribe the manner and time for filing of the return and payment of the excise tax other than as prescribed under Section 130, Chapter I, Title VI of the Tax Code, as amended.

SECTION 6. Invoicing and Accounting Requirements. –

SECTION 6.1 Invoicing Requirements. – Every person subject to excise tax herein imposed shall issue an Official Receipt (OR) for services performed whether invasive/non-invasive with the following information shown:

A. The total amount which the patient/client pays or is obligated to pay to the service provider including the excise tax and value added tax, if applicable: Provided, that:

a. The amount of value added tax shall be shown as a separate item in the OR (the VAT base is inclusive of the 5% excise tax);
b. Discounts given shall be indicated in the OR, otherwise the same shall not be allowed as deduction from gross receipts;
c. If the procedure performed is non-invasive and/ or invasive but considered exempt from excise tax, the term Exempt from Excise Tax shall be shown on the OR;
d. If the services performed involves both invasive (whether excisable or exempt from excise tax) and non-invasive (not excisable) procedures, a separate OR may be used for the excisable and non-excisable services rendered

Illustrations:

1. *Where the invasive cosmetic procedure is performed in a clinic or any place outside a hospital.*

To improve her body shape, Miss X decided to undergo liposuction procedure and sought the services of "Dok Salamat", a clinic operated outside the hospital and owned by Melo Medical Group, Inc. Dok Salamat charged Miss X the amount of P50,000.00 (inclusive of 12% VAT but exclusive of 5% excise tax) for the service rendered.

Based on the foregoing, the 5% excise tax shall be computed, as follows:

Original Price (inclusive of VAT)	₱	50,000.00
Gross Receipts (net of 12% VAT)(50,000/112%)	₱	44,642.85
Add: 5% excise tax (44,642.85 x 5%)		2,232.15
12% VAT [(44,642.85+2,232.15) x 12%]		5,625.00
Total Amount to be Collected from Miss X	₱	52,500.00

In the books of Melo Medical Group, Inc.:

Cash	P52,500.00	
Excise Tax Expense	2,232.15	
Excise Tax Payable		2,232.15
Output VAT		5,625.00
Service Income		46,875.00

** *If the amount charged is inclusive of both 12% VAT and 5% excise tax, then the computation of the excise tax will be as follows:*

Original Price (inclusive of VAT and excise) **	₱	50,000.00
Gross Receipts (net of VAT, inclusive of excise)(50,000/112%)	₱	44,642.86
Gross Receipts (net of Excise and VAT)(44,642.86/105%)	₱	42,517.01
Add: 5% excise tax (42,517.01 x 5%)		2,125.85 *
12% VAT (44,642.86 x 12%)		5,357.14
Total Amount to be Collected from Miss X	₱	50,000.00

*The excise tax is to be remitted by Melo Medical Group, Inc. A sample Official Receipt is shown in Annex C.

2. *Where the procedure is performed within a hospital*

Same facts as in previous Illustration No.1, except this time Miss X had another invasive cosmetic procedure done by Doctor P, an individual practitioner operating a clinic inside a hospital. The Hospital bills Miss X other fees (e.g. supplies and fees for the use of operating room and hospital facilities) in the amount of ₱ 20,000.00, in addition to the fees charged by Doctor P of ₱50,000.00 (inclusive of 12% VAT, excluding excise) for the service performed.

Billings by Hospital (VAT Exempt) Note (1)	P	20,000.00
Add: 5% excise tax (20,000.00 x 5%)		1,000.00
Doctor's Fee (50,000/112%) Note (2)		44,642.86
Add: 5% excise tax (44,642.86 x 5%)		2,232.14
12% VAT (44,642.86+2,232.14] x 12%)		5,625.00
Total Amount to be Collected from Miss X		73,500.00

Note (1): Medical, dental, hospital and veterinary services are exempt from value added tax under Section 109(G) of the NIRC, as amended, except those rendered by professionals.

Note (2): Doctor P is presumed to be self-employed and his annual receipts exceeded the threshold for VAT of P3 Million.[1]

In the books of Doctor P:

Accounts Receivable - Hospital (₱44,642.86 + 5,625.00 - 4,464.28)	₱ 45,803.58	
Excise Tax Expense	2,232.14	
Prepaid Tax (₱44,642.86 x 10%EWT)	4,464.28	
Service Fee (₱44,642.86 + 2,232.14)		46,875.00
Output VAT		5,625.00
Cash	45,803.58	
Accounts Receivable – Hospital		45,803.58

In the books of the Hospital:

Cash	₱ 21,000.00	
Excise Tax Expense	1,000.00	
Service Income- Non-VAT		21,000.00
Excise Tax Payable		1,000.00
Cash	₱ 52,500.00	
Payable to Doctor P		45,803.58
Excise Tax Payable for Doctor P		2,232.14
Expanded Withholding Tax Payable- Prof Fees (₱ 44,642.86 x 10%)		4,464.28

The Hospital shall remit to the BIR the amount of ₱4,464.28 representing creditable income tax withheld from the fees charged by Doctor P, in accordance with existing withholding tax regulations. In addition to this, the Hospital shall file a return of its monthly gross receipts using BIR Form No. 2200-C and remit the 5% excise tax amounting to ₱3,232.14 based on the gross receipts (net of 12% VAT and 5% excise) collected from the client, together with the Monthly Summary of Cosmetic Procedures Performed as required in Section 5.1 of this Regulation.

SECTION 6.2 Accounting Requirements. – Notwithstanding the provisions of Section 233, all persons subject to excise tax under Section 150-A of the Tax Code shall, in addition to the regular accounting records required, maintain a subsidiary ledger on which every service rendered/performed on any given day is recorded. The subsidiary ledger shall contain the following information:

1. Name of Patient;
2. Taxpayers Identification Number;
3. Official Receipts number and date of issue;
4. Invasive Cosmetic Procedures Performed (Indicate whether excisable or not) If not excisable, provide Remarks column to explain why non-excisable.

[1] Please note that in the event Doctor P's annual receipts does not exceed the threshold for VAT of P3 Million and opts to avail of an 8% tax on gross sales/receipts and other non-operating income in excess of P250,000 in lieu of the graduated income tax rates and percentage tax, he will still be subject to excise tax herein.

5. Non-Invasive Cosmetic Procedures Performed;
6. Gross Receipts for non-invasive (net of VAT);
7. Gross Receipts for invasive procedures
   - Excisable (net of VAT and Excise)
   - Excisable (VAT exempt)
   - Non-Excisable (net of VAT)
8. 5% Excise Tax Due
9. 12% VAT Due
10. Total Amount Collected from client-customer

SECTION 7. Application for Registration. –

Every person subject to excise tax under Section 150-A of the NIRC, as amended, shall register as Excise Taxpayer engaged in the performance of Invasive Cosmetic Procedures with the Excise LT Regulatory Division (ELTRD) for Large Taxpayers or with the Revenue District Office (RDO) for Non-Large Taxpayers where the taxpayer is required to be registered for updating of its Certificate of Registration. The application for registration shall be filed on or before March 31, 2019. This does not preclude the Bureau of Internal Revenue from enforcing the collection of the corresponding excise taxes due on invasive cosmetic procedures, surgeries, and body enhancements performed starting January 1, 2018 (the effectivity of the TRAIN Law).

SECTION 8. Penalties –

1. Any violation of the provisions of this Regulations shall be subject to the corresponding penalties under Sections 250, 251 and 255 of the NIRC, as amended, and Revenue Memorandum Order No. 7-2015.

2. Pursuant to Section 254 of the NIRC, as amended, any person who willfully attempts in any manner to evade or defeat any tax imposed under this Regulations or the payment thereof shall, in addition to other penalties provided by law, upon conviction thereof, be punished with a fine of not less than Five hundred thousand pesos (₱500,000) but not more than Ten million pesos (₱10,000,000), and imprisonment of not less than six (6) years but not more than ten (10) years: Provided, That the conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes.

3. If the offender is not a citizen of the Philippines, he shall be deported in accordance with immigration laws, rules and regulations.

SECTION 9. Transitory Provision. – For the effective implementation of the Regulation, the following guidelines shall be followed during the transitory period:

All individual practitioners and juridical entities, including medical clinics and hospitals, performing **invasive** cosmetic procedures whether in a clinic or hospital or any place other than clinic or hospital shall update their current Certificate of Registration (COR) to include the tax type – Excise Tax on Invasive Cosmetic Procedures using BIR Form 1905 with the concerned offices: the Excise Large Taxpayers Regulatory Division (ELTRD) or Large Taxpayers Assistance Division (LTAD) for Large Taxpayers registered under the LTS and Revenue District Office (RDO) having jurisdiction over the non-large taxpayer.

Individual practitioners or juridical entities, performing **non-invasive** cosmetic procedures, shall be required to execute and submit a Sworn Statement stating that only non-invasive cosmetic procedures are being performed by the said individual practitioners or juridical entities. For juridical entities, the Sworn Statement shall be executed by the President/Chief Executive Officer of the company.

SECTION 10. Separability Clause. – If any of the provisions of these Regulations is declared invalid by a court of competent jurisdiction, the remainder of these Regulations or any provision not affected by such declaration of invalidity shall remain in full force and effect.

SECTION 11. Repealing Clause. – All Rules and Regulations and other issuances or parts thereof, inconsistent with the provisions of these Regulations are hereby revoked, repealed or amended, accordingly.

SECTION 12. 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