REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

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# REVENUE REGULATIONS NO. 5-2017

**SUBJECT : Rules and Regulations Implementing Republic Act No. 10754, entitled "*An Act Expanding the Benefits and Privileges of Persons with Disability (PWD)*" Relative to the Tax Privileges of Persons with Disability and Tax Incentives for Establishments Granting Sales Discount, and Prescribing the Guidelines for the Availment Thereof, Amending Revenue Regulations No. 1-2009**

**TO : All Internal Revenue Officers and Others Concerned**

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## 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. 3 of Republic Act (R.A.) No. 10754, otherwise known as "An Act Expanding The Benefits And Privileges Of Persons With Disability" (hereinafter referred to as the "Act"), these Regulations are hereby promulgated to:

1.1 Prescribe the guidelines for the implementation of the tax privileges of persons with disability and their benefactor; and tax incentives for establishments granting twenty percent (20%) sales discount and exemption from Value-added Tax (VAT) under Sections 32 and 33 of R.A. 7277, as amended by R.A. No. 9442, otherwise known as the "*Magna Carta for Persons with Disability*" and R.A. No. 10754; and

1.2 Amend certain provisions of Revenue Regulations No. 1-2009.

## SECTION 2. DEFINITION OF TERMS.

For purposes of these Regulations, the following terms and phrases shall be defined as follows:

2.1 Act – shall refer to Republic Act No. 7277, as amended by Republic Act No. 9442 otherwise known as the "*Magna Carta for Persons with Disability*" and R.A. No. 10754 otherwise known as "*An Act Expanding the Benefits and Privileges of Persons with Disability (PWD)*"

2.2 Person with Disability (PWD) – are those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. For purposes of these Regulations, the term "PWD" shall be further classified/categorized by the Department of Health (DOH).

2.3 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.

2.4 Benefactor – shall refer to a Filipino citizen or resident alien, caring for, giving chief support and living with the PWD, who is in the fourth (4th) civil degree of consanguinity or affinity claiming such PWD as dependent.

2.5 PWD-Dependent – shall refer to a Filipino citizen who is a PWD, whether minor or of legal age, related to the benefactor within the fourth (4th) civil degree of consanguinity or affinity, not gainfully employed and who is living with and chiefly dependent upon such benefactor for his/her support.

2.6 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 PWD by certain business establishments enumerated under the Act and these Regulations.

2.7 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.

**SECTION 3. SALES DISCOUNTS WHICH MAY BE CLAIMED BY QUALIFIED PERSONS WITH DISABILITY (PWD).**

Qualified PWD shall be entitled to claim at least twenty percent (20%) discount from the following establishments relative to the sale of goods and services for their exclusive use and enjoyment or availment of the PWD:

3.1 Hotels and similar lodging establishments; restaurants and recreation centers;

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

3.3 All drugstores regarding purchase of generic and branded medicine;

3.4 Medical and dental services including diagnostic and laboratory fees (e.g., x-rays, computerized tomography scans and blood tests) and professional fees of attending doctors in all government facilities or all private hospitals and medical facilities subject to the guidelines to be issued by the DOH, in coordination with the Philippine Health Insurance Corporation (PhilHealth);

3.5 Domestic air and sea transportation based on the actual fare. For promotional fares, the PWD can avail the establishment's offered discount or the 20% discount provided herein, whichever is higher and more favorable;

3.6 Land transportation privileges based on the actual fare such as, public utility buses or jeepneys (PUBs/PUJs), taxis, Asian Utility Vehicles (AUVs), shuttle services and public railways such as Light Rail Transit (LRT), Metro Rail Transit (MRT), Philippine National Railways (PNR), and such other similar infrastructure that will be constructed, established and operated by public or private entity; and

3.7 Funeral and burial services for the death of the PWD: Provided, that the beneficiary or any person who shall shoulder the funeral and burial expenses of the deceased PWD shall claim the discount under this rule for the deceased PWD upon presentation of the death certificate and PWD Identification Card (ID) or in its absence, the original or certified true copy of the proof of registration from the issuing local government unit. Such expenses shall cover the purchase of casket or urn, embalming, hospital morgue, transport of the body to intended burial site in the place of origin, but shall exclude obituary publication and the cost of the memorial lot.

All other goods and services sold by the foregoing establishments not included in the above enumeration expressly provided by law shall not be considered for the 20% discount privilege notwithstanding that the same are for the exclusive use and enjoyment or availment of the PWD.

## SECTION 4. COMPUTATION OF THE DISCOUNT AND VAT EXEMPTION GRANTED TO QUALIFIED 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 formula:

| | |
|---|---|
| Amount of sale (with VAT) | P 1,120.00 |
| **Less: 12% VAT** | **120.00** |
| Total Amount | 1,000.00 |
| **Less: 20% Sales Discount** | **200.00** |
| Total Amount Due | P 800.00 |

The Two Hundred Pesos (P200.00) cost of the discount in the above illustration, shall be allowed as a deduction from gross income for the same taxable year that the discount is granted; Provided that, the total amount of the claimed tax deduction net of VAT, if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation in accordance with the provisions of the Tax Code. This means that for the establishment to be allowed to claim the discount as a deduction, the amount of sales that must be reported for income tax purposes is the VAT-exclusive selling price of P1,000.00 and not the amount of sales net of the discount – P800.00.

## SECTION 5. AVAILMENT BY ESTABLISHMENTS OF SALES DISCOUNTS AS DEDUCTION FROM GROSS INCOME.

Establishments granting sales discounts to PWD on their sale of goods and/or services shall be entitled to deduct the said sales discount from their gross income subject to the following conditions:

5.1 All establishments which granted sales discounts on their sale of goods and/or services to PWD may claim the said discount as deduction from the gross income for the same taxable year that the discount is granted; Provided that, the name of PWD and the PWD Identification Card (PWD ID) No. are reflected in the required record of sales for PWD.

As expressly provided by law, the total amount of the claimed tax deduction net of VAT, if applicable, shall be included in their gross sales receipt for tax purposes and shall be subject to proper documentation and to the provisions of National Internal Revenue Code (NIRC), as amended, thus if there are no name of PWD and PWD Identification Card (PWD ID) No. in the records of sales, the sales discount claimed as deduction by business establishments shall be disallowed.

For percentage taxpayer, the amount of sales discounts shall be excluded for purposes of computing the three percent (3%) percentage tax but shall be included as part of the gross sales/receipts for income tax purposes. The sales discount granted shall then be accounted as deduction from the gross income of the establishment for the same taxable year that the discount was granted.

Computation of Discount on Non-VAT Taxpayer:

| | |
|---|---|
| Sales/Receipts | P1,120.00 |
| Less: 20% Discount | 224.00 |
| **Amt. Payable** by PWD/ Received by Seller | **896.00** |
| Multiply by tax rate | x 3% |
| Percentage Tax Due | P 26.88 |

5.2 Only that portion of the gross sales exclusively used, consumed or enjoyed by the PWD shall be eligible for the deductible sales discount;

5.3 The seller must record its sales inclusive of the discount granted, not as a reduction of sales to arrive at net sales, but as a deduction from its gross income (sales less cost of sales). Thus the entry to record the transaction as illustrated in Section 4 and Section 5.1 hereof in the books of the seller should be as follows:

a. VAT

| | | |
|---|---|---|
| Debit – Cash | P800 | |
| Debit – PWD Discount Expense | 200 | |
| Credit – Sales | | P1,000 |

b. Non-VAT

| | | |
|---|---|---|
| Debit – Cash | P896 | |
| Debit – PWD Discount Expense | 224 | |
| Credit – Sales | | P1,120 |
| ### | | |
| Debit - Percentage Tax Due | P 26.88 | |
| Credit - Tax Payable | | P 26.88 |

5.4 The sales discount shall be treated as a necessary and ordinary expense duly deductible from the gross income of the seller falling under the category of itemized deductions;

5.5 The sales discounts shall not be accounted as deductible expense for taxpayers availing the Optional Standard Deduction (OSD);

5.6 The amount of sales discount shall only be allowed as itemized deduction from gross income for the same taxable year that the discount is granted;

5.7 The gross selling price and the sales discount must be separately indicated in the official receipt or sales invoice issued by the establishment for the sale of goods or services to the PWD;

5.8 Only the actual amount of the sales discount granted or a sales discount not exceeding 20% of the gross selling price or gross receipts can be deducted from the gross income, net of value added tax, if applicable, and shall be subject to proper documentation under pertinent provisions of the Tax Code of 1997, as amended; and

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

**SECTION 6. PROHIBITION ON AVAILMENT OF DOUBLE DISCOUNTS.**

The foregoing privileges granted to PWD shall not be claimed if the said PWD 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 PWD who is at the same time a senior citizen can only claim one 20% discount on a particular sales transaction.

**SECTION 7. EXEMPTION FROM VALUE-ADDED TAX (VAT) ON SALE OF GOODS OR SERVICES TO QUALIFIED PERSONS WITH DISABILITY.**

7.1 Sales of any goods and services under Sections 3 of these Regulations to PWD shall be exempt from the value-added tax. To ensure the full entitlement of the person with disability to the discount prescribed in the Act, the sellers are precluded from billing any VAT to the PWD.

7.2 The sale to a person with disability must follow the invoicing requirements prescribed under Revenue Regulations (RR) No. 16-2005, as amended by RR Nos. 2-2007 and 4-2007 and Revenue Memorandum Order No. 12-2013. If the seller uses a Point of Sale Machine, Cash Register Machine, e-Invoicing or other receipting software/application in lieu of the manual sales invoice, the machine/system receipts/invoices must properly segregate the exempt sales from the taxable sales and must follow the invoicing requirements prescribed under Revenue Regulations No. 10-2015.

7.3 The input tax attributable to VAT exempt sale is considered as cost or an expense account by business establishments and shall not be allowed as an input tax credit.

7.4 If there is no name of PWD and PWD ID No. indicated in the records of sales, the input tax attributable to VAT exempt sale claimed as an expense by business establishments shall be disallowed.

7.5 The exemption herein granted will not cover other indirect taxes that may be passed on by the seller to a PWD buyer, such as percentage tax, excise tax, etc. In such a case, the discount must be on the total cost of the goods or services charged by the seller exclusive of the VAT.

**SECTION 8. ADDITIONAL EXEMPTIONS OF BENEFACTORS OF QUALIFIED PERSONS WITH DISABILITY.**

8.1 Effective taxable year 2016, a Benefactor of a qualified PWD, may claim the additional exemption of twenty-five thousand pesos (P25,000) for each PWD, if such PWD, regardless of age, satisfies all of the following:

a. Filipino citizen;
b. within the fourth ($4^{th}$) civil degree of consanguinity or affinity to the taxpayer/benefactor;
c. not gainfully employed; and
d. chiefly dependent upon and living with the taxpayer/benefactor.

8.2 The total number of dependents (qualified dependent children and/or qualified dependent PWD) for which additional exemptions may be claimed by the taxpayer/benefactor shall not exceed four (4);

8.3 The additional exemptions for qualified dependent PWD shall be claimed only by one taxpayer or by one of the spouses in the case of married individuals;

8.4 In the case of legally separated spouses, additional exemptions may be claimed only by the spouse who has custody of the child or children or PWD: Provided, that the number of additional exemptions that may be claimed by both shall not exceed the maximum additional exemptions of four (4);

8.5 The Taxpayer/Benefactor of the persons with disability shall submit the following documentary requirements to the Revenue District Office (RDO) where he is registered in order to claim the additional exemption, for the first year of claiming the exemption and after three (3) years or upon renewal of the PWD ID whichever comes first:

a. Duly accomplished BIR Form No. 2305;
b. Photocopy of PWD Identification Card issued by the Persons with Disability Affairs Office (PDAO) or the City / Municipal Social Welfare and Development Office (C/MSWDO) of the place where the person with disability resides or the National Council on Disability Affairs (NCDA);
c. Sworn Declaration/Identification of Qualified Dependent PWD, Support and Relationship (**Annex A**);
d. Birth Certificate of PWD;

e. Medical Certificate attesting to disability issued by in accordance with the Implementing Rules and Regulations of R.A. 10754; and
f. Barangay Certification certifying that the PWD is living with the benefactor.

8.6 The submitted records of the PWD to the RDO must be used as reference for every taxable year, in order to validate the claimed additional exemption for the same PWD. Such record must be renewed by Taxpayer/Benefactor after three (3) years or upon renewal of the PWD ID whichever comes first. In case of Employee-Benefactor, the aforementioned documentary requirements must be submitted to the employer for record and withholding tax purposes.

8.7 Illustrations.

**No. 1:** In 2016, M, CPA, is a widower who supports the following dependents living with him:

A – Mother of deceased wife, 65 years old, unemployed;
B – Legitimate child of deceased wife with her first husband, 20 years old;
C – Legitimate child, 18 years old;
D – Legitimate new born child;
E – Brother, 24 years old, physically defective, gainfully employed
F – Nephew, 2 years old, with hearing disability, illegitimate son of his deceased sister;
G – Sister, 26 years old, widow, with speech impairment, unemployed;
H – Legitimate daughter of his widowed sister, 3 years old;
I – Foster child, 5 years old.

In October 2016, C married and G became gainfully employed.

What is M's personal and additional exemptions for the years 2016 and 2017?

2016

| | | |
|---|---|---|
| Basic personal exemption: | P | 50,000.00 |
| Additional exemptions: P 25,000 x 4 ( any of the ff: C, D, F, G and I ) | | 100,000.00 |
| Total | P | 150,000.00 |

M may claim additional exemptions if he cares for and supports any legitimate, illegitimate, or legally adopted child, foster child or a PWD (regardless of age) who is within the 4th civil degree of consanguinity or affinity to M, who is chiefly dependent upon and living with him, and not gainfully employed.

If during the taxable year, any of the dependent children got married or any of the dependents became gainfully employed, M may still claim the additional exemption as if C got married and G became gainfully employed at the close of such year[1].

His mother-in-law A (a senior citizen without any disability), stepchild B, brother E and niece H are not dependents of M for purposes of claiming additional exemptions.

Note: (1) M has five qualified dependents (C, D, F, G and I) but can only claim a maximum of four qualified dependents.
(2) M can claim an additional exemption for his stepchild B, only if he legally adopts him.
(3) M cannot claim his mother-in-law A and brother E, a PWD, as his dependents since his mother-in-law is a senior citizen[2] without any disability and his brother is gainfully employed.

[1] Sec.35 (C), NIRC, as amended
[2] RR No. 7-2010, Sec. 11

(4) M cannot claim H, his niece, as his additional exemption.
(5) Single status also applies to those who are widowed; and the civil status of legally separated is married, for taxation purposes.

2017

| | | |
|---|---|---|
| Basic personal exemption: | P | 50,000.00 |
| Additional exemptions:<br>P 25,000 x 3 (D, F and I) | | 75,000.00 |
| Total | P | 125,000.00 |

M cannot claim anymore the additional exemption for his legitimate child C and his sister G, who got married and became gainfully employed respectively in 2016.

**No. 2:** X and W are husband and wife with six (6) minor children. They were legally separated in 2015, where the custody of five (5) children were awarded by the court to X, and one (1) child to W. W supports his brother L, who is mute, unmarried, unemployed and living with him. What is the personal and additional exemption of X and W in 2016?

X:

| | | |
|---|---|---|
| Basic personal exemption: | P | 50,000.00 |
| Additional exemptions:<br>P 25,000 x 3 (3 children) | | 75,000.00 |
| Total | P | 125,000.00 |

W:

| | | |
|---|---|---|
| Basic personal exemption: | P | 50,000.00 |
| Additional exemptions:<br>P 25,000 x 1 (1 child) | | 25,000.00 |
| Total | P | 75,000.00 |

X is legally separated spouse with five (5) qualified dependent children in his custody. W is also a legally separated spouse with two (2) qualified dependents in her custody, a child and a PWD, who is within the fourth degree of consanguinity. X can claim additional exemptions for three (3) qualified dependent children while W can claim additional exemption for one (1) qualified dependent child. The total amount of additional exemptions that may be claimed by both spouses shall not exceed the maximum allowed of four (4) qualified dependents.

**No. 3:** Z, a CPA and Y, an employee are husband and wife with four (4) minor children. Y supports her 14-year-old brother J, a PWD, living with them. Z claims the additional exemptions for their four (4) children. Can Y claim for additional exemption for her brother who is a PWD?

Answer: No. The total amount of additional exemptions that may be claimed by both spouses shall not exceed the maximum allowed of four (4) qualified dependents.

Suppose, Z and Y have only three (3) qualified dependent children, can Y claim for additional exemption for her brother who is a PWD?

Answer: No. Only one spouse can claim the additional exemption for qualified dependent PWD. Z may claim the additional exemption for his brother-in-law J, who is related within the second ($2^{nd}$) civil degree of affinity to the brother of his wife.

**SECTION 9.** The privileges under the Act and in these Regulations available to PWD who are Filipino citizens may only be granted upon presentation of any of the following proof of his/her entitlement thereto:

9.1 An identification card issued by the Office of Persons with Disability Affairs (PDAO) or the City/Municipal Social Welfare and Development Office (C/MSWDO) of the place where the PWD resides; or

9.2 The passport of the PWD concerned with apparent disability; or

9.3 An Identification Card (ID) issued by the National Council on Disability Affairs (NCDA).

**SECTION 10. PENALTIES.**

10.1 Any violation of these Regulations shall be subject to the corresponding penalties under pertinent provisions of the Tax Code of 1997, as amended, and other applicable regulations issued by the BIR;

10.2 Further, any person who violates any provision of R.A. 10754 shall suffer the following penalties:

10.2.1 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;

10.2.2 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.

10.2.3 Any person who abuses the privileges granted under the Law 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.

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

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

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.

**SECTION 11. SEPARABILITY CLAUSE.**

If any portion or provision of these Regulations is declared unlawful, the remainder of these Regulations or any provision not affected thereby shall remain in force and effect.

**SECTION 12. 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.

**SECTION 13. 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.

**CARLOS G. DOMINGUEZ III**
Secretary of Finance

Recommending Approval:

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**CAESAR R. DULAY**
Commissioner of Internal Revenue

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