

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

December 16, 2002

REVENUE REGULATIONS NO. 2-2003

SUBJECT : Consolidated Revenue Regulations on Estate Tax and Donor's Tax Incorporating the Amendments Introduced by Republic Act No. 8424, the Tax Reform Act of 1997.

TO : All Internal Revenue Officers and Others Concerned.

SECTION 1. SCOPE. - Pursuant to Section 244, in relation to Sections 84 to 104 of the Tax Code of 1997 (Code), these Regulations are hereby promulgated for the purpose of consolidating all the regulations on estate tax and donor's tax, thereby amending Revenue Regulations No. 17-93 relative to the change in the tax rates of estate tax and donor's tax pursuant to Republic Act No. 8424, the manner of claiming the deductions from the gross estate of the decedent, and for other purposes. These regulations shall govern the taxation of the transmission of the decedent's estate and donations made by persons, natural or juridical, whether citizens or aliens, residents or non-residents. For purposes of these regulations, the provisions of the Family Code of the Philippines (E.O. No. 209) which took effect on August 3, 1988 shall govern the property relations between husband and wife whose marriage was celebrated on or after such date. For marriages celebrated prior to the effectivity of the Family Code of the Philippines, the Civil Code of the Philippines shall govern the property relations between husband and wife in relation to the pertinent provisions of the Family Code.

SEC. 2. RATES OF ESTATE TAX. - The transfer of the net estate of every decedent, whether resident or non-resident of the Philippines, as determined in accordance with the Code, shall be subject to the estate tax. The entire value of the net estate is divided into brackets and each rate is imposed on the corresponding bracket. Below is a table showing the tax on each bracket and the cumulative total tax for the entire net estate, pursuant to the rates provided in the Code.

“If the Net Estate is:

Over	But not over	The tax shall be	Plus	Of the excess over
-	P 200,000	Exempt	-	-
P 200,000	500,000	0	5%	P 200,000
500,000	2,000,000	P 15,000	8%	500,000
2,000,000	5,000,000	135,000	11%	2,000,000
5,000,000	10,000,000	465,000	15%	5,000,000
10,000,000	and over	1,215,000	20%	10,000,000

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.

The application of the rates herein prescribed and the procedures in determining the estate tax due shall apply to estate taxes falling due or have accrued beginning January 1, 1998, the effectivity date of Republic Act No. 8424, otherwise known as “The Tax Reform Act of 1997”.

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 death, including revocable transfers and transfers for insufficient consideration, etc.:

- A) Residents and citizens – all properties, real or personal, tangible or intangible, wherever situated.
- B) 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 Code.

SEC. 5. VALUATION OF THE GROSS ESTATE. – The properties comprising the gross estate shall be valued based on their fair market value as of the time of death.

If the property is a real property, the fair market value shall be the fair market value as determined by the Commissioner or 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.

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.

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 :**

(A) Expenses, losses, indebtedness, and taxes- Such amounts for:

(1) Actual funeral expenses (whether paid or unpaid) up to the time of interment, or an amount equal to five percent (5%) of the gross estate, whichever is lower, but in no case to exceed P200,000.

Any amount of funeral expenses in excess of the P200,000 threshold, whether the same had actually been paid or still payable, shall not be allowed as a deduction under this Subsection. Neither shall the unpaid portion of the funeral expenses incurred which is in excess of the P200,000 threshold be allowed to be claimed as a deduction under "claims against the estate" provided under Subsection (C) hereof.

The term "**FUNERAL EXPENSES**" is not confined to its ordinary or usual meaning. They include:

- (a) The mourning apparel of the surviving spouse and unmarried minor children of the deceased bought and used on the occasion of the burial;
- (b) Expenses for the deceased's wake, including food and drinks;
- (c) Publication charges for death notices;
- (d) Telecommunication expenses incurred in informing relatives of the deceased;
- (e) Cost of burial plot, tombstones, monument or mausoleum but not their upkeep. In case the deceased owns a family estate or several burial lots, only the value corresponding to the plot where he is buried is deductible;
- (f) Interment and/or cremation fees and charges; and
- (g) All other expenses incurred for the performance of the rites and ceremonies incident to interment.

Expenses incurred after the interment, such as for prayers, masses, entertainment, or the like are not deductible. Any portion of the funeral and burial expenses borne or defrayed by relatives and friends of the deceased are not deductible.

Medical expenses as of the last illness will not form part of funeral expenses but should be claimed under subsection (F) of this section.

Actual funeral expenses shall mean those which are actually incurred in connection with the interment or burial of the deceased. The expenses must be duly supported by receipts or invoices or other evidence to show that they were actually incurred.

Illustrations on how to determine the amount of allowable funeral expenses -

- (a) If five percent (5%) of the gross estate is P70,000 and the amount actually incurred is P50,000, only P50,000 will be allowed as deduction;
- (b) If the expenses actually incurred amount to P90,000 and five percent (5%) of the gross estate is P70,000, only P70,000 will be allowed as deduction;
- (c) If five percent (5%) of the gross estate is P220,000 and the amount actually incurred is P215,000, the maximum amount that may be deducted is only P200,000;
- (d) **If five percent (5%) of the gross estate is P 100,000 and the total amount incurred is P150,000 where P20,000 thereof is still unpaid, the only amount that can be claimed as deduction for funeral expenses is P100,000. The entire P50,000 excess amount consisting of P30,000 paid amount and P20,000 unpaid amount can no longer be claimed as FUNERAL EXPENSES. Neither can the P20,000 unpaid portion be deducted from the gross estate as CLAIMS AGAINST THE ESTATE under Subsection (C) hereof.**

(2) Judicial expenses of the testamentary or intestate proceedings. - Expenses allowed as deduction under this category are those incurred in the inventory-taking of assets comprising the gross estate, their administration, the payment of debts of the estate, as well as the distribution of the estate among the heirs. In short, these deductible items are expenses incurred during the settlement of the estate but not beyond the last day prescribed by law, or the extension thereof, for the filing of the estate tax return. Judicial expenses may include:

- (a) Fees of executor or administrator;
- (b) Attorney's fees;
- (c) Court fees;
- (d) Accountant's fees;
- (e) Appraiser's fees;
- (f) Clerk hire;
- (g) Costs of preserving and distributing the estate;
- (h) Costs of storing or maintaining property of the estate; and
- (i) Brokerage fees for selling property of the estate.

Any unpaid amount for the aforementioned cost and expenses claimed under "Judicial Expenses" should be supported by a sworn statement of account issued and signed by the creditor.

(3) 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.

(i) Requisites for Deductibility of Claims Against the Estate -

- (a) The liability represents a personal obligation of the deceased existing at the time of his death except unpaid obligations incurred incident to his death such as unpaid funeral expenses (i.e., expenses incurred up to the time of interment) and unpaid medical expenses which are classified under a different category of deductions pursuant to these Regulations;
- (b) The liability was contracted in good faith and for adequate and full consideration in money or money's worth;
- (c) The claim must be a debt or claim which is valid in law and enforceable in court;
- (d) The indebtedness must not have been condoned by the creditor or the action to collect from the decedent must not have prescribed.

(ii) Substantiation Requirements. - All unpaid obligations and liabilities of the decedent at the time of his death (except unpaid funeral or medical expenses which are deductible under a different category) are allowed as deductions from gross estate. Provided, however, that the following requirements/documents are complied withsubmitted :

(a) In case of simple loan (including advances):

(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) 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.

(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;

(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;

(b) If the unpaid obligation arose from purchase of goods or services:

- (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) 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.

- (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.

(c) 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.

(4) Claims of the deceased against insolvent persons where the value of the decedent's interest therein is included in the value of the gross estate; and,

(5) Unpaid mortgages, taxes and casualty losses –

(a) 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.

(b) 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.

(c) 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 Subsections (A) and (B) 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. In all instances, the mortgaged property, TO THE EXTENT

OF THE DECEDENT'S INTEREST THEREIN, should always form part of the gross taxable estate.

“(B) Property previously taxed - xxx xxx xxx

“(C) Transfers for public use - xxx xxx xxx

“(D) 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 One million pesos (P1,000,000), the excess shall be subject to estate tax. As a *sine qua non* condition for the exemption or deduction, said family home must have been the decedent's family home as certified by the barangay captain of the locality.

a) 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)
- b) Conditions for the allowance of FAMILY HOME as deduction from the gross estate-
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;
 2. The total value of the family home must be included as part of the gross estate of the decedent; and
 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 P1,000,000.

(E) Standard deduction. - A deduction in the amount of One Million Pesos (P1,000,000) shall be allowed as an additional deduction without need of substantiation. The full amount of P1,000,000 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.

(F) Medical expenses. - All medical expenses (cost of medicines, hospital bills, doctors' fees, etc.) incurred (whether paid or unpaid) within one (1) year before the death of the decedent shall be allowed as a deduction provided that the same are duly

substantiated with official receipts for services rendered by the decedent's attending physicians, invoices, statements of account duly certified by the hospital, and such other documents in support thereof and provided, further, that the total amount thereof, whether paid or unpaid, does not exceed Five Hundred Thousand Pesos (P500,000).

Any amount of medical expenses incurred within one year from death in excess of Five Hundred Thousand Pesos (P500,000) shall no longer be allowed as a deduction under this subsection. Neither can any unpaid amount thereof in excess of the P500,000 threshold nor any unpaid amount for medical expenses incurred prior to the one-year period from date of death be allowed to be deducted from the gross estate as claim against the estate.

Illustrations on how to determine the amount of allowable medical expenses given the P500,000 threshold amount-

- a. If the actual amount of medical expenses incurred is P250,000, then only P250,000 shall be allowed as deduction and not to the extent of the P500,000 threshold amount;
- b. If the actual amount of medical expenses incurred within the year prior to decedent's death is P600,000, only the maximum amount of P500,000 shall be allowed as deduction. If in case the excess of P100,000 (P600,000-500,000) is still unpaid, such amount shall not be allowed to be deducted from the gross estate as "claims against the estate".

(G) 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.

(8) 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) Expenses, losses, indebtedness, and taxes – That proportion of the total expenses, losses, indebtedness, and taxes which the value of such part bears to the value of his entire gross estate wherever situated. The allowable deduction under this subsection shall be computed using the following formula:

$$\left[\frac{\text{Phil. Gross Estate}}{\text{World Gross Estate}} \right] \times \left[\begin{array}{l} \text{Expenses, Losses,} \\ \text{Indebtedness and Taxes} \end{array} \right] = \text{Allowable Deduction}$$

“(2) Property previously taxed - xxx xxx xxx”

“(3) Transfers for public use - xxx xxx xxx”

“(4) Net share of the surviving spouse in the conjugal property or community property. - xxx xxx xxx”

No deduction shall be allowed in the case of a non-resident decedent not a citizen of the Philippines, unless the executor, administrator, or anyone of the heirs, as the case may be, includes in the return required to be filed under Section 90 of the Code the value at the time of the decedent's death of that part of his gross estate not situated in the Philippines.

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

“Illustrations :

(1) Decedent is an unmarried head of a family:

(a)	Real and personal properties	P 5,000,000
	Family Home	2,000,000
	Gross Estate	<u>P 7,000,000</u>

Less: Deductions

Ordinary Deductions

Funeral Expenses	P 200,000
Other Deductions	<u>1,300,000</u> P 1,500,000

Special Deductions

Family Home	P 1,000,000
Standard Deduction	1,000,000
Medical Expenses*	<u>500,000</u> P 2,500,000
Total Deductions	<u>P 4,000,000</u>

Net Taxable Estate

P 3,000,000

Although the family home is valued at P2 million, the maximum allowable deduction for the family home is P1million only.

Note : * Medical expenses are not included in the deductions referred under Section 86(A)(1) of the Code but are treated as a special item of deduction under Section 86(A)(6) of the same Code.

(b) Real and personal properties	P 5,000,000
Family Home	800,000
Gross Estate	<u>P 5,800,000</u>
Less: Deductions:	
Ordinary Deductions	
Funeral Expenses	P 200,000
Other Deductions	<u>1,300,000</u>
	P 1,500,000
Special Deductions	
Family Home	P 800,000
Standard Deduction	1,000,000
Medical Expenses	<u>500,000</u>
	2,300,000
Total Deductions	<u>P 3,800,000</u>
Net Taxable Estate	P 2,000,000
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Note: Deduction for family home is allowed for P800,000 only which is the declared value of the family home.

(2) Decedent is a married man with surviving spouse:

(a) The family home is his exclusive property -

	<u>Exclusive</u>	<u>Conjugal</u>	<u>Total</u>
Conjugal Properties:			
Real Properties	P 5,000,000	P 5,000,000	
Exclusive Properties:			
Family Home	P 2,000,000		
Other Exclusive properties	2,500,000	4,500,000	
	-----	-----	-----
Gross Estate	P 4,500,000	P 5,000,000	P 9,500,000

Less:

Ordinary Deductions

Conjugal Deductions	
Funeral Expenses	(P 200,000)
Other Deductions	(1,300,000)

Total Conjugal Deductions	(P 1,500,000)
Net Conjugal Estate	<u>P 3,500,000</u>

Special Deductions

Family Home	(1,000,000)
Standard Deduction	(1,000,000)
Medical Expenses	<u>(500,000)</u>

Total Deductions	(P4,000,000)
Net Estate	P 5,500,000
Less : ½ Share of Surviving Spouse	
Conjugal Property P5,000,000	
Conjugal Deduction (1,500,000)	
Net Conjugal Estate P3,500,000	
(P3,500,000 / 2)	(1,750,000)
Net Taxable Estate	P 3,750,000

(b) Family home is a conjugal or community property -

	<u>Exclusive</u>	<u>Conjugal</u>	<u>Total</u>
Conjugal Properties:			
Family Home		P 2,000,000	
Other Real Properties		5,000,000	P 7,000,000
Exclusive Properties	P 2,000,000	-	2,000,000
	-----	-----	-----
Gross Estate	P 2,000,000	P 7,000,000	P 9,000,000
Less: Deductions:			
Ordinary Deductions			
Conjugal Deductions			
Funeral Expenses	(P 200,000)	(200,000)	
Other Deductions	(1,300,000)	(1,300,000)	
	-----	-----	-----
Total Conjugal Deductions	<u>(P 1,500,000)</u>	(P1,500,000)	
Net Conjugal Estate	<u>P 5,500,000</u>		
Special Deductions			
Family Home		(1,000,000)	
Standard Deduction		(1,000,000)	
Medical Expenses		(500,000)	
Total Deductions		<u>(P4,000,000)</u>	
Net Estate		<u>P5,000,000</u>	
Less: ½ Share of Surviving Spouse			
Conjugal Property P7,000,000			
Conjugal Deduction (1,500,000)			
Net Conjugal Estate P5,500,000			
(P5,500,000 / 2)		(2,750,000)	
Net Taxable Estate		<u>P2,250,000</u>	

(c) Same facts and figures as in (b) except that the family home has a fair market value/zonal value of only P1,500,000.

	<u>Exclusive</u>	<u>Conjugal</u>	<u>Total</u>
Conjugal Properties:			
Family Home		P 1,500,000	P 1,500,000
Other Real Properties		5,000,000	5,000,000
Exclusive Properties	P 2,000,000	-	2,000,000
	-----	-----	-----
Gross Estate	P 2,000,000	P 6,500,000	P 8,500,000

Less:

Ordinary Deductions

Conjugal Deductions

Funeral Expenses	(P 200,000)	(200,000)
Other Deductions	(1,300,000)	(1,300,000)
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Total Conjugal Deductions

(P 1,500,000)

Net Conjugal Estate

P 5,000,000

Special Deductions

Family Home

(750,000)

Standard Deduction

(1,000,000)

Medical Expenses

(500,000)

Total Deductions

(P3,750,000)

Net Estate

P4,750,000

Less : ½ Share of Surviving Spouse

Conjugal Property P6,500,000

Conjugal Deduction (1,500,000)

Net Conjugal Estate P 5,000,000

(P5,000,000 /2)

(2,500,000)

Net Taxable Estate

P 2,250,000

Note: Since the fair market value/zonal value of the conjugal family home in the above example is P1,500,000, the family home deduction corresponding to ½ of such fair market value/zonal value is P750,000 only.

(d) Family home is conjugal property, but lot on which it stands is exclusive property -

	<u>Exclusive</u>	<u>Conjugal</u>	<u>Total</u>
Conjugal Properties			
Other Real Properties		P 3,000,000	P3,000,000
Family Home		1,000,000	1,000,000
Exclusive Properties			
Other Real Properties	P2,000,000		2,000,000
Family lot	400,000		400,000
Gross Estate	P2,400,000	P4,000,000	P6,400,000

Less:

Ordinary Deductions

Conjugal Deductions

Funeral Expenses

(P 200,000) (200,000)

Other Deductions

(1,300,000) (1,300,000)

Total Conjugal Deductions (P 1,500,000)

Net Conjugal Estate

P 2,500,000

Special Deductions

Family Home

Exclusive Lot P400,000

Conjugal Home

(P1,000,000/2) 500,000

(900,000)

Standard Deduction

(1,000,000)

Medical Expenses

(500,000)

Total Deductions	(P3,900,000)
Net Estate	P2,500,000
Less : ½ Share of Surviving Spouse	
Conjugal Property P4,000,000	
Conjugal Deduction <u>(1,500,000)</u>	
Net Conjugal Estate P 2,500,000	
(P2,500,000 /2)	(1,250,000)
Net Taxable Estate	<u>P1,250,000</u>

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

(A) Time for filing estate tax return. – For purposes of determining the estate tax, the estate tax return shall be filed within six (6) months 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.

(B) Extension of time to file estate tax return. - The Commissioner or any Revenue Officer authorized by him pursuant to the Code 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 donor's tax return required to be filed by any party as a result of the distribution of the assets and liabilities of the decedent.

(C) 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, Collection Officer or duly authorized Treasurer of the city or municipality 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.

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

(E) 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.

For purposes of these Regulations, the application for extension of time to file the return and extension of time to pay estate tax 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 application shall be approved by the Commissioner or his duly authorized representative.

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.

(F) Payment of the estate tax by installment. – In case the available cash of the estate is not sufficient to pay its total estate tax liability, the estate may be allowed to pay the tax by installment and a clearance shall be released only with respect to the property the corresponding/computed tax on which has been paid. There shall, therefore, be as many clearances (Certificates Authorizing Registration) as there are as many properties released because they have been paid for by the installment payments of the estate tax. The computation of the estate tax, however, shall always be on the cumulative amount of the net taxable estate. Any amount paid after the statutory due date of the tax shall be imposed the corresponding applicable penalty thereto. However, if the payment of the tax after the due date is approved by the Commissioner or his duly authorized representative, the imposable penalty thereon shall only be the interest. Nothing in this paragraph, 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.

(G) Liability for payment – The estate tax imposed under the Code 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 estate tax clearance 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. RATES OF DONOR'S TAX. – **(A) Schedular rates of donor's tax imposable on donation made to a donee who is not a stranger.** The transfer of the total net gifts made during the calendar year shall be subject to tax in accordance with the schedule provided in Section 99 of the Code. The entire value of the net gifts for each calendar year is divided into brackets and each rate is imposed on the corresponding brackets as shown below:

If the net gift is:

Over	But not over	The tax shall be	Plus	Of the Excess Over
-	P100,000	Exempt		
P100,000	200,000	0	2%	P 100,000
200,000	500,000	2,000	4%	200,000
500,000	1,000,000	14,000	6%	500,000
1,000,000	3,000,000	44,000	8%	1,000,000
3,000,000	5,000,000	204,000	10%	3,000,000
5,000,000	10,000,000	404,000	12%	5,000,000
10,000,000		1,004,000	15%	10,000,000

(B) Tax payable by the donor if donee is a stranger. - When the donee or beneficiary is a stranger, the tax payable by the donor shall be **thirty per cent (30%)** of the net gifts. For purposes of the donor's tax, a "stranger" is a person who is not a:

(1) Brother, sister (whether by whole or half blood), spouse, ancestor, and lineal descendant; or

(2) Relative by consanguinity in the collateral line within the fourth degree of relationship.

A legally adopted child is entitled to all the rights and obligations provided by law to legitimate children, and therefore, donation to him shall not be considered as donation made to stranger.

Donation made between business organizations and those made between an individual and a business organization shall be considered as donation made to a stranger.

(C) 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.

The application of the rates as provided above is imposed on donations made beginning January 1, 1998, which is the effectivity date of Republic Act No. 8424, otherwise known as "The Tax Reform Act of 1997".

SEC. 11. 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. 12. COMPUTATION OF THE DONOR'S TAX. – 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 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). 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 made on:

January 30, 2002	--	P 2,000,000
March 30, 2002	--	1,000,000
August 15, 2002	--	500,000

Solution/computation:

Date of donation	Amount	Donor's Tax
1. January 30, 2002	P 2,000,000	P 124,000
2. March 30, 2002	1,000,000	
March 30, 2002 donation	1,000,000	
Add: January 30, 2002 donation	<u>2,000,000</u>	
Total	<u>3,000,000</u>	
Tax Due Thereon	204,000	
Less: Tax due/paid on January donation	<u>124,000</u>	
Tax Due/Payable on the March donation		P 80,000

3. August 15,2002	500,000
August 15, 2002 donation	500,000
Add: January 2002 donation	2,000,000
March 2002 donation	<u>1,000,000</u>
Total	<u>3,500,000</u>
 Tax Due Thereon	254,000
Less: Tax due/paid on Jan/March donation	<u>204,000</u>
Tax Due/Payable on the August donation	P 50,000

SEC. 13. 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 Code 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 computing net gifts;
- (2) The deductions claimed and allowable;
- (3) Any previous net gifts made during the same calendar year;
- (4) The name of the donee;
- (5) Relationship of the donor to the donee; and
- (6) 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 authorized agent bank, the Revenue District Officer, Revenue Collection Officer or duly authorized Treasurer of the city or municipality where the donor was 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 by the Philippine Council for NGO Certification, Inc.

(PCNC), 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 Code.

SEC. 14. REPEALING CLAUSE. - All rulings, revenue regulations, including Revenue Regulations No. 17-93, and other revenue issuances, or portions thereof which are not consistent with the provisions of these Regulations are hereby amended or revoked accordingly.

SEC. 15. EFFECTIVITY CLAUSE. - These Regulations shall take effect after fifteen (15) days following the date of publication in a newspaper of general circulation unless otherwise provided hereof, provided that those provisions which are mere reiterations or clarifications of statutory provisions shall be deemed to have become effective on the same date that the statute/law (R.A. No. 8424) became effective.

(Original Signed)
JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval :

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue