

**REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS**

December 2, 2005

REVENUE REGULATIONS NO. 4 - 2006

SUBJECT: Implementing the Tax Privileges Provisions of Republic Act No. 9257, otherwise known as the "*Expanded Senior Citizens Act of 2003*", and Prescribing the Guidelines for the Availment Thereof.

TO: All Internal Revenue Officers and Others Concerned.

SECTION 1. SCOPE. – Pursuant to Section 244 of the Tax Code of 1997, as amended (Tax Code), in relation to Section 2 of Republic Act No. 9257 (Act), otherwise known as the "*Expanded Senior Citizens Act of 2003*" and its Implementing Rules and Regulations (IRR) promulgated by the Department of Social Welfare & Development (DSWD), in consultation with other government agencies, these Regulations are hereby promulgated to prescribe the guidelines for the availment of the income tax exemption privilege granted to senior citizens, the tax benefit granted to benefactors taking care of senior citizens, the tax privilege granted to establishments giving discount on their sale of goods and services to senior citizens, as well as the tax privilege of those employing senior citizens.

SEC. 2. DEFINITIONS. – For purposes of these Regulations, the following terms and phrases shall be defined as follows:

- a. **Act** – shall refer to Republic Act No. 9257, otherwise known as the "*Expanded Senior Citizens Act of 2003*."
- b. **Senior citizen or elderly** – shall refer to any resident Filipino citizen aged 60 years old and above.
- c. **Resident citizen** – shall refer to a Filipino citizen with permanent/legal residence in the Philippines, and shall include one, who, having migrated to a foreign country, has returned to the Philippines with a definite intention to reside therein, and whose immigrant visa has been surrendered to the foreign government.

- d. **Head of family** – shall refer to an unmarried or legally separated man or woman, widow or widower, who is the benefactor of a dependent senior citizen.
- e. **Benefactor** – shall refer to any person, whether related to the senior citizen or not, who takes care of him/her as a dependent.
- f. **Dependent** – shall refer to a senior citizen, who may or may not be related to his benefactor and who is living with and dependent upon his benefactor for his chief support.
- g. **OSCA** – shall refer to the Office for Senior Citizens Affairs of cities and municipalities headed by a senior citizen for a term of three (3) years.
- h. **NEDA** – shall refer to the National Economic and Development Authority.
- i. **NSCB** – shall refer to the National Statistical Coordinating Board.
- j. **Annual taxable income of a resident senior citizen** – shall refer to the annual gross compensation, business and other income received by a resident senior citizen during each taxable year from all sources as defined in Section 31 of the Tax Code.
- k. **Sales discount** – shall refer to the actual discount, or that discount, which in no case shall exceed 20% of the gross selling price of the goods sold or services rendered to senior citizens by certain establishments enumerated under the Act and in these Regulations.
- l. **Establishment** – shall refer to any entity, public or private, duly licensed and/or franchised by the national government agencies or the local government units.

SEC. 3. INCOME TAX BENEFIT AND PRIVILEGES FOR THE SENIOR CITIZENS. - Senior citizens shall be entitled to the following tax benefits and privileges:

- a. Exemption from the payment of individual income tax provided that their annual taxable income does not exceed the poverty level as determined by the National Economic and Development Authority (NEDA) for the corresponding taxable year;
- b. Twenty percent (20%) discount from all establishments relative to the utilization of services in hotels and similar lodging establishments, restaurants

and recreation centers, and purchase of medicines in all establishments for the exclusive use or enjoyment of senior citizens, including funeral and burial services for the death of senior citizens.

- c. Twenty percent (20%) discount on admission fees charged by theaters, cinema houses and concert halls, circuses, carnivals, and other similar places of culture, leisure and amusement for the exclusive use or enjoyment of senior citizens;
- d. Twenty percent (20%) discount on medical and dental services, professional fees of attending doctors, and diagnostic and laboratory fees such as, but not limited to, x-rays, computerized tomography scans and blood tests, in all private hospitals and medical facilities, in accordance with the rules and regulations to be issued by the Department of Health, in coordination with the Philippine Health Insurance Corporation.
- e. Twenty percent (20%) discount in fare for domestic air and sea travel for the exclusive use or enjoyment of senior citizens; and
- f. Twenty percent discount in public railways, skyways and bus fare for the exclusive use and enjoyment of senior citizens.

SEC. 4. AVAILMENT OF INCOME TAX EXEMPTION OF SENIOR CITIZENS. - A senior citizen must comply with the following requirements before he can be exempted from the payment of individual income tax, viz:

- (1) A senior citizen must first be qualified as such by the Commissioner of Internal Revenue or his duly authorized representative (i.e., the Revenue District Officer (RDO) having jurisdiction over the place where the senior citizen resides) by submitting a certified true copy of his Senior Citizen Identification Card (OSCA ID) issued by the OSCA of the city or municipality where he resides;
- (2) He must file an Annual Information Return indicating that his annual taxable income does not exceed the poverty level as determined by the NEDA thru the NSCB through a formal written document sent to the Commissioner of Internal Revenue for this year and every year thereafter; and
- (3) If qualified, his name shall be recorded by the RDO in his MASTER LIST OF TAX EXEMPT SENIOR CITIZENS for that particular year, which the RDO is mandatorily required to keep.

However, a senior citizen who is a compensation income earner deriving from only one employer an annual taxable income exceeding the poverty level or the amount determined by the NEDA thru the NSCB on a particular year, but whose income had been subjected to the withholding tax on compensation, shall, although not exempt from income tax, be entitled to the substituted filing of income tax return under Revenue Regulations No. 2-98, as amended.

SEC. 5. TAXES ON PASSIVE INCOME. - A senior citizen, however, shall be subject to the following income taxes:

- (1) Individual income tax under Section 24(A) of the Tax Code on the annual taxable income, if it exceeds the poverty level as may be determined by the NEDA, thru the NSCB, for a certain taxable year;
- (2) 20% final withholding tax on interest income from any currency bank deposit, yield and other monetary benefit from deposit substitutes, trust fund and similar arrangements; royalties (except on books, as well as other literary works and musical compositions, which shall be imposed a final withholding tax of 10%); prizes (except prizes amounting to P10,000 or less which shall be subject to income tax at the rates prescribed under Sec. 24(A) of the Tax Code, and other winnings (except Philippine Charity Sweepstakes and Lotto winnings) (Sec. 24(B)(1), Tax Code);
- (3) 7 ½% final withholding tax on interest income from a depository bank under the expanded foreign currency deposit system (Sec. 24(B)(1), Tax Code);
- (4) If the senior citizen will pre-terminate his 5-year long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas before the fifth year, he shall be subject to the final withholding tax imposed on the entire income based on the remaining maturity thereof, viz:

Four years to less than five years – 5%
Three years to less than four years – 12%; and
Less than three years – 20% (Sec. 24(B)(1), Tax Code)

- (5) 10% final withholding tax on cash and/or property dividends actually or constructively received from a domestic corporation or from a joint stock company, insurance or mutual fund company and a regional operating headquarters of a multinational company, or on the share of an individual in the distributable net income after tax of a partnership (except a general

professional partnership) of which he is a partner, or on the share of an individual in the net income after tax of an association, a joint account, or a joint venture or consortium taxable as a corporation of which he is a member or a co-venturer (Sec. 24(B)(2), Tax Code);

- (6) Capital gains tax from sales of shares of stock not traded in the stock exchange (Sec. 24(C), Tax Code); and
- (7) 6% final withholding tax on presumed capital gains from sale of real property, classified as capital asset, except capital gains presumed to have been realized from the sale or disposition of principal residence (Sec. 24(D), Tax Code).

SEC. 6. LIABILITY FOR OTHER INTERNAL REVENUE TAXES. - A senior citizen shall also be subject to the following internal revenue taxes imposed under the Tax Code:

- (1) Value added tax (VAT) or other percentages taxes, as the case may be. If he is self-employed or engaged in business or practice of profession, and his gross annual sales and/or receipts exceeds P1,500,000 or such amount to which this may be adjusted pursuant to Sec. 109(1)(V) of the Tax Code, he shall be subject to VAT. Otherwise, he shall be subject to the 3% percentage tax;
- (2) Donor's tax;
- (3) Estate tax;
- (4) Excise tax on certain goods; and
- (5) Documentary stamp tax.

SEC. 7. AVAILMENT OF THE HEAD OF FAMILY STATUS BY BENEFACATORS OF SENIOR CITIZENS. – A benefactor of a senior citizen shall be considered as **head of family** and shall be allowed to avail himself/herself of that status subject to the following conditions:

- (1) The senior citizen, whose annual taxable income does not exceed the poverty level as determined by the NEDA for the corresponding taxable year, must be living with and dependent upon his benefactor for his chief support;
- (2) It shall be the duty of the benefactor of a senior citizen to register the senior citizen as his dependent and himself/herself as benefactor in the

RDO having jurisdiction over the place where he/she and the senior citizen reside. In that case, he/she will be granted the exclusive right to claim the senior citizen as dependent for income tax purposes;

- (3) The benefactor shall be **ENTITLED ONLY to the BASIC PERSONAL EXEMPTION equivalent to TWENTY-FIVE THOUSAND PESOS (P25,000.00)** or as allowed under the Tax Code for head of family.
- (4) If required to file an income tax return (ITR), the benefactor shall state therein the name, birthday and OSCA ID number of the dependent senior citizen.

The benefactor of a senior citizen shall **NOT**, however, **be entitled** to claim the additional exemption of P8,000.00 per dependent (not exceeding four) **allowable only to a married individual or head of family with qualified dependent child/children** under Section 35(B) of the Tax Code.

SEC. 8. AVAILMENT BY ESTABLISHMENTS OF SALES DISCOUNTS AS DEDUCTION FROM GROSS INCOME. – Establishments enumerated in subparagraph (6) hereunder granting sales discounts to senior citizens on the sale of goods and/or services specified thereunder are entitled to deduct the said discount from gross income subject to the following conditions:

- (1) Only that portion of the gross sales **EXCLUSIVELY USED, CONSUMED OR ENJOYED BY THE SENIOR CITIZEN** shall be eligible for the deductible sales discount.
- (2) 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 senior citizen;
- (3) Only the actual amount of the discount granted or a sales discount not exceeding 20% of the gross selling price can be deducted from the gross income, net of value added tax, if applicable, for income tax purposes, and from gross sales or gross receipts of the business enterprise concerned, for VAT or other percentage tax purposes.
- (4) The discount can only be allowed as deduction from gross income for the same taxable year that the discount is granted.
- (5) The business establishment giving sales discounts to qualified senior citizens is required to keep separate and accurate record of sales, which shall include the name of the senior citizen, TIN, OSCA ID, gross

sales/receipts, sales discount granted, dates of transactions and invoice number for every sale transaction to senior citizen.

- (6) Only the following business establishments which granted sales discount to senior citizens on their sale of goods and/or services may claim the said discount granted as deduction from gross income, namely:

- (a) **Hotels and similar lodging establishments** – The discount shall be for room accommodation and other amenities offered by the establishment, such as, but not limited to, massage parlor, sauna bath, food, drinks and other services offered.

For this purpose, the term “**hotel/hostel**” shall refer to the building, edifice or premises or a completely independent part thereof, which is used for the regular reception, accommodation or lodging of travelers and tourists and the provision of services incidental thereto for a fee.

“**Lodging establishment**” shall refer to any of the following:

(i) **Tourist inn** – shall refer to lodging establishment catering to transients, which does not meet the minimum requirement of an economy hotel.

(ii) **Apartel** – shall refer to building or edifice containing several independent and furnished or semi-furnished apartments, regularly leased to tourists and travelers for dwelling on a more or less long-term basis and offering basic services to its tenants, similar to hotels.

(iii) **Motorist hotel** – shall refer to any structure with several separate units, primarily located along the highway, with individual or common parking space, at which motorists may obtain lodging and in some instance, meals.

(iv) **Pension house** – shall refer to a private, or family-operated tourist boarding house, tourist guest house or tourist lodging house, regularly catering to tourist, and/or traveler, containing several independent table rooms, providing common facilities, such as toilets, bathrooms/showers, living and dining rooms and/or kitchen and where a combination of board and lodging may be provided.

The term **lodging establishment** shall also include lodging houses, which shall mean such establishments are regularly engaged in the hotel business, but which, nevertheless, are not

registered, classified and licensed as hotels by reason of inadequate essential facilities and services.

- (b) **Restaurants** –The discount shall be for the sale of food, drinks, dessert and other consumable items served by the establishments, including value meals and promotional meals offered for the consumption of the general public.

For this purpose, the term “**restaurant**” shall refer to any establishment offering to the public, regular and special meals or menu, fast food, cooked food and short orders. Such eating places may also serve coffee, beverages and drinks.

- (c) **Recreation centers** – The discount shall be for the utilization of services in the form of fees, charges and rental facilities, such as, but not limited to, sports facilities and equipment.

- (d) **Theaters, cinema houses and concert halls, circuses, carnivals and other similar places of culture, leisure, and amusement** – The discount shall be on admission fees charged by the said establishments.

- (e) **Drug stores, hospital pharmacies, medical and optical clinics and similar establishments dispensing medicines** – The discount for sales of drugs/medicines shall be subject to the Guidelines to be issued by the Bureau of Food and Drugs, Department of Health (BFAD-DOH), in coordination with the Philippine Health Insurance Corporation (PHILHEALTH). For this purpose, the term “**medicines**” shall refer to both prescription and non-prescription medicines, and articles approved by the BFAD-DOH, which are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man; but do not include food and devices or their components, parts, or accessories.

- (f) **Medical and dental services in private facilities** - The discount shall be on medical and dental services and diagnostic and laboratory fees, **in all PRIVATE HOSPITALS AND MEDICAL FACILITIES**, in accordance with the rules and regulations to be issued by the DOH, in coordination with the PHILHEALTH.

For this purpose, “**medical services**” shall refer to hospital room and services, professional services of attending physicians and other health care professionals, and diagnostic and laboratory tests that are necessary for the diagnosis and/or treatment of an

illness or injury. **Diagnostic and laboratory tests** shall refer to X-ray, CT scans, blood chemistry exams, histopathology and immunopathology, hematology, urinalysis, parasitology and bacteriology test, serology, blood banking, and other diagnostic examinations that are necessary for the diagnosis and/or treatment of an illness and injury.

On the other hand, the term “**dental services**” shall refer to oral examination, cleaning, permanent and temporary filling, extraction and gum treatments, restoration, replacement or repositioning of teeth, or alteration of the alveolar or periodontium process of the maxilla and the mandible that are necessary for the diagnosis and/or treatment of a dental illness or injury.

- (g) **Domestic air and sea transportation companies** – The discount shall be on the actual fare, including the promotion fare, advance booking and similar discounted fare for the exclusive use and enjoyment of senior citizens in accordance with the rules and regulations to be issued by the Maritime Industry Authority (MARINA) and the Civil Aeronautics Board (CAB).
- (h) **Public land transportation utilities** – A senior citizen shall likewise be given discount in PUBLIC railways, including LRT, MRT, PNR, Skyways and bus fares (PUB), jeepneys (PUJ), taxi and shuttle services (AUV), in accordance with the rules and regulations to be issued by the Department of Transportation and Communications (DOTC), Light Rail Transit Authority (LRTA), Philippine National Railways (PNR), Toll Regulatory Board (TRB) and Land Transportation Franchising and Regulatory Board (LTFRB).
- (i) **Funeral parlors and similar establishments** – The beneficiary or any person who shall shoulder the funeral and burial expenses of the deceased senior citizen shall claim the discount, such as casket, embalmment, cremation cost and other related services for the senior citizen upon payment and presentation of his death certificate.

SEC. 9. ADDITIONAL DEDUCTION FROM GROSS INCOME OF PRIVATE ESTABLISHMENTS FOR COMPENSATION PAID TO SENIOR CITIZENS. – Private establishments employing senior citizens shall be entitled to additional deduction from their gross income equivalent to fifteen percent (15%) of the total amount paid as salaries and wages to senior citizens subject to the provision of

Section 34 of the Tax Code and its implementing rules and regulations provided the following conditions are met:

- (1) The employment shall have to continue for a period of at least six (6) months;
- (2) The annual taxable income of the senior citizen does not exceed the poverty level as may be determined by the NEDA thru the NSCB. For this purpose, the senior citizen shall submit to his employer a sworn certification that his annual taxable income does not exceed the poverty level.

SEC. 10. PENALTIES AND OTHER SANCTIONS. – Any person who violates any provision of these Regulations shall suffer the following penalties:

- (1) For the first violation, a fine of not less than Fifty thousand pesos (P50,000.00) but not exceeding One hundred thousand pesos (P100,000.00) and imprisonment of not less than six (6) months but not more than two (2) years; and
- (2) For any subsequent violation, a fine of not less than One hundred thousand pesos (P100,000.00) but not exceeding Two hundred thousand pesos (P200,000.00) and imprisonment for not less than two (2) years but not less than six (6) years.

Any person who abuses the privileges granted herein shall be punished with a fine of not less than Five thousand pesos (P5,000.00), but not more than Fifty thousand pesos (P50,000.00), and imprisonment of not less than six (6) months.

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

If the offender is a corporation, organization or any similar entity, the official/s thereof directly involved shall be liable therefore.

Upon filing 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 its IRR and these Regulations.

SEC. 11. REPEALING CLAUSE. – The provisions of RR 2-94 and all existing rules, regulations and other issuance or portions thereof inconsistent with the provisions of these Regulations are hereby modified, repealed or revoked accordingly.

SEC. 12. EFFECTIVITY. – These Regulations shall take effect fifteen (15) days after publication in the Official Gazette or newspaper of general circulation, whichever comes first.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommended by:

(Original Signed)
JOSE MARIO C. BUNAG
Commissioner of Internal Revenue