

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

April 17, 2013

REVENUE MEMORANDUM CIRCULAR NO. 41-2013

SUBJECT: Publishing the full text of Implementing Rules and Regulations of Republic Act No. 10165, otherwise known as the Foster Care Act of 2012

TO : All Internal Revenue Officials, Employees and Others Concerned

For the information and guidance of all concerned, quoted hereunder is the full text of Republic Act No. 10165:

**"IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 10165, OTHERWISE
KNOWN AS THE FOSTER CARE ACT OF 2012**

Pursuant to Section 28 of Republic Act No. 10165, otherwise known as the Foster Care Act of 2012, the following Implementing Rules and Regulations are hereby promulgated:

**PART I
GENERAL PROVISIONS**

RULE 1. **Title.** – These Rules and Regulations shall be known and cited as the *"Implementing Rules and Regulations of the Foster Care Act of 2012"*.

RULE 2. **Purpose.** – These Rules and Regulations shall provide the concerned National Government Agencies (NGAs), Local Government Units (LGUs), other public institutions, Non-Governmental Organizations (NGOs) and Foster Families with guidelines and procedures for the implementation of a comprehensive national policy of systematizing and enhancing the Foster Care Program to ensure the best interest of the Foster Child.

RULE 3. **Declaration of Policy.** – Article XV of the Constitution provides that the State shall defend the rights of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation or other conditions prejudicial to their development.

It is hereby declared the policy of the State to provide every child who is neglected, abused, surrendered, dependent, abandoned, under socio-cultural difficulties or with special needs with an alternative family that will provide love and care as well as opportunities for growth and development.

The State shall guarantee that all the rights of the child enumerated under Article 3 of Presidential Decree No. 603, otherwise known as "*The Child and Youth Welfare Code*", as amended, and the rights found under Article 20 of the *United Nations Convention on the Rights of the Child* shall be observed.

The State recognizes that in most cases, a child will benefit more from Foster Care than institutional care. Towards this end, the State shall systematize and enhance the Foster Care Program in the country.

It shall ensure that the Foster Family shall provide a wholesome atmosphere to the Foster Child. Further to this end, the State recognizes that Foster Care is an important step towards the child's return and reintegration to his biological parents or placement with an adoptive family.

The State shall also protect the rights of the biological child of the Foster Family and ensure that in no case shall the child be disadvantaged as a result of the placement of a Foster Child.

RULE 4. *Definition of Terms.* – For purposes of these Rules and Regulations, the following terms are defined:

- (a) **Act** refers to Republic Act No. 10165, otherwise known as the "*Foster Care Act of 2012*".
- (b) **Agency** refers to any child-caring or child-placing institution licensed and accredited by the DSWD to implement the Foster Care Program.
- (c) **Child** refers to a person below eighteen (18) years of age, or one who is over eighteen (18) but is unable to fully take care of, or protect, himself or herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- (d) **Child Case Study Report** refers to a written report prepared by a Social Worker containing all the necessary information about a child.
- (e) **Child with Special Needs** refers to a child with developmental or physical disability.
- (f) **DSWD** refers to the Department of Social Welfare and Development.
- (g) **DSWD Field Office** refers to a Regional Office of the DSWD.
- (h) **Local Social Welfare and Development Office (LSWDO)** refers to the social welfare and development office of an LGU.

- (i) **Local Government Unit (LGU)** refers to the appropriate barangay, municipality, city or province.
- (j) **Family** refers to the parents or brothers and sisters, whether of the full or half-blood, of child.
- (k) **Foster Care** refers to the provision of planned temporary substitute parental care to a child by a Foster Parent or a Foster Family.
- (l) **Foster Child** refers to a child placed under Foster Care.
- (m) **Foster Family** refers to a Foster Parent(s) and his/her immediate family members.
- (n) **Foster Family Care License** refers to the document issued by the DSWD authorizing the Foster Parent(s) to provide Foster Care.
- (o) **Foster Parent** refers to a person duly licensed by the DSWD to provide Foster Care.
- (p) **Foster Placement Authority (FPA)** refers to the document issued by the DSWD authorizing the placement of a particular Foster Child with a Foster Parent(s).
- (q) **Home Study Report** refers to a written report prepared by a Social Worker containing the necessary information on a prospective Foster Parent(s) and where applicable, the family of such prospective Foster Parent.
- (r) **Matching** refers to the judicious pairing of a child with a Foster Parent and family members based on the capacity and commitment of such Foster Parent to meet the individual needs of a particular child and the capacity of such child to benefit from the placement.
- (s) **Parent** refers to the biological or adoptive parent or legal guardian of a child.
- (t) **Placement** refers to the physical transfer of a Foster Child with the Foster Parent.
- (u) **Relatives** refer to persons, other than family members, related to a child by consanguinity or affinity up to the fourth degree.
- (v) **Social Worker** refers to a registered and licensed Social Worker of the DSWD, LGU or Agency.

PART II
ELIGIBILITY

RULE 5. ***Who May Be Placed Under Foster Care.*** – The following may be placed under Foster Care:

- (a) A child who is abandoned, surrendered, neglected, dependent or orphaned;
- (b) A child who is a victim of sexual, physical, or any other form of abuse or exploitation;
- (c) A child with special needs;
- (d) A child whose family members are temporarily or permanently unable or unwilling to provide the child with adequate care;
- (e) A child awaiting adoptive placement and who would have to be prepared for family life, including a child who has already been matched for adoption but continues to receive institutional care;
- (f) A child who needs long-term care and close family ties but who cannot be placed for domestic adoption;
- (g) A child whose adoption has been disrupted;
- (h) A child who is under socially difficult circumstances such as, but not limited to, a street child, a child in armed conflict or a victim of child labor or trafficking;
- (i) A child who committed a minor offense but has been released on recognizance, or who is in custody supervision, or whose case has been dismissed; and
- (j) A child who is in need of special protection as assessed by a Social Worker, an Agency, or the DSWD.

Provided, that in the case of (b), (c), (f), (h), (i) and (j), the child must have no family willing and capable of caring and providing for him/her.

RULE 6. ***Who May Be a Foster Parent.*** – To qualify as a Foster Parent, an applicant must meet all of the following:

- (a) Must be of legal age;
- (b) Must be at least sixteen (16) years older than the Foster Child unless the applicant is a relative of the Foster Child;
- (c) Must have a genuine interest, capacity and commitment in parenting the Foster Child and able to provide the Foster Child with a familial atmosphere;

- (d) Must have a healthy and harmonious relationship with each family member living with him/her;
- (e) Must be of good moral character;
- (f) Must be physically and mentally capable and emotionally mature;
- (g) Must have sufficient resources to be able to provide for the family's needs; and
- (h) Must be willing to be trained or receive advice for the purpose of increasing or improving his or her knowledge, attitudes and skills in caring for a child.

For an alien to qualify as a Foster Parent, he/she must (i) be legally documented, (ii) possess all the qualifications above-stated, (iii) have resided in the Philippines for at least twelve (12) continuous months at the time of the application, and (iv) undertake to maintain such residence until the termination of placement by the DSWD or expiration of the Foster Family Care License.

For purposes of determining continuous residence, the alien must not have spent more than sixty (60) days of the last twelve (12)-month period prior to the filing of the application outside of the Philippines, and then only for meritorious reasons.

PART III PARENTAL AUTHORITY OF FOSTER PARENTS

RULE 7. *Parental Authority of a Foster Parent.* – Foster Parents shall have the rights, duties and liabilities of persons exercising substitute parental authority, as may be provided under the Family Code, over the Foster Children under their Foster Care.

RULE 8. *Limitations on Parental Authority of Foster Parent(s).* – Foster Parents shall only have the rights of a person with special parental authority to discipline the foster children as defined under Section 233 of Executive Order 209, series of 1986, otherwise known as the "Family Code of the Philippines", insofar as it prohibits the infliction of corporal punishment upon the child. The infliction of corporal punishment by the Foster Parents shall be ground for revocation of the Foster Family Care License and termination of Foster Placement Authority.

ARTICLE IV PROCEDURES

RULE 9. *Recruitment and Development of Foster Parents.* – The following agencies shall take the lead in, and have primary responsibility for recruiting and developing a roster of Foster Parents and Foster Families:

- (1) DSWD

(2) Agency

(3) LGUs

(4) Local Council for the Protection of Children (LCPC).

- 9.1. The recruitment of prospective Foster Parent shall employ a coordinated and intensified communication strategy that shall include:
 - (a) Conducting Foster Family Care Fora,
 - (b) Information drives using all available media, and
 - (c) Building linkages with, among others, LGUs, civil society groups, LCPCs, faith based organizations, and people's organizations.
- 9.2. Applications for Foster Family Care License shall be filed with the appropriate DSWD Field Office, Agency, or LGU. The application shall include documents to show that the applicant is qualified, such as, but not limited to, the following:
 - (a) Birth Certificate,
 - (b) Medical Certificate,
 - (c) Income Tax Returns or Certificate of Employment,
 - (d) National Bureau of Investigation (NBI) Clearance or Police Clearance,
 - (e) Barangay Certificate stating that the applicant is a resident of the barangay, the length of his residence therein, and that he is of good moral character,
 - (f) Photographs of the applicant and, where applicable, his family; and/ or
 - (g) Such other documents that the DSWD, Agency or LGU may require.
- 9.3. Applicants shall be assessed and licensed based on their demonstrated capacity, willingness and motivation to foster a child.
- 9.4. The lead agencies shall develop and implement policies, programs, trainings, and seminars to enhance and build upon the skills and capabilities of Foster Parents, and to encourage foster parenting.
- 9.5. The DSWD, Agency or LGU shall assign a Social Worker to commence the home study within five (5) days from submission of all documentary requirements.

RULE 10. ***Submission of Home Study Report. -***

- 10.1. The Social Worker of the DSWD, Agency or LGU shall study the applicant's background and circumstances to determine if the applicant meets the basic requirements for Foster Care and is thus suitable to become a Foster Parent.
- 10.2. The Social Worker shall conduct at least one (1) planned visit to the applicant's home.
- 10.3. Based on the findings from that study and home visit, the Social Worker shall prepare a comprehensive Home Study Report.
- 10.4. The Social Worker shall submit the Home Study Report to the appropriate DSWD Field Office not later than one (1) month from the start of the home study. A copy of the approved Home Study Report shall be forwarded to the Foster Care Committee for reference in matching a Foster Child.

RULE 11. *Issuance of Foster Family Care License.* -

- 11.1. The DSWD Field Office shall evaluate the Home Study Report to determine the motivation, capacities and potentials for development of the applicant.
- 11.2. If warranted, the DSWD Field Office shall, within five (5) working days from receipt of the Home Study Report, issue a Foster Family Care License to the Foster Parent(s), with notice to the Social Worker.
- 11.3. The Foster Family Care License shall have be valid for three (3) years, unless sooner revoked, but may be renewed upon expiration.
- 11.4. ***Revocation of Foster Family Care License.*** - The DSWD Field Office shall investigate any report that the placement is detrimental to the Foster Child. It shall revoke the Foster Family Care License upon the recommendation of the Social Worker confirming the existence of any of the following circumstances:
 - (a) Child abuse or exploitation;
 - (b) Child neglect;
 - (c) Extreme family conflict or crisis that would expose the child to dangerous conditions or other deleterious circumstances detrimental to the child's best interest and development;
 - (d) Manifestation of high risk social behavior of any member of the Foster Family, such as, but not limited to, substance abuse, gambling, alcoholism, and commercial sexual exploitation;
 - (e) Permanent departure or transfer of the Foster Parent(s) to another country;
 - (f) Termination of the placement for reason attributable solely to the Foster Parent; or

- (g) Any other circumstance that would make the Foster Parent(s) or Foster Family incapable of rearing the Foster Child.

RULE 12. **Matching.** – A child shall be placed with a Foster Parent(s) only after matching has first been conducted.

- 12.1. Upon admission of a child eligible for foster care, the Social Worker of the DSWD, Agency or LGU shall immediately conduct a case study to determine the needs of the child and identify other factors that shall be considered in selecting the appropriate Foster Parent.
- 12.2 Within fifteen (15) days from such admission, the Social Worker shall then prepare and submit to the DSWD Field Office or Agency a Child Case Study Report. The Child Case Study Report shall establish the needs of the child that should be considered in the selection of the Foster Parent(s). The Home Study Report shall establish the capacity and resources of the Foster Parent(s) to provide a safe, secure and loving home for the Foster Child.
- 12.3. Within five (5) working days from receipt of the Child Case Study Report, matching shall be conducted by the Foster Care Committee of (i) the Agency, if the child is referred to such Agency; or (ii) the DSWD Field Office if the child is in the custody of and LGU or of the DSWD. In cases of matching conducted by an Agency, the Agency shall submit to the DSWD Field Office a report on such matching not later than three (3) working days from the time of such matching is made.

Relatives of the child, if qualified, shall be given priority to become the Foster Parent(s) of such child.

Except in cases of fostered siblings, the Foster Child shall not be matched with a Foster Parent(s) who has three (3) or more Foster Children under his/her Foster Care.

- 12.4. If an Agency is unable to match a child with a Foster Parent, the Agency shall refer the child to the DSWD Field Office for regional matching. If the DSWD Field Office is unable to match a child with a Foster Parent, the DSWD Field Office shall refer the child to the DSWD Central Office for inter-regional matching.
- 12.5. **Emergency Placement.** – Matching may be dispensed with in cases of emergency such as, but not limited to the following:
 - (a) The child is found during the late hours of the evening or during the weekend;
 - (b) The child is displaced due to disaster or armed conflict;
 - (c) The child needs immediate medical attention; or

- (d) The child is at risk of further neglect, physical and/or sexual abuse and maltreatment by his or her parent/guardian or custodian.

In such instance, the following steps shall be observed:

- (i) The Social Worker shall place the child with a licensed Foster Parent(s) in the area. If there is no available licensed Foster Parent in the area, the Social Worker shall place the child with potential Foster Parent(s) identified with the assistance of barangay officials and/or the LCPC.
- (ii) Within twenty-four (24) hours from the placement, the Social Worker of the DSWD Field Office, Agency or LGU shall report the placement to his/her superior for confirmation. The superior of the Social Worker shall then inform the DSWD Field Office within forty-eight (48) hours.
- (iii) Within seventy-two (72) hours from the placement, the Social Worker shall conduct an evaluation to determine whether or not the Foster Child should remain with the Foster Parent(s).
- (iv) Within one week from the placement, the Foster Parent(s) shall apply for Foster Family Care License or FPA. Otherwise, the Foster Child shall be transferred to a licensed Foster Parent(s).

RULE 13. *Placement.* – A child shall be placed only with a licensed Foster Parent and only after the issuance of a Foster Placement Authority (FPA), except in cases of emergency, as described under Rule 12.5.

- 13.1. Within five (5) working days from the matching, if conducted by the DSWD or from receipt of the report of the matching, if conducted by an Agency, the DSWD Field Office shall, if warranted, issue the FPA, notifying the Agency where applicable.
- 13.2. The FPA shall remain valid for no more than one (1) year, but may be renewed upon expiration.
- 13.3. The DSWD Field Office or the Agency shall then conduct a Discharge Conference to brief the Foster Parent(s) on the needs of the Foster Child, and turn over custody of the Foster Child to the Foster Parent(s). Where applicable, the Agency shall report to the DSWD Field Office within forty-eight (48) hours of the placement.

RULE 14. *Supervision of Foster Care Placement.* – Supervised Foster Care Placement begins as soon as the Foster Parent(s) receives the Foster Child into his/her care. The Social Worker shall:

- (a) conduct home visits, monthly for the first three (3) months and bi-monthly thereafter, to monitor the Foster Child's adjustment in the foster home, and
- (b) submit quarterly progress reports to the DSWD Field Office.

- 14.1. If a Foster Child meets an accident, is injured, dies, runs away, or becomes lost, the Foster Parent shall, within twenty four (24) hours of the incident, notify the Agency or the DSWD Field Office of the incident. The Agency shall, within twenty-four (24) hours from such notice, report the incident to the DSWD.

RULE 15. ***Termination of Placement.*** – Placement shall automatically terminate upon the occurrence of any of the following:

- (a) Death of the child;
 - (b) Death of both Foster Parents;
 - (c) The child reaches the age of majority; or
 - (d) Expiration of the FPA.
- 15.1. Upon report of any interested person, including application by the Foster Child, and subject to validation and recommendation by the Social Worker, the DSWD Field Office may terminate the placement upon finding the existence of any of the following circumstances:
- (a) The child has been returned to the biological parents or relatives, provided the same is in the best interest of the child;
 - (b) The DSWD determines that transferring the child to another Foster Parent(s) would be in the best interest of the child;
 - (c) The child has been placed for adoption;
 - (d) Any provision of the FPA has been violated;
 - (e) The Foster Parent(s) becomes unwilling, or otherwise unable to care for the child; or
 - (f) The Foster Child's placement becomes prejudicial to the welfare of the child, such as, but not limited to, abandonment, maltreatment, sexual assault, violence or other forms of abuse or exploitation of the Foster Child, in which case the DSWD may immediately take custody of the Foster Child, without prejudice to the subsequent placement of the Foster Child.

When a Foster Child applies for termination of the placement, the Social Worker shall, within fifteen (15) working days from notice of such application, assess the situation and submit a report and recommendation to the DSWD Field Office.

ARTICLE V **LONG-TERM FOSTER PLACEMENT**

RULE 16. **Long-Term Foster Placement Authority.** – A Foster Parent(s) may apply for Long-Term Foster Placement Authority (LTFPA), without prejudice to the Foster Child's right to be considered and placed for adoption. A Foster Parent(s) may apply for an LTFPA if all of the following conditions are present:

- (a) The Foster Child has been under the Foster Care of the Foster Parent(s) for at least seven (7) years;
 - (b) The Foster Child's return to his biological parents or relatives or placement in an adoptive family is not imminent, such as in cases of a Foster Child with special needs;
 - (c) For the entire duration of the long-term foster placement, the Foster Parent(s) continues to possess the (i) qualifications required under the Act, and (ii) a valid Foster Family Care License; and
 - (d) If the Foster Child, if ten (10) years of age or older, the Foster Child, duly assisted by a Social Worker, gives written consent for long-term stay with the Foster Parent(s).
 - (e) In cases of long-term foster placement, the Social Worker shall continue to supervise the placement. However, the DSWD Field Office may adjust the frequency of the home visits and submission of progress reports depending on the circumstances and best interest of the child. In addition, the DSWD shall reassess and reevaluate the foster home situation every three (3) years to determine whether it is in the best interest of the Foster Child to continue living in the foster home on a long-term basis.
- 16.1. An LTFPA grants the Foster Parent(s) custody over the Foster Child but does not require the Foster Parent(s) to adopt the Foster Child. During long-term foster placement, the Foster Child shall enjoy the rights of a child under Article 3 of the *Child and Youth Welfare Code*, and under other laws. However, there shall be no mandatory rights of succession in favor of the Foster Child.
- 16.2. The Foster Child shall continue to be included in the roster of children available for adoption but the Foster Parent(s) shall be given priority in adopting the child. For this purpose, the DSWD shall: (i) continuously encourage the Foster Parent to consider adopting the Foster Child, and (ii) at the end of each year of the long-term placement, determine if the Foster Parent(s) is interested in adopting the Foster Child.
- 16.3. The LTFPA shall remain valid unless and until revoked on any of the grounds for the termination of placement under Rule 15.

RULE 17. **Long-Term Foster Care Commitment.** – A Foster Parent(s) who unilaterally terminates the LTFPA before the Foster Child reaches the age of majority or finishes tertiary education shall be required to make provisions for the education and basic needs of the Foster Child.

- 17.1. Such provisions shall be made in consultation with the Social Worker and reduced into a written undertaking, a copy of which shall be deposited with the DSWD Field Office.
- 17.2. Such provisions shall take into account, among others, (i) the standards in which the Foster Child has been raised or has become accustomed to during the long-term placement, (ii) the stability and best interest of the Foster Child, (iii) the needs and any special circumstances of the Foster Child, and (iv) the financial capacity of the Foster Parent(s).

ARTICLE VI ADOPTION OF A FOSTER CHILD

RULE 18. **Conditions.** – A Foster Parent(s) may adopt the Foster Child if the Foster Child has not yet been matched with an approved adoptive family; *Provided*, that the adoption shall still be governed by R.A. No. 8552, otherwise known as the “*Domestic Adoption Act of 1998*”, as amended by R.A. No. 9523, or R.A. No. 8043, otherwise known as the “*Inter-Country Adoption Act of 1995*”, as amended by R.A. No. 9523, as the case may be.

- 18.1. In such cases, the trial custody period under the applicable adoption law may be partially waived to the extent of the period equivalent to the period in which the Foster Child has been under the Foster Care of the Foster Parent(s); *Provided*, that a harmonious relationship exists between the Foster Child, the Foster Parent(s), and, where applicable, the Foster Family.

ARTICLE VII LOCAL GOVERNMENT UNITS

RULE 19. **Role of Local Government Units (LGUs).** – Within their respective territorial jurisdictions, LGUs, with support from DSWD and Agencies, shall be responsible for (i) implementing the Foster Care Program, and (ii) where applicable, providing needed services to the biological family of the Foster Child.

RULE 20. **Funding.** – LGUs shall be primarily responsible for the delivery of social services, which include Foster Care, to every child who is neglected, abused, surrendered, dependent, abandoned, under socio-cultural difficulties, or with special needs, within an alternative family that will provide love and care as well as opportunities for growth and development. Towards this end, LGUs shall allocate funds to support the implementation of the Foster Care Program.

- 20.1 The National Government, through the DSWD, shall determine and provide the financial support for the implementation of the Foster Care Program of LGUs giving priority to 3rd, 4th, 5th and 6th class municipalities.

RULE 21. **Seminars and Trainings.** – The DSWD, in coordination with the Department of the Interior and Local Government (DILG), shall develop and provide programs to ensure the awareness and responsiveness of local government officials in the promotion and development of the Foster Care Program in every city, municipality or barangay.

ARTICLE VIII ASSISTANCE AND INCENTIVES

RULE 22. **Assistance to a Foster Child.** –

22.1. **Foster Child Subsidy.** –

- (a) The Subsidy to be given to a Foster Child shall be primarily aimed at supporting the expenses of the Foster Child to lessen the financial burden on the Foster Parent(s).
- (b) The DSWD shall formulate and issue Guidelines for determining the amount of the monthly Subsidy a particular Foster Child shall be entitled to. Such Guidelines shall take into account, among others, the needs and any special circumstances of the Foster Child as well as the financial capacity of the Foster Parent(s).
- (c) The Subsidy may be in the form of an outright financial aid, goods or support services.
- (d) Where applicable, the Subsidy shall be channeled through the appropriate Agency.
- (e) The DSWD Field Office shall release the Subsidy subject to existing government accounting and auditing rules and regulations.

22.2. **Health Insurance.** –

- (a) If the Foster Parent(s) is not a PhilHealth member, he/she must enroll with the PhilHealth. The Foster Child shall be a PhilHealth beneficiary of the Foster Parent(s), and thus entitled to health insurance benefits.

- (b) If the Foster Parent has been included in the National Household Targeting System-Poverty Reduction (NHTS-PR) Database, he/she shall be exempt from paying the usual PhilHealth contribution.

RULE 23. ***Assistance and Incentives to Foster Parent.*** – Foster Parents shall be entitled to the following assistance and incentives:

23.1. ***Support Care Services.*** –

- (a) The DSWD, LSWDOs and Agencies shall provide support care services to Foster Parents.
- (b) These support care services shall include, but not be limited to, recruitment and orientation of foster parents, counseling, monitoring visits, training on child care and development, respite care, skills training, and livelihood assistance.

23.2. ***Additional Exemption for Dependents .*** –

- (a) The definition of the term “dependent” under Section 35(B) of the *National Internal Revenue Code of 1997* (NIRC), shall be amended to include a “Foster Child”.
- (b) A Foster Parent shall be allowed an additional exemption of Twenty Five Thousand Pesos (P25,000.00) for each qualified dependent. Provided, however, that the total number of dependents, including a Foster Child qualified to be claimed as a dependent for which additional exemptions may be claimed shall not exceed four (4), as provided for by Republic Act No. 9504.
- (c) The Twenty Five Thousand Pesos (P25,000.00) additional exemption for a Foster Child shall be allowed only if period of foster care is at least a continuous period of one (1) taxable year.
- (d) For purposes of this Section, only one (1) Foster Parent can treat the Foster Child as a dependent for a particular taxable year. As such, no other parent or Foster Parent can claim the said child as dependent for that period.

RULE 24. ***Incentives to Agencies.*** – Agencies shall be entitled to the following incentives:

- 24.1. ***Exemption from Income Tax.*** – Agencies shall be exempt from income tax on income derived by it as such organization pursuant to Section 30 of the NIRC as implemented by Revenue Regulation No. 13-98.
- 24.2. ***Qualification as a Donee Institution.*** – Agencies can also apply for qualification as donee institutions.

RULE 25. ***Incentives to Donors.*** – Donors of an Agency shall be entitled to the following:

- 25.1. ***Allowable Deductions.*** – Donors shall be granted allowable deductions from their gross income to the extent of the amount donated to Agencies in accordance with Section 34(H) of the NIRC.
- 25.2 ***Exemption from Donor's Tax.*** – Donors shall be exempted from Donor's Tax under Section 101 of the NIRC; *Provided*, that not more than 30% of the amount of donations shall be spent for administrative expenses.

RULE 26. Within one (1) month from the issuance of these Rules and Regulations, the Department of Finance (DOF), through the Bureau of Internal Revenue (BIR), shall issue the appropriate revenue regulations and circulars on the tax incentives for Foster Parents, Agencies and donors.

ARTICLE IX PENALTIES

RULE 27. ***Penalties.*** –

- 27.1. Any Foster Parent found to be committing any act of neglect, abuse, cruelty, exploitation and other similar acts prejudicial to the Foster Child's development, shall be penalized in accordance with R.A. No. 7610, otherwise known as "*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*", and other applicable laws.
- 27.2 Any Agency which violates Sections 11, 12, 13 or any other provisions of the Act or these Rules and Regulations shall suffer the following penalties:
 - (a) For the first violation, a fine of not less than Twenty Five Thousand Pesos (PhP 25,000.00) but not exceeding Fifty Thousand Pesos (PhP 50,000.00); and
 - (b) For any subsequent violation, a fine of not less than Fifty Thousand Pesos (PhP 50,000.00) but not exceeding One Hundred Thousand Pesos (PhP 100,000.00) and revocation of license to operate.

The foregoing shall be without prejudice to any appropriate administrative sanction the DSWD may impose on the erring Agency.

- 27.3. Any person, natural or juridical, other than the Foster Parent or any Agency, violating any provisions of the Act or these Rules and Regulations shall be penalized with imprisonment of one (1) month to six (6) years, depending on the gravity of the offense, or a fine of not less than Ten Thousand Pesos (PhP

10,000.00) but not more than One Hundred Thousand Pesos (Php 100,000.00), or both, at the discretion of the court.

- 27.4 If the offender is a government official, the court may impose the additional penalty of disqualification from public office in addition to the penalties provided in the preceding paragraph.

ARTICLE X FINAL PROVISIONS

RULE 28. ***Foster Care Committee.*** – The Regional Child Welfare Specialist Group of the DSWD shall serve as the Foster Care Committee which shall have the following functions:

- (a) Review and deliberate issues affecting the foster placement of a particular child;
- (b) Make recommendations to resolve any dispute between and among the Agency, the Foster Parents, the Foster Child, and the biological parents of the Foster Child;
- (c) Monitor the implementation of, review, and recommend changes in, policies concerning Foster Care and other matters related to the welfare of Foster Children;
- (d) Submit to the DSWD an annual report on its accomplishments; and
- (e) Perform such other functions and duties as may be prescribed by the DSWD.

RULE 29. ***Appropriation.*** – Unless otherwise specified, any amount appropriated for the purpose of implementing the Act shall be coursing through the DSWD.

RULE 30. ***Implementing Guidelines.*** – From time to time, any of the concerned government agencies, in consultation with one another, with LGUs and with Agencies, may issue directives to clarify and implement portions of the Act or of these rules and Regulations.

RULE 31. ***Supplementary Clause.*** – The provisions of Executive Order No. 209, otherwise known as the “*Family Code of the Philippines*”, and other applicable laws, shall have supplementary application to the Act.

RULE 32. ***Separability Clause.*** – If any provision of these rules and regulations is held invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

RULE 33. ***Effectivity.*** – These Rules and Regulations shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation or in the Official Gazette.

Approved.

(SGD) **CORAZON JULIANO-SOLIMAN**
Secretary
Department of Social Welfare
and Development

(SGD) **LEILA M. DE LIMA**
Secretary
Department of Justice

(SGD) **ENRIQUE T. ONA**
Secretary
Department of Health

(SGD) **MANUEL A. ROXAS**
Secretary
Department of the Interior
and Local Government

(SGD) **KIM J. HENARES**
Commissioner
Bureau of Internal Revenue

(SGD) **BRENDA S. VIGO**
Executive Director
Council for the Welfare of
Children

(SGD) **EDUARDO P. BANZON**
President
Philippine Health Insurance
Corporation

(SGD) **GWENDOLYN PIMENTEL-GANA**
President
Association of Child-Caring
Agencies of the Philippines"

All concerned are hereby enjoined to be guided accordingly and give this Circular a wide publicity as possible.

(Original Signed)
KIM S. JACINTO - HENARES
Commissioner of Internal Revenue

O-4