

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

June 08, 2011

**REVENUE MEMORANDUM CIRCULAR NO. 23-2011**

**SUBJECT : Publishing the Full Text of Wage Order No. NCR-16, “Providing a Cost of Living Allowance in the National Capital Region” and Clarifying its Tax Implications to Minimum Wage Earners Exempt from Income Tax Pursuant to Republic Act No. 9504.**

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

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For the information and guidance of all internal revenue officers, employees and others concerned, quoted hereunder are the provisions of Wage Order No. NCR-16, “An Order Providing Cost of Living Allowance (COLA) in the National Capital Region:

**“WAGE ORDER NO. NCR-16**

**PROVIDING A COST OF LIVING ALLOWANCE IN THE  
NATIONAL CAPITAL REGION**

**WHEREAS**, the Regional Tripartite Wages and Productivity Board-National Capital Region (RTWPB-NCR) is mandated under R.A. 6727 (The Wage Rationalization Act), to periodically assess wage rates and conduct continuing studies in the determination of the minimum wage applicable in the region or industry;

**WHEREAS**, Wage Order No. NCR-15 took effect on 01 July 2010 and under Section 3, Rule IV of the Amended Rules of Procedure on Minimum Wage Fixing issued by the National Wages and Productivity Commission (NWPC), the Wage Order may not be disturbed for a period of twelve (12) months from its effectivity unless there is a supervening condition, such as extraordinary increase in prices of petroleum products and basic goods/services, as determined by RTWPB-NCR and confirmed by the NWPC;

**WHEREAS**, the Trade Union Congress of the Philippines (TUCP) filed on March 7, 2011 a petition for a Seventy Five Pesos (P75.00) per day across-the-board wage increase;

**WHEREAS**, the RTWPB-NCR issued on 12 April 2011 Resolution No. 01, series of 2011, declaring a supervening condition in the region which was confirmed by the NWPC in its Resolution No. 01, series of 2011, dated 13 April 2011;

**WHEREAS**, after due notice to all concerned sectors, the RTWPB-NCR conducted a public hearing on the 2<sup>nd</sup> of May 2011, to determine the propriety of issuing a new wage order;

**WHEREAS**, considering the result of the thorough evaluation of the existing socio-economic conditions of the region, showing the extraordinary increases in prices of crude oil and local petroleum products, the RTWPB-NCR has determined the need to provide workers with immediate relief measures to enable them to cope with the rising cost of living without impairing the viability of business and industry;

**NOW THEREFORE**, by virtue of the power and authority vested under Republic Act No. 6727, the RTWPB-NCR hereby issues this Wage Order.

**Section 1. NEW WAGE RATES.** Upon effectivity of this Wage Order, all private sector minimum wage workers and employees in the National Capital Region shall receive a **Cost of Living Allowance (COLA) in the amount of TWENTY-TWO PESOS (P22.00) per day.**

- a) The new daily wage rates of covered workers in the private sector in the National Capital Region shall be as follows:

Sector/Industry	Basic Wage	COLA	New Wage Rates
Non-Agriculture	P 404.00	P 22.00	P 426.00
Agriculture (Plantation and Non Plantation)	P 367.00	P 22.00	P 389.00
Private Hospitals with bed capacity of 100 or less	P 367.00	P 22.00	P 389.00
Retail/Service Establishments employing 15 workers or less	P 367.00	P 22.00	P 389.00
Manufacturing Establishments regularly employing less than 10 workers	P 367.00	P 22.00	P 389.00

**Section 2. COVERAGE.** The P22.00 per day COLA prescribed in this Order shall apply to all minimum wage earners in the private sector in the Region, regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

This Wage Order shall not cover household or domestic helpers; persons in the personal service of another, including family drivers, and workers of duly registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act 9178.

**Section 3. APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects and for security, janitorial and similar services, the COLA prescribed in this Order shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly.

In the event, however, that the principals or clients fail to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

**Section 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2011-2012 shall be considered as compliance with the COLA prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2012-2013.

Private educational institutions which have not increased their tuition fees for School Year 2011-2012 may defer compliance with the COLA prescribed herein until the beginning of School Year 2012-2013.

In any case, all private educational institutions shall implement the COLA prescribed herein starting School Year 2012-2013.

**Section 5. WORKERS PAID BY RESULT.** All workers paid by result, including those who are paid on piecework, "*takay*" or task basis, shall be entitled to receive not less than the prescribed COLA a day, or a proportion thereof for working less than eight (8) hours.

**Section 6. WAGES OF SPECIAL GROUPS OF WORKERS.** Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable new wage rates prescribed in this Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new wage rates.

All qualified handicapped workers shall receive the full amount of the new wage rates prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

**Section 7. EXEMPTIONS.** Upon application with and as determined by the Board, based on documentation and other requirements in accordance with applicable rules and regulations issued by the NWPC, the following may be exempted from the applicability of this Order:

1. Distressed Establishments;
2. Retail/Service Establishments Regularly Employing Not More Than Ten (10) workers;

3. Establishments whose Total Assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are not more than P3 Million; and
4. Establishments Adversely Affected by Natural Calamities.

**Section 8. APPEAL TO THE COMMISSION.** Any party aggrieved by this Wage Order may file an appeal to the NWPC, through the Board, in three (3) printed copies, not later than ten (10) days from the publication of this Wage Order.

**Section 9. CREDITABLE WAGE INCREASE.** Any increase granted by an employer in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, provided that an agreement to this effect has been forged between the parties or a collective bargaining agreement provision allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the COLA prescribed in this Order.

In unorganized establishments, any increase granted by the employer within five (5) months prior to the effectivity of this Order shall be credited as compliance therewith.

In case the increases given are less than the prescribed COLA, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization or promotion of employees.

**Section 10. EFFECTS ON EXISTING WAGE STRUCTURE.** Where the application of the COLA prescribed in this Order results in distortions in the wage structure within the establishment, it shall be corrected in accordance with the procedure provided for under Article 124 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.

**Section 11. PRODUCTIVITY AND OTHER PERFORMANCE INCENTIVE PROGRAMS.** In order to sustain rising levels of wages and enhance competitiveness, labor and management as partners are encouraged to adopt productivity improvement schemes that will improve the quality of life of workers and in turn enable them to produce more and earn more, such as time and motion studies, good housekeeping, quality circles, labor and management cooperation as well as implement gain-sharing and other performance incentive programs.

**Section 12. COMPLAINTS FOR NON-COMPLIANCE.** Complaints for non-compliance with this Order shall be filed with the National Capital Region Office of the Department of Labor and Employment, and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

**Section 13. NON-DIMINUTION OF BENEFITS.** Nothing in this Order shall be construed to reduce any existing wage rates, allowances and

benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

**Section 14. PROHIBITION AGAINST INJUNCTION.** No preliminary or permanent injunction, or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board in accordance with Presidential Decree 442, as amended.

**Section 15. FREEDOM TO BARGAIN.** This Order shall not be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages with their respective employers.

**Section 16. REPORTING REQUIREMENT.** Any person, company, corporation, partnership or any entity engaged in business shall submit a verified report on their wage structure to the Board not later than January 31, 2012 and every year thereafter in accordance with the form prescribed by the National Wages and Productivity Commission.

**Section 17. PENAL PROVISION.** Any employer who refuses or fails to comply with this Order shall be subject to the penalties specified under RA 6727, as amended by R.A. No. 8188.

**Section 18. REPEALING CLAUSE.** All orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended or modified accordingly.

**Section 19. SEPARABILITY CLAUSE.** If any provision or part of this Wage Order is declared unconstitutional, or in conflict with existing law, the other provisions or parts thereof shall remain valid.

**Section 20. IMPLEMENTING RULES.** The Regional Tripartite Wages and Productivity Board-National Capital Region shall submit to the Commission the necessary Rules and Regulations to implement this Order subject to approval of the Secretary of Labor and Employment not later than ten (10) days from the publication of the Wage Order.

**Section 21. EFFECTIVITY.** This Wage Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

**APPROVED.**

Manila, Philippines, 09 May 2011.

(Original Signed)  
**JESSIE L. AGUILAR**  
Labor Representative

(Original Signed)  
**VICENTE LEOGARDO, JR.**  
Employers' Representative

(Original Signed)  
**GERMAN N. PASCUA, JR.**  
Labor Representative

(Original Signed)  
**ALBERTO R. QUIMPO**  
Employers' Representative

(Original Signed)  
**FERDINAND L. MANFOSTE**  
Vice-Chairperson

(Original Signed)  
**MYRNA CLARA B. ASUNCION**  
Vice-Chairperson

(Original Signed)  
**RAYMUNDO G. AGRAVANTE**  
Chairperson"

Pursuant to Republic Act (RA) No. 9504, Minimum Wage Earners (MWEs) are exempt from the payment of income tax on their taxable income, including their holiday pay, overtime pay, night shift differential pay and hazard pay. Revenue Regulations No. 10-2008, the regulations that implemented this RA, provides that in the event the MWEs earn income other than those above-mentioned, they shall cease to be considered MWEs exempt from income tax.

Since COLA forms part of the New Wage Rates prescribed by Wage Order No. NCR-16 to be the statutory minimum wage in the National Capital Region, MWEs receiving not more than the New Wage Rate (inclusive of the COLA), including holiday pay, overtime pay, night shift differential pay and hazard pay, if any, shall be exempted from income tax.

All concerned revenue officials and employees are hereby enjoined to give this Circular as wide a publicity as possible.

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