



TAX LAW FOR BUSINESS

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Tax privileges of PWDs

Revenue Regulations (RR) 5-2017 was recently issued to provide guidelines in the implementation of the tax privileges and incentives provided under Republic 10754, An Act Expanding the Benefits and Privileges of Persons with Disability (PWD). For clarity, PWDs are those who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others. Disability, in turn, shall mean a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual, or activities of such individuals.

Reiterating the provision of the law, the regulations state that qualified PWDs are entitled to claim at least 20-percent discount on their purchases from enumerated suppliers for some specified transactions. As usual, the enjoyment of this 20-percent discount is subject to the presentation of the necessary proofs of entitlement to this privilege, most important of which is the presentation of PWD Identification Card.

Among the establishments that are mandated to provide this 20- percent discount to PWDs include hotels and similar establishments; restaurants and recreation centers; theaters and other similar places; all drugstores; government and/or private hospitals and medical facilities; domestic air and sea transportation; land transportations, like PUBs, PUJs, taxis, AUV, the Light Rail Transit, the Metro Rail Transit and the Philippine National Railway; and funeral and burial services for the death of PWDs.

Aside from the 20-percent discount, the same transactions are also entitled to exemption from value-added tax (VAT). The selling establishment should therefore treat its sale to a PWD as exempt from VAT. Accordingly, no VAT shall be passed on to the PWD. The most that the PWD will be required to pay to the selling establishment shall be 80 percent of the selling price, net of the VAT.

Note, however, that the law does not exempt sales to PWDs from other transaction taxes. Accordingly, the regulations also emphasized that the exemption will not cover other indirect taxes that may be passed on by the seller to a PWD, such as percentage and excise taxes. In this regard, smaller establishments, especially those with gross annual sales, or receipts not exceeding P1,919,500, are usually not VAT registered. They are subject to the percentage or gross receipts tax (GRT). They cannot therefore claim exemption from the percentage or GRT on their sales to PWDs. It follows that the said tax may be passed on the PWD.

Aside from the discount and the VAT exemption privileges, a PWD may qualify as a dependent of his benefactor, provided that the PWD is a Filipino citizen, not gainfully employed, within the fourth civil degree of the benefactor and chiefly dependent upon and living with the benefactor. In such case, the benefactor of a qualified PWD may claim additional exemption of P25,000 for each PWD, regardless of age.

The tax benefits and privileges accorded to PWDs and their transactions are basically the same as those of senior citizens. One of the apparent differences, though, is that unlike a PWD dependent, a senior citizen who is not gainfully employed, living with and dependent upon his benefactor for chief support, although treated as dependent, will not entitle the benefactor to claim the additional personal exemption.

With respect to the treatment by the selling establishment of the 20-percent discount, the new regulations also adopted the same rule as applied to the 20-percent discount granted to senior citizens. In the earlier implementation of the senior citizen discount, there had been controversies in the treatment of the discount—whether as tax credit, a deduction or some other classification. It took a judicial intervention to uphold the treatment of the discount as a mere deduction in the computation of taxable income.

Adopting similar treatment, RR 5-2017 made it clear that the 20-percent PWD discount shall be included in the gross sales. At the same time, it shall be allowed as among the itemized deductions. This means that there is no direct deduction from sales, nor the discount should form part of the cost of sales. In essence, while the discount will be claimed as deduction in the computation of regular income tax, it is not considered in the computation of the minimum income tax.

On a final note, it is essential to remember that a PWD, who is at the same time a senior citizen, can only claim one 20-percent discount on a particular purchase transaction.

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