

Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

Officer-in-Charge CARMEN R.ZUBIAGA

National Council on Disability Affairs (NCDA)
NCDA Building, Isidora Street Brgy. Holy Spirit
Quezon City 1127

Dear **Officer-in-charge ZUBIAGA:**

This refers to your request for legal opinion relative to the tax privileges of persons with disability (PWDs) pursuant to republic Act (R.A.) No. 10754¹, Particularly on the grant of at least twenty percent (20%) discounts in toll fees of skyways and expressways to PWDs owning the vehicle.

You stated that the said tax privilege was provided under section 6.6 of the implementing Rules and Regulations (IRR) of a prior law, R.A. No.9442², to wit:

“RULE IV

“PRIVILEGES AND INCENTIVES FOR PERSONS WITH DISABILITY

“Section 6. Other Privileges and Incentives

“**Persons with disability shall be entitled to the following:**

“XXX XXX XXX

“6.6 Land Transportation Privileges - at least twenty percent (20%) discount in bus fares such as ordinary, aircon fares and on public railways such as LRT, MRT, PNR, and such other similar infrastructure that will be constructed, established and operated by public or private entity .**Toll fees of skyways and expressways are likewise, subject to at least twenty percent (20%) discounts, however this privilege can be availed only by a person with disability owning the vehicle.**”XXX XXX (Emphasis Supplied)

¹ An Act Expanding the Benefits and Privileges of Persons with Disability (PWDs).

² An Act Amending Republic Act No.7277, Otherwise Known as the “Magna Carta For Disabled Persons, and for Other Purposes”

You also stated that the above-quoted IRR provision was not, however, specifically mentioned in the IRR of the recent law, R.A. No.10754; and the toll concessionaires and operators thus refuse to give the said discount to vehicle owners with disabilities.

Further, you stated that in Revenue Regulations (R.R.) No.5-2017³ which provides for the rules and regulations implementing R.A No 10754 relative to the tax privileges of PWDs and tax incentives for establishments granting sales discount, Item No.3.6 thereof does not explicitly identify toll fees of skyways and expressways where vehicle owners with disabilities can avail of said privilege. Said item 3.6 reads:

“SECTION 3. SALES DISCOUNTS WHICH MAY BE CLAIMED BY QUALIFIED PERSONS WITH DISABILITY (PWD)

“XXX XXX

“3.6 Land transportation privileges based on the actual fare such as, public utility buses or jeepneys (PUBs/PUJs), taxis, Asian Utility Vehicles (AUVs), shuttle services and republic railways such as Light Rail Transit (LRT), Metro Rail transit (MRT), Philippines National Railways (PNR), and such other similar infrastructure that will be constructed, established and operated by public or private entity;”

As a member of the drafting Committee of the IRR or R.A. No.10754 led by the Department os Social Welfare and Development, you believe that the (new) law did not repeal R.A. No. 9442.

Hence, this request for legal opinion.

At the outset, we note that the issue is a tax matter which falls within the primary jurisdiction of the bureau of Internal Revenue, which, under section 2 of the National Internal Revenue Code (NIRC) of 1997, is mandated to access and collect all national internal Revenue taxes, fees and charges, and which issued R.R No. 5-2017 prescribing the rules and regulations implementing R.A. No. 10754 relative to the tax privileges of PWDs and tax incentives for establishment granting sales discount.

Likewise, section 4 of the said NIRC provides that the power to interpret the provisions of the NIRC and other tax laws shall be under exclusive and original jurisdiction of the Commissioner of Internal revenue, to wit:

³ Rules and Regulations Implementing Republic Act No. 10754, entitled “An Act Expanding the Benefits and Privileges of Persons with Disability (PWD)” Relative to the Tax Privileges of Persons with Disability and tax Incentives for Establishments Granting Sales Discount, and Prescribing the guidelines for the Availment Thereof, Amending Revenue Regulations No. 1-2009

“SEC. 4. Power of The Commissioner to Interpret Tax Laws and to Decide Tax Cases -The **power to interpret the provisions of this code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner**, subject to review by the Secretary of Finance.

“The power decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.” (Emphasis supplied)

This notwithstanding, this opinion is rendered in view of the importance of the issue presented.

We note that the tax privilege of twenty percent (20%) discount on toll fees of skyways and expressways which was previously availed by PWDs owning the vehicle can be explicitly found in section 32 (g) of R.A. No.9442 and the above quoted Section 6.6 of its IRR. Section 32 (g) of R.A. No.9442 provides:

“SECTION 1. A new chapter, to be denominated as ‘chapter 8. Other privileges and Incentives’ is hereby added to Title Two of Republic Act No. 7277, otherwise known as the ‘Magna Carta for Disabled Persons,’ with new Sections 32 and 33, to read as follows:

“CHAPTER 8. Other Privileges and Incentives

“**SEC.32. Persons with disability shall be entitled to the following:**

“XXX XXX

“(g) At least twenty percent (20%) discount in public railways, skyways and bus fare for the exclusive use and enjoyment of person with disability;”(Emphasis supplied)

However, it appears that when Section 32 of R.A. No.9442 was subsequently amended by R.A. No. 10754, the said tax privilege of twenty percent (20%) discount on toll fees of skyways and expressways, which can be availed by PWDs owning the vehicle, was omitted, such that Section 32 of R.A. No.10754 now reads:

“SECTION 1. Section 32 of Republic Act No.7277, as amended, otherwise known as the ‘Magna Carta for Persons with Disability,’ is hereby further amended to read as follows:

“SEC. 32 .**Persons with disability shall be entitled to:**

”(a) **At least twenty percent (20%) discount and exemption from value-added tax (VAT), if applicable**, on the following sale of goods and services for the exclusive use and enjoyment or availment of PWD:

”XXX XXX

On the issue of whether the new law, R.A. No. 10759, effectively repealed the old law, R.A. No 7277 as amended by R.A. No. 9442, in terms of the tax privileges of PWDs, DOJ opinion No.47, s. 2004, may be relevant, to wit:

“The question of whether a particular law has been repealed or not by a subsequent law is a question of legislative intent. The lawmaker may expressly repeal a law by incorporating therein a repealing provision which expressly and specifically cites the particular law or laws, portions thereof, that are intended to be repealed. However, where the legislative intent is not to work a repeal of specific laws, it provides for a general repealing provisions provision the effect of which is to repeal by implication all inconsistent provisions of extant laws. It is said that an implied repeal takes place when a new law contains some provisions which are contrary to, but do not expressly repeal, those of former law.⁴

“Implied repeals or repeals by implication are not favored. Only in cases where the laws or provisions involved are found to be irreconcilably inconsistent with each other may a repeal of the earlier law by a later enactment be presumed. Otherwise, it is the task of the implementers of the law harmonize the conflicting laws or provision so as to give effect to both, because laws are presumed to have been passed with full knowledge on the part of the lawmaker of all existing laws on the subject.⁵

“However, it has been held **that an implied repeal may also result** even if two laws are not **repugnant whenever a statute (old law) is revised and the revised statute (new law) purports to cover the entire subject matter of the old law and there is a clear legislative intent to substitute the new law for**

⁴ Citing School District No.45 v. Bd. of Country of Comira, 141 Kan. 108

⁵ Citing U.S vs. Palacios, 33 Phil. 208

the old law.⁶ In Such a case, **provisions in the old law which were not reenacted in the new law will be deemed repealed.**⁷ (Emphasis supplied)

Further on legislative intent, the following discussions/exchange of views during the Senate Deliberation on Senate Bill No.2890, which later on became R.A. No. 10754, may be relevant, to wit:

“COSPONSORSHIP SPEECH OF SENATOR RECTO⁸

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“This bill has two aims:

“First to exempt persons with disability (PWDs) from paying the VAT certain goods and services.

“Second, provide additional income tax exemption to those who are caring for PWD.

“Among the goods and services to be taken out of VAT coverage are medicines; medical and dental services; hospital and laboratory fees; and local transport fares.”(Emphasis supplied)

“INTERPELLATION OF SENATOR SOTTO⁹

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“asked whether the enumeration in section 32 on discount and tax exemptions are exclusive, Senator Angara replied in the affirmative.” (Emphasis supplied)

“CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 2890 AND HOUSE BILL NO. 1039¹⁰

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“JOINT EXPLANATION OF THE CONFERENCE COMMITTEE ON THE DISAGREEING PROVISIONS OF SENATE BILL NO. 2890 AND HOUSE BILL NO. 1039

⁶ Citing Crawford, statutory Construction, p. 673; Joaquin V. Navarro, 81 Phil 373.

⁷ Citing DOJ Opn. No. 78, s. 1988, Agpalo, statutory Construction, p.2393

⁸ Delivered on August 10, 2015.

⁹ Interpellation of Senator Vicente c. Sotto III On August 19, 2015

¹⁰ Approved by the Senate on December 15, 2015.

“The Conference Committee on the disagreeing provisions of Senate Bill No. 2890 and House Bill No. 1039, after having met and fully discussed the subject matter, hereby reports to their respective Houses the following, that”

“XXX

“2. Section 1 of the Senate version, amending Section 32 of Republic Act No. 7277, otherwise known as the ‘Magma Carta for Disabled Person,’ as amended, was adopted as Section 1 of the reconciled version with some modification, to read as follows:

”Sec. 32. Persons with disability shall be entitled to:

”(a) at least twenty percent (20%) discount AND EXEPTION FROM THE VALUE ADDED TAX (VAT), IF APPLICABLE, ON THE FOLLOWING SALE OF GOODS AND SERVICES [from all establishments .] FOR THE EXCLUSIVE USE AND ENJOYMENT OR AVAILMENT OF THE PWD:

”(7) **ON ACTUAL FARE ROR LAND TRANSPORTATION TRAVEL SUCH AS, BUT NOT LIMITED TO, PUBLIC UTILITY BUSES OR JEEPNEYS (PUB/PUJ), TAXIS, ASIAN UTILITY VEHICLES (AUV), SHUTTLE SERVICES AND PUBLIC RAILWAYS, INCLUDING LIGHT RAIL TRANSIT (LRT), MAS RAIL TRANSIT (MRT) AND PHILIPPINE NATIONAL RAILWAYS (PNR)** [“(g) at least twenty percent (20%) discount in public railways, skyways and bus fare for the exclusive use and enjoyment of persons with disability;].” (Emphasis supplied)

Based on the above-mentioned Joint Explanation of the conference Committee on the Disagreeing provisions of Senate Bill No. 2890 and house Bill No. 1039, it can be clearly gleaned that the legislative intent is to entitle a PWD to a twenty percent (20%) discount and exemption from VAT on actual fare for land transportation travel, thus deleting “skyways” from the enumeration since toll fees collected by skyways may not be considered as “fare” for this purpose.

Further, we note that during the above-mentioned interpellation of senator sotto, he asked whether the enumeration in section 32 on discounts and tax exemptions are exclusive, to which Senator Angara replied in the affirmative.

It is settled rule of statutory construction that the express mention of one person, thing, act or consequence excludes all others. This rule is expressed in the

familiar maxim *expressio unius est exclusio alterius*. Where a statute, by its terms, is expressly limited certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.¹¹

In view of the foregoing, it is our opinion that the legislative intent of section 32(a)(7) of R.A. No. 10754 is to limit the tax privilege of least twenty percent (20%) discount and exemption from VAT, if applicable, on actual fare for land transportation travel, hence, excluding toll fees in skyways and expressways from list of transportation services specifically enumerated therein.

Please be guided accordingly.

Very truly yours,

VITALIANO N. AGUIRRE II
Secretary

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¹¹ DOJ Opn. No. 67, s. 2006, citing Agpalo, *Statutory Construction* , 2nd ed., 1990, pp. 160-161, and the cases therein cited.