Quezon City

January 5, 2018

REVENUE REGULATIONS NO. __________

SUBJECT: Prescribing the Implementing Rules and Guidelines on the imposition of
Excise Tax Treatment on Invasive Cosmetic Procedures Pursuant to
Section 46 of Republic Act No. 10963, otherwise known as the “Tax
Reform for Acceleration and Inclusion (TRAIN) Law”

To: All Internal Revenue Officers and Others Concerned

SECTION 1. Scope. - Pursuant to the provisions of Section 244 in relation to
Section 245 of the National Internal Revenue Code (NIRC) of 1997, as amended, these
Regulations are hereby promulgated to implement the imposition of excise tax on Cosmetic
Procedures under Section 46 and Section 84 of Republic Act No. 10963, otherwise known as the “Tax Reform for Acceleration and Inclusion” (TRAIN) Bill”.

SEC. 2. Definition of Terms. – For purposes of these Regulations and for a more
effective enforcement and collection of excise taxes, the following words and phrases shall
have the meaning indicated below:

2.1 Plastic Surgery shall refer to a surgical specialty dedicated to reconstruction of
facial and body defects due to birth disorders, trauma, burns, and disease. It
intends to correct dysfunctional areas of the body and is reconstructive in nature.

2.2 Cosmetic Surgery shall refer to a type of plastic surgery that aims to improve a
person’s appearance, through invasive cosmetic procedures, surgeries, and body
enhancements directed solely on improving, altering, or enhancing the person’s
appearance and do not necessarily promote the proper functions of the body or
prevent or treat illness or disease. Cosmetic surgery can be performed on all areas
of the head, neck, and body. Since the treated areas function properly, cosmetic
surgery is elective.

2.3 Reconstructive Surgery shall refer to another type of plastic surgery which aims
to improve function and give a normal appearance to a part of a person’s body
that has been damaged, ameliorate a deformity arising from, or directly related to,
a congenital or developmental defect or abnormality, a personal injury resulting
from accident or trauma, or disfiguring disease, tumor, virus or infection.

2.4 Invasive Cosmetic Procedure shall refer to a surgery that is carried out by
entering the body through the skin or through a body cavity or anatomical
opening, but with the smallest damage possible to these structures. Invasive
Cosmetic Procedures shall include, but not be limited to the following:
1. Liposuction
2. Laser Liposuction
3. Breast Augmentation
4. Breast Reduction Mammaplasty
5. Breastlift/Mastopexy
6. Buccal Fat Reduction
7. Buttocks Augmentation
8. Chin Augmentation
9. Facelift/Necklift
10. Featherlift – Aptos – Thread Lift
11. Hair Restoration/Transplantation
12. Blepharoplasty or Eyelid Surgery
13. Vulvovaginal Surgery
14. Abdominoplasty or Tummy Tuck
15. Stem Cell Auto Grafting
16. Rhinoplasty/Alar Trimming
17. Otoplasty
18. Cobra Coglift

2.5. **Non-Invasive Cosmetic Procedures** shall refer to a conservative treatment that does not require incision into the body or the removal of tissue, or when no break in the skin is created and there is no contact with mucosa, or skin break, or internal body cavity beyond a natural or artificial body orifice. Non-Invasive Cosmetic Procedures shall include, but not be limited to the following:

1. Acupuncture Rejuvenation Therapy
2. Air Dissector
3. Botox/Dysport
4. Collagen Induction Therapy
5. Dermal Fillers
6. Embedded Protein Threads
7. Fotona 4d Facelift
8. Fractional CO 2
9. Instalift
10. Restylane Skin Booster
11. Sculpure
12. Thermage
13. Time Capsule
14. Ulthera
15. Ultra Form
16. Femilift
17. Thermiva
18. Lasers and Light Treatments
20. Cleanings and Facials
21. Peels
22. Injectables and Weight Management Treatment
COVERAGE, NATURE, BASIS AND RATE OF EXCISE TAX

SEC.3. Rate and Base of Excise Tax. – In general, there shall be levied, assessed and collected excise tax imposed under Section 150-A of the Tax Code, equivalent to five percent (5%) based on the gross receipts derived from the performance of services, net of excise tax and value added tax on invasive cosmetic procedures, surgeries and body enhancements directed solely towards improving, altering, or enhancing the patient’s appearance.

For purposes of this regulations, the term “Gross Receipts” means the total amount of money or its equivalent representing the contract price including deposits applied as payments for services rendered and advance payments actually or constructively received for services performed or to be performed for another person, excluding five percent (5%) excise tax and value added tax (VAT).

“Constructive Receipt” occurs when the money consideration or its equivalent is placed at the control of the person who rendered the service without restrictions by the payor/customer.

SEC.4. Filing of Returns and Payment of Excise Tax on Invasive Cosmetic Procedures. -

SEC. 4.130.1. Persons Liable to File a Return. –

Any person, whether individual or juridical entity, performing invasive medical/cosmetic procedures, surgeries, body enhancements directed solely on improving, altering, or enhancing the patient’s appearance and do not meaningfully promote the proper functions of the body or prevent or treat illness shall be liable for the payment of excise tax imposed in Section 150-A of the Tax Code, as amended.

SEC. 4.130.1.1. Nature and Characteristic of Excise Tax. –

An excise tax is considered an indirect tax, meaning that the service provider who is the statutory bearer of the said excise tax is expected to shift the tax by billing the same to the customer-client.

Excise taxes are typically imposed in addition to another indirect tax such as VAT. The service provider is hereby authorized to act as withholding agent for the five percent (5%) excise tax billed and is ultimately liable to remit the excise tax collected from the client/customer. The five percent (5%) excise tax to be withheld and remitted is based on gross receipts net of VAT and is considered final and no adjustment shall be allowed to be made by the statutory bearer of the said excise tax.

SEC.4.130.1.2. Manner of Remittance of Excise Tax. –

Under existing rules on goods subject to excise taxes, the excise tax return is required to be filed and the excise tax paid by the manufacturer or producer of the goods before removal from the place of production. However, Section 150-A (Non-
Essential Services) of the Tax Code involves performance of medical/cosmetic services and not goods, hence, an innovative remittance scheme is hereby employed under which the seller of services/service provider collects the five percent (5%) excise tax from its client/customer and remits the same to the Bureau based on gross receipts, net of VAT. This practice outlines the circumstances when the withholding tax obligation in respect of payment is reversed and placed on the recipient of the payment instead of the payor, as an exception to the existing tax rules on withholding on income payments for goods and services. This concept of withholding tax reverse charge obligation on payments is herein prescribed for administrative expediency.

SEC. 4.130.2. Time for Filing of Return and Payment of the Tax. –

Every person liable to withhold/remit the excise tax imposed herein shall file a monthly return of its monthly gross receipts within ten (10) days following the close of the month using BIR Form No. 1620-XC (Monthly Remittance Return of Final Withholding of Excise Tax on Cosmetic Procedures), together with the Summary of Invasive Cosmetic Procedures Performed (please refer to prescribed format on Annex A hereof) as an attachment to the said form for submission via email at xcp.attachment@bir.gov.ph.

SEC. 4.130.3. Place of Filing of the Return and Payment of the Tax. –

Except as the Commissioner otherwise permits, the return shall be filed with and the final excise tax withheld remitted to any authorized agent bank (AAB) under the jurisdiction of the Revenue District Office/BIR Office where the taxpayer (Head Office of the business establishment) is registered or required to register.

For taxpayers located outside the National Capital Region (NCR) and in cases where there are no duly accredited agent banks within the municipality or city, Excise Tax due shall be filed and payments made to the Collection Agent or duly authorized Treasurer of the Municipality/City where such taxpayer (head office of the business establishment) is required to be registered.

In cases where no service subject to excise tax is performed and there are no payments received, the Monthly Remittance Return of Final Withholding of Excise Tax shall still be filed with Excise Large Taxpayers Field Operations Division (ELTFOD) for Large Taxpayers/Revenue District Office for taxpayers in the National Capital Region (NCR)/Excise Tax Area (EXTA) in Regional Offices for taxpayers outside NCR.

Taxpayers filing via EFPS shall comply with the provisions of the EFPS Regulations.

SEC. 4.130.4. Exceptions. –

The Secretary of Finance, upon the recommendation of the Commissioner, may, by rules and regulations, prescribe the manner and time for filing of the return
and payment of excise tax other than as prescribed under Section 130, Chapter I, Title VI of the Tax Code, as amended.

SEC. 5. Exclusions. – The Excise Tax imposed herein shall not apply to non-invasive cosmetic procedures and surgeries necessary to ameliorate a deformity arising from or directly related to, a congenital or developmental defect or abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease, tumor, virus or infection which shall include, but not limited to, those enumerated in Section 2(f) of this Regulations.

SEC. 6. Administrative Requirements. –

SEC. 6.1. Application for Permit to Operate. – Any person subject to excise tax under Section 150-A of the Tax Code, as amended, shall file an application for a Permit to Operate with the Excise LT Regulatory Division (ELTRD) BIR National Office (whether Large or Non-Large Taxpayers) not later than fifteen (15) days from the effectivity of this Regulations.

The application shall be accompanied by the following:

a. Request Letter
   Attention: Chief, Excise LT Regulatory Division (ELTRD);

b. Certificate of Securities and Exchange Commission, together with Articles of Incorporation and By-Laws (for corporation and partnership) and Certificate of Registration with the Office of the Domestic Trade and Industry (for individual);

c. Mayor’s Permit;

d. BIR Certificate of Registration (with latest registration fee BIR Form 0605);

e. Latest Copy of Income Tax Return;

f. Location map of clinics/hospitals where the medical professionals/practitioners perform their services;

g. Price list of Invasive/Non-invasive Medical Procedures

SEC. 6.2. Application for Registration. –

Every person subject to excise tax under Section 150-A of the Tax Code, as amended, shall register as Excise Taxpayer engaged in the performance of Invasive Cosmetic Procedures with the Excise LT Regulatory Division (ELTRD) for Large Taxpayers or with the Revenue District Office (RDO) for Non-Large Taxpayers where the taxpayer is required to be registered for updating of Certificate of Registration. The application for registration shall be filed within ten (10) days from the effectivity date of this Regulations.

SEC. 6.3. Invoicing and Accounting Requirements. –
6.3.1 Invoicing Requirements. – Every person subject to excise tax herein imposed shall issue:

1. An Official Receipt for services performed whether invasive/non-invasive.
2. The following information shall be indicated in the Official Receipt:
   a. The total amount which the patient/client pays or is obligated to pay to the service provider including the excise tax and value added tax: Provided, that:
      1. The amount of excise tax shall be shown as a separate item in the OR;
      2. Discounts given shall be indicated in the OR, otherwise the same shall not be allowed as deduction from gross receipts;
      3. If the procedure performed is non-invasive and considered exempt from excise tax, the term Exempt from Excise Tax shall be shown on the OR;
      4. If the services performed involved both invasive (excisable) and non-invasive (exempt from excise tax) procedures, the receipt shall clearly indicate the breakdown of the amount received between its taxable and exempt components and the calculation of excise tax on each portion of the procedure performed shall be shown on the receipt: Provided, that the service provider may issue separate ORs for the excisable and exempt components of the services rendered.

Illustration:

To improve her body shape, Starlet S engaged the services of Dok Salamat, a well-known cosmetic surgeon in the country, to perform a liposuction procedure on her thighs, and Dok Salamat charged Starlet S the amount of P50,000.00 inclusive of 12% VAT for the service to be rendered.

Based on the foregoing, the 5% excise tax shall be computed, as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Price (inclusive of 12% VAT) (50,000/112%)</td>
<td>P 50,000.00</td>
</tr>
<tr>
<td>Price (net of 12% VAT) (excise tax base)</td>
<td>P 44,642.85</td>
</tr>
<tr>
<td>Add: 5% excise tax (44,642.85 x 5%)</td>
<td>2,232.15*</td>
</tr>
<tr>
<td>12% VAT (44,642.85 x 12%)</td>
<td>5,357.15</td>
</tr>
<tr>
<td>Total Amount to be Collected from Customer</td>
<td>P 52,232.15</td>
</tr>
</tbody>
</table>

*Represents the excise tax to be withheld and remitted by the service provider to the BIR.

A sample Official Receipt is shown in Annex B hereof.

6.3.2 Accounting Requirements. – Notwithstanding the provisions of Section 233, all persons subject to excise tax under Section 150-A of the Tax Code shall, in addition to the regular accounting records required, maintain a subsidiary ledger on which every service rendered/performed on any given day is recorded. The subsidiary ledger shall contain the following information:

1. Name of Patient;
2. Taxpayers Identification Number;
3. Invasive Cosmetic Procedures Performed;
4. Non-Invasive Cosmetic Procedures Performed;
5. Official Receipts Number;
6. Gross Receipts (net of VAT and 5% excise tax)
7. 5% Excise Tax to be Withheld and Remitted
8. 12% VAT Due
9. Total Amount to be Collected from Customer (sum of 6, 7 and 8)
10. Remarks (description of cosmetic procedure performed)

SEC. 7. Penalties – Violations of these Regulations shall be subject to the corresponding penalties under Title X of the NIRC, as amended.

Further, the following penalty provisions are hereby prescribed pursuant to the provisions of the Act as follows:

1. Any person subject to excise tax under Section 150-A of the Tax Code, as amended, found liable for any of the acts or omissions in violation of the Act and its implementing Regulations shall be fined treble the aggregate amount of deficiency taxes, surcharges and interest which may be assessed pursuant to the provisions of this Act;

2. Any person liable for any of the acts or omission prohibited under the Act and its implementing Regulations shall be criminally liable and penalized under Section 254 of the NIRC, as amended;

3. Any person willfully aids or abets in the commission of any such act or omission shall be criminally liable in the same manner as the principal; and

4. If the offender is not a citizen of the Philippines, he shall be deported immediately after serving the sentence, without further proceedings for deportation.

SEC. 8. Transitory Provision. – For the effective implementation of the Act, the following guidelines shall be followed during the transitory period:

1. Taxpayers may continue to use existing Official Receipts in accordance with current regulations until fully expended.

2. The current Certificate of Registration (COR) shall be updated to include excise tax type using BIR Form 1905 and the same shall be issued to the applicant by the Excise LT Regulatory Division (ELTRD) for Large Taxpayers and Revenue District Office (RDO) having jurisdiction of the applicant for Non-Large Taxpayers in compliance with the requirements for registration.

3. The BIR Form No. 1620-XC (Monthly Remittance Return of Final Withholding of Excise Tax on Cosmetic Procedures) is available for downloading from the BIR website for purposes of remitting Final Withholding of Excise Tax on cosmetic procedures and shall be manually filed with the BIR, together with the prescribed attachment to the said form (Summary of Invasive Cosmetic Procedures Performed) for submission via email at xcp.attachment@bir.gov.ph.
4. Submission of Pricelist for Invasive/Non-Invasive Medical Procedures to Excise LT Regulatory Division (ELTRD) as of December 31, 2017 which is due on or before the filing of the application of Permit to Operate.

SEC. 9. Separability Clause. – If any of the provisions of these Regulations is declared invalid by a competent court, the remainder of these Regulations or any provision not affected by such declaration of invalidity shall remain in force and effect.

SEC. 10. Repealing Clause. – All Rules and Regulations and other issuances or parts thereof, inconsistent with the provisions of these Regulations are hereby revoked, repealed or amended, accordingly.

SEC. 11. Effectivity. – These Regulations shall take effect after fifteen (15) days following publication in leading newspapers of general circulation.

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PLEASE SUBMIT YOUR COMMENTS TO:

maria.imeliza.madriaga@bir.gov.ph

Use COMMENTS ET-COSMETIC PROCEDURES as the subject heading for your email.

Thank you!