

DISCOUNTING SENIOR CITIZENS

by Atty. Rainer P. Dela Fuente, CPA / July 2014

A month ago, a prominent election lawyer sued a posh hotel in Pasay City for denying him his 20% senior citizen's discount on top of his hotel membership incentives. Allegedly, while the hotel restaurant gave the lawyer a 50% discount as member of the hotel privilege group, it did not give him his additional 20% discount for being a senior citizen. The complainant argued that the 20% should be on top of the 50% discount. Whereas, the hotel management is of the view that the Senior Citizen's Law does not allow double discounts. All the same, while we are awaiting the final resolution of this issue let us try to revisit some of the rules in availing the senior citizen's discounts.

Revenue Memorandum Circular No. 38-2012, issued by the Bureau of Internal Revenue, reiterated the correct treatment of the 20% discount that establishments, particularly restaurants, grant to senior citizens as well as the exemption from the payment of the 12% VAT. Normally, the purchase of consumables by a senior citizen is entitled to two discounts: (i) from the 12% VAT; and (ii) the 20% discount applied to the "VAT-less" invoice price, which effectively grants a total of 32% discount.

As a rule, this 32% discount shall only apply to consumables (food, drinks, dessert, condiments and side products) served by restaurants for the exclusive use and enjoyment of a senior citizen buyer. For this purpose, the term "restaurants", shall refer to any establishment offering to the public regular and special meals or menu, fast food, cooked food, short orders, including those serving coffee, beverages and drinks. This also covers quick-service, casual dining and fine dining restaurants. On the other hand, food and goods sold by non-restaurant establishments are not allowed to give the 20% discount.

Where a consumable item is not limited to a single serving and is shared with others, only that portion of the bill attributable to a senior citizen with a valid ID shall qualify for 20% discount and 12% VAT exemption. To illustrate, if a group of diners is composed of senior citizens who ordered for "group meals" or food items for sharing, each senior citizen with a valid senior citizen's ID card shall be entitled to a 20% discount and VAT exemption. If, however, not all senior citizens have their valid senior citizen's ID cards, only the value of the food purchase attributable to senior citizen's ID cards shall be

entitled to the discounts. No proxies or authorization in favor of another person will be honored.

In cases where there are promo discounts or privilege card entitlements for the purchase of goods or services, the higher between the promo rate and the senior citizen's discount rate shall apply. Under the rules implementing the expanded senior citizens law, these are mutually exclusive choices and in no case can there be double discounts. In either cases, the senior citizen is still entitled to the 12% VAT exemption. So if the promo discount is 50% (which is higher than the standard 20% senior citizen's discount rate), the total discount to be availed by the senior citizen is equivalent to 62% (50% promo discount plus 12% VAT exemption).

However, the foregoing would only apply to establishments that are VAT-registered. How much could then a senior citizen enjoy when he/she dines or purchases items in a non-VAT registered establishment? Would it still be the same?

In case of business establishments which are not subject to VAT but to percentage tax, our "young once" can still avail of the 20% senior citizen's discount but there is no exemption from the payment of percentage tax. While the Expanded Senior Citizens Act expressly provides for VAT exemption on purchase of specific goods and services, the law does not include exemption from the payment of percentage tax. It is a settled rule that tax exemptions must be clear and unequivocal. It cannot arise from vague inference. A taxpayer claiming a tax exemption must point to a specific provision of law conferring on the taxpayer, in clear and plain terms, exemption from a common burden. Any doubt whether a tax exemption exists is resolved against the taxpayer. (*Digital Telecommunications, Inc. vs. City Government of Batangas*, G.R. No. 156040 dated 11 December 2008)

For that reason, the senior citizen's discount is computed by first applying the 20% discount rate on the cost of goods or services charged by the seller, exclusive of the percentage tax. Thereafter, the percentage tax will be added back to arrive at the total amount due.

All the same, while these incentives might be small in monetary terms for some, these are all aimed at giving our elderly the maximum benefits under the law and a better outlook that growing old should be viewed in a very positive and enjoyable manner.

This article is for general information only and not intended as a substitute for a professional advice on a specific tax issue. For questions or comments, the author may be reached via rdelafuente@gdlaw.ph.



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