

# TRIPARTITE INDUSTRIAL PEACE COUNCIL

## RESOLUTION NO. 4

*Series of 2012*

*“Seeking the Revision of the Implementation of Republic Act No. 9504, on Tax Exemptions for Minimum Wage Earners and the Revocation of Revenue Memorandum Circular No. 39-2012 ”*

**WHEREAS**, pursuant to Executive Order No. 403, Series of 1990, the Tripartite Industrial Peace Council (TIPC) shall review existing labor, economic and social policies and evaluate local and international developments affecting them, and shall be the clearinghouse of tripartite views on labor and social concerns;

**WHEREAS**, Republic Act No. 9504, *“An Act Amending Section 22, 24, 34, 35, 51 and 79 of RA No. 8424, as Amended, Otherwise Known as the National Internal Revenue of 1997*, was signed into law by the President on 17 June 2008 and consequently took effect on 7 July 2008, exempting minimum wage earners in both public and private sectors from income tax and withholding tax on compensation;

**WHEREAS**, Revenue Regulations No. 10-2008 providing for the implementing pertinent provisions of RA 9504 states that the list of *de minimis* benefits cited therein shall not be subject to income tax and withholding tax on compensation, provided that the total amount shall not exceed the P30,000.00 ceiling of ‘other benefits’ excluded from gross income under Section 32(b)(7)(e) of the National Internal Revenue Code;

**WHEREAS**, Revenue Circular Memorandum No. 39-2012, issued on 29 August 2012, imposes withholding of income tax on backwages, allowances, and benefits received by employees through garnishments of debts or credits pursuant to a labor dispute award;

**WHEREAS**, the full award granted to illegally dismissed employees is in the nature of a penalty which is therefore not subject to tax pursuant to the concept of civil indemnity awarded in civil cases by our courts;

**WHEREAS**, in a TIPC meeting held on 29 August 2012 at The Bayleaf, Intramuros where various tax issues were discussed with Bureau of Internal Revenue (BIR) representatives, the labor sector raised the negative implications in situations wherein: (a) a peso higher than the statutory minimum wage; (b) any *de minimis* benefits beyond ceilings and/or other benefits exceeding the P30,000.00 exemption; (c) commissions or allowances; or (d) business commissions (other than those subject to final taxes such as interest income), is no longer exempted from income tax and withholding tax on compensation;

**WHEREAS**, in a Tripartite Executive Committee (TEC) meeting of the TIPC on 21 September 2012 at the Occupational Safety and Health Center, Quezon City, the labor sector reiterated the need for amendments on RA 9504, particularly on the revision of exemptions from income tax and withholding tax on compensation;

**WHEREAS**, the tripartite partners view that subjecting the entire income of workers to tax in the foregoing circumstances would turn out contrary to the principle of equity and fairness;

**WHEREAS**, the labor representatives expressed that the current interpretation of RA 9504 discourages workers from joining trade unions and participating in trade union activities, particularly

in collective bargaining in view of exclusion from tax exemptions following even a minor increase in benefits; and

**WHEREAS**, the labor representatives further believe that the implementation of the law results to diminished takehome pay especially for minimum wage earners and workers earning slightly higher than the minimum wage and that the effect of the implementation of the law is regressive as it burdens more those earning lower income than those high income in terms of percentages;

**WHEREAS**, the tripartite stakeholders believe that the interpretation of RA 9504 should be revisited taking into account the intent of the law which is to provide financial relief to minimum wage earners and to promote social justice by providing tax exemptions even to workers receiving slightly over and above the minimum wage, taking into consideration the principles of elimination of tax distortion and equalization of take home pay.

**NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED TO:**

1. Hold a dialogue with the BIR Commissioner and Department of Finance (DOF) Secretary towards reviewing and amending the implementation of:
  - a. RA 9504 in order to align the law with its true objectives and mandate, and forwarding the following proposals:
    1. Taxable income should be based on the amount over and above or in excess of the minimum wage or should only be imposed on the increment;
    2. Increase the minimum threshold amount on *de minimis* benefits from P30,000.00 to P90,000.00 through a revenue regulation;
    3. Expand *de minimis* benefits to exclude from tax coverage productivity and CBA benefits;
    4. Review tax exemption of separation/termination/severance pay and contributions to PAG-IBIG funds; and
    5. Determine the minimum wage for the public sector for the purpose of exemption.
  - b. Revenue Memorandum Circular No. 39-2012, *"Withholding of Income Tax on Backwages, Allowances and Benefits Received by Employees through Garnishments of Debts or Credits Pursuant to a Labor Dispute Award,"* with the end in view of revoking the aforementioned issuance.
2. Create a Technical Working Group (TWG) composed of representatives from the TIPC, TEC and BIR to draw up a three-month workplan on the process of amending RA 9504, to review the taxable income and to craft amendments for approval of the TIPC by the end of January 2013 prior to the submission to appropriate government bodies; and
3. Direct the Institute for Labor Studies (ILS) of the Department of Labor and Employment (DOLE) to conduct a study on the impact of the current interpretation of the BIR of RA 9504 by end of December 2012.

Unanimously adopted this 29<sup>th</sup> day of November 2012, at Bayview Park Hotel, Roxas Boulevard, Manila, Philippines.

EMPLOYERS' SECTOR



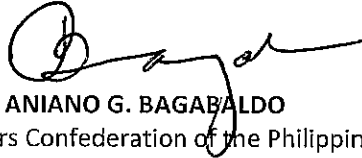
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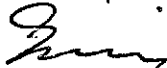


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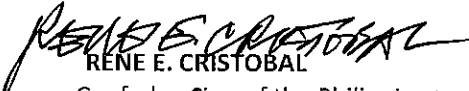
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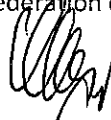
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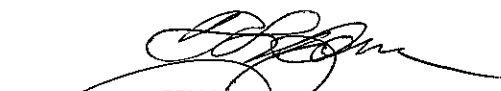
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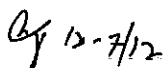
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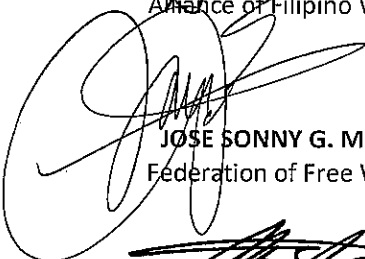
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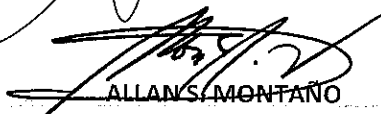
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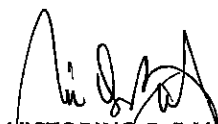
  
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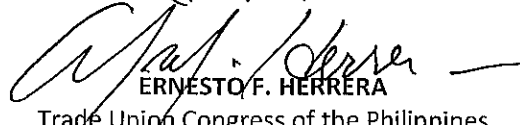
  
**MANUEL P. ARIAS**  
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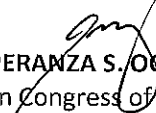
  
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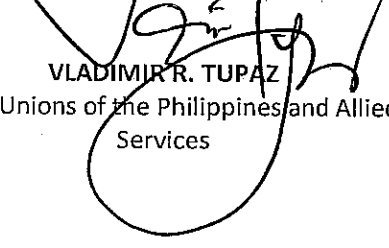
  
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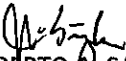
  
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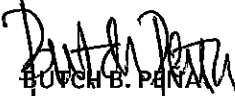
  
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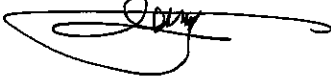
  
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