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Code of Judicial Conduct, the Court imposes the penalty of **DISMISSAL** from the service, with **FORFEITURE** of retirement benefits, except leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned and controlled corporations.

SO ORDERED.

Sereno, C.J., Carpio, Leonardo-de Castro, Peralta, Bersamin, del Castillo, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and *Caguioa, JJ.,* concur.

Velasco, Jr., J., no part.

EN BANC

[G.R. No. 184450. January 24, 2017]

JAIME N. SORIANO, MICHAEL VERNON M. GUERRERO, MARY ANN L. REYES, MARAH SHARYN M. DE CASTRO and CRIS P. TENORIO, *petitioners, vs.* **SECRETARY OF FINANCE and the COMMISSIONER OF INTERNAL REVENUE,** *respondents.*

[G.R. No. 184508. January 24, 2017]

SENATOR MANUEL A. ROXAS, *petitioner, vs.* **MARGARITO B. TEVES, in his capacity as Secretary of the Department of Finance and LILIAN B. HEFTI, in her Capacity as Commissioner of the Bureau of Internal Revenue,** *respondents.*

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[G.R. No. 184538. January 24, 2017]

TRADE UNION CONGRESS OF THE PHILIPPINES (TUCP), represented by its president, DEMOCRITO T. MENDOZA, *petitioner, vs.* **MARGARITO B. TEVES, in his capacity as Secretary of the Department of Finance and LILIAN B. HEFTI, in her capacity as Commissioner of the Bureau of Internal Revenue,** *respondents*.

[G.R. No. 185234. January 24, 2017]

SENATOR FRANCIS JOSEPH G. ESCUDERO, TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC. and ERNESTO G. EBRO, *petitioners, vs.* **MARGARITO B. TEVES, in his capacity as Secretary of the Department of Finance and SIXTO S. ESQUIVIAS IV, in his capacity as Commissioner of the Bureau of Internal Revenue,** *respondents.*

SYLLABUS

1. TAXATION; NATIONAL INTERNAL REVENUE CODE OF 1997 (REPUBLIC ACT NO. 8424, AS AMENDED BY REPUBLIC ACT NO. 9504); INCOME TAX; PERSONAL AND ADDITIONAL EXEMPTIONS PROVIDED BY REPUBLIC ACT NO. 9504 SHOULD BE APPLIED TO THE ENTIRE TAXABLE YEAR 2008; RATIONALE.— The personal and additional exemptions established by R.A. 9504 should be applied to the entire taxable year 2008. x x x In this case, Senator Francis Escudero's sponsorship speech for Senate Bill No. 2293 reveals two important points about R.A. 9504: (1) it is a piece of social legislation; and (2) its intent is to make the proposed law immediately applicable, that is, to taxable year 2008: x x x In sum, R.A. 9504, like R.A. 7167 in *Umali*, was a piece of social legislation clearly intended to afford *immediate* tax relief to individual taxpayers, particularly low-income compensation earners. x x x Therefore, following *Umali*, the test is whether the new set of personal and additional

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exemptions was available at the time of the filing of the income tax return. In other words, while the status of the individual taxpayers is determined at the close of the taxable year, their personal and additional exemptions — and consequently the computation of their taxable income — are reckoned when the tax becomes due, and not while the income is being earned or received. The NIRC is clear on these matters. The taxable income of an individual taxpayer shall be computed on the basis of the calendar year. The taxpayer is required to fi1e an income tax return on the 15th of April of each year covering income of the preceding taxable year. The tax due thereon shall be paid at the time the return is filed. It stands to reason that the new set of personal and additional exemptions, adjusted as a form of social legislation to address the prevailing poverty threshold, should be given effect at the most opportune time as the Court ruled in *Umali*. x x x In *Umali*, the Court ruled that the application of the law was prospective, even if the amending law took effect after the close of the taxable year in question, but before the deadline for the filing of the return and payment of the taxes due for that year. Here, not only did R.A. 9504 take effect before the deadline for the filing of the return and payment for the taxes due for taxable year 2008, it took effect way before the close of that taxable year. Therefore, the operation of the new set of personal and additional exemption in the present case was all the more prospective. x x x [T]he rule of full taxable year treatment for the availment of personal and additional exemptions was established, not by the amendments introduced by R.A. 9504, but by the provisions of the 1997 Tax Code itself. The new law merely introduced a change in the amounts of the basic and additional personal exemptions. Hence, the fact that R.A. 9504 took effect only on 6 July 2008 is irrelevant.

2. **ID.; ID.; ID.; ID.; THE POLICY OF FULL TAXABLE YEAR TREATMENT IS ESTABLISHED, NOT BY AMENDMENTS INTRODUCED BY REPUBLIC ACT NO. 9504, BUT BY THE PROVISIONS OF THE 1997 TAX CODE, WHICH ADOPTED THE POLICY FROM AS EARLY AS 1969; EXPLAINED.—** [T]he legislative policy of full taxable year treatment of the personal and additional exemptions has been in our jurisdiction continuously since 1969. The prorating approach has long since been abandoned. Had

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Congress intended to revert to that scheme, then it should have so stated in clear and unmistakeable terms. There is nothing, however, in R.A. 9504 that provides for the reinstatement of the prorating scheme. On the contrary, the change-of-status provision utilizing the full-year scheme in the 1997 Tax Code was left untouched by R.A. 9504. We now arrive at this important point: the policy of full taxable year treatment is established, not by the amendments introduced by R.A. 9504, but by the provisions of the 1997 Tax Code, which adopted the policy from as early as 1969. There is, of course, nothing to prevent Congress from again adopting a policy that prorates the effectivity of basic personal and additional exemptions. This policy, however, must be explicitly provided for by law — to amend the prevailing law, which provides for full-year treatment. As already pointed out, R.A. 9504 is totally silent on the matter. This silence cannot be presumed by the BIR as providing for a half-year application of the new exemption levels. Such presumption is unjust, as incomes do not remain the same from month to month, especially for the MWEs. Therefore, there is no legal basis for the BIR to reintroduce the prorating of the new personal and additional exemptions. In so doing, respondents overstepped the bounds of their rule-making power. It is an established rule that administrative regulations are valid only when these are consistent with the law. Respondents cannot amend, by mere regulation, the laws they administer. To do so would violate the principle of non-delegability of legislative powers.

3. **POLITICAL LAW; ADMINISTRATIVE LAW; PRINCIPLE OF NON-DELEGABILITY OF LEGISLATIVE POWERS; TWO ACCEPTED TESTS FOR A VALID DELEGATION OF LEGISLATIVE POWER TO THE EXECUTIVE BRANCH, CITED; NOT SATISFIED IN CASE AT BAR.—** The prorated application of the new set of personal and additional exemptions for the year 2008, which was introduced by respondents, cannot even be justified under the exception to the canon of non-delegability; that is, when Congress makes a delegation to the executive branch. The delegation would fail the two accepted tests for a valid delegation of legislative power; the completeness test and the sufficient standard test. The first test requires the law to be complete in all its terms and conditions,

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such that the only thing the delegate will have to do is to enforce it. The sufficient standard test requires adequate guidelines or limitations in the law that map out the boundaries of the delegate's authority and canalize the delegation. In this case, respondents went beyond enforcement of the law, given the absence of a provision in R.A. 9504 mandating the prorated application of the new amounts of personal and additional exemptions for 2008. x x x An administrative agency may not enlarge, alter or restrict a provision of law. It cannot add to the requirements provided by law. To do so constitutes lawmaking, which is generally reserved for Congress. In *CIR v. Fortune Tobacco*, we applied the *plain meaning* rule when the Commissioner of Internal Revenue ventured into unauthorized administrative lawmaking: x x x We are not persuaded that RR 10-2008 merely clarifies the law. The CIR's clarification is not warranted when the language of the law is plain and clear.

4. TAXATION; NATIONAL INTERNAL REVENUE CODE OF 1997 (REPUBLIC ACT NO. 8424, AS AMENDED BY REPUBLIC ACT NO. 9504); INCOME TAX; PERSONAL AND ADDITIONAL EXEMPTIONS; MINIMUM WAGE EARNER (MWE); THE ONLY QUALIFICATION TO BE ENTITLED TO THE EXEMPTION PROVIDED BY REPUBLIC ACT NO. 9504 IS THAT ONE MUST BE A MINIMUM WAGE EARNER; SUSTAINED.— Sections 1 and 3 of RR 10-2008 add a requirement not found in the law by effectively declaring that an MWE who receives other benefits in excess of the statutory limit of ₱30,000 is no longer entitled to the exemption provided by R.A. 9504. ***The BIR added a requirement not found in the law.*** x x x Nowhere in the provisions of R.A. 9504 would one find the qualifications prescribed by the assailed provisions of RR 10-2008. The provisions of the law are clear and precise; they leave no room for interpretation — they do not provide or require any other qualification as to who are MWEs. To be exempt, one must be an MWE, a term that is clearly defined. Section 22(HH) says he/she must be one who is paid the statutory minimum wage if he/she works in the private sector, or not more than the statutory minimum wage in the non-agricultural sector where he/she is assigned, if he/she is a government employee. Thus, one is either an MWE or he/she is not. x x x In Article 99, minimum wage rates are to be prescribed by the Regional Tripartite Wages

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and Productivity Boards. In Articles 102 to 105, specific instructions are given in relation to the payment of wages. They must be paid in legal tender at least once every two weeks, or twice a month, at intervals not exceeding 16 days, directly to the worker, except in case of *force majeure* or death of the worker. These are the wages for which a minimum is prescribed. Thus, the minimum wage exempted by R.A. 9504 is that which is referred to in the Labor Code. It is distinct and different from other payments including allowances, honoraria, commissions, allowances or benefits that an employer may pay or provide an employee. Likewise, the other compensation incomes an MWE receives that are also exempted by R.A. 9504 are all mandated by law and are based on this minimum wage. x x x In other words, the law exempts from income taxation the most basic compensation an employee receives — the amount afforded to the lowest paid employees by the mandate of law. In a way, the legislature grants to these lowest paid employees additional income by no longer demanding from them a contribution for the operations of government. This is the essence of R.A. 9504 as a social legislation. The government, by way of the tax exemption, affords increased purchasing power to this sector of the working class.

5. ID.; ID.; ID.; ID.; THE PROPER INTERPRETATION OF REPUBLIC ACT NO. 9504 IS THAT IT IMPOSES TAXES ONLY ON THE TAXABLE INCOME RECEIVED IN EXCESS OF THE MINIMUM WAGE, BUT THE MINIMUM WAGE EARNERS WILL NOT LOSE THEIR EXEMPTION AS SUCH; EXPLAINED.— In sum, the proper interpretation of R.A. 9504 is that it imposes taxes only on the taxable income received in excess of the minimum wage, but the MWEs will not lose their exemption as such. Workers who receive the statutory minimum wage their basic pay remain MWEs. The receipt of any other income during the year does not disqualify them as MWEs. They remain MWEs, entitled to exemption as such, but the taxable income they receive other than as MWEs may be subjected to appropriate taxes. x x x We are mindful of the strict construction rule when it comes to the interpretation of tax exemption laws. The canon, however, is tempered by several exceptions, one of which is when the taxpayer falls within the purview of the exemption by clear legislative intent. In this situation, the rule of liberal interpretation

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applies in favor of the grantee and against the government. In this case, there is a clear legislative intent to exempt the minimum wage received by an MWE who earns additional income on top of the minimum wage. As previously discussed, this intent can be seen from both the law and the deliberations. Accordingly, we see no reason why we should not liberally interpret R.A. 9504 in favor of the taxpayers.

APPEARANCES OF COUNSEL

Jaime N. Soriano for himself and all the other petitioners.
Poblador Bautista & Reyes for petitioners in G.R. No. 185234.
Cadiz & Tabayoyong for petitioner in G.R. No. 184508.
The Solicitor General for public respondents.

D E C I S I O N

SERENO, *C.J.*:

Before us are consolidated Petitions for Certiorari, Prohibition and Mandamus, under Rule 65 of the 1997 Revised Rules of Court. These Petitions seek to nullify certain provisions of Revenue Regulation No. (RR) 10-2008. The RR was issued by the Bureau of Internal Revenue (BIR) on 24 September 2008 to implement the provisions of Republic Act No. (R.A.) 9504. The law granted, among others, income tax exemption for minimum wage earners (MWEs), as well as an increase in personal and additional exemptions for individual taxpayers.

Petitioners assail the subject RR as an unauthorized departure from the legislative intent of R.A. 9504. The regulation allegedly restricts the implementation of the MWEs' income tax exemption only to the period starting from 6 July 2008, instead of applying the exemption to the entire year 2008. They further challenge the BIR's adoption of the prorated application of the new set of personal and additional exemptions for taxable year 2008. They also contest the validity of the RR's alleged imposition of a condition for the availment by MWEs of the exemption provided by R.A. 9504. Supposedly, in the event they receive

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other benefits in excess of ₱30,000, they can no longer avail themselves of that exemption. Petitioners contend that the law provides for the unconditional exemption of MWEs from income tax and, thus, pray that the RR be nullified.

ANTECEDENT FACTS

R.A. 9504

On 19 May 2008, the Senate filed its Senate Committee Report No. 53 on Senate Bill No. (S.B.) 2293. On 21 May 2008, former President Gloria M. Arroyo certified the passage of the bill as urgent through a letter addressed to then Senate President Manuel Villar. On the same day, the bill was passed on second reading in the Senate and, on 27 May 2008, on third reading. The following day, 28 May 2008, the Senate sent S.B. 2293 to the House of Representatives for the latter's concurrence.

On 04 June 2008, S.B. 2293 was adopted by the House of Representatives as an amendment to House Bill No. (H.B.) 3971.

On 17 June 2008, R.A. 9504 entitled "An Act Amending Sections 22, 24, 34, 35, 51, and 79 of Republic Act No. 8424, as Amended, Otherwise Known as the National Internal Revenue Code of 1997," was approved and signed into law by President Arroyo. The following are the salient features of the new law:

1. It increased the basic personal exemption from ₱20,000 for a single individual, ₱25,000 for the head of the family, and ₱32,000 for a married individual to ₱50,000 for each individual.
2. It increased the additional exemption for each dependent not exceeding four from ₱8,000 to ₱25,000.
3. It raised the Optional Standard Deduction (OSD) for individual taxpayers from 10% of gross income to 40% of the gross receipts or gross sales.
4. It introduced the OSD to corporate taxpayers at no more than 40% of their gross income.

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5. It granted MWEs exemption from payment of income tax on their minimum wage, holiday pay, overtime pay, night shift differential pay and hazard pay.[1]

Section 9 of the law provides that it shall take effect 15 days following its publication in the *Official Gazette* or in at least two newspapers of general circulation. Accordingly, R.A. 9504 was published in the *Manila Bulletin* and *Malaya* on 21 June 2008. On 6 July 2008, the end of the 15-day period, the law took effect.

RR 10-2008

On 24 September 2008, the BIR issued RR 10-2008, dated 08 July 2008, implementing the provisions of R.A. 9504. The relevant portions of the said RR read as follows:

SECTION 1. Section 2.78.1 of RR 2-98, as amended, is hereby further amended to read as follows:

Sec. 2.78.1. *Withholding of Income Tax on Compensation Income*.–

x x x x x x x x x

The amount of '*de minimis*' benefits conforming to the ceiling herein prescribed shall not be considered in determining the ₱30,000.00 ceiling of 'other benefits' excluded from gross income under Section 32 (b) (7) (e) of the Code. Provided that, the excess of the '*de minimis*' benefits over their respective ceilings prescribed by these regulations shall be considered as part of 'other benefits' and the employee receiving it will be subject to tax only on the excess over the ₱30,000.00 ceiling. **Provided, further, that MWEs receiving 'other benefits'**

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[1] R.A. 9504—Section 2. Section 24 (A) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, is hereby further amended to read as follows:

x x x x x x x x x

Provided, That minimum wage earners as defined in Section 22 (HH) of this Code shall be exempt from the payment of income tax on their taxable income: *Provided, further*, That the holiday pay, overtime pay, night shift differential and hazard pay received by such minimum wage earners shall likewise be exempt from income tax.

x x x x x x x x x

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exceeding the ₱30,000.00 limit shall be taxable on the excess benefits, as well as on his salaries, wages and allowances, just like an employee receiving compensation income beyond the SMW.

x x x x x x x x x

(B) *Exemptions from Withholding Tax on Compensation*. — The following income payments are exempted from the requirements of withholding tax on compensation:

x x x x x x x x x

(13) Compensation income of MWEs who work in the private sector and being paid the Statutory Minimum Wage (SMW), as fixed by Regional Tripartite Wage and Productivity Board (RTWPB)/ National Wages and Productivity Commission (NWPC), applicable to the place where he/she is assigned.

The aforesaid income shall likewise be exempted from income tax.

'Statutory Minimum Wage' (SMW) shall refer to the rate fixed by the Regional Tripartite Wage and Productivity Board (RTWPB), as defined by the Bureau of Labor and Employment Statistics (BLES) of the Department of Labor and Employment (DOLE). The RTWPB of each region shall determine the wage rates in the different regions based on established criteria and shall be the basis of exemption from income tax for this purpose.

Holiday pay, overtime pay, night shift differential pay and hazard pay earned by the aforementioned MWE shall likewise be covered by the above exemption. **Provided, however, that an employee who receives/earns additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱30,000.00, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, hazard pay and night shift differential pay shall not enjoy the privilege of being a MWE and, therefore, his/her entire earnings are not exempt from income tax, and consequently, from withholding tax.**

MWEs receiving other income, such as income from the conduct of trade, business, or practice of profession, except income subject to final tax, in addition to compensation income are not exempted from income tax on their entire income earned during the taxable

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year. This rule, notwithstanding, **the SMW, holiday pay, overtime pay, night shift differential pay and hazard pay shall still be exempt from withholding tax**.

For purposes of these regulations, hazard pay shall mean the amount paid by the employer to MWEs who were actually assigned to danger or strife-torn areas, disease-infested places, or in distressed or isolated stations and camps, which expose them to great danger of contagion or peril to life. Any hazard pay paid to MWEs which does not satisfy the above criteria is deemed subject to income tax and consequently, to withholding tax.

x x x x x x x x x

SECTION 3. Section 2.79 of RR 2-98, as amended, is hereby further amended to read as follows:

Sec. 2.79. *Income Tax Collected at Source on Compensation Income*. —

(A) *Requirement of Withholding*. — Every employer must withhold from compensation paid an amount computed in accordance with these Regulations. Provided, that no withholding of tax shall be required on the SMW, including holiday pay, overtime pay, night shift differential and hazard pay of MWEs in the private/public sectors as defined in these Regulations. **Provided, further, that an employee who receives additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱30,000.00, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, hazard pay and night shift differential pay shall not enjoy the privilege of being a MWE and, therefore, his/her entire earnings are not exempt from income tax and, consequently, shall be subject to withholding tax.**

x x x x x x x x x

For the year 2008, however, being the initial year of implementation of R.A. 9504, there shall be a transitory withholding tax table for the period from July 6 to December 31, 2008 (Annex "D") determined by prorating the annual personal and additional exemptions under R.A. 9504 over a period of six months. Thus, for individuals, regardless of personal status, the prorated personal exemption is ₱25,000, and for each qualified dependent child (QDC), ₱12,500.

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x x x x x x x x x

SECTION 9. Effectivity. —

These Regulations shall take effect beginning July 6, 2008. (Emphases supplied)

The issuance and effectivity of RR 10-2008 implementing R.A. 9504 spawned the present Petitions.

G.R. No. 184450

Petitioners Jaime N. Soriano, et al. primarily assail Section 3 of RR 10-2008 providing for the prorated application of the personal and additional exemptions for taxable year 2008 to begin only effective 6 July 2008 for being contrary to Section 4 of Republic Act No. 9504.[2]

Petitioners argue that the prorated application of the personal and additional exemptions under RR 10-2008 is not "the legislative intendment in this jurisdiction."[3] They stress that Congress has always maintained a policy of "full taxable year treatment"[4] as regards the application of tax exemption laws. They allege further that R.A. 9504 did not provide for a prorated application of the new set of personal and additional exemptions.[5]

G.R. No. 184508

Then Senator Manuel Roxas, as principal author of R.A. 9504, also argues for a *full taxable year* treatment of the income tax benefits of the new law. He relies on what he says is clear legislative intent. In his "Explanatory Note of Senate Bill No. 103," he stresses "the very spirit of enacting the subject tax exemption law"[6] as follows:

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[2] *Rollo* (G.R. No. 184450), p. 14.

[3] *Id.* at 9.

[4] *Id.*

[5] *Id.* at 8.

[6] *Rollo* (G.R. No. 184508), p. 16.

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With the poor, every little bit counts, and by lifting their burden of paying income tax, we give them opportunities to put their money to daily essentials as well as savings. **Minimum wage earners can no longer afford to be taxed and to be placed in the cumbersome income tax process in the same manner as higher-earning employees.** It is our obligation to ease their burdens in any way we can.[7] (Emphasis Supplied)

Apart from raising the issue of legislative intent, Senator Roxas brings up the following legal points to support his case for the full-year application of R.A. 9504's income tax benefits. He says that the pro rata application of the assailed RR deprives MWEs of the financial relief extended to them by the law;[8] that *Umali v. Estanislao*[9] serves as jurisprudential basis for his position that R.A. 9504 should be applied on a full-year basis to taxable year 2008;[10] and that the social justice provisions of the 1987 Constitution, particularly Articles II and XIII, mandate a full application of the law according to the spirit of R.A. 9504.[11]

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[7] *Id.*

[8] *Rollo* (G.R. No. 184450), p. 18.

[9] G.R. Nos. 104037 & 104069, 29 May 1992, 209 SCRA 446.

[10] *Id.* at 18.

[11] Petitioner Sen. Roxas cites the following provisions of the 1987 Constitution:

Article II

DECLARATION OF PRINCIPLES AND STATE POLICIES

x x x x x x x x x

Section 9. The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

Section 10. The State shall promote social justice in all phases of national development.

x x x x x x x x x

Section 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

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On the scope of exemption of MWEs under R.A. 9504, Senator Roxas argues that the exemption of MWEs is absolute, regardless of the amount of the other benefits they receive. Thus, he posits that the Department of Finance (DOF) and the BIR committed grave abuse of discretion amounting to lack and/or excess of jurisdiction. They supposedly did so when they provided in Section 1 of RR 10-2008 the condition that an MWE who receives "other benefits" exceeding the ₱30,000 limit would lose the tax exemption.[12] He further contends that the real intent of the

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Article XIII:

SOCIAL JUSTICE AND HUMAN RIGHTS

Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

Section 2. The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

LABOR

Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns to investments, and to expansion and growth.

xxx xxx xxx

[12] *Rollo* (G.R. No. 184508), p. 23.

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law is to grant income tax exemption to the MWE without any limitation or qualification, and that while it would be reasonable to tax the benefits in excess of ₱30,000, it is unreasonable and unlawful to tax both the excess benefits and the salaries, wages and allowances.[13]

G.R. No. 184538

Petitioner Trade Union Congress of the Philippine contends that the provisions of R.A. 9504 provide for the application of the tax exemption for the full calendar year 2008. It also espouses the interpretation that R.A. 9504 provides for the unqualified tax exemption of the income of MWEs regardless of the other benefits they receive.[14] In conclusion, it says that RR 10-2008, which is only an implementing rule, amends the original intent of R.A. 9504, which is the substantive law, and is thus null and void.

G.R. No. 185234

Petitioners Senator Francis Joseph Escudero, the Tax Management Association of the Philippines, Inc., and Ernesto Ebro allege that R.A. 9504 unconditionally grants MWEs exemption from income tax on their taxable income, as wel1 as increased personal and additional exemptions for other individual taxpayers, for the whole year 2008. They note that the assailed RR 10-2008 restricts the start of the exemptions to 6 July 2008 and provides that those MWEs who received "other benefits" in excess of ₱30,000 are not exempt from income taxation. Petitioners believe this RR is a "patent nullity"[15] and therefore void.

Comment of the OSG

The Office of the Solicitor General (OSG) filed a Consolidated Comment[16] and took the position that the application of R.A.

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[13] *Id.* at 24.

[14] *Rollo* (G.R. No. 184538), pp. 11-12.

[15] *Rollo* (G.R. No. 185234), p.7.

[16] *Rollo* (G.R. No. 184450), pp. 99-149; (G.R. No. 184538), pp. 80-128; and (G.R. No. 185234), pp. 97-146.

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9504 was intended to be prospective, and not retroactive. This was supposedly the general rule under the rules of statutory construction: law will only be applied retroactively if it clearly provides for retroactivity, which is not provided in this instance.[17]

The OSG contends that *Umali v. Estanislao* is not applicable to the present case. It explains that R.A. 7167, the subject of that case, was intended to adjust the personal exemption levels to the poverty threshold prevailing in 1991. Hence, the Court in that case held that R.A. 7167 had been given a retroactive effect. The OSG believes that the grant of personal exemptions no longer took into account the poverty threshold level under R.A. 9504, because the amounts of personal exemption far exceeded the poverty threshold levels.[18]

The OSG further argues that the legislative intent of non-retroactivity was effectively confirmed by the "Conforme" of Senator Escudero, Chairperson of the Senate Committee on Ways and Means, on the draft revenue regulation that became RR 10-2008.

ISSUES

Assailing the validity of RR 10-2008, all four Petitions raise common issues, which may be distilled into three major ones:

First, whether the increased personal and additional exemptions provided by R.A. 9504 should be applied to the entire taxable year 2008 or prorated, considering that R.A. 9504 took effect only on 6 July 2008.

Second, whether an MWE is exempt for the entire taxable year 2008 or from 6 July 2008 only.

Third, whether Sections 1 and 3 of RR 10-2008 are consistent with the law in providing that an MWE who receives other benefits in excess of the statutory limit of ₱30,000[19] is no longer entitled to the exemption provided by R.A. 9504.

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[17] *Rollo* (G.R. No. 184450), p. 90.

[18] *Id.* at 101-103.

[19] As provided under Section 32(7)(e) of R.A. 8428, which reads:

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THE COURT'S RULING

I.

Whether the increased personal and additional exemptions provided by R.A. 9504 should be applied to the entire taxable year 2008 or prorated, considering that the law took effect only on 6 July 2008

The personal and additional exemptions established by R.A. 9504 should be applied to the entire taxable year 2008.

Umali is applicable.

Umali v. Estanislao[20] supports this Court's stance that R.A. 9504 should be applied on a full-year basis for the entire taxable year 2008.[21] In *Umali*, Congress enacted R.A. 7167 amending the 1977 National Internal Revenue Code (NIRC). The amounts of basic personal and additional exemptions given to individual income taxpayers were adjusted to the poverty threshold level. R.A. 7167 came into law on 30 January 1992. Controversy arose when the Commission of Internal Revenue (CIR) promulgated

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(e) *13th Month Pay and Other Benefits*. — Gross benefits received by officials and employees of public and private entities: *Provided, however*, That the total exclusion under this subparagraph shall not exceed Thirty thousand pesos (₱30,000) which shall cover:

(i) Benefits received by officials and employees of the national and local government pursuant to Republic Act No. 6686;

(ii) Benefits received by employees pursuant to Presidential Decree No. 851, as amended by Memorandum Order No. 28, dated August 13, 1986;

(iii) Benefits received by officials and employees not covered by Presidential Decree No. 851, as amended by Memorandum Order No. 28, dated August 13, 1986; and

(iv) Other benefits such as productivity incentives and Christmas bonus: *Provided, further*, That the ceiling of Thirty thousand pesos (₱30,000) may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering, among others, the effect on the same of the inflation rate at the end of the taxable year.

[20] G.R. Nos. 104037 & 104069, 29 May 1992, 209 SCRA 446.

[21] *Rollo* (G.R. No. 184450), pp. 18-19.

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RR 1-92 stating that the regulation shall take effect on compensation income earned beginning 1 January 1992. The issue posed was whether the increased personal and additional exemptions could be applied to compensation income earned or received during calendar year 1991, given that R.A. 7167 came into law only on 30 January 1992, when taxable year 1991 had already closed.

This Court ruled in the affirmative, considering that the increased exemptions were already available on or before 15 April 1992, the date for the filing of individual income tax returns. Further, the law itself provided that the new set of personal and additional exemptions would be immediately available upon its effectivity. While R.A. 7167 had not yet become effective during calendar year 1991, the Court found that it was a piece of social legislation that was in part intended to alleviate the economic plight of the lower-income taxpayers. For that purpose, the new law provided for adjustments "to the poverty threshold level" prevailing at the time of the enactment of the law. The relevant discussion is quoted below:

> [T]he Court is of the considered view that Rep. Act 7167 should cover or extend to compensation income earned or received during calendar year 1991.
>
> Sec. 29, par.(L), Item No. 4 of the National Internal Revenue Code, as amended, provides:
>
> > Upon the recommendation of the Secretary of Finance, the President shall automatically adjust not more often than once every three years, the personal and additional exemptions taking into account, among others, the movement in consumer price indices, levels of minimum wages, and bare subsistence levels.
>
> As the personal and additional exemptions of individual taxpayers were last adjusted in 1986, the President, upon the recommendation of the Secretary of Finance, could have adjusted the personal and additional exemptions in 1989 by increasing the same even without any legislation providing for such adjustment. But the President did not.
>
> However, House Bill 28970, which was subsequently enacted by Congress as Rep. Act 7167, was introduced in the House of

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Representatives in 1989 although its passage was delayed and it did not become effective law until 30 January 1992. A perusal, however, of the sponsorship remarks of Congressman Hernando B. Perez, Chairman of the House Committee on Ways and Means, on House Bill 28970, provides an indication of the intent of Congress in enacting Rep. Act 7167. The pertinent legislative journal contains the following:

> At the outset, Mr. Perez explained that the Bill Provides for increased personal additional exemptions to individuals in view of the higher standard of living.
>
> The Bill, he stated, limits the amount of income of individuals subject to income tax to enable them to spend for basic necessities and have more disposable income.
>
> x x x x x x x x x
>
> Mr. Perez added that inflation has raised the basic necessities and that it had been three years since the last exemption adjustment in 1986.
>
> x x x x x x x x x
>
> Subsequently, Mr. Perez stressed the necessity of passing the measure to mitigate the effects of the current inflation and of the implementation of the salary standardization law. Stating that it is imperative for the government to take measures to ease the burden of the individual income tax tilers, Mr. Perez then cited specific examples of how the measure can help assuage the burden to the taxpayers.
>
> He then reiterated that the increase in the prices of commodities has eroded the purchasing power of the peso despite the recent salary increases and emphasized that the Bill will serve to compensate the adverse effects of inflation on the taxpayers. xxx (Journal of the House of Representatives, May 23, 1990, pp. 32-33).

It will also be observed that Rep. Act 7167 speaks of the adjustments that it provides for, as adjustments "to the poverty threshold level." Certainly, "the poverty threshold level" is the poverty threshold level at the time Rep. Act 7167 was enacted by Congress, not poverty threshold levels *in futuro*, at which time there may be need of further adjustments in personal exemptions. **Moreover, the Court can not lose sight of the fact that these personal and additional exemptions**

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are fixed amounts to which an individual taxpayer is entitled, as a means to cushion the devastating effects of high prices and a depreciated purchasing power of the currency. In the end, it is the lower-income and the middle-income groups of taxpayers (not the high-income taxpayers) who stand to benefit most from the increase of personal and additional exemptions provided for by Rep. Act 7167. To that extent, the act is a social legislation intended to alleviate in part the present economic plight of the lower income taxpayers. It is intended to remedy the inadequacy of the heretofore existing personal and additional exemptions for individual taxpayers.

And then, Rep. Act 7167 says that the increased personal exemptions that it **provides for shall be available thenceforth, that is, after Rep. Act 7167 shall have become effective. In other words, these exemptions are available upon the filing of personal income tax returns which is, under the National Internal Revenue Code, done not later than the 15th day of April after the end of a calendar year. Thus, under Rep. Act 7167, which became effective, as aforestated, on 30 January 1992, the increased exemptions are literally available on or before 15 April 1992 (though not before 30 January 1992)**. But these increased exemptions can be available on 15 April 1992 only in respect of compensation income earned or received during the calendar year 1991.

The personal exemptions as increased by Rep. Act 7167 cannot be regarded as available in respect of compensation income received during the 1990 calendar year; the tax due in respect of said income had already accrued, and been presumably paid, by 15 April 1991 and by 15 July 1991, at which time Rep. Act 7167 had not been enacted. To make Rep. Act 7167 refer back to income received during 1990 would require language explicitly retroactive in purport and effect, language that would have to authorize the payment of refunds of taxes paid on 15 April 1991 and 15 July 1991: such language is simply not found in Rep. Act 7167.

The personal exemptions as increased by Rep. Act 7167 cannot be regarded as available only in respect of compensation income received during 1992, as the implementing Revenue Regulations No. 1-92 purport to provide. Revenue Regulations No. 1-92 would in effect postpone the availability of the increased exemptions to 1 January-15 April 1993, and thus literally defer the effectivity of Rep. Act 7167 to 1 January 1993. Thus, the implementing

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regulations collide frontally with Section 3 of Rep. Act 7167 which states that the statute "shall take effect upon its approval." The objective of the Secretary of Finance and the Commissioner of Internal Revenue in postponing through Revenue Regulations No. 1-92 the legal effectivity of Rep. Act 7167 is, of course, entirely understandable—to defer to 1993 the reduction of governmental tax revenues which irresistibly follows from the application of Rep. Act 7167. But the law-making authority has spoken and the Court can not refuse to apply the law-maker's words. Whether or not the government can afford the drop in tax revenues resulting from such increased exemptions was for Congress (not this Court) to decide.[22] (Emphases supplied)

In this case, Senator Francis Escudero's sponsorship speech for Senate Bill No. 2293 reveals two important points about R.A. 9504: (1) it is a piece of social legislation; and (2) its intent is to make the proposed law immediately applicable, that is, to taxable year 2008:

Mr. President, distinguished colleagues, Senate Bill No. 2293 seeks, among others, to exempt minimum wage earners from the payment of income and/or withholding tax. **It is an attempt to help our people cope with the rising costs of commodities that seem to be going up unhampered these past few months.**

Mr. President, a few days ago, the Regional Tripartite and Wages Productivity Board granted an increase of ₱20 per day as far as minimum wage earners arc concerned. By way of impact, Senate Bill No. 2293 would grant our workers an additional salary or take-home pay of approximately ₱34 per day, given the exemption that will be granted to all minimum wage earners. It might be also worthy of note that on the part of the public sector, the Senate Committee on Ways and Means included, as amongst those who will be exempted from the payment of income tax and/or withholding tax, government workers receiving Salary Grade V. We did not make any distinction so as to include Steps 1 to 8 of Salary Grade V as long as one is employed in the public sector or in government.

In contradistinction with House Bill No. 3971 approved by the House of Representatives pertaining to a similar subject matter, the

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[22] *Umali v. Estanislao, supra* at 451-454.

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House of Representatives, very much like the Senate, adopted the same levels of exemptions which are:

> From an allowable personal exemption for a single individual of ₱20,000, to a head of family of ₱25,000, to a married individual of ₱32,000, both the House and the Senate versions contain a higher personal exemption of ₱50,000.

Also, by way of personal additional exemption as far as dependents are concerned, up to four, the House, very much like the Senate, recommended a higher ceiling of ₱25,000 for each dependent not exceeding four, thereby increasing the maximum additional exemptions and personal additional exemptions to as high as ₱200,000, depending on one's status in life.

The House also, very much like the Senate, recommended by way of trying to address the revenue loss on the part of the government, an optional standard deduction (OSD) on gross sales, and/or gross receipts as far as individual taxpayers are concerned. However, the House, unlike the Senate, recommended a Simplified Net Income Tax Scheme (SNITS) in order to address the remaining balance of the revenue loss.

By way of contrast, the Senate Committee on Ways and Means recommended, in lieu of SNITS, an optional standard deduction of 40% for corporations as far as their gross income is concerned.

Mr. President, if we total the revenue loss as well as the gain brought about by the 40% OSD on individuals on gross sales and receipts and 40% on gross income as far as corporations are concerned, with a conservative availment rate as computed by the Department of Finance, the government would still enjoy a gain of ₱.78 billion or ₱780 million if we use the high side of the computation however improbable it may be.

For the record, we would like to state that if the availment rate is computed at 15% for individuals and 10% for corporations, the potential high side of a revenue gain would amount to approximately ₱18.08 billion.

Mr. President, we have received many suggestions increasing the rate of personal exemptions and personal additional exemptions. We have likewise received various suggestions pertaining to the expansion

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of the coverage of the tax exemption granted to minimum wage earners to encompass as well other income brackets.

However, the only suggestion other than or outside the provisions contained in House Bill No. 3971 that the Senate Committee on Ways and Means adopted, was an expansion of the exemption to cover overtime, holiday, nightshift differential, and hazard pay also being enjoyed by minimum wage earners. It entailed an additional revenue loss of ₱1 billion approximately on the part of the government. However, Mr. President, that was taken into account when I stated earlier that there will still be a revenue gain on the conservative side on the part of government of ₱780 million.

Mr. President, [my distinguished colleagues in the Senate, ***we wish to provide a higher exemption for our countrymen because of the incessant and constant increase in the price of goods****. Nonetheless, not only Our Committee, but also the Senate and Congress, must act responsibly in recognizing that much as we would like to give all forms of help that we can and must provide to our people, we also need to recognize the need of the government to defray its expenses in providing services to the public. This is the most that we can give at this time because the government operates on a tight budget and is short on funds when it comes to the discharge of its main expenses.]*[23]

Mr. President, time will perhaps come and we can improve on this version, but at present, this is the best, I believe, that we can give our people. But by way of comparison, it is still ₱10 higher

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[23] Translated in the vernacular. The original paragraph is quoted below:

Mr. President, *mga kagalang-galang kong kasamahan dito sa Senado,* ***gusto sana naming ibigay ang mas mataas na*** **exemption** ***para sa ating mga kababayan dahil na rin sa walang tigil at walang humpay na pagtaas ng presyo ng bilihin. Subalit kinakailangang maging responsible, hindi lamang ng ating Komite kundi pati na rin ang Senado at ang Kongreso sa pagkilala, na bagaman nais nating ibigay ang lahat ng tulong na puwede at dapat nating ibigay sa ating mga kababayan****, kinakailangan din nating kilalanin ang pangangailangan ng gobyerno pagdating sa pagtustos ng mga gastusing ito na may kinalaman sa pagbibigay ng serbisyo sa ating mga kababayan. Ito po ang pinakamataas na puwede nating ibigay sa kasalukuyang panahon dahil na rin mahigpit sa pondo ngayon at gipit sa pondo ang pamahalaan pagdating sa pagtustos ng mga pangunahing gastusin nito.*

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than what the wage boards were able to give minimum wage earners. **Given that, we were able to increase their take-home pay by the amount equivalent to the tax exemption we have granted.**

We urge our colleagues, Mr. President, to pass this bill in earnest so that we can immediately grant relief to our people.

Thank you, Mr. President. (Emphases Supplied)[24]

Clearly, Senator Escudero expressed a sense of urgency for passing what would subsequently become R.A. 9504. He was candid enough to admit that the bill needed improvement, but because time was of the essence, he urged the Senate to pass the bill immediately. The idea was immediate tax relief to the individual taxpayers, particularly low-compensation earners, and an increase in their take-home pay.[25]

Senator Miriam Defensor-Santiago also remarked during the deliberations that "the increase in personal exemption from ₱20,000 to ₱50,000 is timely and appropriate given the increased cost of living. Also, the increase in the additional exemption for dependent children is necessary and timely."[26]

Finally, we consider the President's certification of the necessity of the immediate enactment of Senate Bill No. 2293. That certification became the basis for the Senate to dispense

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[24] IV Record, Senate 14th Congress 1st Session 218-219, 20 May 2008.

[25] During the interpellation by Senator Juan Ponce-Enrile, Senator Escudero said that the increased personal and additional exemptions translates to a tax-free income of ₱200,000 to a family of six. The pertinent legislative journal reads:

> In reply to Senator Enrile's queries, Senator Escudero stated that the proposed measure seeks to increase the current personal exemption for a married individual from ₱32,000 to ₱50,000 and the current additional exemption per children from ₱8,000 to ₱25,000, so a couple with four children would have a total non-taxable income of ₱200,000, translating to an additional income of ₱104,000 for the family. xxx (II Journal, Senate 14th Congress 1st Session 1471, 20 May 2008).

[26] IV Record, Senate Fourteenth Congress First Session 291, 20 May 2008.

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with the three-day rule[27] for passing a bill. It evinced the intent of the President to afford wage earners immediate tax relief from the impact of a worldwide increase in the prices of commodities. Specifically, the certification stated that the purpose was to "address the urgent need to cushion the adverse impact of the global escalation of commodity prices upon the most vulnerable within the low income group by providing expanded income tax relief."[28]

In sum, R.A. 9504, like R.A. 7167 in *Umali*, was a piece of social legislation clearly intended to afford *immediate* tax relief to individual taxpayers, particularly low-income compensation earners. Indeed, if R.A. 9504 was to take effect beginning taxable year 2009 or half of the year 2008 only, then the intent of Congress to address the increase in the cost of living in 2008 would have been negated.

Therefore, following *Umali*, the test is whether the new set of personal and additional exemptions was available at the time of the filing of the income tax return. In other words, while the status of the individual taxpayers is determined at the close of the taxable year,[29] their personal and additional exemptions — and consequently the computation of their taxable income — are reckoned when the tax becomes due, and not while the income is being earned or received.

The NIRC is clear on these matters. The taxable income of an individual taxpayer shall be computed on the basis of the

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[27] Article VI, Section 26(2) of the 1987 Constitution states:

(2) No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage, except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the *yeas* and *nays* entered in the Journal.

[28] IV Record, Senate 14th Congress 1st Session 319, 27 May 2008.

[29] Section 35(C), Republic Act No. 8424 (1997).

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calendar year.[30] The taxpayer is required to file an income tax return on the 15th of April of each year covering income of the preceding taxable year.[31] The tax due thereon shall be paid at the time the return is filed.[32]

It stands to reason that the new set of personal and additional exemptions, adjusted as a form of social legislation to address the prevailing poverty threshold, should be given effect at the most opportune time as the Court ruled in *Umali*.

The test provided by *Umali* is consistent with *Ingalls v. Trinidad*,[33] in which the Court dealt with the matter of a married person's reduced exemption. As early as 1923, the Court already provided the reference point for determining the taxable income:

> [T]hese statutes dealing with the manner of collecting the income tax and with the deductions to be made in favor of the taxpayer have reference to the time when the return is filed and the tax assessed. If Act No. 2926 took, as it did take, effect on January 1, 1921, its provisions must be applied to income tax returns filed, and assessments made from that date. This is the reason why Act No. 2833, and Act No. 2926, in their respective first sections, refer to income received *during the preceding civil year*. (Italics in the original)

There, the exemption was reduced, not increased, and the Court effectively ruled that income tax due from the individual taxpayer is properly determined upon the filing of the return. This is done after the end of the taxable year, when all the incomes for the immediately preceding taxable year and the corresponding personal exemptions and/or deductions therefor have been considered. Therefore, the taxpayer was made to pay a higher tax for his income earned during 1920, even if the reduced exemption took effect on 1 January 1921.

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[30] Section 43, Republic Act No. 8424 (1997).

[31] Section 51 (C), Republic Act No. 8424 (1997).

[32] Section 56, Republic Act No. 8424 (1997).

[33] *Ingalls v. Trinidad*, 46 Phil. 807, 808-809 (1923).

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In the present case, the increased exemptions were already available much earlier than the required time of filing of the return on 15 April 2009. R.A. 9504 came into law on 6 July 2008, more than nine months before the deadline for the filing of the income tax return for taxable year 2008. Hence, individual taxpayers were entitled to claim the increased amounts for the entire year 2008. This was true despite the fact that incomes were already earned or received prior to the law's effectivity on 6 July 2008.

Even more compelling is the fact that R.A. 9504 became effective during the taxable year in question. In *Umali*, the Court ruled that the application of the law was prospective, even if the amending law took effect after the close of the taxable year in question, but before the deadline for the filing of the return and payment of the taxes due for that year. Here, not only did R.A. 9504 take effect before the deadline for the filing of the return and payment for the taxes due for taxable year 2008, it took effect way before the close of that taxable year. Therefore, the operation of the new set of personal and additional exemption in the present case was all the more prospective.

Additionally, as will be discussed later, the rule of full taxable year treatment for the availment of personal and additional exemptions was established, not by the amendments introduced by R.A. 9504, but by the provisions of the 1997 Tax Code itself. The new law merely introduced a change in the amounts of the basic and additional personal exemptions. Hence, the fact that R.A. 9504 took effect only on 6 July 2008 is irrelevant.

***The present case is substantially identical with* Umali *and not with* Pansacola.**

Respondents argue that *Umali* is not applicable to the present case. They contend that the increase in personal and additional exemptions were necessary in that case to conform to the 1991 poverty threshold level; but that in the present case, the amounts

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under R.A. 9504 far exceed the poverty threshold level. To support their case, respondents cite figures allegedly coming from the National Statistical Coordination Board. According to those figures, in 2007, or one year before the effectivity of R.A. 9504, the poverty threshold per capita was ₱14,866 or ₱89,196 for a family of six.[34]

We are not persuaded.

The variance raised by respondents borders on the superficial. The message of *Umali* is that there must be an event recognized by Congress that occasions the immediate application of the increased amounts of personal and additional exemptions. In *Umali*, that event was the failure to adjust the personal and additional exemptions to the prevailing poverty threshold level. In this case, the legislators specified the increase in the price of commodities as the basis for the immediate availability of the new amounts of personal and additional exemptions.

We find the facts of this case to be substantially identical to those of *Umali*.

First, both cases involve an amendment to the prevailing tax code. The present petitions call for the interpretation of the effective date of the increase in personal and additional exemptions. Otherwise stated, the present case deals with an amendment (R.A. 9504) to the prevailing tax code (R.A. 8424 or the 1997 Tax Code). Like the present case, *Umali* involved an amendment to the then prevailing tax code — it interpreted the effective date of R.A. 7167, an amendment to the 1977 NIRC, which also increased personal and additional exemptions.

Second, the amending law in both cases reflects an intent to make the new set of personal and additional exemptions immediately available after the effectivity of the law. As already pointed out, in *Umali*, R.A. 7167 involved social legislation intended to adjust personal and additional exemptions. The adjustment was made in keeping with the poverty threshold level prevailing at the time.

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[34] *Rollo* (G.R. No. 184450), p. 145.

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Third, both cases involve social legislation intended to cure a social evil — R.A. 7167 was meant to adjust personal and additional exemptions in relation to the poverty threshold level, while R.A. 9504 was geared towards addressing the impact of the global increase in the price of goods.

Fourth, in both cases, it was clear that the intent of the legislature was to hasten the enactment of the law to make its beneficial relief immediately available.

Pansacola *is not applicable.*

In lieu of *Umali*, the OSG relies on our ruling in *Pansacola v. Commissioner of Internal Revenue*.[35] In that case, the 1997 Tax Code (R.A. 8424) took effect on 1 January 1998, and the petitioner therein pleaded for the application of the new set of personal and additional exemptions provided thereunder to taxable year 1997. R.A. 8424 explicitly provided for its effectivity on 1 January 1998, but it did not provide for any retroactive application.

We ruled against the application of the new set of personal and additional exemptions to the previous taxable year 1997, in which the filing and payment of the income tax was due on 15 April 1998, even if the NIRC had already taken effect on 1 January 1998. This court explained that the NIRC could not be given retroactive application, given the specific mandate of the law that it shall take effect on 1 January 1998; and given the absence of any reference to the application of personal and additional exemptions to income earned prior to 1 January 1998. We further stated that what the law considers for the purpose of determining the income tax due is the **status** at the close of the taxable year, as opposed to the **time** of filing of the return and payment of the corresponding tax.

The facts of this case are not identical with those of *Pansacola*.

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[35] 537 Phil. 296 (2006). The OSG raised this argument in its Comment filed in G.R. No. 184450 on 19 February 2009; See *rollo* (G.R. No. 184450), pp. 83-106.

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First, *Pansacola* interpreted the effectivity of an *entirely* new tax code — R.A. 8424, the Tax Reform Act of 1997. The present case, like *Umali*, involves a mere amendment of some specific provisions of the prevailing tax code: R.A. 7167 amending then P.D. 1158 (the 1977 NIRC) in *Umali* and R.A. 9504 amending R.A. 8424 herein.

Second, in *Pansacola*, the new tax code specifically provided for an effective date — the beginning of the following year — that was to apply to all its provisions, including new tax rates, new taxes, new requirements, as well as new exemptions. The tax code did not make any exception to the effectivity of the subject exemptions, even if transitory provisions[36] specifically provided for different effectivity dates for certain provisions.

Hence, the Court did not find any legislative intent to make the new rates of personal and additional exemptions available to the income earned in the year previous to R.A. 8424's effectivity. In the present case, as previously discussed, there was a clear intent on the part of Congress to make the new amounts of personal and additional exemptions immediately available for the entire taxable year 2008. R.A. 9504 does not even need a provision providing for retroactive application because, as mentioned above, it is actually prospective — the new law took effect during the taxable year in question.

Third, in *Pansacola*, the retroactive application of the new rates of personal and additional exemptions would result in an absurdity — new tax rates under the new law would not apply, but a new set of personal and additional exemptions could be availed of. This situation does not obtain in this case, however, precisely because the new law does not involve an entirely new tax code. The new law is merely an amendment to the rates of personal and additional exemptions.

Nonetheless, R.A. 9504 can still be made applicable to taxable year 2008, even if we apply the *Pansacola* test. We stress that

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[36] *See* Republic Act No. 8424 (1997), Section 5 (Transitory Provisions) and Section 7 (Repealing Clauses).

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Pansacola considers the close of the taxable year as the reckoning date for the effectivity of the new exemptions. In that case, the Court refused the application of the new set of personal exemptions, since they were not yet available at the close of the taxable year. In this case, however, at the close of the taxable year, the new set of exemptions was already available. In fact, it was already available during the taxable year — as early as 6 July 2008 — when the new law took effect.

There may appear to be some dissonance between the Court's declarations in *Umali* and those in *Pansacola*, which held:

> Clearly from the abovequoted provisions, what the law should consider for the purpose of determining the tax due from an individual taxpayer is his status and qualified dependents at the close of the taxable year and not at the time the return is filed and the tax due thereon is paid. Now comes Section 35(C) of the NIRC which provides,
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> x x x x x x x x x
>
> Emphasis must be made that Section 35(C) of the NIRC allows a taxpayer to still claim the corresponding full amount of exemption for a taxable year, e.g. if he marries; have additional dependents; he, his spouse, or any of his dependents die; and if any of his dependents marry, turn 21 years old; or become gainfully employed. It is as if the changes in his or his dependents status took place at the close of the taxable year.
>
> **Consequently, his correct taxable income and his corresponding allowable deductions e.g. personal and additional deductions, if any, had already been determined as of the end of the calendar year.**
>
> xxx. Since the NIRC took effect on January 1, 1998, the increased amounts of personal and additional exemptions under Section 35, can only be allowed as deductions from the individual taxpayers gross or net income, as the case maybe, for the taxable year 1998 to be filed in 1999. The NIRC made no reference that the personal and additional exemptions shall apply on income earned before January 1, 1998.[37]

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[37] *Pansacola v. CIR, supra*, at 306-307.

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It must be remembered, however, that the Court therein emphasized that *Umali* was interpreting a social legislation:

> In *Umali*, we noted that despite being given authority by Section 29(1)(4) of the National Internal Revenue Code of 1977 to adjust these exemptions, no adjustments were made to cover 1989. Note that Rep. Act No. 7167 is entitled "*An Act Adjusting the Basic Personal and Additional Exemptions Allowable to Individuals for Income Tax Purposes to the Poverty Threshold Level, Amending for the Purpose Section 29, Paragraph (L), Items (1) and (2) (A), of the National Internal Revenue Code, As Amended, and For Other Purposes.*" Thus, we said in *Umali*, that the adjustment provided by Rep. Act No. 7167 effective 1992, should consider the poverty threshold level in 1991, the time it was enacted. And we observed therein that since the exemptions would especially benefit lower and middle-income taxpayers, the exemption should be made to cover the past year 1991. To such an extent, Rep. Act No. 7167 was a social legislation intended to remedy the non-adjustment in 1989. And as cited in *Umali*, this legislative intent is also clear in the records of the House of Representatives' Journal.
>
> This is not so in the case at bar. There is nothing in the NIRC that expresses any such intent. **The policy declarations in its enactment do not indicate it was a social legislation that adjusted personal and additional exemptions according to the poverty threshold level nor is there any indication that its application should retroact.** xxx.[38] (Emphasis Supplied)

Therefore, the seemingly inconsistent pronouncements in *Umali* and *Pansacola* are more apparent than real. The circumstances of the cases and the laws interpreted, as well as the legislative intents thereof, were different.

The policy in this jurisdiction is full taxable year treatment.

We have perused R.A. 9504, and we see nothing that expressly provides or even suggests a prorated application of the exemptions for taxable year 2008. On the other hand, the policy of full taxable year treatment, especially of the personal and

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[38] *Id.* at 307-308.

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additional exemptions, is clear under Section 35, particularly paragraph C of R.A. 8424 or the 1997 Tax Code:

SEC. 35. Allowance of Personal Exemption for Individual Taxpayer. —

(A) In General. - For purposes of determining the tax provided in Section 24(A) of this Title, there shall be allowed a basic personal exemption as follows:

x x x x x x x x x

(B) Additional Exemption for Dependents. - There shall be allowed an additional exemption of ... for each dependent not exceeding four (4).

x x x x x x x x x

(C) *Change of Status*. - If the taxpayer marries or should have additional dependent(s) as defined above during the taxable year, the taxpayer may claim the corresponding additional exemption, as the case may be, **in full for such year**.

If the taxpayer dies during the taxable year, his estate may still claim the personal and additional exemptions for himself and his dependent(s) **as if he died at the close of such year**.

If the spouse or any of the dependents dies or if any of such dependents marries, becomes twenty-one (21) years old or becomes gainfully employed during the taxable year, the **taxpayer may still claim the same exemptions** as if the spouse or any of the dependents died, or as if such dependents married, became twenty-one (21) years old or became gainfully employed **at the close of such year**. (Emphases supplied)

Note that paragraph C does not allow the prorating of the personal and additional exemptions provided in paragraphs A and B, even in case a status - changing event occurs during the taxable year. Rather, it allows the fullest benefit to the individual taxpayer. This manner of reckoning the taxpayer's status for purposes of the personal and additional exemptions clearly demonstrates the legislative intention; that is, for the state to give the taxpayer the maximum exemptions that can be availed, notwithstanding the fact that the latter's actual status would qualify only for a lower exemption if prorating were employed.

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We therefore see no reason why we should make any distinction between the income earned prior to the effectivity of the amendment (from 1 January 2008 to 5 July 2008) and that earned thereafter (from 6 July 2008 to 31 December 2008) as none is indicated in the law. The principle that the courts should not distinguish when the law itself does not distinguish squarely applies to this case.[39]

We note that the prorating of personal and additional exemptions was employed in the 1939 Tax Code. Section 23(d) of that law states:

Change of status. — If the status of the taxpayer insofar as it affects the personal and additional exemptions for himself or his dependents, changes during the taxable year, **the amount of the personal and additional exemptions shall be apportioned, under rules and regulations prescribed by the Secretary of Finance, in accordance with the number of months before and after such change**. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it shall be considered as a month.[40] (Emphasis supplied)

On 22 September 1950, R.A. 590 amended Section 23(d) of the 1939 Tax Code by restricting the operation of the prorating of personal exemptions. As amended, Section 23(d) reads:

(d) Change of status. — If the status of the taxpayer insofar as it affects the personal and additional exemption for himself or his dependents, changes during the taxable year **by reason of his death**, the amount of the personal and additional exemptions shall be apportioned, under rules and regulations prescribed by the Secretary of Finance, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it shall be considered as a month.[41] (Emphasis supplied)

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[39] See *Philippine British Assurance Co., Inc. v. Intermediate Appellate Court*, 234 Phil. 512 (1987).

[40] *National Internal Revenue Code*, Commonwealth Act No. 466 (1939).

[41] *Amending the NIRC Re: Income Tax*, Republic Act No. 590 (1950).

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Nevertheless, in 1969, R.A. 6110 ended the operation of the prorating scheme in our jurisdiction when it amended Section 23(d) of the 1939 Tax Code and adopted a full taxable year treatment of the personal and additional exemptions. Section 23(d), as amended, reads:

(d) Change of status.—

If the taxpayer married or should have additional dependents as defined in subsection (c) above during the taxable year the taxpayer may claim the corresponding personal exemptions in full for such year.

If the taxpayer should die during the taxable year, his estate may still claim the personal and additional deductions for himself and his dependents as if he died at the close of such year.

If the spouse or any of the dependents should die during the year, the taxpayer may still claim the same deductions as if they died at the close of such year.

P.D. 69 followed in 1972, and it retained the full taxable year scheme. Section 23(d) thereof reads as follows:

(d) Change of status. — If the taxpayer marries or should have additional dependents as defined in subsection (c) above during the taxable year the taxpayer may claim the corresponding personal exemptions in full for such year.

If the taxpayer should die during the taxable year, his estate may still claim the personal and additional deductions for himself and his dependents as if he died at the close of such year.

If the spouse or any of the dependents should die or become twenty-one years old during the taxable year, the taxpayer may still claim the same exemptions as if they died, or as if such dependents became twenty-one years old at the close of such year.

The 1977 Tax Code continued the policy of full taxable year treatment. Section 23(d) thereof states:

(d) Change of status. — If the taxpayer married or should have additional dependents as defined in subsection (c) above during the taxable year, the taxpayer may claim the corresponding personal exemption in full for such year.

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If the taxpayer should die during the taxable year, his estate may still claim the personal and additional exemptions for himself and his dependents as if he died at the close of such year.

If the spouse or any of the dependents should die or become twenty-one years old during the taxable year, the taxpayer may still claim the same exemptions as if they died, or as if such dependents became twenty-one years old at the close of such year.

While Section 23 of the 1977 Tax Code underwent changes, the provision on full taxable year treatment in case of the taxpayer's change of status was left untouched.[42] Executive Order No. 37, issued on 31 July 1986, retained the *change of status* provision verbatim. The provision appeared under Section 30(1)(3) of the NIRC, as amended:

(3) Change of status. — If the taxpayer married or should have additional dependents as defined above during the taxable year, the taxpayer may claim the corresponding personal and additional exemptions, as the case may be, in full for such year.

If the taxpayer should die during the taxable year, his estate may still claim the personal and additional exemptions for himself and his dependents as if he died at the close of such year.

If the spouse or any of the dependents should die or if any of such dependents becomes twenty-one years old during the taxable year, the taxpayer may still claim the same exemptions as if they died, or if such dependents become twenty-one years old at the close of such year.

Therefore, the legislative policy of full taxable year treatment of the personal and additional exemptions has been in our jurisdiction continuously since 1969. The prorating approach has long since been abandoned. Had Congress intended to revert

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[42] See *An Act Amending Certain Provisions of the National Internal Revenue Code of 1977, as Amended, and for Other Purposes*, Batas Pambansa Blg. 135, (1981), *Amendments to Section 23 and Section 45 of the NIRC of 1977, As Amended, Granting Special Additional Personal Exemption to Individual Taxpayers*, P.D. No. 1868 (1983) and Executive Order No. 999 (1985).

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to that scheme, then it should have so stated in clear and unmistakeable terms. There is nothing, however, in R.A. 9504 that provides for the reinstatement of the prorating scheme. On the contrary, the change-of-status provision utilizing the full-year scheme in the 1997 Tax Code was left untouched by R.A. 9504.

We now arrive at this important point: the policy of full taxable year treatment is established, not by the amendments introduced by R.A. 9504, but by the provisions of the 1997 Tax Code, which adopted the policy from as early as 1969.

There is, of course, nothing to prevent Congress from again adopting a policy that prorates the effectivity of basic personal and additional exemptions. This policy, however, must be explicitly provided for by law — to amend the prevailing law, which provides for full-year treatment. As already pointed out, R.A. 9504 is totally silent on the matter. This silence cannot be presumed by the BIR as providing for a half-year application of the new exemption levels. Such presumption is unjust, as incomes do not remain the same from month to month, especially for the MWEs.

Therefore, there is no legal basis for the BIR to reintroduce the prorating of the new personal and additional exemptions. In so doing, respondents overstepped the bounds of their rule-making power. It is an established rule that administrative regulations are valid only when these are consistent with the law.[43] Respondents cannot amend, by mere regulation, the laws they administer.[44] To do so would violate the principle of non--delegability of legislative powers.[45]

The prorated application of the new set of personal and additional exemptions for the year 2008, which was introduced by respondents, cannot even be justified under the exception

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[43] *CIR v. Fortune Tobacco Corporation*, 581 Phil. 146 (2008).

[44] *Commissioner of Internal Revenue v. Central Luzon Drug Corp.*, 496 Phil. 307 (2005).

[45] *Tatad v. Secretary of the Department of Energy*, 346 Phil. 321 (1997).

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to the canon of non-delegability; that is, when Congress makes a delegation to the executive branch.[46] The delegation would fail the two accepted tests for a valid delegation of legislative power; the completeness test and the sufficient standard test.[47] The first test requires the law to be complete in all its terms and conditions, such that the only thing the delegate will have to do is to enforce it.[48] The sufficient standard test requires adequate guidelines or limitations in the law that map out the boundaries of the delegate's authority and canalize the delegation.[49]

In this case, respondents went beyond enforcement of the law, given the absence of a provision in R.A. 9504 mandating the prorated application of the new amounts of personal and additional exemptions for 2008. Further, even assuming that the law intended a prorated application, there are no parameters set forth in R.A. 9504 that would delimit the legislative power surrendered by Congress to the delegate. In contrast, Section 23(d) of the 1939 Tax Code authorized not only the prorating of the exemptions in case of change of status of the taxpayer, but also authorized the Secretary of Finance to prescribe the corresponding rules and regulations.

II.

Whether an MWE is exempt for the entire taxable year 2008 or from 6 July 2008 only

The MWE is exempt for the entire taxable year 2008.

As in the case of the adjusted personal and additional exemptions, the MWE exemption should apply to the entire taxable year 2008, and not only from 6 July 2008 onwards.

We see no reason why *Umali* cannot be made applicable to the MWE exemption, which is undoubtedly a piece of social

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[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *Id.*

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legislation. It was intended to alleviate the plight of the working class, especially the low-income earners. In concrete terms, the exemption translates to a ₱34 per day benefit, as pointed out by Senator Escudero in his sponsorship speech.[50]

As it stands, the calendar year 2008 remained as one taxable year for an individual taxpayer. Therefore, RR 10-2008 cannot declare the income earned by a minimum wage earner from 1 January 2008 to 5 July 2008 to be taxable and those earned by him for the rest of that year to be tax-exempt. To do so would be to contradict the NIRC and jurisprudence, as taxable income would then cease to be determined on a yearly basis.

Respondents point to the letter of former Commissioner of Internal Revenue Lilia B. Hefti dated 5 July 2008 and petitioner Sen. Escudero's signature on the *Conforme* portion thereof. This letter and the conforme supposedly establish the legislative intent not to make the benefits of R.A. 9504 effective as of 1 January 2008.

We are not convinced. The *conforme* is irrelevant in the determination of legislative intent.

We quote below the relevant portion of former Commissioner Hefti's letter:

> Attached herewith are salient features of the proposed regulations to implement RA 9504 xxx. We have tabulated critical issues raised during the public hearing and comments received from the public which we need immediate written resolution based on the inten[t]ion of the law more particularly the effectivity clause. Due to the expediency and clamor of the public for its immediate implementation, may we request your confirmation on the proposed recommendation within five (5) days from receipt hereof. Otherwise, we shall construe your affirmation.[51]

We observe that a Matrix of Salient Features of Proposed Revenue Regulations per R.A. 9504 was attached to the letter.[52]

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[50] *See* note 22.

[51] *Rollo* (G.R. No. 185234), p. 132; Annex 1, p. 1.

[52] *Rollo* (G.R. No. 184450), pp. 108-115.

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The Matrix had a column entitled "Remarks" opposite the Recommended Resolution. In that column, noted was a suggestion coming from petitioner TMAP:

> *TMAP suggested that it should be retroactive considering that it was [for] the benefit of the majority and to alleviate the plight of workers.* Exemption should be applied for the whole taxable year as provided in the NIRC. xxx *Umali v. Estanislao* [ruled] that the increase[d] exemption in 1992 [was applicable] [to] 1991.
>
> *Majority issues raised during the public hearing last July 1, 2008 and emails received suggested [a] retroactive implementation.*[53] (Italics in the original)

The above remarks belie the claim that the *conforme* is evidence of the legislative intent to make the benefits available only from 6 July 2008 onwards. There would have been no need to make the remarks if the BIR had merely wanted to confirm was the availability of the law's benefits to income earned starting 6 July 2008. Rather, the implication is that the BIR was requesting the conformity of petitioner Senator Escudero to the proposed implementing rules, subject to the remarks contained in the Matrix. Certainly, it cannot be said that Senator Escudero's *conforme* is evidence of legislative intent to the effect that the benefits of the law would not apply to income earned from 1 January 2008 to 5 July 2008.

Senator Escudero himself states in G.R. No. 185234:

> In his bid to ensure that the BIR would observe the effectivity dates of the grant of tax exemptions and increased basic personal and additional exemptions under Republic Act No. 9504, Petitioner Escudero, as Co-Chairperson of the Congressional Oversight Committee on Comprehensive Tax Reform Program, and his counterpart in the House of Representatives, Hon. Exequiel B. Javier, conveyed through a letter, dated 16 September 2008, to Respondent Teves the legislative intent that "Republic Act (RA) No. 9504 must be made applicable to the entire taxable year 2008" considering that it was "a social legislation intended to somehow alleviate the plight of minimum wage earners or low income taxpayers". They also jointly

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[53] *Rollo* (G.R. No. 185234), p. 133.

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expressed their "fervent hope that the corresponding Revenue Regulations that will be issued reflect the true legislative intent and rightful statutory interpretation of R.A. No. 9504."[54]

Senator Escudero repeats in his Memorandum:

> On 16 September 2008, the Chairpersons (one of them being herein Petitioner Sen. Escudero) of the Congressional Oversight Committee on Comprehensive Tax Reform Program of both House of Congress wrote Respondent DOF Sec. Margarito Teves, and requested that the revenue regulations (then yet still to be issued)[55] to implement Republic Act No. 9504 reflect the true intent and rightful statutory interpretation thereof, specifically that the grant of tax exemption and increased basic personal and additional exemptions be made available for the entire taxable year 2008. Yet, the DOF promulgated Rev. Reg. No. 10-2008 in contravention of such legislative intent. xxx.[56]

We have gone through the records and we do not see anything that would to suggest that respondents deny the senator's assertion.

Clearly, Senator Escudero's assertion is that the legislative intent is to make the MWE's tax exemption and the increased basic personal and additional exemptions available for the entire year 2008. In the face of his assertions, respondents' claim that his *conforme* to Commissioner Hefti's letter was evidence of legislative intent becomes baseless and specious. The remarks described above and the subsequent letter sent to DOF Secretary Teves, by no less than the Chairpersons of the Bi-cameral Congressional Oversight Committee on Comprehensive Tax Reform Program, should have settled for respondents the matter of what the legislature intended for R.A. 9504's exemptions.

Accordingly, we agree with petitioners that RR 10-2008, insofar as it allows the availment of the MWE's tax exemption

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[54] *Id.* at 14-15; Petition, pp. 12-13.

[55] RR 10-2008 was issued on 24 September 2008 (see http://www.bir.gov.ph/index.php/archive/2008-revenue-regulations.html (last accessed on 23 November 2016).

[56] *Rollo* (G.R. No. 185234), pp. 280-281; Memorandum, pp. 4-5.

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and the increased personal and additional exemptions beginning only on 6 July 2008 is in contravention of the law it purports to implement.

A clarification is proper at this point. Our ruling that the MWE exemption is available for the entire taxable year 2008 is premised on the fact of one's status as an MWE; that is, whether the employee during the entire year of 2008 was an MWE as defined by R.A. 9504. When the **wages** received exceed the minimum wage anytime during the taxable year, the employee necessarily loses the MWE qualification. Therefore, wages become taxable as the employee ceased to be an MWE. But the exemption of the employee from tax on the income previously earned **as an MWE** remains.

This rule reflects the understanding of the Senate as gleaned from the exchange between Senator Miriam Defensor-Santiago and Senator Escudero:

> Asked by Senator Defensor-Santiago on how a person would be taxed if, during the year, he is promoted from Salary Grade 5 to Salary Grade 6 in July and ceases to be a minimum wage employee, Senator Escudero said that the tax computation would be based starting on the new salary in July.[57]

As the exemption is based on the employee's status as an MWE, the operative phrase is "when the employee ceases to be an MWE. Even beyond 2008, it is therefore possible for one employee to be exempt early in the year for being an MWE for that period, and subsequently become taxable in the middle of the same year with respect to the compensation income, as when the pay is increased higher than the minimum wage. The improvement of one's lot, however, cannot justly operate to make the employee liable for tax on the income earned as an MWE.

Additionally, on the question of whether one who ceases to be an MWE may still be entitled to the personal and additional

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[57] II JOURNAL, SENATE 14TH CONGRESS, 1ST SESSION 1513, 26 May 2008; *Rollo* (G.R. No. 184508), p. 124, Consolidated Comments.

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exemptions, the answer must necessarily be yes. The MWE exemption is separate and distinct from the personal and additional exemptions. One's status as an MWE does not preclude enjoyment of the personal and additional exemptions. Thus, when one is an MWE during a part of the year and later earns higher than the minimum wage and becomes a non-MWE, only earnings for that period when one is a non-MWE is subject to tax. It also necessarily follows that such an employee is entitled to the personal and additional exemptions that any individual taxpayer with taxable gross income is entitled.

A different interpretation will actually render the MWE exemption a totally oppressive legislation. It would be a total absurdity to disqualify an MWE from enjoying as much as ₱150,000[58] in personal and additional exemptions just because sometime in the year, he or she ceases to be an MWE by earning a little more in wages. Laws cannot be interpreted with such absurd and unjust outcome. It is axiomatic that the legislature is assumed to intend right and equity in the laws it passes.[59]

Critical, therefore, is how an employee ceases to become an MWE and thus ceases to be entitled to an MWE's exemption.

III.

Whether Sections 1 and 3 of RR 10-2008 are consistent with the law in declaring that an MWE who receives other benefits in excess of the statutory limit of ₱30,000 is no longer entitled to the exemption provided by R.A. 9504, is consistent with the law.

Sections 1 and 3 of RR 10-2008 add a requirement not found in the law by effectively declaring that an MWE who receives other benefits in excess of the statutory limit of ₱30,000 is no longer entitled to the exemption provided by R.A. 9504.

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[58] ₱25,000 for each dependent not exceeding four and the basic personal exemption of ₱50,000.

[59] *Commissioner of Internal Revenue v. TMX Sales, Inc.*, 82 Phil. 199 (1992).

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The BIR added a requirement not found in the law.

The assailed Sections 1 and 3 of RR 10-2008 are reproduced hereunder for easier reference.

SECTION 1. Section 2.78.1 of RR 2-98, as amended, is hereby further amended to read as follows:

Sec. 2.78.1. Withholding of Income Tax on Compensation Income. —

(A) Compensation Income Defined. — x x x

x x x x x x x x x

(3) Facilities and privileges of relatively small value. — Ordinarily, facilities, and privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases), otherwise known as "*de minimis* benefits," furnished or offered by an employer to his employees, are not considered as compensation subject to income tax and consequently to withholding tax, if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as means of promoting the health, goodwill, contentment, or efficiency of his employees.

The following shall be considered as "*de minimis*" benefits not subject to income tax, hence, not subject to withholding tax on compensation income of both managerial and rank and file employees:

(a) Monetized unused vacation leave credits of employees not exceeding ten (10) days during the year and the monetized value of leave credits paid to government officials and employees;

(b) Medical cash allowance to dependents of employees not exceeding ₱750.00 per employee per semester or ₱125 per month;

(c) Rice subsidy of ₱1,500.00 or one (1) sack of 50-kg. rice per month amounting to not more than ₱1,500.00;

(d) Uniforms and clothing allowance not exceeding ₱4,000.00 per annum;

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(e) Actual yearly medical benefits not exceeding ₱10,000.00 per annum;

(f) Laundry allowance not exceeding ₱300.00 per month;

(g) Employees achievement awards, e.g., for length of service or safety achievement, which must be in the form of a tangible personal property other than cash or gift certificate, with an annual monetary value not exceeding ₱10,000.00 received by the employee under an established written plan which does not discriminate in favor of highly paid employees;

(h) Gifts given during Christmas and major anniversary celebrations not exceeding ₱5,000.00 per employee per annum;

(i) Flowers, fruits, books, or similar items given to employees under special circumstances, e.g., on account of illness, marriage, birth of a baby, etc.; and

(j) Daily meal allowance for overtime work not exceeding twenty-five percent (25%) of the basic minimum wage.[60]

The amount of '*de minimis*' benefits conforming to the ceiling herein prescribed shall not be considered in determining the ₱30,000.00 ceiling of 'other benefits' excluded from gross income under Section 32(b)(7)(e) of the Code. Provided that, the excess of the '*de minimis*' benefits over their respective ceilings prescribed by these regulations shall be considered as part of 'other benefits' and the employee receiving it will be subject to tax only on the excess over the ₱30,000.00 ceiling. **Provided, further, that MWEs receiving 'other benefits' exceeding the ₱30,000.00 limit shall be taxable on the excess benefits, as well as on his salaries, wages and allowances, just like an employee receiving compensation income beyond the SMW.**

Any amount given by the employer as benefits to its employees, whether classified as '*de minimis*' benefits or fringe benefits, shall constitute [a] deductible expense upon such employer.

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[60] Total of the *de minimis* benefits, excluding items (a), (i) and (j), could amount to ₱51,350 annually.

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Where compensation is paid in property other than money, the employer shall make necessary arrangements to ensure that the amount of the tax required to be withheld is available for payment to the Bureau of Internal Revenue.

x x x x x x x x x

(B) Exemptions from Withholding Tax on Compensation. - The following income payments are exempted from the requirements of withholding tax on compensation:

x x x x x x x x x

(13) **Compensation income of MWEs who work in the private sector and being paid the Statutory Minimum Wage (SMW)**, as fixed by Regional Tripartite Wage and Productivity Board (RTWPB)/National Wages and Productivity Commission (NWPC), applicable to the place where he/she is assigned.

The aforesaid income shall likewise be exempted from income tax.

"Statutory Minimum Wage" (SMW) shall refer to the rate fixed by the Regional Tripartite Wage and Productivity Board (RTWPB), as defined by the Bureau of Labor and Employment Statistics (BLES) of the Department of Labor and Employment (DOLE). The RTWPB of each region shall determine the wage rates in the different regions based on established criteria and shall be the basis of exemption from income tax for this purpose.

Holiday pay, overtime pay, night shift differential pay and hazard pay earned by the aforementioned MWE shall likewise be covered by the above exemption. Provided, however, that **an employee who receives/earns additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱30,000.00, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, hazard pay and night shift differential pay shall not enjoy the privilege of being a MWE and, therefore, his/her entire earnings are not exempt form income tax**, and consequently, from withholding tax.

MWEs receiving other income, such as income **from the conduct of trade, business, or practice of profession**, except income subject to final tax, in addition to compensation income

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are not exempted from income tax on their entire income earned during the taxable year. **This rule, notwithstanding, the [statutory minimum wage], [h]oliday pay, overtime pay, night shift differential pay and hazard pay shall still be exempt from withholding tax.**

For purposes of these regulations, hazard pay shall mean xxx.

In case of hazardous employment, xxx

The NWPC shall officially submit a Matrix of Wage Order by region xxx

Any reduction or diminution of wages for purposes of exemption from income tax shall constitute misrepresentation and therefore, shall result to the automatic disallowance of expense, *i.e.* compensation and benefits account, on the part of the employer. The offenders may be criminally prosecuted under existing laws.

(14) Compensation income of employees in the public sector with compensation income of not more than the SMW in the non-agricultural sector, as fixed by RTWPB/NWPC, applicable to the place where he/she is assigned.

The aforesaid income shall likewise be exempted from income tax.

The basic salary of MWEs in the public sector shall be equated to the SMW in the non-agricultural sector applicable to the place where he/she is assigned. The determination of the SMW in the public sector shall likewise adopt the same procedures and consideration as those of the private sector.

Holiday pay, overtime pay, night shift differential pay and hazard pay earned by the aforementioned MWE in the public sector shall likewise be covered by the above exemption. **Provided, however, that a public sector employee who receives additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱30,000.00**, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, night shift differential pay and hazard pay **shall not enjoy**

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the privilege of being a MWE and, therefore, his/her entire earnings are not exempt from income tax and, consequently, from withholding tax.

MWEs receiving other income, such as income from the conduct of trade, business, or practice of profession, except income subject to final tax, in addition to compensation income are not exempted from income tax on their entire income earned during the taxable year. **This rule, notwithstanding, the SMW, Holiday pay, overtime pay, night shift differential pay and hazard pay shall still be exempt from withholding tax.**

For purposes of these regulations, hazard pay shall mean xxx

In case of hazardous employment, x x x

x x x x x x x x x

SECTION 3. Section 2.79 of RR 2-98, as amended, is hereby further amended to read as follows:

Sec. 2.79. *Income Tax Collected at Source on Compensation Income*. —

(A) *Requirement of Withholding*. — Every employer must withhold from compensation paid an amount computed in accordance with these Regulations. Provided, that no withholding of tax shall be required on the SMW, including holiday pay, overtime pay, night shift differential and hazard pay of MWEs in the private/public sectors as defined in these Regulations. **Provided, further, that an employee who receives additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱30,000.00, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, hazard pay and night shift differential pay shall not enjoy the privilege of being a MWE and, therefore, his/her entire earnings are not exempt from income tax and, consequently, shall be subject to withholding tax.**

x x x x x x x x x

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> For the year 2008, however, being the initial year of implementation of R.A. 9504, there shall be a transitory withholding tax table for the period from July 6 to December 31, 2008 (Annex "D") determined by prorating the annual personal and additional exemptions under R.A. 9504 over a period of six months. Thus, for individuals, regardless of personal status, the prorated personal exemption is ₱25,000, and for each qualified dependent child (QDC), ₱12,500.

On the other hand, the pertinent provisions of law, which are supposed to be implemented by the above-quoted sections of RR 10-2008, read as follows:

> SECTION 1. Section 22 of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, is hereby further amended by adding the following definitions after Subsection (FF) to read as follows:
>
> Section 22. Definitions. — when used in this Title:[61]
>
> (A) x x x
>
> (FF) x x x
>
> (GG) **The term 'statutory minimum wage' shall refer to the rate fixed by the Regional Tripartite Wage and Productivity Board**, as defined by the Bureau of Labor and Employment Statistics (BLES) of the Department of Labor and Employment (DOLE).
>
> (HH) **The term 'minimum wage earner' shall refer to a worker in the private sector paid the statutory minimum wage, or to an employee in the public sector with compensation income of not more than the statutory minimum wage** in the non-agricultural sector where he/she is assigned.
>
> SECTION 2. Section 24(A) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, is hereby further amended to read as follows:
>
> SEC. 24. Income Tax Rates. —

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[61] Title II, Tax on Income, R.A. 8424, as amended.

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(A) Rates of Income Tax on Individual Citizen and Individual Resident Alien of the Philippines. —

1) x x x

x x x x x x x x x; and

(c) On the taxable income defined in Section 31 of this Code, other than income subject to tax under Subsections (B), (C) and (D) of this Section, derived for each taxable year from all sources within the Philippines by an individual alien who is a resident of the Philippines.

(2) Rates of Tax on Taxable Income of Individuals.—The tax shall be computed in accordance with and at the rates established in the following schedule:

x x x x x x x x x

For married individuals, the husband and wife, subject to the provision of Section 51 (D) hereof, shall compute separately their individual income tax based on their respective total taxable income: Provided, That if any income cannot be definitely attributed to or identified as income exclusively earned or realized by either of the spouses, the same shall be divided equally between the spouses for the purpose of determining their respective taxable income.

***Provided*, That minimum wage earners as defined in Section 22(HH) of this Code shall be exempt from the payment of income tax on their taxable income: Provided, further, That the holiday pay, overtime pay, night shift differential pay and hazard pay received by such minimum wage earners shall likewise be exempt from income tax.**

x x x x x x x x x

SECTION 5. Section 51(A)(2) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, is hereby further amended to read as follows:

SEC. 51. Individual Return. —

(A) Requirements. —

(1) Except as provided in paragraph (2) of this Subsection, the following individuals are required to file an income tax return:

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(a) x x x

x x x x x x x x x

(2) The following individuals shall not be required to file an income tax return:

(a) x x x

(b) An individual with respect to pure compensation income, as defined in Section 32(A)(1), derived from sources within the Philippines, the income tax on which has been correctly withheld under the provisions of Section 79 of this Code:

Provided, That an individual deriving compensation concurrently from two or more employers at any time during the taxable year shall file an income tax return;

(c) x x x; and

(d) **A minimum wage earner as defined in Section 22(HH)** of this Code or an individual who is exempt from income tax pursuant to the provisions of this Code and other laws, general or special.

x x x x x x x x x

SECTION 6. Section 79(A) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, is hereby further amended to read as follows:

SEC. 79. Income Tax Collected at Source. —

(A) **Requirement of Withholding. - Except in the case of a minimum wage earner as defined in Section 22(HH) of this Code**, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner. (Emphases supplied)

Nowhere in the above provisions of R.A. 9504 would one find the qualifications prescribed by the assailed provisions of RR 10-2008. The provisions of the law are clear and precise; they leave no room for interpretation — they do not provide or require any other qualification as to who are MWEs.

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To be exempt, one must be an MWE, a term that is clearly defined. Section 22(HH) says he/she must be one who is paid the statutory minimum wage if he/she works in the private sector, or not more than the statutory minimum wage in the non-agricultural sector where he/she is assigned, if he/she is a government employee. Thus, one is either an MWE or he/she is not. Simply put, MWE is the status acquired upon passing the litmus test — whether one receives wages not exceeding the prescribed minimum wage.

The minimum wage referred to in the definition has itself a clear and definite meaning. The law explicitly refers to the rate fixed by the Regional Tripartite Wage and Productivity Board, which is a creation of the Labor Code.[62] The Labor Code clearly describes wages and Minimum Wage under Title II of the Labor Code. Specifically, Article 97 defines "wage" as follows:

> (f) "Wage" paid to any employee shall mean the remuneration or earnings, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment for work done or to be done, or for services rendered or to be rendered and includes the fair and reasonable value, as determined by the Secretary of Labor and Employment, of board, lodging, or other facilities customarily furnished by the employer to the employee. "Fair and reasonable value" shall not include any profit to the employer, or to any person affiliated with the employer.

While the Labor Code's definition of "wage" appears to encompass any payments of any designation that an employer pays his or her employees, the concept of minimum wage is distinct.[63] "Minimum wage" is wage mandated; one that

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[62] *See* Article 122, Presidential Decree 442, as amended by R.A. 6727 (1989).

[63] In *Employers Confederation of the Philippines v. National Wages and Productivity Commission*, 278 Phil. 747, 755 (1991), we held as follows:

> The concept of "minimum wage" is, however, a different thing, and certainly, it means more than setting a floor wage to upgrade existing wages, as ECOP takes it to mean. "Minimum wages" underlies the effort of the

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employers may not freely choose on their own to designate in any which way.

In Article 99, minimum wage rates are to be prescribed by the Regional Tripartite Wages and Productivity Boards. In Articles 102 to 105, specific instructions are given in relation to the payment of wages. They must be paid in legal tender at least once every two weeks, or twice a month, at intervals not exceeding 16 days, directly to the worker, except in case of *force majeure* or death of the worker.

These are the wages for which a minimum is prescribed. Thus, the minimum wage exempted by R.A. 9504 is that which is referred to in the Labor Code. It is distinct and different from other payments including allowances, honoraria, commissions, allowances or benefits that an employer may pay or provide an employee.

Likewise, the other compensation incomes an MWE receives that are also exempted by R.A. 9504 are all mandated by law and are based on this minimum wage.

Additional compensation in the form of overtime pay is mandated for work beyond the normal hours based on the employee's regular wage.[64] Those working between ten o'clock in the evening and six o'clock in the morning are required to be paid a night shift differential based on their regular wage.[65]

State, as Republic Act No. 6727 expresses it, "to promote productivity-improvement and gain-sharing measures to ensure a decent standard of living for the workers and their families; to guarantee the rights of labor to its just share in the fruits of production; to enhance employment generation in the countryside through industry dispersal; and to allow business and industry reasonable returns on investment, expansion and growth," 25 and as the Constitution expresses it to affirm "labor as a primary social economic force." 26 As the Court indicated, the statute would have no need for a board if the question were simply "how much." The State is concerned, in addition, that wages are not distributed unevenly, and more important, that social justice is subserved.

[64] Labor Code, Art. 87.

[65] Labor Code, Art. 86.

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Holiday/premium pay is mandated whether one works on regular holidays or on one's scheduled rest days and special holidays. In all of these cases, additional compensation is mandated, and computed based on the employee's regular wage.[66]

R.A. 9504 is explicit as to the coverage of the exemption: the wages that are not in excess of the minimum wage as determined by the wage boards, including the corresponding holiday, overtime, night differential and hazard pays.

In other words, the law exempts from income taxation the most basic compensation an employee receives — the amount afforded to the lowest paid employees by the mandate of law. In a way, the legislature grants to these lowest paid employees additional income by no longer demanding from them a contribution for the operations of government. This is the essence of R.A. 9504 as a social legislation. The government, by way of the tax exemption, affords increased purchasing power to this sector of the working class.

This intent is reflected in the Explanatory Note to Senate Bill No. 103 of Senator Roxas:

> This bill seeks to exempt minimum wage earners in the private sector and government workers in Salary Grades 1 to 3, amending certain provisions of Republic Act 8424, otherwise known as the National Internal Revenue Code of 1997, as amended.
>
> **As per estimates by the National Wages and Productivity Board, there are 7 million workers earning the minimum wage and even below. While these workers are in the verge of poverty, it is unfair and unjust that the Government, under the law, is taking away a portion of their already subsistence-level income.**
>
> **Despite this narrow margin from poverty, the Government would still be mandated to take a slice away from that family's meager resources. Even if the Government has recently exempted minimum wage earners from withholding taxes, they are still liable to pay income taxes at the end of the year. The law must be amended to correct this injustice.** (Emphases supplied)

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[66] Labor Code, Arts. 93 and 94.

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The increased purchasing power is estimated at about ₱9,500 a year.[67] RR 10-2008, however, takes this away. In declaring that once an MWE receives other forms of taxable income like commissions, honoraria, and fringe benefits in excess of the non-taxable statutory amount of ₱30,000, RR 10-2008 declared that the MWE immediately becomes ineligible for tax exemption; and otherwise non-taxable minimum wage, along with the other taxable incomes of the MWE, becomes taxable again.

Respondents acknowledge that R.A. 9504 is a social legislation meant for social justice,[68] but they insist that it is too generous, and that consideration must be given to the fiscal position and financial capability of the government.[69] While they acknowledge that the intent of the income tax exemption of MWEs is to free low-income earners from the burden of taxation, respondents, in the guise of clarification, proceed to redefine which incomes may or may not be granted exemption. These respondents cannot do without encroaching on purely legislative prerogatives.

By way of review, this ₱30,000 statutory ceiling on benefits has its beginning in 1994 under R. A. 7833, which amended then Section 28(b)(8) of the 1977 NIRC. It is substantially carried over as Section 32(B) (Exclusion from Gross Income) of Chapter VI (Computation of Gross Income) of Title II (Tax on Income) in the 1997 NIRC (R.A. 8424). R.A. 9504 does not amend that provision of R.A. 8424, which reads:

SEC. 32. Gross Income. —

(A) General Definition. — x x x

(B) Exclusions from Gross Income. — The following items shall not be included in gross income and shall be exempt from taxation under this title:

(1) x x x

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[67] *Rollo* (G.R. No. 184508), p. 16; *See* for example, Roxas Petition, p. 14.

[68] *Id.* at 111, 115; Consolidated Comment, pp. 13, 17.

[69] *Id.* at 115; Consolidated Comment, p. 17.

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x x x x x x x x x

(7) Miscellaneous Items. -

(a) xxx

x x x x x x x x x

(e) 13th Month Pay and Other Benefits. - Gross benefits received by officials and employees of public and private entities: Provided, however, That the total exclusion under this subparagraph shall not exceed Thirty thousand pesos (₱30,000) which shall cover:

(i) Benefits received by officials and employees of the national and local government pursuant to Republic Act No. 6686[70];

(ii) Benefits received by employees pursuant to Presidential Decree No. 851[71], as amended by Memorandum Order No. 28, dated August 13, 1986;

(iii) Benefits received by officials and employees not covered by Presidential decree No. 851, as amended by Memorandum Order No. 28, dated August 13, 1986; and

(iv) Other benefits such as productivity incentives and Christmas bonus: Provided, further, That the ceiling of Thirty thousand pesos (₱30,000) may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering among others, the effect on the same of the inflation rate at the end of the taxable year.

(f) x x x

The exemption granted to MWEs by R.A. 9504 reads:

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[70] *An Act Authorizing Annual Christmas Bonus to National and Local Government Officials and Employees Starting CY 1988*, R.A. No. 6686, 14 December 1988.

[71] *Requiring All Employers to Pay Their Employees at 13th Month Pay*, P.D. No. 851, 16 December 1976.

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Provided, That minimum wage earners as defined in Section 22(HH) of this Code ***shall be exempt from the payment of income tax on their taxable income***: *Provided, further*, That the holiday pay, overtime pay, night shift differential pay and hazard pay received by such minimum wage earners shall likewise be exempt from income tax.

"Taxable income" is defined as follows:

SEC. 31. Taxable Income Defined. — The term taxable income means the ***pertinent items of gross income***specified in this Code, less the deductions and/or personal and additional exemptions, if any, authorized for such types of income by this Code or other special laws.

A careful reading of these provisions will show at least two distinct groups of items of compensation. On one hand are those that are further exempted from tax by R.A. 9504; on the other hand are items of compensation that R.A. 9504 does not amend and are thus unchanged and in no need to be disturbed.

First are the different items of compensation subject to tax prior to R.A. 9504. These are included in the ***pertinent items of gross income*** in Section 31. "Gross income" in Section 32 includes, among many other items, "compensation for services in whatever form paid, including, but not limited to salaries, wages, commissions, and similar items." R.A. 9504 particularly exempts the minimum wage and its incidents; it does not provide exemption for the many other forms of compensation.

Second are the other items of income that, prior to R.A. 9504, were excluded from gross income and were therefore not subject to tax. Among these are other payments that employees may receive from employers pursuant to their employer-employee relationship, such as bonuses and other benefits. These are either mandated by law (such as the 13th month pay) or granted upon the employer's prerogative or are pursuant to collective bargaining agreements (as productivity incentives). These items were not changed by R.A. 9504.

It becomes evident that the exemption on benefits granted by law in 1994 are now extended to wages of the least paid

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workers under R.A. 9504. Benefits not beyond ₱30,000 were exempted; wages not beyond the SMW are now exempted as well. Conversely, benefits in excess of ₱30,000 are subject to tax and now, wages in excess of the SMW are still subject to tax.

What the legislature is exempting is the MWE's minimum wage and other forms statutory compensation like holiday pay, overtime pay, night shift differential pay, and hazard pay. These are not bonuses or other benefits; these are wages. Respondents seek to frustrate this exemption granted by the legislature.

In respondents' view, anyone receiving 13th month pay and other benefits in excess of ₱30,000 cannot be an MWE. They seek to impose their own definition of "MWE" by arguing thus:

> It should be noted that the intent of the income tax exemption of MWEs is to free the low-income earner from the burden of tax. R.A. No. 9504 and R.R. No. 10-2008 define who are the low-income earners. Someone who earns beyond the incomes and benefits above-enumerated is definitely not a low-income earner.[72]

We do not agree.

As stated before, nothing to this effect can be read from R.A. 9504. The amendment is silent on whether compensation-related benefits exceeding the ₱30,000 threshold would make an MWE lose exemption. R.A. 9504 has given definite criteria for what constitutes an MWE, and R.R. 10-2008 cannot change this.

An administrative agency may not enlarge, alter or restrict a provision of law. It cannot add to the requirements provided by law. To do so constitutes lawmaking, which is generally reserved for Congress.[73] In *CIR v. Fortune Tobacco*,[74] we applied

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[72] *Rollo* (G.R. No. 185234), p. 119.

[73] *CIR v. Luzon Drug Company*, 496 Phil. 307 (2005).

[74] *Commissioner of lnternal Revenue v. Fortune Tobacco Corp.*, 581 Phil. 146 (2008).

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the *plain meaning* rule when the Commissioner of Internal Revenue ventured into unauthorized administrative lawmaking:

> [A]n administrative agency issuing regulations may not enlarge, alter or restrict the provisions of the law it administers, and it cannot engraft additional requirements not contemplated by the legislature. **The Court emphasized that tax administrators are not allowed to expand or contract the legislative mandate and that the "plain meaning rule" or *verba legis* in statutory construction should be applied such that where the words of a statute are clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.**
>
> As we have previously declared, rule-making power must be confined to details for regulating the mode or proceedings in order to carry into effect the law as it has been enacted, and **it cannot be extended to amend or expand the statutory requirements or to embrace matters not covered by the statute**. Administrative regulations must always be in harmony with the provisions of the law because any resulting discrepancy between the two will always be resolved in favor of the basic law.[75] (Emphases supplied)

We are not persuaded that RR 10-2008 merely clarifies the law. The CIR's clarification is not warranted when the language of the law is plain and clear.[76]

The deliberations of the Senate reflect its understanding of the outworking of this MWE exemption in relation to the treatment of benefits, both those for the ₱30,000 threshold and the *de minimis* benefits:

> **Senator Defensor Santiago.** Thank you. Next question: How about employees who are only receiving a minimum wage as base pay, but are earning significant amounts of income from sales, commissions which may be even higher than their base pay? Is their entire income from commissions also tax-free? **Because strictly speaking, they are minimum wage earners.** For purposes of ascertaining entitlement to tax exemption, is the basis only the base pay or should it be the aggregate compensation that is being received, that is, inclusive of commissions, for example?

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[75] *Id.* at 162-163.

[76] *Republic of the Philippines v. Court of Appeals*, 359 Phil. 530 (1998).

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Senator Escudero. Mr. President, what is included would be only the base pay and, if any, the hazard pay, holiday pay, overtime pay and night shift differential received by a minimum wage earner. **As far as commissions are concerned, only to the extent of ₱30,000 would be exempted. Anything in excess of ₱30,000 would already be taxable if it is being received by way of commissions.** Add to that *de minimis* benefits being received by an employee, such as rice subsidy or clothing allowance or transportation allowance would also be exempted; but they are exempted already under the existing law.

Senator Defensor Santiago. I would like to thank the sponsor. That makes it clear.[77] (Emphases supplied)

Given the foregoing, the treatment of bonuses and other benefits that an employee receives from the employer in excess of the ₱30,000 ceiling cannot but be the same as the prevailing treatment prior to R.A. 9504 — anything in excess of ₱30,000 is taxable; no more, no less.

The treatment of this excess cannot operate to disenfranchise the MWE from enjoying the exemption explicitly granted by R.A. 9504.

The government's argument that the RR avoids a tax distortion has no merit.

The government further contends that the "clarification" avoids a situation akin to wage distortion and discourages tax evasion. They claim that MWE must be treated equally as other individual compensation income earners "when their compensation does not warrant exemption under R.A. No. 9504. Otherwise, there would be gross inequity between and among individual income taxpayers."[78] For illustrative purposes, respondents present three scenarios:

37.1. In the first scenario, a minimum wage earner in the National Capital Region receiving ₱382.00 per day has an annual salary of

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[77] IV RECORD, SENATE 14TH CONGRESS, 1ST SESSION 286-287, 26 May 2008.

[78] *Rollo* (G.R. No. 185234), p. 121.

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₱119,566.00, while a non-minimum wage earner with a basic pay of ₱385.00 per day has an annual salary of ₱120,505.00. The difference in their annual salaries amounts to only ₱939.00, but the non-minimum wage earner is liable for a tax of ₱8,601.00, while the minimum wage earner is tax-exempt?

37.2. In the second scenario, the minimum wage earner's "other benefits" exceed the threshold of ₱30,000.00 by ₱20,000.00. The non-minimum wage earner is liable for ₱8,601.00, while the minimum wage earner is still tax-exempt.

37.3. In the third scenario, both workers earn "other benefits" at ₱50,000.00 more than the ₱30,000 threshold. The non-minimum wage earner is liable for the tax of ₱18,601.00, while the minimum wage earner is still tax-exempt.[79] (Underscoring in the original)

Again, respondents are venturing into policy-making, a function that properly belongs to Congress. In *British American Tobacco v. Camacho*, we explained:[80]

We do not sit in judgment as a supra-legislature to decide, after a law is passed by Congress, which state interest is superior over another, or which method is better suited to achieve one, some or all of the state's interests, or what these interests should be in the first place. This policy-determining power, by constitutional fiat, belongs to Congress as it is its function to determine and balance these interests or choose which ones to pursue. Time and again we have ruled that **the judiciary does not settle policy issues**. The Court can only declare what the law is and not what the law should be. Under our system of government, policy issues are within the domain of the political branches of government and of the people themselves as the repository of all state power. Thus, the legislative classification under the *classification freeze provision*, after having been shown to be rationally related to achieve certain legitimate state interests and done in good faith, must, perforce, end our inquiry.

Concededly, the finding that the assailed law seems to derogate, to a limited extent, one of its avowed objectives (i.e. promoting fair competition among the players in the industry) would suggest that, by Congress's own standards, the current excise tax system on sin

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[79] *Rollo* (G.R. No. 184538), pp. 236-237.

[80] 584 Phil. 489, 547-548 (2008).

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products is imperfect. But, certainly, we cannot declare a statute unconstitutional merely because it can be improved or that it does not tend to achieve all of its stated objectives. This is especially true for tax legislation which simultaneously addresses and impacts multiple state interests. Absent a clear showing of breach of constitutional limitations, Congress, owing to its vast experience and expertise in the field of taxation, must be given sufficient leeway to formulate and experiment with different tax systems to address the complex issues and problems related to tax administration. **Whatever imperfections that may occur, the same should be addressed to the democratic process to refine and evolve a taxation system which ideally will achieve most, if not all, of the state's objectives.**

In fine, petitioner may have valid reasons to disagree with the policy decision of Congress and the method by which the latter sought to achieve the same. But its remedy is with Congress and not this Court. (Emphases supplied and citations deleted)

Respondents cannot interfere with the wisdom of R.A. 9504. They must respect and implement it as enacted.

Besides, the supposed undesirable "income distortion" has been addressed in the Senate deliberations. The following exchange between Senators Santiago and Escudero reveals the view that the distortion impacts only a few — taxpayers who are single and have no dependents:

> Senator Santiago .... It seems to me awkward that a person is earning just ₱1 above the minimum wage is already taxable to the full extent simply because he is earning ₱1 more each day, or o more than ₱30 a month, or ₱350 per annum. Thus, a single individual earning ₱362 daily in Metro Manila pays no tax but the same individual if he earns ₱363 a day will be subject to tax, under the proposed amended provisions, in the amount of ₱4,875 — I no longer took into account the deductions of SSS, etcetera - although that worker is just ₱360 higher than the minimum wage.
>
> x x x x x x x x x
>
> I repeat, I am raising respectfully the point that a person who is earning just ₱1 above the minimum wage is already taxable to the full extent just for a mere ₱1. May I please have the Sponsor's comment.

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Senator Escudero .... I fully subscribe and accept the analysis and computation of the distinguished Senator, Mr. President, because this was the very concern of this representation when we were discussing the bill. It will create wage distortions up to the extent wherein a person is paying or rather receiving a salary which is only higher by ₱6,000 approximately from that of a minimum wage earner. So anywhere between ₱1 to approximately ₱6,000 higher, there will be a wage distortion, although distortions disappears as the salary goes up.

However, Mr. President, as computed by the distinguished Senator, **the distortion is only made apparent if the taxpayer is single or is not married and has no dependents. Because at two dependents, the distortion would already disappear; at three dependents, it would not make a difference anymore because the exemption would already cover approximately the wage distortion that would be created as far as individual or single taxpayers are concerned**.[81] (Emphases in the original)

Indeed, there is a distortion, one that RR 10-2008 actually engenders. While respondents insist that MWEs who are earning purely compensation income will lose their MWE exemption the moment they receive benefits in excess of ₱30,000, RR 10-2008 does not withdraw the MWE exemption from those who are earning other income outside of their employer-employee relationship. Consider the following provisions of RR 10-2008:

Section 2.78.1 (B):

(B) Exemptions from Withholding Tax on Compensation. — The following income payments are exempted from the requirements of withholding tax on compensation:

x x x x x x x x x

(13) **Compensation income of MWEs who work in the private sector and being paid the Statutory Minimum Wage (SMW)**, as fixed by Regional Tripartite Wage and Productivity Board (RTWPB)/ National Wages and Productivity Commission (NWPC), applicable to the place where he/she is assigned.

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[81] IV Record, Senate 14TH Congress 1ST Session 287, 26 May 2008.

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x x x x x x x x x

Holiday pay, overtime pay, night shift differential pay and hazard pay earned by the aforementioned MWE shall likewise be covered by the above exemption. Provided, however, that an employee who receives/earns additional compensation such as commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱30,000.00, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, hazard pay and night shift differential pay shall not enjoy the privilege of being a MWE and, therefore, his/her entire earnings are not exempt from income tax, and consequently, from withholding tax.

MWEs receiving other income, such as income **from the conduct of trade, business, or practice of profession**, except income subject to final tax, in addition to compensation income are not exempted from income tax on their entire income earned during the taxable year. **This rule, notwithstanding, the SMW, Holiday pay, overtime pay, night shift differential pay and hazard pay shall still be exempt from withholding tax.**

x x x x x x x x x

(14) Compensation income of employees in the public sector with compensation income of not more than the SMW in the non-agricultural sector, as fixed by RTWPB/NWPC, applicable to the place where he/she is assigned.

x x x x x x x x x

Holiday pay, overtime pay, shift differential pay and hazard pay earned by the aforementioned MWE in the pulic sector shall likewise be covered by the above exemption. Provided, however, that a public sector employee who receives additonal compensation such as commissioners, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of ₱30,000.00, taxable allowances and other taxable income other than the SMW, holiday pay, overtime pay, night shift differential pay and hazard pay shall not enjoy the privilige of being a MWE and, therefore, his/her entire earnings are not exempt from income tax and, consequently, from withholding tax.

MWEs receiving other income, **such as income from the conduct of trade, business, or practice of profession**, except income subject to final tax, in addition to compensation income are not exempted

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from income tax on their entire income earned during the taxable year. **This rule, notwithstanding, the SMW, Holiday pay, overtime pay, night shift differential pay and hazard pay shall still be exempt from withholding tax.**

These provisions of RR 10-2008 reveal a bias against those who are purely compensation earners. In their consolidated comment, respondents reason:

> Verily, **the interpretation as to who is a minimum wage earner as petitioners advance will open the opportunity for tax evasion** by the mere expedient of pegging the salary or wage of a worker at the minimum and reflecting a worker's other incomes as some other benefits. **This situation will not only encourage tax evasion, it will likewise discourage able employers from paying salaries or wages higher than the statutory minimum.** This should never be countenanced.[82]

Again, respondents are delving into policy-making they presume bad faith on the part of the employers, and then shift the burden of this presumption and lay it on the backs of the lowest paid workers. This presumption of bad faith does not even reflect pragmatic reality. It must be remembered that a worker's holiday, overtime and night differential pays are all based on the worker's regular wage. Thus, there will always be pressure from the workers to increase, not decrease, their basic pay.

What is not acceptable is the blatant inequity between the treatment that RR 10-2008 gives to those who earn purely compensation income and that given to those who have other sources of income. Respondents want to tax the MWEs who serve their employer well and thus receive higher bonuses or performance incentives; but exempts the MWEs who serve, in addition to their employer, their other business or professional interests.

We cannot sustain respondent's position.

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[82] *Rollo* (G.R. No. 184508), p. 105; Consolidated Comment, p. 28.

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In sum, the proper interpretation of R.A. 9504 is that it imposes taxes only on the taxable income received in excess of the minimum wage, but the MWEs will not lose their exemption as such. Workers who receive the statutory minimum wage their basic pay remain MWEs. The receipt of any other income during the year does not disqualify them as MWEs. They remain MWEs, entitled to exemption as such, but the taxable income they receive other than as MWEs may be subjected to appropriate taxes.

R.A. 9504 must be liberally construed.

We are mindful of the strict construction rule when it comes to the interpretation of tax exemption laws.[83] The canon, however, is tempered by several exceptions, one of which is when the taxpayer falls within the purview of the exemption by clear legislative intent. In this situation, the rule of liberal interpretation applies in favor of the grantee and against the government.[84]

In this case, there is a clear legislative intent to exempt the minimum wage received by an MWE who earns additional income on top of the minimum wage. As previously discussed, this intent can be seen from both the law and the deliberations.

Accordingly, we see no reason why we should not liberally interpret R.A. 9504 in favor of the taxpayers.

R.A. 9504 is a grant of tax relief long overdue.

We do not lose sight of the fact that R.A. 9504 is a tax relief that is long overdue.

Table 1 below shows the tax burden of an MWE over the years. We use as example one who is a married individual without dependents and is working in the National Capital Region (NCR). For illustration purposes, R.A. 9504 is applied as if the worker being paid the statutory minimum wage is not tax exempt:

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[83] *Commissioner of Internal Revenue v. Arnoldus Carpentry Shop, Inc.*, 242 Phil. 688 (1998).

[84] *Id.*

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Table 1 - Tax Burden of MWE over the years

Law	Effective	NCR Minimum Daily Wage[85]		Taxable Income[86]	Tax Due (Annual)	Tax Burden[87]
RA 7167[88]	1992	WO 3 (1993 Dec)	₱135.00	₱24,255	₱1,343.05	3.2%
RA 7496[89]		WO 5 (1997 May)	₱185.00	₱39,905	₱3,064.55	5.3%
RA 8424[90] (1997 NIRC)	1998	WO 6 (1998 Feb)	₱198.00	₱29,974	₱2,497.40	4.0%
		WO 13 (2007 Aug)	₱362.00	₱81,306	₱10,761.20	9.5%
		WO 14 (2008 June)	₱382.00	₱87,566	₱12,013.20	10.0%
RA 9504[91]	2008	WO 14 (2008 Aug)	₱382.00	₱69,566	₱8,434.90	7.1%
		WO 20 (2016 June)	₱491.00	₱103,683	₱15,236.60	9.9%

As shown on Table 1, we note that in 1992, the tax burden upon an MWE was just about 3.2%, when Congress passed R.A. 7167, which increased the personal exemptions for a married

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[85] Assuming full 313 working days are worked and paid, with no OT or worked holiday pay (365 days less 53 days off, holidays not worked but paid). Rates used are for the National Capital Region, for non-agricultural workers.

[86] For illustration purposes, taxable Income is computed assuming a married worker without dependents works and gets paid for each working day in a year (365 days less 52 days off), and the same minimum wage rate is assumed uniformly earned for the whole year.

[87] The tax burden is here computed by dividing the tax due by the amount earned by the minimum wage earner (minimum wage multiplied by the days worked & paid).

[88] R.A. 7167 (1991 December)) increased the Personal Exemption, the maximum being ₱18,000 for married individuals or a maximum of ₱9,000 for each married individual computing tax separately. The exemption was amended by R.A. 7497 (May 1992) providing for a maximum of Php18,000 for each married individual deriving taxable income.

[89] R.A. 7496 (May 1992) revised the tax table.

[90] R.A. 8424 (effective 1998), the Tax Reform Act of 1997 (1997 NIRC), revised the tax table & increased personal exemptions, among others. Married individuals without dependents are now entitled to ₱32,000.

[91] R.A. 9504 (2008), among others, amended the Personal Exemption, now uniform at ₱50,000 for each individual taxpayer; and granted exemption to minimum wage earners (MWEs). For purposes of illustration, we compute the tax liabilily of an MWE, as if he is not exempt (as RR 10-2008 provides for individuals paid the SMW but happens to have other income the BIR deems disqualifying the MWE from entitlement to the exemption).

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individual without dependents from ₱12,000 to ₱18,000; and R.A. 7496, which revised the table of graduated tax rates (tax table).

Over the years, as the minimum wage increased, the tax burden of the MWE likewise increased. In 1997, the MWE's tax burden was about 5.3%. When R.A. 8424 became effective in 1998, some relief in the MWE's tax burden was seen as it was reduced to 4.0%. This was mostly due to the increase in personal exemptions, which were increased from ₱18,000 to ₱32,000 for a married individual without dependents. It may be noted that while the tax table was revised, a closer scrutiny of Table 3 below would show that the rates actually increased for those who were earning less.

As the minimum wage continued to increase, the MWE's tax burden likewise did — by August 2007, it was 9.5%. This means that in 2007, of the ₱362 minimum wage, the MWE's take-home pay was only ₱327.62, after a tax of ₱34.38.

This scenario does not augur well for the wage earners. Over the years, even with the occasional increase in the basic personal and additional exemptions, the contribution the government exacts from its MWEs continues to increase as a portion of their income. This is a serious social issue, which R.A. 9504 partly addresses. With the ₱20 increase in minimum wage from ₱362 to ₱382 in 2008, the tax due thereon would be about ₱30. As seen in their deliberations, the lawmakers wanted all of this amount to become additional take-home pay for the MWEs in 2008.[92]

The foregoing demonstrates the effect of inflation. When tax tables do not get adjusted, inflation has a profound impact in terms of tax burden. "**Bracket creep**," "the process by which inflation pushes individuals into higher tax brackets,"[93] occurs, and its deleterious results may be explained as follows:

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[92] *See* Escudero speech on SB 2293, quoted in pp. 12-13 hereof.

[93] *Black's Law Dictionary*, 6th ed., p. 187.

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[A]n individual whose dollar income increases from one year to the next might be obliged to pay tax at a higher marginal rate (say 25% instead of 15%) on the increase, this being a natural consequence of rate progression. If, however, due to inflation the benefit of the increase is wiped out by a corresponding increase in the cost of living, **the effect would be a heavier tax burden with no real improvement in the taxpayer's economic position. Wage and salary-earners are especially vulnerable. Even if a worker gets a raise in wages this year, the raise will be illusory if the prices of consumer goods rise in the same proportion. If her marginal tax rate also increased, the result would actually be a decrease in the taxpayer's real disposable income**.[94]

Table 2 shows how MWEs get pushed to higher tax brackets with higher tax rates due only to the periodic increases in the minimum wage. This unfortunate development illustrates how "bracket creep" comes about and how inflation alone increases their tax burden:

Table 2

Law	Effective	NCR Minimum Daily Wage[95]		**Highest Applicable Tax Rate(Bracket Creep)**	Tax Due (Annual)	Tax Burden[96]
RA 7167[97]	1992	WO 3 (1993 Dec)	₱135.00	**11%**	₱1,343.05	3.2%
RA 7496[98]		WO 5 (1997 May)	₱185.00	**11%**	₱3,064.55	5.3%

[94] FEDERAL INCOME TAXATION, *Marvin A. Chirelstein*, 11th edition (2009), p. 7.

[95] Assuming full 313 working days are worked and paid, with no OT or worked holiday pay (365 days less 53 days off, holidays not worked but paid).

[96] The tax burden is computed by dividing the tax due by the amount earned by the minimum wage earner (minimum wage multiplied by the days worked & paid).

[97] R.A. 7167 (1992) increased the Personal Exemption, the maximum being ₱18,000 for a married without dependents (which we use in our example).

[98] R.A. 7496 (1992) revised the tax table.

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RA 8424[99] (1997 NIRC)	1998	WO 6 (1998 Feb)	₱198.00	**10%**	₱2,497.40	4.0%
		WO 13 (2007 Aug)	₱362.00	**20%**	₱10,761.20	9.5%
		WO 14 (2008 June)	₱382.00	**20%**	₱12,013.20	10.0%
RA 9504[100]	2008	WO 14 (2008 Aug)	₱382.00	**15%**	₱8,434.90	7.1%
		WO 20 (2016 June)	₱491.00	**20%**	₱15,236.60	9%

The overall effect is the diminution, if not elimination, of the progressivity of the rate structure under the present Tax Code. We emphasize that the graduated tax rate schedule for individual taxpayers, which takes into account the ability to pay, is intended to breathe life into the constitutional requirement of equity.[101]

R.A. 9504 provides relief by declaring that an MWE, one who is paid the statutory minimum wage (SMW), is exempt from tax on that income, as well as on the associated statutory payments for hazardous, holiday, overtime and night work.

R.R. 10-2008, however, unjustly removes this tax relief. While R.A. 9504 grants MWEs zero tax rights from the beginning or for the whole year 2008, RR 10-2008 declares that certain workers — even if they are being paid the SMW, "shall not enjoy the privilege."

Following RR10-2008's "disqualification" injunction, the MWE will continue to be pushed towards the higher tax brackets

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[99] R.A. 8424 (1998) amended the NIRC, which revised the tax table & increased personal exemptions, among others. Married individuals without dependents are now entitled to ₱32,000.

[100] R.A. 9504 (2008), among others, amended the Personal Exemption, now uniform at ₱50,000; and granted exemption to minimum wage earners (MWE). For purposes of illustration, we compute the tax liability of an MWE, as if he is not exempt (as RR 10-2008 provides for individuals paid the SMW but happens to have other income that the BIR deems disqualifying the MWE from entitlement to the exemption).

[101] Reynaldo Geronimo, Bar Reviewer on Taxation, Income Tax CD Version, 2009. Further, Article VI, Section 28(1) of the 1987 Constitution reads:

SECTION 28. (1) The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation.

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and higher rates. As Table 2 shows, as of June 2016, an MWE would already belong to the 4th highest tax bracket of 20% (see also Table 3), resulting in a tax burden of 9.9%. This means that for every ₱100 the MWE earns, the government takes back ₱9.90.

Further, a comparative view of the tax tables over the years (Table 3) shows that while the highest tax rate was reduced from as high as 70% under the 1977 NIRC, to 35% in 1992, and 32% presently, the lower income group actually gets charged higher taxes. Before R.A. 8424, one who had taxable income of less than ₱2,500 did not have to pay any income tax; under R.A. 8424, he paid 5% thereof. The MWEs now pay 20% or even more, depending on the other benefits they receive including overtime, holiday, night shift, and hazard pays.

Table 3 - Tax Tables: Comparison of Tax Brackets and Rates

Taxable Income Bracket	Rates under R.A. 7496 (1992)	Rates under R.A. 8424 (1998)	Rates under R.A. 9504 (2008)
Not Over ₱2,500	0%	5%	5%
Over ₱2.500 but not over ₱5,000	1%		
Over ₱5,000 but not over ₱10,000	3%		
Over ₱10,000 but not over ₱20,000	7%	10%	10%
Over ₱20,000 but not over ₱30,000	11%		
Over ₱30,000 but not over ₱40,000		15%	15%
Over ₱40,000 but not over ₱60,000	15%		
Over ₱60,000 but not over ₱70,000	19%		
Over ₱70,000 but not over ₱100,000		20%	20%
Over ₱100,000 but not over ₱140,000	24%		
Over ₱140,000 but not over ₱250,000		25%	25%
Over ₱250,000 but not over ₱500,000	29%	30%	30%
Over ₱500,000	35%	34%	32%

The relief afforded by R.A. 9504 is thus long overdue. The law must be now given full effect for the entire taxable year 2008, and without the qualification introduced by RR 10-2008. The latter cannot disqualify MWEs from exemption from taxes

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on SMW and on their on his SMW, holiday, overtime, night shift differential, and hazard pay.

CONCLUSION

The foregoing considered, we find that respondents committed grave abuse of discretion in promulgating Sections 1 and 3 of RR 10-2008, insofar as they provide for (a) the prorated application of the personal and additional exemptions for taxable year 2008 and for the period of applicability of the MWE exemption for taxable year 2008 to begin only on 6 July 2008; and (b) the disqualification of MWEs who earn purely compensation income, whether in the private or public sector, from the privilege of availing themselves of the MWE exemption in case they receive compensation - related benefits exceeding the statutory ceiling of ₱30,000.

As an aside, we stress that the progressivity of the rate structure under the present Tax Code has lost its strength. In the main, it has not been updated since its revision in 1997, or for a period of almost 20 years. The phenomenon of "bracket creep" could be prevented through the inclusion of an indexation provision, in which the graduated tax rates are adjusted periodically without need of amending the tax law. The 1997 Tax Code, however, has no such indexation provision. It should be emphasized that indexation to inflation is now a standard feature of a modern tax code.[102]

We note, however, that R.A. 8424 imposes upon respondent Secretary of Finance and Commissioner of Internal Revenue the positive duty to periodically review the other benefits, in consideration of the effect of inflation thereon, as provided under Section 32(B)(7)(e) entitled "*13th Month Pay and Other Benefits*":

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[102] Lyman Stone, Inflation Indexing in the Individual Income Tax Testimony before the Maryland House Ways and Means Committee, Tax Foundation (18 February 2014) accessed at http://taxfoundation.org/article/intlation-indexing-individual-income-tax. Last visited 26 December 2016.

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(iv) Other benefits such as productivity incentives and Christmas bonus: Provided, further, That the ceiling of Thirty thousand pesos (₱30,000) may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering among others, the effect on the same of the inflation rate at the end of the taxable year.

This same positive duty, which is also imposed upon the same officials regarding the *de minimis* benefits provided under Section 33(C)(4), is a duty that has been exercised several times. The provision reads:

(C) Fringe Benefits Not Taxable. — The following fringe benefits are not taxable under this Section:

(1) x x x

x x x x x x x x x

(4) *De minimis* benefits as defined in the rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

WHEREFORE, the Court resolves to

(a) **GRANT** the Petitions for Certiorari, Prohibition, and Mandamus; and

(b) **DECLARE NULL and VOID** the following provisions of Revenue Regulations No. 10-2008:

(i) Sections 1 and 3, insofar as they disqualify MWEs who earn purely compensation income from the privilege of the MWE exemption in case they receive bonuses and other compensation-related benefits exceeding the statutory ceiling of ₱30,000;

(ii) Section 3 insofar as it provides for the prorated application of the personal and additional exemptions under R.A. 9504 for taxable year 2008, and for the period of applicability of the MWE exemption to begin only on 6 July 2008.

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(c) **DIRECT** respondents Secretary of Finance and Commissioner of Internal Revenue to grant a refund, or allow the application of the refund by way of withholding tax adjustments, or allow a claim for tax credits by (i) all individual taxpayers whose incomes for taxable year 2008 were the subject of the prorated increase in personal and additional tax exemption; and (ii) all MWEs whose minimum wage incomes were subjected to tax for their receipt of the 13th month pay and other bonuses and benefits exceeding the threshold amount under Section 32(B)(7)(e) of the 1997 Tax Code.

SO ORDERED.

Carpio, Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, del Castillo, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and *Caguioa, JJ.*, concur.

THIRD DIVISION

[A.M. No. RTJ-14-2401. January 25, 2017]
(Formerly OCA IPI No. 12-3841-RTJ)

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **Executive Judge ILLUMINADA P. CABATO, Regional Trial Court [RTC], Baguio City; Clerk of Court IV ARMANDO G. YDIA, Process Server I SONNY S. CARAGAY, Clerk of Court III OFELIA T. MONDIGUING, Sheriff III JOSE E. ORPILLA, and Clerk III VILMA C. WAYANG, all of the Office of the Clerk of Court, Municipal Trial Court in Cities [MTCC], Baguio City; Judge ROBERTO R. MABALOT, Clerk of Court III LOURDES G. CAOILI, and Utility Worker I ANTINO M. WAKIT, all of Branch I, MTCC, Baguio City; Judge JENNIFER P.**