

SIXTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
*First Regular Session*

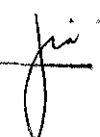


Senate  
Office of the Secretary

13 JUL -3 PM 58

SENATE

Senate Bill No. 361

RECORDED BY: 

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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### EXPLANATORY NOTE


The Labor Code provides that a retiring employee shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year, in the absence of a retirement plan, employment contract, or collective bargaining agreement granting higher retirement benefits.

The retirement pay of employees is exempted from tax, subject to certain conditions and requirements provided under the Tax Code and R.A. 4917. However, there are certain instances wherein employers fail to comply with these requirements, the most common of which is their failure to register their retirement plans.

When the request for tax exemption is denied by the Bureau of Internal Revenue, it is usually the retiring employees who bear the full burden of the tax, even though it is wholly the fault of the employer. This is unfair and unjust to the retirees, especially to those who would be receiving a meager retirement pay.

This bill seeks to reaffirm the tax-exempt status of retirement benefits, and to pass the tax burden to the employers in the event that the request for tax exemption is denied by the BIR for any reason, as long as the retiring employee is without fault.

Hence, the immediate passage of this bill is therefore earnestly solicited.

  
JINGGOY EJERCITO ESTRADA  
Senator

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RECEIVED BY: *Jin*

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AN ACT

AMENDING ARTICLE 287 OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, BY REQUIRING EMPLOYERS TO RELEASE THE RETIREMENT PAY OF EMPLOYEES WITHIN FIFTEEN DAYS FROM SUBMISSION OF COMPLETE DOCUMENTARY REQUIREMENTS

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**SECTION 1.** Article 287 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, is hereby amended to read as follows:

"ART. 287. Retirement. - Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract. "In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other agreements: Provided, however, that an employee's retirement benefits under any collective bargaining and other agreements shall not be less than those provided herein.

"In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

"Unless the parties provide for broader inclusions, the term one-half (1/2) month salary shall mean fifteen (15) days plus one-twelfth (1/12) of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves.

"THE RETIREMENT PAY OF EMPLOYEES, INCLUDING HIS OTHER EMPLOYMENT BENEFITS, SHALL BE RELEASED BY THE EMPLOYER AS A SINGLE LUMP-SUM AMOUNT IN

LEGAL TENDER WITHIN FIFTEEN (15) DAYS FROM HIS SUBMISSION OF COMPLETE DOCUMENTARY REQUIREMENTS, BUT NOT EARLIER THAN THE DATE OF HIS RETIREMENT.

"An underground mining employee upon reaching the age of fifty (50) years or more, but not beyond sixty (60) years which is hereby declared the compulsory retirement age for underground mine workers, who has served at least five (5) years as underground mine worker, may retire and shall be entitled to all the retirement benefits provided for in this Article.

"Retail, service and agricultural establishments or operations employing not more than ten (10) employees or workers are exempted from the coverage of this provision.

"Violation of this provision is hereby declared, unlawful and subject to the penal provisions provided under Article 288 of this Code.

"Nothing in this Article shall deprive any employee of benefits to which he may be entitled under existing laws or company policies or practices."

**SECTION 2.** This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national papers of general circulation whichever comes earlier.

*Approved,*