

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )



'16 JUL 21 P2:23

SENATE  
S. No. 809

REC. BY:

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Introduced by Senator Ralph G. Recto

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**AN ACT  
PROVIDING ADDITIONAL BENEFITS TO FAMILIES WITH DEPENDENTS,  
SUPPORTING SPOUSES, AGING PARENTS, AND PERSONS WITH DISABILITIES**

**Explanatory Note**

Section 1, Article XV of our Constitution states that: "The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development."

The Family Care Act of 2016 seeks to uphold our Constitutional commitment by granting reprieves, and reducing social and economic inequalities of every family especially those with many children. This bill proposes to remove the limitation on the number of qualified dependents that a taxpayer may claim for tax deduction.

At present, a maximum of only four (4) qualified dependents may be claimed by qualified taxpayers as additional personal exemption at P25,000 per capita.

This cap on the number of dependents was established in 1973 under Presidential Decree No. 69. At that time, in addition to generating more revenues, the government was bent on promoting family planning that, in effect, encourages the number of children for each family to only four. However, as supported by some economists, setting a limitation on the number of dependents has no clear bearing on the decision of couples to beget children.

As a matter of fact, those in the higher income levels have fewer children than those in the lower income groups. According to the Commission on Population, most of those who have four or more children are in the lowest and second lowest wealth quartile. These groups are not even income taxpayers.

In order to harmonize the Tax Code provision with the Family Code of the Philippines, as amended by Republic Act No. 9858, this bill will also include the category of *legitimated* children in the scope of qualified dependent children, whereby a child conceived and born outside of wedlock, under certain conditions, may be legitimated.

Consistent with Section 4, Article XV which states that: "The family has the duty to care for its elderly members but the State may also do so through just programs of social security," this bill proposes to expand the coverage of qualified dependents to include parents or both parents with the following conditions:

- (1) the parent or parents should not be gainfully employed, they should be living with the taxpayer, and dependent upon the taxpayer for chief support; or
- (2) such parent or parents are incapable of self-support because of mental or physical disability.

This bill alleviates the financial burden of individual taxpayers who support their parents by allowing them to claim their parents as additional dependents. This would consequently promote the Filipino value of taking care of the elderly.

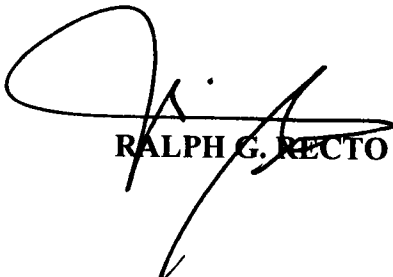
It must also be noted that in our social security laws such as the Republic Act No. 9241 or the National Health Insurance Act of 1995, Republic Act No. 8291 or the Government Service Insurance System Act of 1997, and Republic Act No. 8282 or the Social Security Law, the legitimate spouse is considered as a dependent and is eligible to receive benefits provided for in their respective charters. Thus, this bill likewise qualifies a legitimate spouse who is unemployed and is chiefly dependent upon the taxpayer as a dependent to keep the objectives of this bill attuned to the social protection programs of the State.

Lastly, this bill also proposes that taxpayers who act as legal guardian of a person with mental or physical disability, regardless of age and incapable of self-support, may claim the additional exemption for the said dependent, provided that only the legal guardian can avail of the additional exemption for a particular taxable year to the exclusion of the biological parents. It is a fact that the cost of taking care of a person with physical or mental disability is more than the expenses of rearing a healthy one.

These proposals are also consistent with the present charters of the Philippine Health Insurance Corporation (PhilHealth), Government Service Insurance System (GSIS) and the Social Security System (SSS) which do not impose a cap on the number of dependents that can be claimed by the member. Likewise, the legitimate spouse, parents and legitimated children are included as qualified dependents subject to certain conditions as stipulated in their respective charters.

This bill is tantamount to addressing the inequalities and biases against large families; championing the cause of the mentally and physically challenged and those who take care of them; and supporting taxpayers who have unselfishly taken the cudgels of caring for dependent parents and spouses.

Premises considered, the passage of this measure that will alleviate the plight of many families is sincerely sought.



**RALPH G. RECTO**

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

1           **SECTION 1. Short Title.** - This Act shall be known as the "Family Care Act of 2016".

2           **Sec. 2. Declaration of Policy and Objectives.** - The State recognizes the Filipino family as  
3 the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote  
4 its total development.

5           Further, the Constitution declares that the family has the duty to take care of its elderly  
6 members but the State may also do so through just programs of social security.

7           Towards this end, Congress shall give highest priority to the enactment of measures that  
8 will grant reprieves, and reduce social and economic inequalities by alleviating the financial  
9 conditions of every family especially those with more children; individuals caring for their  
10 unemployed spouse, aging parents, and those who act as legal guardians to persons with mental or  
11 physical disability.

12           **Sec. 3. Additional Tax Benefits.** - In addition to the benefits granted under existing laws,  
13 Section 35(B) of Republic Act No. 8424, otherwise known as the National Internal Revenue Code  
14 of 1997, as amended by Republic Act No. 9504, is hereby further amended, to read as follows:

15           "SEC. 35. *Allowance of Personal Exemption for Individual Taxpayer.* -

16           "(A) *In General.* - For purposes of determining the tax provided in Section  
17 24(A) of this Title, there shall be allowed a basic personal exemption amounting  
18 to Fifty thousand pesos (P50,000) for each individual taxpayer.

19           "In the case of married individuals where only one of the spouses is deriving  
20 gross income, only such spouse shall be allowed the personal exemption.

21           "(B) *Additional Exemption for Dependents.* - There shall be allowed an  
22 additional exemption of Twenty-five thousand pesos (P25,000) for each dependent  
23 [not exceeding four (4)].

24           "For purposes of this Subsection, **THE TERM** [a] "dependent/S" **SHALL**  
25 mean[s a]:

1           “1) **ONE OR MORE UNMARRIED** legitimate, **LEGITIMATED**,  
2 illegitimate or legally adopted child **NOT MORE THAN TWENTY-ONE (21)**  
3 **YEARS OF AGE**, [chiefly dependent upon and] living with the taxpayer, [if such  
4 dependent is not more than twenty-one (21) years of age, unmarried and] not  
5 gainfully employed, [or if such dependent] **AND DEPENDENT UPON THE**  
6 **LATTER FOR CHIEF SUPPORT; OR WHERE SUCH CHILD**, regardless  
7 of age, is incapable of self-support because of mental or physical [defect]  
8 **DISABILITY**.

9           “The additional exemption for dependents **REFERRED HEREIN** shall be  
10 claimed by only one of the spouses in the case of married individuals.

11           “In the case of legally separated spouses, additional exemptions may be  
12 claimed only by the spouse who has custody of the child or children[: *Provided*,  
13 that the total amount of additional exemptions that may be claimed by both shall  
14 not exceed the maximum additional exemptions herein allowed];

15           “2) **A PARENT OR BOTH PARENTS, NOT GAINFULLY**  
16 **EMPLOYED, LIVING WITH THE TAXPAYER, AND DEPENDENT**  
17 **UPON THE LATTER FOR CHIEF SUPPORT; OR WHERE SUCH**  
18 **PARENTS ARE INCAPABLE OF SELF-SUPPORT BECAUSE OF**  
19 **MENTAL OR PHYSICAL DISABILITY; AND**

20           “3) **A LEGITIMATE SPOUSE, NOT GAINFULLY EMPLOYED,**  
21 **LIVING WITH THE TAXPAYER, AND DEPENDENT UPON THE**  
22 **LATTER FOR CHIEF SUPPORT; OR WHERE SUCH SPOUSE IS**  
23 **INCAPABLE OF SELF-SUPPORT BECAUSE OF MENTAL OR**  
24 **PHYSICAL DISABILITY**.

25           “**AN INDIVIDUAL TAXPAYER WHO ACTS AS LEGAL GUARDIAN**  
26 **TO A PERSON WITH MENTAL OR PHYSICAL DISABILITY,**  
27 **REGARDLESS OF AGE AND INCAPABLE OF SELF-SUPPORT, MAY**  
28 **CLAIM THE ADDITIONAL EXEMPTION FOR THE SAID**  
29 **DEPENDENT: *PROVIDED*, THAT ONLY THE LEGAL GUARDIAN CAN**  
30 **AVAIL OF THE ADDITIONAL EXEMPTION FOR A PARTICULAR**  
31 **TAXABLE YEAR TO THE EXCLUSION OF THE BIOLOGICAL**  
32 **PARENTS**.

33           “xxx.”

34           **Sec. 4. Penalty.** – Notwithstanding the penalty provided for in Section 267 of the National  
35 Internal Revenue Code of 1997, as amended, any person who willfully violates the preceding  
36 section by declaring fictitious dependents shall, upon conviction, be liable for the payment of a  
37 fine equivalent to thrice the amount of tax, interest and surcharges due from the taxpayer.

1 Any government official or employee who knowingly and willfully conspire or collude  
2 with any taxpayer by issuing any false certification, or those who do or fail to do any act with  
3 intent to enable any taxpayer to violate this Act shall be punished with a fine of not less than Fifty  
4 thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000) and  
5 imprisonment of not less than one (1) year but not more than five (5) years and perpetual  
6 disqualification to hold public office. He shall also lose all the benefits due him as a result of his  
7 service in the government, including the forfeiture of his separation and retirement benefits.

8 **Sec. 5. *Implementing Rules and Regulations.*** - The Department of Finance in coordination  
9 with the Bureau of Internal Revenue, the Department of Health, and the Department of Social  
10 Welfare and Development shall issue the necessary implementing rules and regulations within  
11 thirty (30) days upon the approval of this Act.

12 **Sec. 6. *Separability Clause.*** - If any provision of this Act is declared unconstitutional or  
13 invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and  
14 effect.

15 **Sec. 7. *Repealing Clause.*** - All laws, decrees, rules and regulations inconsistent with the  
16 provisions of this Act are hereby repealed, amended or modified accordingly.

17 **Sec. 8. *Effectivity.*** - This Act shall take effect fifteen (15) days following its publication in  
18 at least (2) newspapers of general circulation or in the *Official Gazette*.

Approved,