

'16 AUG -1 A11 :19

SENATE

RECEIVED BY: 

S. No. 919

Introduced by Senator Ralph G. Recto

AN ACT
INCREASING THE ALLOWABLE PERSONAL EXEMPTION OF INDIVIDUAL TAXPAYERS, AMENDING FOR THE PURPOSE SECTION 35 (A) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

It is provided under Section 1, Article XV of the 1987 Philippine Constitution that the State recognizes the Filipino family as the foundation of the nation and accordingly, it shall strengthen its solidarity and actively promote its total development. In addition, the same Article ordains that the State shall defend the right of the family to a family living wage and income.

In recognition of the above Constitutional precepts, Congress, in enacting Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997 (Tax Code), allowed individuals to claim for personal exemptions under Section 35 thereof. In a decided case, the Supreme Court said:

“XXX Personal exemptions are the theoretical personal, living, and family expenses of an individual allowed to be deducted from the gross or net income of an individual taxpayer. These are arbitrary amounts which have been calculated by our lawmakers to be roughly equivalent to the minimum subsistence, taking into account the personal status and additional qualified dependents of the taxpayer. They are fixed amount in the sense that the amounts have been predetermined by our lawmakers as provided under Section 35 (A) and (B). Unless and until our new lawmakers make new adjustments on these personal exemptions, the amounts allowed to be deducted by a taxpayer are fixed as predetermined by Congress.¹”

Prior to its amendment in 2008, the Tax Code provides for different amounts of personal exemptions depending on the personal status of the taxpayer. A single individual was allowed a basic personal exemption of P20,000, for head of family, P25,000 and for each married individual, P32,000. With the enactment of Republic Act No. 9504 in 2008, the allowable personal exemption for each taxpayer has been increased to a uniform amount of Fifty thousand pesos (P50,000) regardless of the personal status of the taxpayer.

¹ *Carmelino F. Pansacola vs. Commissioner of Internal Revenue*, G.R. No. 159991, promulgated on November 16, 2006.

The amount of personal exemption has not been increased by Congress since 2008 even as during this time, the amount can be considered as insufficient to approximate the prevailing annual poverty threshold for a family of five (5) based on the data released by the then National Statistics Office in 2006. For the said year, or two years prior to the adjustment of the allowable personal exemption by virtue of RA 9504, the average annual poverty threshold² amount for a family of five was P66,785. For the first semester of 2015, the amount increased to P9,140 on the average per month to meet both basic food and non-food needs.³ Annualized, this amount could reach P109,680.

The Constitution explicitly provides that the rule of taxation shall be uniform and equitable and that Congress shall evolve a progressive system of taxation. Equity in taxation involves the “ability to pay” principle. The concept of equity in taxation requires that such apportionment be more or less just in the light of the taxpayer’s ability to shoulder the tax burden (usually measured in terms of the size of wealth or property or income) and if warranted, on the basis of the benefits he receives from the government. Applying this Constitutional fiat to the case of purely compensation income earners, those who are placed in the lower income brackets must be taxed at a lower rate thereby allowing them the opportunity to pay lesser taxes and enjoy a higher take home pay for their families.

From 2008 to present, the daily minimum wage rate in Metro Manila increased from P382 to P491. A paltry increase amidst the rising cost of living and losses in human productivity due to the traffic congestion plaguing the country’s major cities.

To counter the steady increase of prices of consumer goods and services and to help our hardworking middle class in meeting the demands of daily living, this bill seeks to adjust the allowable personal exemption for each individual taxpayers from P50,000 to P150,000.

In the case of married individuals, the gainfully employed spouse may claim an exemption for the other spouse even though the latter did not earn any gross income for the taxable year and did not file a return for as long as the said spouse is living exclusively with the gainfully employed spouse. This, however, does not classify the said spouse as a dependent, but merely recognizes the latter’s efforts in the care and maintenance of the family and of the household which is akin to the recognition accorded by the Family Code in cases contemplated under Article 147⁴ thereof. In short, all married individuals may claim a maximum amount of allowable personal exemption of up to P300,000 regardless of whether the other spouse is employed or not.

Aside from providing a uniform and adjusted individual personal exemption, RA 9504 also exempted minimum wage earners from the payment of income tax. Tax experts, however, noted that RA 9504 also gave rise to another form of wage distortion. To illustrate, compare a married couple who are both earning the statutory minimum wage and a couple wherein only one

² Estimated amount generated based on the refinements in the official poverty estimation methodology approved by the National Statistics Coordination Board on February 1, 2011. The annual amount to be spent for the cost of the basic food and non-food requirements.

³ “Poverty Incidence among Filipinos registered at 26.3%, as of first semester of 2015 – PSA.” <http://psa.gov.ph/poverty-press-releases>. Release date: March 18, 2016.

⁴ Article 147 of the Family Code provides:

“Article 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them though their work or industry shall be governed by the rules on co-ownership.

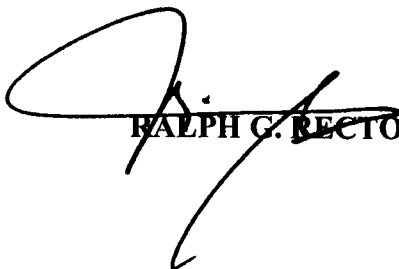
In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes of this Article, a party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former’s efforts consisted in the care and maintenance of the family and of the household.

XXX.” (Underscoring supplied)

is earning a salary which is slightly higher than the statutory minimum wage. Applying the provisions of RA 9504 in the said situation, the taxpayer earning a salary slightly above the statutory minimum wage stands to lose out to minimum wage earners in terms of take home pay although both are facing the same high cost of daily living. Taking this into consideration and to somehow provide a level playing field, the bill aims to approximate the tax privilege accorded to couples both earning the statutory minimum wage and to grant the same to married couples wherein only one is gainfully employed but merely earning slightly above the minimum wage. Thus, as mentioned in the immediately preceding paragraph, all married couples shall have a maximum aggregate allowable personal exemption amounting to P300,000.

Lastly, the bill provides that the amount of allowable personal exemption be adjusted by the President six (6) years after the effectivity of the Act and every six years thereafter to its present value using the Consumer Price Index (CPI) as published by the Philippine Statistics Authority.

In view of the foregoing, the passage of this bill is earnestly sought.



RALPH C. RECTO

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OTHER PURPOSES

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

1 **Section 1.** Section 35 (A) of Republic Act No. 8424, otherwise known as the
2 National Internal Revenue Code of 1997, as amended, is hereby further amended to read as
3 follows:

4 **“SEC. 35.** Allowance of Personal Exemption for Individual Taxpayer. –
5 **“(A) In General.** – For purposes of determining the tax provided in Section 24 (A) of
6 this title, there shall be allowed a basic personal exemption amounting to [Fifty
7 thousand pesos (P50,000) for each individual taxpayer.] **ONE HUNDRED FIFTY**
8 **THOUSAND PESOS (P150,000) FOR EACH INDIVIDUAL TAXPAYER.**
9 [In the case of married individual where only one of the spouses is deriving gross
10 income, only such spouse shall be allowed the personal exemption.] **“MARRIED**
11 **INDIVIDUALS MAY FILE THEIR INCOME TAXES EITHER JOINTLY OR**
12 **SEPARATELY. IN CASE OF JOINT FILING, THE BASIC PERSONAL**
13 **EXEMPTION MAY BE CLAIMED BY BOTH SPOUSES. IN CASE OF**
14 **SEPARATE FILING, A TAXPAYER MAY STILL CLAIM THE PERSONAL**
15 **EXEMPTION FOR THE SPOUSE NOTWITHSTANDING THE FACT THAT**
16 **THE LATTER IS NOT GAINFULLY EMPLOYED, HAD NO GROSS**
17 **INCOME AND DID NOT FILE A RETURN: PROVIDED, THAT THE SAID**
18 **SPOUSE IS LIVING EXCLUSIVELY WITH THE TAXPAYER.**

1 **“PROVIDED, FURTHER, THAT EVERY SIX (6) YEARS AFTER THE**
2 **EFFECTIVITY OF THIS ACT, THE PRESIDENT OF THE PHILIPPINES**
3 **SHALL ADJUST THE AMOUNT PROVIDED HEREIN TO ITS PRESENT**
4 **VALUE USING THE CONSUMER PRICE INDEX, AS PUBLISHED BY THE**
5 **PHILIPPINE STATISTICS AUTHORITY (PSA).**

6 “(B) XXX.”

7 **Section 2. *Implementing Rules and Regulations.*** – The Secretary of Finance, shall,
8 upon the recommendation of the Commissioner of Internal Revenue, promulgate not later than
9 thirty (30) days upon the effectivity of this Act the necessary rules and regulations for its proper
10 and effective implementation.

11 **Section 3. *Separability Clause.*** – If any part or provision of this Act is declared
12 invalid or unconstitutional, other provisions not affected thereby shall remain in full force and
13 effect.

14 **Section 4. *Repealing Clause.*** – All laws, Acts, Presidential Decrees, Executive
15 Orders, issuances, presidential proclamations, rules and regulations or parts thereof which are
16 contrary to and inconsistent with any provision of this Act are hereby repealed, amended or
17 modified accordingly.

18 **Section 5. *Effectivity.*** – This Act shall take effect fifteen (15) days after its complete
19 publication either in the Official Gazette, or in at least two (2) newspapers of general circulation.

 Approved,