

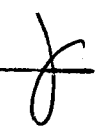
SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

'16 AUG 30 A9:20

SENATE
S.B. No. 1109

RECEIVED BY: 

Introduced by Senator Aquilino "Koko" Pimentel III

AN ACT
AMENDING SECTIONS 23(C), 24(A)(2), 27(A), 28(A), 32(B)(7),
34(A) AND (L), AND 35(E) OF TITLE II, TAX ON INCOME AND
SECTION 249(A) OF THE NATIONAL INTERNAL REVENUE
CODE OF 1997 AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Article II, Section 9 of the 1987 Philippine Constitution provides that "(t)he 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 promote a rising standard of living and an improved quality of life for all."

Likewise, Article XII, Section 14 mandates that "The sustained development of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the State xxx."

Furthermore, Article VI, Section 28 (1) declares that "[T]he rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation."

In the light of the aforequoted Constitutional provisions, it is timely and appropriate to review and revise the existing income tax, provisions of the 1997 Tax Code.

Our individual income tax rates have remained unchanged since the effectivity of the *National Internal Revenue Code* in 1997 despite an increase in the rates of minimum wages, inflation, consumer price index as well as the standard costs of living. Thus, there is a need to revise the

individual income brackets as well as the corresponding income tax rates.

The phenomenal and worldwide honor and accolades brought to the country by a number of our exceptionally talented Filipinos in the fields of art, culture, education, music, sports and the like who may be considered as modern day heroes just like our overseas Filipino workers, deserve to be given a similar income tax treatment on their earnings from abroad as a result of their exceptional performance in their particular craft. Giving them an additional tax exemption allowance for their locally-earned income is another incentive that they truly deserve. Such stellar achievements of our exceptional Filipinos have brought the Philippines to the global radar screens and have boosted the influx of foreign investments as well as tourism in the country.

Moreover, there must be parity in the income tax treatment between individual and corporate taxpayers. The present Tax Code presents two (2) sources of un-equal income tax treatment between these taxpayers: *One* is the maximum rate of income tax between corporate taxpayers and individual taxpayers, of 30% and 32%, respectively; and *Two* is the base for the computation of the optional standard deduction (OSD) of 40% wherein the OSD of individual taxpayer is based on his annual gross sales or receipts while that of the corporation is based on its annual gross income.

There is also a need to revisit the allowable deductions from the gross income of individual taxpayers to include educational expenses as an additional item of deduction considering the critical role that education plays in molding and shaping the future leaders and citizens of our country. The dismal scenario in the past of pre-need educational fund holders suffering the fate of bankruptcy by these service providers and not being able to recover what they have invested in order to ensure the schooling of their children just confirms the prime value that our *kababayans* put into education. Thus, allowing the tuition fees and other related educational expenses to be a deductible item in the computation of the individual net income tax must be incorporated in the present Tax Code as amended.

Truly, the State, in order to promote sustainable economic growth and to protect a majority of its population, needs to revisit and rationalize the individual income tax rates being imposed on every earning Filipino. Through the rationalization of our individual income tax rates, base and scope as well as the equal treatment of individual and

corporate taxpayers, the average working Filipino will experience some relief given the move to update and put in place the progressive system of taxation as contemplated by the *1987 Constitution*. Exchange of goods or services between non-commercial parties of identical or similar value must also be exempt from income tax. During these hard times, programs like food for work which do not involve exchange of cash must not be subjected to the rigors of taxation.

Finally, there is a need to restore the cap of three years in the imposition of interest penalty on deficiency tax assessments. Processing of tax assessments is so slow that the taxpayers are left at the mercy of the revenue officials who are handling their tax cases. Thus, more often than not, the interest penalties soar up and even exceed twice if not more than the basic deficiency tax being assessed due to the delay in the issuance of the final decision over the formal protests of the taxpayers who are the subject of BIR investigation.

These rationalization efforts would therefore make the economy more dynamic and prosperous by lightening the tax burden thus increasing our taxpayers' purchasing power. Consequently, tax revenues from such a vigorous and strong economy shall grow. .

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


AQUILINO "KOKO" PIMENTEL III

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1 AN ACT

2 AMENDING SECTIONS 23(C), 24(A)(2), 27(A), 28(A), 32(B)(7), 34
3 (A) AND (L), AND 35, OF TITLE II, TAX ON INCOME, AND
4 SECTION 249(A) OF THE NATIONAL INTERNAL REVENUE
5 CODE OF 1997 AS AMENDED, AND FOR OTHER PURPOSES

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

6 SECTION 1. Section 23 (C) of the National Internal Revenue Code, as
7 amended (NIRC), is hereby further amended as follows:

8 "SECTION 23. *General Principles of Income*
9 *Taxation in the Philippines.*

10 Except when otherwise provided in this Code:

11 "(A) A citizen of the Philippines residing therein
12 is taxable on all income derived from sources
13 within and without the Philippines;

14 (B) A nonresident citizen is taxable only on
15 income derived from sources within the
16 Philippines;

17 (C) An individual citizen of the Philippines who
18 is working and deriving income from abroad as

1 an overseas [contract] **FILIPINO** worker is
2 taxable only on income from sources within the
3 Philippines; *Provided, That* (a) a seaman who is
4 a citizen of the Philippines and who receives
5 compensation for services rendered abroad as a
6 member of the complement of a vessel engaged
7 exclusively in international trade **AND (B) A**
8 **RESIDENT CITIZEN OF THE**
9 **PHILIPPINES WHO DERIVES INCOME**
10 **FROM FOREIGN SOURCES IN**
11 **CONSIDERATION FOR HIS/HER**
12 **EXCEPTIONAL ACHIEVEMENTS AS A**
13 **FILIPINO SCIENTIST, PROFESSIONAL,**
14 **ENTREPRENEUR, SKILLED WORKER,**
15 **HIGH-LEVEL TECHNICAL MANPOWER,**
16 **MANAGER AND CRAFTSMAN IN ANY**
17 **FIELD** shall be treated as an overseas
18 [contract]**FILIPINO** worker **FOR INCOME**
19 **TAX PURPOSES. xxx.”**

20 **SECTION 2.**Section 24 (A)(2) of the NIRC is hereby amended as
21 follows:

22 ***“SEC. 24. Income Tax Rates.***

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

25 (1) An income tax is hereby imposed:

26 (a) xxx xxx xxx

1 (b) xxx xxx xxx

2 (c) xxx xxx xxx

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

“[Not over P10,000 5%
Over P10,000 but not over P30,000 P500+10% of the excess over P10,000
Over P30,000 but not over P70,000 P2,500+15% of the excess over P30,000
Over P70,000 but not over P140,000 P8,500+20% of the excess over P70,000
Over P140,000 but not over P250,000 P22,500+25% of the excess over P140,000
Over P250,000 but not over P500,000 P50,000+30% of the excess over P250,000
Over P500,000 P125,000+32% of the excess over P500,000]

7 **NOT OVER P 300,000... 0%**

8 **OVER P300,000 BUT NOT OVER P 600,000...**

9 **10 % OF THE EXCESS OVER P 300,000;**

1 **OVER P 600,000 BUT NOT OVER P**
2 **1,200,000...P 30,000 + 15% OF THE EXCESS**
3 **OVER P600,000;**

4 **OVER P 1,200,000 BUT NOT OVER**
5 **P2,400,000...P 120,000+ 20% OF THE**
6 **EXCESS OVER P 1,200,000;**

7 **OVER P 2,400,000 ... P 360,000+ 25% OF**
8 **THE EXCESS OVER P 2,400,000;**

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

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

1 **PROVIDED, FINALLY, THAT THE**
2 **TAXABLE NET INCOME BRACKETS,**
3 **FIXED INCOME TAX DUE AND RATES**
4 **PER BRACKET SHALL BE**
5 **PERIODICALLY REVIEWED BY THE**
6 **SECRETARY OF FINANCE UPON THE**
7 **RECOMMENDATION OF THE**
8 **COMMISSIONER OF INTERNAL**
9 **REVENUE EVERY THREE (3) YEARS**
10 **TAKING INTO ACCOUNT EROSION IN**
11 **THE PURCHASING POWER DUE TO**
12 **INFLATION, AND OTHER FACTORS.**

13 **SECTION 3.** Section 27(a) of the NIRC is hereby amended to read as
14 follows:

15 ***“SEC. 27. Rates of Income Tax on Domestic***
16 ***Corporations. –***

17 **(A) *In General.*** – Except as otherwise provided
18 in this Code, an income tax of [thirty-five
19 (35%)] **TWENTY-FIVE PERCENT**
20 **(25%)** is hereby imposed upon the taxable
21 income derived during each taxable year
22 from all sources within and without the
23 Philippines by every corporation, as defined
24 in Section 28(B) of this Code and taxable
25 under this Title as a corporation, organized
26 in, or existing under the laws of the
27 Philippines, [*Provided, That effective*

1 January 1, 2009, the rate of income tax shall
2 be thirty percent (30%)xxx.”]

3 **SECTION 4.** Section 28(a) of the NIRC is hereby amended to read as
4 follows:

5 **“SEC. 28. Rates of Income Tax on Foreign**
6 **Corporations. –**

7 (A) **Tax on Resident Foreign**
8 **Corporations. –**

9 (1) **In General. –** Except as otherwise
10 provided in this Code, a corporation
11 organized, authorized, or existing
12 under the laws of any foreign country,
13 engaged in trade or business within the
14 Philippines, shall be subject to an
15 income tax equivalent to [thirty-five
16 percent (35%)] **TWENTY-FIVE**
17 **PERCENT (25%)**of the taxable
18 income derived in the preceding
19 taxable year from all sources within
20 the Philippines.[:**Provided, That**
21 **effective January 1, 2009, the rate of**
22 **income tax shall be thirty percent**
23 **(30%) xxx.]**

24 **SECTION 5.** Section 32(b)(7) of the NIRC is hereby amended by
25 introducing a new Subsection (i) to read as follows:

1 **“SEC. 32. Gross Income. –**

2 **xxx**

3 **(B) Exclusions from Gross Income. –** The
4 following items shall not be included in
5 gross income and shall be exempt from
6 taxation under this Title:

7 **xxx**

8 **(7) Miscellaneous Items. –**

9 **xxx**

10 **(i) GAINS FROM BARTER TRADE. –**
11 **CASUAL EXCHANGE OF GOODS OR**
12 **SERVICES THAT DO NOT INVOLVE**
13 **CASH BETWEEN NON-**
14 **COMMERCIAL PARTIES FOR**
15 **SIMILAR GOODS OR SERVICES AND**
16 **WHOSE VALUE DOES NOT EXCEED**
17 **FIVE HUNDRED THOUSAND PESOS**
18 **(P500,000.00).”**

19 **SECTION 6.** Section 34 (A) is hereby amended by introducing a new
20 Subsection ((2) to read as follows :

21 **“SEC. 34. Deductions from Gross Income. –**

22 **xxx**

23 **(A) Expenses. –**

24 **xxx**

25 **(2) EDUCATIONAL EXPENSES. –**
26 **TUITION FEES AND ALL**
27 **RELATED SCHOOL**

1 **ENROLLMENT CHARGES**
2 **INCURRED WITHIN THE**
3 **ACADEMIC YEAR SUBJECT TO**
4 **SUBSTANTIATION**
5 **REQUIREMENTS.”**

6 **SECTION 7.** Section 34(L) is hereby amended as follows:

7 **“(L) *Optional Standard Deduction.***—In lieu of the
8 deductions allowed under the preceding
9 Subsections, an individual subject to tax under
10 Section 24, other than a non-resident alien, may
11 elect a standard deduction in an amount not
12 exceeding forty percent (40%) of his gross [sales
13 or gross receipts] **INCOME**, as the case may be.
14 In the case of a corporation subject to tax under
15 Sections 27 (A) and 28 (A) (1), it may elect a
16 standard deduction in an amount not exceeding
17 forty percent (40%) of its gross income as defined
18 in Section 32 of this Code. xxx *.Provided, further,*
19 That except when the Commissioner otherwise
20 permits, the said individual shall keep such
21 records pertaining to his gross [sales or gross
22 receipts] **INCOME**, or the said corporation shall
23 keep such records pertaining to [his] **ITS** gross
24 income as defined in Section 32 of this Code
25 during the taxable year, as may be required by the
26 rules and regulations promulgated by the

1 Secretary of Finance, upon recommendation of
2 the Commissioner.”

3 **SECTION 8.** Section 35 is hereby amended by introducing a new
4 Subsection (E) to read as follows:

5 **“(E) PERSONAL EXEMPTION ALLOWABLE**
6 **FOR EXCEPTIONAL INDIVIDUAL**
7 **FILIPINO CITIZEN ACHIEVERS –AN**
8 **ANNUAL INDIVIDUAL INCOME TAX**
9 **EXEMPTION ALLOWANCE IN THE**
10 **AMOUNT OF EIGHTY THOUSAND PESOS**
11 **(P80,000), IN ADDITION TO THE**
12 **EXEMPTIONS PROVIDED IN THIS CODE**
13 **AND OTHER SPECIAL LAWS SHALL BE**
14 **GRANTED TO FILIPINO CITIZENS WHO:**

15 (1) HAVE GARNERED
16 EXCEPTIONAL
17 ACHIEVEMENTS, AWARDS, OR
18 RECOGNITION IN SCIENCE AND
19 TECHNOLOGY, MEDICINE,
20 ARTS AND CULTURE, SPORTS,
21 AND OTHER RELATED FIELDS;
22 OR,

23 (2) HAVE GARNERED LOCAL
24 AND/OR INTERNATIONAL

1 **DISTINCTION IN THE FIELDS OF**
2 **SCIENCE AND TECHNOLOGY,**
3 **MEDICINE, ARTS AND**
4 **CULTURE, SPORTS, AND OTHER**
5 **RELATED FIELDS, FOR A**
6 **SIGNIFICANT NUMBER OF**
7 **YEARS THROUGH THEIR**
8 **SUBSTANTIAL BODY OF WORK.**

9 ***PROVIDED, HOWEVER, THAT THE GRANT***
10 ***OF THE SAID EXEMPTION SHALL BE***
11 ***DETERMINED UNDER THE RULES AND***
12 ***REGULATIONS PRESCRIBED BY THE***
13 ***SECRETARY OF FINANCE, UPON***
14 ***RECOMMENDATION OF THE***
15 ***COMMISSIONER.***

16 **SECTION 9.** Section 249(A) of the NIRC is hereby amended as
17 follows:

18 **“SEC. 249. Interest. –**

19 **(A) In General. –** There shall be assessed and
20 collected on any unpaid amount of tax,
21 interest at the rate of twenty percent (20%)
22 per annum, or such higher rate as may be
23 prescribed by rules and regulations, from the
24 date prescribed for payment until the amount
25 is fully paid **BUT IN NO CASE TO**
26 **EXCEED THE AMOUNT**

1 **CORRESPONDING TO A PERIOD OF**
2 **THREE (3) YEARS OR 60%.”**

3 **SECTION 10. *Separability Clause*** - Should any portion or provision
4 of this Act be declared unconstitutional or invalid, the declaration shall
5 not have the effect of nullifying other portions or provisions not
6 affected thereby.

7 **SECTION 11. *Repealing Clause*** - All laws, executive or administrative
8 orders, rules or regulations, or any parts thereof which are inconsistent
9 with any of the provisions of this Act, are hereby repealed or modified
10 accordingly.

11 **SECTION 12. *Effectivity*** - This Act shall take effect fifteen (15) days
12 after its publication in at least two (2) newspapers of general circulation.

Approved,