

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 5263



Introduced by AKBAYAN Representative Tomasito S. Villarin

EXPLANATORY NOTE

In enacting the current Tax Code, Congress specified hypothetical personal, living and family expenses rates to be deducted from a taxpayer's gross or net income. Congress calculated these amounts to roughly approximate the minimum levels of subsistence in connection with the personal status and additional qualified dependents of the taxpayer. Thus, these amounts were codified in Section 35 (A) in the form of personal exemptions and Section 35 (B) for additional exemption for qualified dependent children under Republic Act No. 8424, as amended.

In claiming personal exemption, male and female taxpayers are entitled to same amounts. However, in claiming additional exemption for dependent children Section 79 (F) of the Tax Code designates the husband as the proper claimant. The wife can only benefit from the additional exemption if the husband waives his right to claim in her favor.

This practice is clearly inequitable to working women. There is no clear basis in favoring the husband since both child rearing is a shared responsibility between spouses.

This bill seeks to remedy this situation by mandating that the claim of additional exemption shall be equitably divided between spouses. Furthermore, this bill also requires that in case spouses are de facto separated, the spouse who has actual custody of the child/children shall be automatically entitled to claim the additional exemption. Thus, a de facto separated wife who has actual care of her children need not secure permission from her husband to avail the exemption.

Notwithstanding the above proposals, the bill also allows spouses to agree on a different sharing of the additional tax exemption should they desire to do so.

Thus, this bill seeks to promote the equality of men and women in the claim for additional tax exemption.

A stylized, handwritten signature in black ink, appearing to read 'T. S. Villarin'.

TOMASITO S. VILLARIN

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AN ACT
AMENDING SECTIONS 35 (B) AND 79 (F) OF REPUBLIC ACT
NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE
NATIONAL INTERNAL REVENUE CODE OF 1997

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

SECTION 1. Section 35 (B) of Republic Act No. 8424, as amended, is hereby amended to read as follows:

“(B) Additional Exemption for Dependents. - There shall be allowed an additional exemption of Twenty-five thousand pesos (P25,000) for each dependent not exceeding four (4).

The additional exemption for dependent shall be claimed **EQUALLY BY EITHER SPOUSE** [only one of the spouses] in the case of married individuals **UNLESS ONE OF THEM WAIVES HIS OR HER RIGHT IN WRITING IN FAVOR OF THE OTHER SPOUSE.**

In the case of legally separated spouses, additional exemptions may be claimed only by the spouse who has custody of the child or children:

Provided, That the total amount of additional exemptions that may be claimed by both shall not exceed the maximum additional exemptions herein allowed:

PROVIDED, FINALLY, THAT IN CASE THE SPOUSES ARE SEPARATED DE FACTO, THE SPOUSE WHO HAS ACTUAL CUSTODY OF THE DEPENDENT SHALL BE ENTITLED TO THE ADDITIONAL CLAIM FOR THAT PARTICULAR DEPENDENT UNDER PARAGRAPH 1 OF THIS SECTION, UNLESS OTHERWISE AGREED BY THE SPOUSES IN WRITING.

For purposes of this Subsection, a '*dependent*' means a legitimate, illegitimate or legally adopted child chiefly dependent upon and living with the taxpayer if such dependent is not more than twenty-one (21) years of age, unmarried and not gainfully employed or if such dependent, regardless of age, is incapable of self-support because of mental or physical defect."

SEC. 2. Section 79 (F) of Republic Act No. 8424, as amended is hereby amended to read as follows:

"(F) **SPOUSES** [Husband and Wife]. - When [a] **BOTH SPOUSES** [husband and wife each] are recipient of wages, whether from the same or from different employers, **THE CLAIMANT/S OF THE ADDITIONAL EXEMPTION WITH RESPECT TO ANY DEPENDENT CHILDREN SHALL BE IN ACCORDANCE WITH SECTION 35(B) OF THIS ACT.** [shall be determined on the following bases]:

[(1) The husband shall be deemed the head of the family and proper claimant of the additional exemption in respect to any dependent children, unless he explicitly waives his right in favor of the wife in the withholding exemption certificate.]

[(2) Taxes shall be withheld from the wages of the wife in accordance with the schedule for zero exemption of the withholding tax table prescribed in Subsection (D)(2)(d).]"

SEC. 3. Implementing Rules and Regulations. - The Secretary of Finance, shall upon the recommendation of the Commissioner of the Internal Revenue, promulgate the necessary implementing rules and regulations of this Act within thirty (30) days from its effectivity.

SEC. 4. Separability Clause. - If any provision of this Act is declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC.5. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with any provision of this Act are hereby amended or modified accordingly.

SEC. 6. Effectivity Clause. - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,