



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

'16 JUL 21 P3:49

SENATE

S. No. 867

RECEIVED BY:

Introduced by Senator Ralph G. Recto

AN ACT
INSTITUTING ESTATE TAX REFORM, AMENDING FOR THIS PURPOSE
SECTIONS 84, 86(A), 89, 90, AND 97 OF THE NATIONAL INTERNAL REVENUE
CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

Explanatory Note

"In this world nothing can be said to be certain, except death and taxes." – Benjamin Franklin

Death is a certain event. The rights to succession are transmitted at the moment of the death of the decedent. Therefore, upon death, the estate of the decedent shall accrue to the heirs. However, at this very moment the State has the power to interfere before such estate can be transferred to the heirs through estate taxation.

Estate tax is a tax on the right of deceased persons to transmit their estate to the lawful heirs and beneficiaries at the time of death and on certain transfers, which are made by law as equivalent to testamentary disposition. Jurisprudence is replete with cases stating that the heirs succeed immediately to all the property of the deceased ancestor the moment of death as completely as if the ancestor had executed and delivered to them a deed for the same before his death.

The estate of the decedent shall be the one liable for the payment of estate tax. However, in the payment of such tax the burden of complying with the requirements of the law rests ultimately on the heirs. The National Internal Revenue Code of 1997, as amended, requires the taxpayer to:

1. Secure TIN for the estate.
2. File notice of death within 2 months after the decedent's death.
3. File estate tax return and pay the tax within 6 months from decedent's death.
4. Determine the gross estate and allowable deductions and compute the estate tax which may require the services of a certified public accountant (CPA) depending on the value of the gross estate.
5. Secure tax clearance before the title to the properties can be transferred in the name of the heirs.

The foregoing requirements are additional burden on the members of the family who are still grieving for the loss of their loved one.

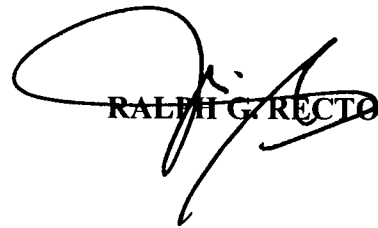
With the passage of this bill, the actual funeral expenses, and medical expenses incurred within one year immediately preceding the death of the decedent, can now be claimed in full as deductions against the gross estate. It increases the value of the family home and the amount of standard deduction to be allowed as deductions against the gross estate and provides automatic indexation of the value or amount every six years. Also, it increases the threshold amounts and provides automatic indexation every six years for the requirement of filing an estate tax return and submission of a CPA certification. It will only require the filing of notice of death if the

estate is required to file an estate tax return. Finally, the bill allows withdrawal from a bank account of a decedent, in an amount not exceeding the aggregate amount of the estate tax due, funeral expenses and other expenses related to the settlement of the estate.

The bill, in effect will remove the exemption from estate tax of a net estate valued at not more than P200,000. However, the entirety of the proposed measure would still benefit the heirs/taxpayers due to a higher allowable deductions against the gross estate and a lower estate tax rate of 10%.

The purpose and intent of this bill is to simplify estate taxation in order to ease the burden on the heirs. The objective is to broaden the tax base and this can be done by encouraging more heirs to file estate tax returns and pay the corresponding estate taxes due thereon.

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



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

1 **SECTION 1.** Section 84 of the National Internal Revenue Code of 1997, as amended, is
2 hereby further amended to read as follows:

3 “Sec. 84. *Rates of Estate Tax.* – There shall be levied, assessed, collected and paid
4 upon the transfer of the net estate as determined in accordance with Sections 85 and 86 of every
5 decedent, whether resident or nonresident of the Philippines, a **TEN PERCENT (10%)** tax
6 based on the value of such net estate[, as computed in accordance with the following schedule:]

7 “[If the net estate is:]

8	“[Over]	[But Not Over]	[The Tax Shall Be]	[Plus]	[Of the Excess
9					Over]
10		[P200,000]	[Exempt]		
11	“[P200,000	550,000]	[0	5%	P200,000]
12	“[500,000	2,000,000]	[P15,000	8%	500,000]
13	“[2,000,000	5,000,000]	[135,000	11%	2,000,000]
14	“[5,000,000	10,000,000]	[465,000	15%	5,000,000]
15	“[10,000,000	And Over]	[1,215,000	20%	10,000,000]”

16 **SEC. 2.** Section 86(A) of the National Internal Revenue Code of 1997, as amended, is
17 hereby further amended to read as follows:

18 “SEC. 86. *Computation of Net Estate.* - For the purpose of the tax imposed in this
19 Chapter, the value of the net estate shall be determined:

20 “(A) *Deductions Allowed to the Estate of Citizen or a Resident.* - In the case of a
21 citizen or resident of the Philippines, by deducting from the value of the gross estate -

22 “(1) *Expenses, Losses, Indebtedness, and Taxes.* - Such amounts –

23 “(a) For actual funeral expenses [or in an amount equal to five percent (5%) of the
24 gross estate, whichever is lower, but in no case to exceed Two hundred thousand pesos
25 (P200,000)];

26 “(b) xxx

1 “(c) xxx

2 “(d) xxx

3 “(e) xxx

4 “(2) xxx

5 “(3) xxx

6 “(4) *The Family Home.* - An amount equivalent to the current fair market value of the
7 decedent's family home: Provided, however, That if the said current fair market value exceeds
8 [One million pesos (P1,000,000)] **TWO MILLION FIVE HUNDRED THOUSAND PESOS**
9 **(P2,500,000)**, the excess shall be subject to estate tax. As a sine qua non condition for the
10 exemption or deduction, said family home must have been the decedent's family home as
11 certified by the barangay captain of the locality[.]: **PROVIDED, FURTHER, THAT NOT**
12 **LATER THAN SIX (6) YEARS AFTER THE EFFECTIVITY OF THIS ACT AND**
13 **EVERY SIX (6) YEARS THEREAFTER, THE PRESIDENT OF THE PHILIPPINES**
14 **SHALL ADJUST THE AMOUNT HEREIN STATED TO ITS PRESENT VALUE USING**
15 **THE CONSUMER PRICE INDEX (CPI), AS PUBLISHED BY THE PHILIPPINE**
16 **STATISTICS AUTHORITY (PSA).**

17 “(5) *Standard Deduction.* - An amount equivalent to [One million pesos
18 (P1,000,000).] **TWO MILLION FIVE HUNDRED THOUSAND PESOS (P2,500,000):**
19 **PROVIDED, HOWEVER, THAT NOT LATER THAN SIX (6) YEARS AFTER THE**
20 **EFFECTIVITY OF THIS ACT AND EVERY SIX (6) YEARS THEREAFTER, THE**
21 **PRESIDENT OF THE PHILIPPINES SHALL ADJUST THE AMOUNT HEREIN**
22 **STATED TO ITS PRESENT VALUE USING THE CONSUMER PRICE INDEX (CPI),**
23 **AS PUBLISHED BY THE PHILIPPINE STATISTICS AUTHORITY (PSA).**

24 “(6) *Medical Expenses.* - Medical expenses incurred by the decedent within one (1)
25 year prior to his death which shall be duly substantiated with receipts [: Provided, That in no case
26 shall the deductible medical expenses exceed Five Hundred Thousand Pesos (P500,000)].

27 “(7) xxx

28 “xxx”

29 **SEC. 3.** Section 89 of the National Internal Revenue Code of 1997, as amended, is hereby
30 further amended to read as follows:

31 “**SEC. 89. *Notice of Death to be Filed.*** - In all cases of transfers subject to tax, or
32 where **THE ESTATE IS REQUIRED TO FILE ESTATE TAX RETURN**, [though exempt
33 from tax, the gross value of the estate exceeds Twenty thousand pesos (P20,000),] the executor,
34 administrator or any of the legal heirs, as the case may be, within [two (2)] **SIX (6)** months after
35 the decedent's death, or within a like period after qualifying as such executor or administrator,
36 shall give a written notice thereof to the Commissioner.”

37 **SEC. 4.** Section 90 of the National Internal Revenue Code of 1997, as amended, is hereby
38 further amended to read as follows:

1 “SEC. 90. *Estate Tax Returns.* –

2 “(A) *Requirements.* – In all cases of transfers subject to the tax imposed herein, or
3 where[, though exempt from tax,] the gross value of the estate exceeds [Two hundred thousand
4 pesos (200,000)] **FIVE HUNDRED THOUSAND PESOS (P500,000)**, or regardless of the
5 value of the estate, where the said estate consists of registered or registrable property such as real
6 property, motor vehicle, shares of stock or other similar property for which a clearance from the
7 Bureau of Internal Revenue is required as a condition precedent for the transfer of ownership
8 thereof in the name of the transferee, the executor, or the administrator, or any of the legal heirs,
9 as the case may be, shall file a return under oath in duplicate, setting forth:

10 “(1) xxx

11 “(2) xxx

12 “(3) xxx

13 “*Provided, however,* That estate tax returns showing a gross value exceeding [Two
14 million pesos (P2,000,000)] **FIVE MILLION PESOS (P5,000,000)** shall be supported with a
15 statement duly certified to by a Certified Public Accountant containing the following:

16 “(a) xxx

17 “(b) xxx

18 “(c) xxx

19 “**PROVIDED, FURTHER, THAT NOT LATER THAN SIX (6) YEARS AFTER**
20 **THE EFFECTIVITY OF THIS ACT AND EVERY SIX (6) YEARS THEREAFTER, THE**
21 **PRESIDENT OF THE PHILIPPINES SHALL ADJUST THE AMOUNT HEREIN**
22 **STATED TO ITS PRESENT VALUE USING THE CONSUMER PRICE INDEX (CPI),**
23 **AS PUBLISHED BY THE PHILIPPINE STATISTICS AUTHORITY (PSA).**

24 “(B) *Time for Filing.* – For the purpose of determining the estate tax provided for in
25 Section 84 of this Code, the estate tax return required under the preceding Subsection (A) shall
26 be filed within [six (6) months] **ONE (1) YEAR** from the decedent’s death.

27 “xxx”

28 **SEC. 5.** Section 97 of the National Internal Revenue Code of 1997, as amended, is hereby
29 further amended to read as follows:

30 “SEC. 97. *Payment of Tax Antecedent to the Transfer of Shares, Bonds or Rights.* –
31 There shall not be transferred to any new owner in the books of any corporation, *sociedad*
32 *anonima*, partnership, business, or industry organized or established in the Philippines any share,
33 obligation, bond or right by way of gift *inter vivos* or *mortis causa*, legacy or inheritance, unless
34 a certification from the Commissioner that the taxes fixed in this Title and due thereon have been
35 paid is shown.

36 “*If a bank has knowledge of the death of a person, who maintained a bank deposit*
37 *account alone, or jointly with another, it shall not allow any withdrawal from the said deposit*
38 *account, unless the Commissioner has certified that the taxes imposed thereon by this Title have*

1 been paid: *Provided, however,* That the administrator of the estate or any one (1) of the heirs of
2 the decedent may, upon authorization by the Commissioner **OR HIS DULY AUTHORIZED**
3 **REPRESENTATIVE**, withdraw an amount not exceeding [Twenty thousand pesos (P20,000)]
4 **THE AGGREGATE AMOUNT OF THE ESTATE TAX DUE, FUNERAL EXPENSES**
5 **AND OTHER EXPENSES RELATED TO THE SETTLEMENT OF THE ESTATE**
6 without said certification. For this purpose, all withdrawal slips shall contain a statement to the
7 effect that all of the joint depositors are still living at the time of withdrawal by any one of the
8 joint depositors and such statement shall be under oath by the said depositors.”

9 **SEC. 6. *Implementing Rules and Regulations.*** - The Secretary of Finance, shall, upon the
10 recommendation of the Commissioner of Internal Revenue, promulgate not later than thirty (30)
11 days upon the effectivity of this Act the necessary rules and regulations for its proper and
12 effective implementation.

13 **SEC. 7. *Separability Clause.*** - If any provision of this Act is declared unconstitutional or
14 invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and
15 effect.

16 **SEC. 8. *Repealing Clause.*** - All laws, orders, issuances, circulars, rules and regulations or
17 parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or
18 modified accordingly.

19 **SEC. 9. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication in the
20 *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,