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Tax Law for Business

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Unlimited relief

SENATE Bill 2855, to be known later as "An Act Providing Additional Relief to Families with Dependents, Supporting Aging Parents and Disabled Persons," passed on third reading last week. If approved, it will amend Section 35 of the 1997 NIRC, as amended.

As to how it grants relief to families is provided under Section 3 of the bill. It retains the provisions of paragraph (A) with regard to the allowance of personal exemption for the individual taxpayer, which is still pegged at P50,000. However, a careful scrutiny of the proposed paragraph (B) of Section 35 would show that the lawmakers intentionally deleted the phrase "not exceeding four," referring to the number of qualified dependents for the purpose of computing the additional exemption of P25,000 each. Logically speaking, the removal of the phrase suggests a situation where additional exemption is now unlimited.

While most may consider this as something beneficial as it really lessens the tax burden, some critics consider this negatively because taxpayers may tend to abuse the provision by having more children since all of them may be claimed as dependents. Although the bill anchors its objective on the state policy that family is the foundation of nation, to the end that the Congress shall enact measures that would alleviate the financial conditions of every family, especially those with more children, it still boils down to the fact that this provision tends to contradict the very reason behind the recently passed reproductive-health law, that is, to control the growing population. Where is the consistency, anyway?

The bill, likewise, inserted paragraph (B) to indicate who may be qualified as "dependents." Incidentally, Section 35 of the 1997 NIRC, as amended, was further amended by Republic Act (RA) 9504 on June 17, 2008. Unlike the amendatory provision of RA 9504, paragraph (B)(1) of the bill proposes that one or more unmarried legitimate, legitimated, illegitimate or legally adopted child not more than 21 years of age, living with the taxpayer, not gainfully employed and dependent upon the latter for chief support, or where such child, regardless of age, is incapable of self-support because of mental or physical handicap, may now qualify as dependent/s. Notably, this provision has become more in consonance with the provisions of Family Code with the inclusion of the word "legitimated."

Paragraph (B)(2) was also inserted expressly providing that a parent or both parents of the taxpayer may also be qualified as dependent/s provided they are not gainfully employed, living with the taxpayer, and dependent upon him for chief support, or where such parents, regardless of income, are incapable of self-support because of mental or physical handicap. It was also provided therein that it is the legal guardian of a mentally or physically handicapped dependent, to the exclusion of biological parents who may claim the additional exemption.

This tends to revive the amended provision of RA 9257, which expressly cited senior citizens as qualified dependents for tax purposes since the parent/s of a taxpayer, who are already senior citizens, may be considered as qualified dependents. Impliedly, a parent who is not a senior citizen as long as all the other requisites mentioned above are met may also be considered as dependent. In effect, this paragraph provides a larger scope of qualified dependents.

Interestingly, Section 35 of the 1997 NIRC, as amended, traces its origin from Section 29 of Presidential Decree 1158 (1977), the decree consolidating and codifying all internal revenue of the Philippines. At the outset, the lawmakers had provided varying amounts of basic personal exemption depending on the civil status of the claimant (i.e., single individual/married individual judicially decreed as legally separated with no qualified dependents, head of the family, married individual). Even then, they have likewise indicated a limited number of four dependents for which additional exemptions may be claimed.

Before the lapse of a decade, the same provisions were incorporated in Executive Order 37 with slightly different amounts of basic personal exemption and additional exemptions. The number of qualified dependents was retained, though. Five years thereafter, Section 29 was amended with the passage of RA 7167 and subsequently by RA 7497 on May 15, 1992. On December 11, 1997, the NIRC was amended by RA 8424, which is now the 1997 NIRC, as amended.

The amending provisions of RA 8424 on the basic and additional exemptions lasted for only a decade, though, since RA 9504 was soon enacted in 2008, which removed the classification of taxpayers and increased the assigned value of additional exemptions.

Reality check, there are six days left before the official campaign period and roughly three months before the national elections. Most likely than not, this bill will become a law. For why could it not be? Election day is approaching. Talk about additional votes, or should I say, unlimited votes, for re-electionists, this is such a relief, indeed!

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