

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 511

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	30 JUN 2016
TIME:	4:50 PM
BY:	[Signature]
REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by **HON. ROBERT ACE S. BARBERS**

EXPLANATORY NOTE

Many Filipino families complain that the current estate tax rates are distressingly high. In fact, these rates are comparably higher than in other nations. A worldwide survey of forty-eight (48) nations shows that an overwhelming majority impose lower estate tax rates. Moreover, the average top estate tax rate is 10%, much lower than the Philippines' 20%. Among neighboring nations in Asia and Oceania, only Japan and South Korea impose higher estate tax rates.

The same is true for donor's tax rates: majority of the nations impose lower rates. The average top donor's tax rate is 7% for donations to relatives, less than half of the Philippines' 15%. In Asia and Oceania, only Japan and South Korea impose higher donor's tax rates.


One may argue that the enormity of transfer tax rates satisfies the very purpose of transfer taxation: the redistribution of wealth from the rich to the poor. However, studies have shown that higher tax rates encourage evasion. There is no statistical record showing the number of transfer tax evasions in the Philippines because of difficulty of detection but a number of indicators show that these concealed acts are prevalent, such as transfer tax effort and slow annual increases in transfer tax collections. The prevalence of these acts defeats the purposes of transfer taxation. For this reason, this bill proposes lowering the transfer tax rates and increasing the exemptions and the limits to certain deductions.

Another weakness we see in the provisions of the National Internal Revenue Code on Transfer Taxes is their complexity. Studies have shown that increased complexity in tax statutes, like higher tax rates, also results in decreased compliance. Additionally, it makes tax enforcement more difficult and less effective. Hence, this bill addresses this problem by giving the taxpayer-estates the opportunity to choose *optional standard deductions*, in lieu of the *itemized deductions*, to spare them from the stressful situation of complying with all the requirements incidental to the filing of tax returns.

Another factor resulting in decreased compliance is the public's perception that the tax system is unfair. Although this bill does not propose changes to completely reverse this perception, it seeks to introduce *indexation clause*, in which the exemptions and deduction limits are to be indexed in accordance with the movement of Consumer Price Index (CPI). This clause lessens the degree of unfairness caused by the non-movement of exemptions and deduction limits despite the changes in prices of properties. Moreover, it also lessens the possibility of piecemeal legislation to adjust the exemptions and deduction limits in the future to adapt to the demands of the public.

In sum, this bill seeks to increase tax compliance by lowering the transfer tax rates, increasing the exemptions and the limits to certain deductions, giving the estates-taxpayers *optional standard deductions*, in lieu of the *itemized deductions*, and introducing the *indexation clause*.

In view of the foregoing considerations, approval of this bill is requested.



HON. ROBERT ACE S. BARBERS
2nd District, Surigao del Norte

HOUSE BILL NO. 511

Introduced by **HON. ROBERT ACE S. BARBERS**

**AN ACT RESTRUCTURING THE TRANSFER TAXES, AMENDING FOR THE PURPOSE
TITLE III OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED**

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

"SEC. 84. **Estate Tax Rate.** — There shall be levied, assessed, collected, and paid upon the transfer of the net estate as determined in accordance with Sections 85, 86, and **104-A** of every decedent, whether resident or nonresident of the Philippines, **a tax of three percent (3%)** based on the value of such net estate **in excess of One million pesos (P1,000,000)**. *Provided,* That net estates valued **One million pesos (P1,000,000)** or less shall be exempt."

Section 2. Section 86 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

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

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

"(1) *Expenses, Losses, Indebtedness, and Taxes.* — Such amounts -

"(a) For actual funeral expenses or in an amount equal to five percent (5%) of the gross estate, whichever is lower, but in no case to exceed **Five hundred thousand pesos (P500,000)**;

"x x x

"(3) x x x.

"(4) *The Family Home.* - An amount equivalent to the current fair market value of the decedent's family home: *Provided,* however, That if the said current fair market value exceeds **Two million and five hundred pesos (P2,500,000)**, the excess shall be subject to estate tax. As a *sine qua non* condition for the exemption or deduction, said family home must have been the decedent's family home as certified by the barangay captain of the locality.

"(5) *Medical Expenses.* - Medical Expenses incurred by the decedent within one (1) year prior to his death which shall be duly substantiated with receipts: *Provided,* That in no case shall the deductible medical expenses exceed **One million and five hundred thousand pesos (P1,500,000)**.

"(6) *Amount Received by Heirs under Republic Act No. 4917.* - Any amount received by the heirs from the decedent - employee as a consequence of the death of the decedent-employee in accordance with Republic Act No. 4917: *Provided,* That such amount is included in the gross estate of the decedent.

"(B) x x x.

"X X X

"(E) X X X.

"(F) Optional Standard Deduction. – In lieu of the deductions allowed under Subsection (A) or Subsection (B), as the case may be, an estate may elect a standard deduction of fifty percent (50%) of the gross estate, as computed under Section 85 of this Code. Unless the taxpayer signifies in his return his intention to elect the optional standard deduction, he shall be considered as having availed himself of the deductions allowed in Subsection (A) or Subsection (B). *Provided,* That an estate who claimed for the optional standard deduction shall not be required to submit with his tax return such documents required under this Code and under related revenue issuances issued by the Bureau of Internal Revenue."

Section 3. Section 90 (A) of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 90. Estate Tax Returns. –

"(A) Requirements. - In all cases of transfers subject to the tax imposed herein, or where, though exempt from tax, the gross value of the estate exceeds **One million pesos (P1,000,000)**, or regardless of the gross value of the estate, where the said estate consists of registered or registrable property such as real property, motor vehicle, shares of stock or other similar property for which a clearance from the Bureau of Internal Revenue is required as a condition precedent for the transfer of ownership thereof in the name of the transferee, the executor, or the administrator, or any of the legal heirs, as the case may be, shall file a return under oath in duplicate, setting forth:

"(1) X X X;

"(2) The deductions allowed from gross estate in determining the estate as defined in Section 86, except when the estate chooses to avail of the optional standard deduction under Section 86 (F); and

"(3) X X X.

"Provided, however, That estate tax returns showing a gross value exceeding **Five million pesos (P5,000,000)** shall be supported with a statement duly certified to by a Certified Public Accountant containing the following:

"(a) Itemized assets of the decedent with their corresponding gross value at the time of his death, or in the case of a nonresident, not a citizen of the Philippines, of that part of his gross estate situated in the Philippines;

"(b) Itemized deductions from gross estate allowed in Section 86, except when the estate chooses to avail of the optional standard deduction under Section 86 (F); and

"(c) The amount of tax due whether paid or still due and outstanding.

"X X X."

Section 4. Section 98 (A) of the National Internal Revenue Code, as amended, are hereby further amended to read as follows:

"SEC. 98. Imposition of Tax. –

"(A) There shall be levied, assessed, collected and paid upon the transfer by any person, resident or nonresident, of the property by gift, a tax, computed as provided in Sections 99 and 104-A.

"X X X."

Section 5. Sections 99(A) and (B) of the National Internal Revenue Code, as amended, are hereby further amended to read as follows:

"SEC. 99. Rates of Tax Payable by Donor. –

"(A) In General. —The donor's tax payable for each calendar year shall be **three percent (3%)** of the total net gifts made during the calendar year **in excess of Three hundred thousand pesos (P300,000)**. *Provided*, That if the total net gifts made in the calendar year does not exceed **Three hundred thousand pesos (P300,000)**, no donor's tax shall be paid. *Provided, further*, That net gifts made to strangers shall be subject to the tax rate provided in the next subsection.

"(B) Tax Payable by Donor if Donee is a Stranger. — When the donee or beneficiary is a stranger, the tax payable by the donor shall be **six percent (6%)** of the total net gifts **in excess of Three hundred thousand pesos (P300,000)**. For the purpose of this tax, a stranger is a person who is not a:

"(i) Brother, sister (whether by whole or half blood), spouse, ancestor, and lineal descendant; or

"(ii) Relative by consanguinity in the collateral line within the fourth degree of relationship.

"x x x."

Section 6. Section 101 (A) (1) of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 101. Exemption of Certain Gifts. —The following gifts or donations shall be exempt from the tax provided for in this Chapter:

"(A) In the Case of Gifts Made by a Resident. –

"(1) Dowries or gifts made on account of marriage and before its celebration or within one year thereafter by parents to each of their legitimate, recognized natural, or adopted children to the extent of the first **Thirty thousand pesos (P30,000);"**

"x x x."

Section 7. Section 104-A is hereby inserted between Section 104 of Title III and Section 105 of Title IV of the Code to read as follows:

"SEC. 104-A. Indexation Clause.— In the computation of any transfer tax liability, the Bureau of Internal Revenue (BIR) shall index all exemptions and deduction limits provided in this Title in accordance with the movement of the Consumer Price Index (CPI) produced by the National Statistics Office (NSO). *Provided*, That the CPI to be used shall be the CPI of the month preceding the month of death, or the month when the donation was made, as the case may be."

Section 8. 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.

Section 9. 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 is hereby amended or modified accordingly.

Section 10. Effectivity Clause. — This Act shall take effect fifteen (15) days following its publication in the *official Gazette* or in at least two (2) newspaper of general circulation.

Approved.